

**EXPLANATORY MEMORANDUM TO
THE PARENTAL RESPONSIBILITY AGREEMENT (AMENDMENT)
REGULATIONS 2005**

2005 No. 2808

1. This explanatory memorandum has been prepared by the Department for Constitutional Affairs and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The instrument amends the Parental Responsibility Agreement Regulations 1991 (S.I. 1991/1478) to provide for the addition of a new Step parent Parental Responsibility Agreement form and to ensure that a step-parent who has acquired parental responsibility for a child in accordance with section 4A of the Children Act 1989 (c41) is sent a copy of the parental responsibility agreement made in respect of that child. A new form for a parental responsibility agreement under section