

Draft Order laid before Parliament under section 36(6) of the Civil Partnership Act 2004 for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

2005 No.

CIVIL PARTNERSHIP

**The Civil Partnership (Amendments to
Registration Provisions) Order 2005**

Made - - - - *[.... 2005]*
Coming into force - - *in accordance with*
article 1(2) and (3)

Whereas a draft of this Order has been laid before and approved by a resolution of each House of Parliament;

Now therefore in exercise of the powers conferred upon him by sections 35(1) and 258(3) of the Civil Partnership Act 2004⁽¹⁾, the Chancellor of the Exchequer hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Civil Partnership (Amendments to Registration Provisions) Order 2005.

(2) The following provisions of this Order come into force on the day after the day on which it is made—

- (a) this article ;
- (b) article 2;
- (c) paragraphs 3, 12, 13 and 17 of the Schedule;
- (d) article 3 so far as it relates to those paragraphs.

(3) Subject to paragraph (2), this Order comes into force on 5 December 2005.

Extent

2. Any amendment or repeal made by this Order has the same extent as the provision subject to the amendment or repeal.

(1) 2004 c.33.

Amendments to enactments

3. The Schedule to this Order contains amendments to the Civil Partnership Act 2004 which shall have effect.

Signed by Authority of the Chancellor of the Exchequer

Date

Name
Financial Secretary to the Treasury
Department

SCHEDULE

Article 3

AMENDMENTS TO THE CIVIL PARTNERSHIP ACT 2004

1. The Civil Partnership Act 2004 is amended as follows.
- 2.—(1) Section 6 (place of registration) is amended as follows.
 - (2) For subsection (3) substitute—

“(3) Subsections (3A) and (3B) apply in the case of registration under the standard procedure (including that procedure modified as mentioned in section 5).

 - (3A) The place must be—
 - (a) on approved premises, or
 - (b) in a register office.
 - (3B) If it is in a register office, the place must be open to any person wishing to attend the registration.
 - (3C) In this Chapter “register office” means a register office provided under section 10 of the Registration Service Act 1953(2).”.
 - (3) Subsections (4) and (5) are omitted.
3. After section 6 insert—

“6A Power to approve premises

- (1) The Chancellor of the Exchequer may by regulations make provision for and in connection with the approval by registration authorities of premises for the purposes of section 6(3A)(a).
- (2) The matters dealt with by regulations may include—
 - (a) the kind of premises in respect of which approvals may be granted;
 - (b) the procedure to be followed in relation to applications for approval;
 - (c) the considerations to be taken into account by a registration authority in determining whether to approve any premises;
 - (d) the duration and renewal of approvals;
 - (e) the conditions that must or may be imposed by a registration authority on granting or renewing an approval;
 - (f) the determination and charging by registration authorities of fees in respect of applications for the approval of premises and in respect of the renewal of approvals;
 - (g) the circumstances in which a registration authority must or may revoke an approval;
 - (h) the review of any decision to refuse an approval or the renewal of an approval, to impose conditions on granting or renewing an approval or to revoke an approval;
 - (i) the notification to the Registrar General of all approvals granted, renewed or revoked;
 - (j) the keeping by registration authorities of registers of approved premises;

(2) 1953 c.37.

(k) the issue by the Registrar General of guidance supplementing the provision made by the regulations.

(3) Without prejudice to the width of subsection (2)(e), the Chancellor of the Exchequer must exercise his power to provide for the imposition of conditions as mentioned there so as to secure that members of the public are permitted to attend when two people sign the civil partnership schedule on approved premises in accordance with section 6(3A)(a).”.

4.—(1) Section 8 (notice of proposed civil partnership and declaration) is amended as follows.

(2) For subsection (1) substitute—

“(1) For two people to register as civil partners of each other under the standard procedure a notice of proposed civil partnership must be given—

(a) if the proposed civil partners have resided in the area of the same registration authority for the period of 7 days immediately before the giving of the notice, by each of them to that registration authority;

(b) if the proposed civil partners have not resided in the area of the same registration authority for that period, by each of them to the registration authority in whose area he or she has resided for that period.”.

(3) For subsection (4)(b) substitute—

“(b) that the proposed civil partners have for the period of 7 days immediately before the giving of the notice had their usual places of residence in the area of the registration authority, or in the areas of the registration authorities, to which notice is given.”.

5.—(1) Section 9(3) (power to require evidence of name etc.) is amended as follows.

(2) In paragraph (c) after “or marriage,” insert “and”.

(3) Paragraph (e) and the “and” immediately before it are omitted.

6.—(1) Section 10 (proposed civil partnership to be publicised) is amended as follows.

(2) In subsection (1) for the words from “the relevant information” to the end substitute “the registration authority must keep the relevant information on public display during the waiting period.”.

(3) In subsection (2)(c) after “information” insert “included in the notice of proposed civil partnership”.

(4) After subsection (2) insert—

“(3) All information that a registration authority is required for the time being to keep on public display under subsection (1) must be kept on display by it at one register office provided for a district within its area.”.

7. In section 17 (period during which registration may take place), in subsection (2), for “at any time during the applicable period” substitute “on any day in the applicable period between 8 o’clock in the morning and 6 o’clock in the evening”.

8.—(1) Section 20 (modified procedures for certain non-residents) is amended as follows.

(2) In subsection (1) for “three” substitute “two”.

(3) Subsection (3) is omitted.

(4) In subsection (4)—

(a) for “third” substitute “second”;

- (b) for the words from “a member” to “United Kingdom” substitute “an officer, seaman or marine borne on the books of one of Her Majesty’s ships at sea.”.
- (5) In subsection (5)—
 - (a) for paragraph (b) substitute—
 - “(b) B may make the necessary declaration without reference to A’s usual place of residence for any period;”;
 - (b) in paragraph (e) for “first and second cases” substitute “first case”.
- (6) In subsection (6)—
 - (a) paragraph (b) is omitted;
 - (b) in paragraph (c) for the words from “a member” to “United Kingdom” substitute “an officer, seaman or marine borne on the books of one of Her Majesty’s ships at sea”.
- (7) Subsection (7) is omitted.
- 9. In section 22 (evidence to be produced), for subsection (2) substitute—
 - “(2) The conditions are that one of the proposed civil partners—
 - (a) is seriously ill and not expected to recover,
 - (b) cannot be moved to a place where they could be registered as civil partners of each other under the standard procedure, and
 - (c) understands the nature and purport of signing a Registrar General’s licence.”.
- 10. Section 29(4) (list of civil partnership registrars) is omitted.
- 11.—(1) Section 31 (offences relating to civil partnership schedule) is amended as follows.
 - (2) After subsection (2)(a) insert—
 - “(aa) on premises that are not approved premises although the signing is purportedly in accordance with section 6(3A)(a),
 - (ab) at any other time other than between 8 o’clock in the morning and 6 o’clock in the evening.”.
 - (3) In subsection (3) for “(2)” substitute “(2)(a), (aa), (b), (c) or (d)”.
 - (4) After subsection (3) insert—
 - “(3A) A person guilty of an offence under subsection (2)(ab) is liable on conviction on indictment to imprisonment for a term not exceeding 14 years or to a fine or both.”
- 12. In section 34 (fees), after subsection (2) insert—
 - “(3) Where a civil partnership registrar for any area attends when two people sign the civil partnership schedule on approved premises, in accordance with section 6(3A)(a)—
 - (a) subsection (1)(d) does not apply, but
 - (b) the registration authority for that area is entitled from those people a fee of an amount determined by the authority in accordance with regulations under section 6A.”.
- 13.—(1) Section 36 (regulations and orders) is amended as follows.
 - (2) In subsection (3), after “Chapter” insert “, except in section 6A.”.
 - (3) In subsection (5) after “containing” insert “regulations under section 6A or”.
- 14.—(1) In Section 49 (grounds on which civil partnership is void), paragraph (b) is amended as follows.

(2) In sub-paragraph (iv), at the end omit “or”.

(3) After sub-paragraph (v) insert—

“(vi) that the place of registration is on premises that are not approved premises although the registration is purportedly in accordance with section 6(3A)(a), or”.

15.—(1) In section 52 (proof of certain matters not necessary to validity of civil partnership), subsection (1) is amended as follows.

(2) After paragraph (a) insert —

“(aa) that before the registration either of the civil partners resided, or resided for any period, in the area stated in the notices of proposed civil partnership to be the area of that person’s place of residence;”.

(3) Paragraph (b) is omitted.

16. Section 150 (certificates of no impediment for Part 2 purposes) is omitted.

17.—(1) Section 239 (commanding officers’ certificates for Part 2 purposes) is amended as follows.

(2) In subsection (1)—

(a) for the words from “a member” to “United Kingdom” substitute “an officer, seaman or marine borne on the books of one of Her Majesty’s ships at sea”;

(b) for the words “by A’s commanding officer to A” substitute “to A, by the captain or other officer in command of the ship”.

(3) In subsection (3) omit “commanding”.

(4) Subsection (4) is omitted.

18.—(1) In Schedule 3 (registration by former spouses one of whom has changed sex), paragraph 7 is amended as follows.

(2) In sub-paragraph (1) for “three” substitute “two”.

(3) Sub-paragraph (3) is omitted.

(4) In sub-paragraph (4)—

(a) for “third” substitute “second”;

(b) for the words from “a member” to “United Kingdom” substitute “an officer, seaman or marine borne on the books of one of Her Majesty’s ships at sea”.

(5) For sub-paragraph (6) substitute—

“(6) B may make the necessary declaration without reference to A’s usual place of residence for any period.”.

(6) In sub-paragraph (9)—

(a) paragraph (b) is omitted;

(b) in paragraph (c) for the words from “a member” to “United Kingdom” substitute “an officer, seaman or marine borne on the books of one of Her Majesty’s ships at sea”.

(7) Sub-paragraph (10) is omitted.

19.—(1) Schedule 23 (immigration control and formation of civil partnerships) is amended as follows.

(2) in paragraph 4(1)—

(a) in paragraph (a) after “Secretary of State”, omit “and”;

(b) after paragraph (b) insert—

“(c) may be given only if each of the proposed civil partners has been resident in the area of a registration authority for the period of 7 days immediately before the giving of his or her notice (but the area need not be that of the registration authority to which the notice is given and the proposed civil partners need not have resided in the area of same registration authority), and

(d) must state, in relation to each of the proposed civil partners, the registration authority by reference to the area of which paragraph (c) is satisfied.”.

(3) In paragraph 7(2) after “particular” insert—

“—

(a) section 8(4)(b) has effect as if it required a declaration that the notice of proposed civil partnership is given in compliance with paragraph 4(1) above, and (b)”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Civil Partnership Act 2004 for the purpose of assimilating provisions relating to the formation of civil partnerships to provisions relating to civil marriage in England and Wales.

The amendments relate to—

- (a) the process for giving notice of an intended civil partnership, the evidence that may be called for at that time and the public display of information from that notice;
- (b) the provisions that apply as regards giving notice where one of the parties is resident in Scotland or Northern Ireland, is a member of the armed forces serving outside the UK or is subject to immigration control (in particular, the provisions are repealed in respect of Northern Ireland and narrowed in respect of the armed forces);
- (c) where, and the hours during which, the civil partnership registration may take place and the effects (civil and criminal) of failure to comply with certain of those provisions: powers to create a process for the approval of premises for civil partnership registrations are established;
- (d) matters relating to the formation of the civil partnership which will not need to be proved once the civil partnership is registered;
- (e) the Registrar General’s obligation to make publicly available a list of all civil partnership registrars, which is repealed.

This Order has no impact on the costs of business, charities or voluntary bodies; neither does it have any significant financial impact on public bodies though there are set-up costs for the Registration Service in the region of £500,000. These costs were outlined in the full Regulatory Impact Assessment for the Civil Partnership Act 2004 which can be viewed at <http://www.dti.gov.uk/access/ria/index.htm#equality>.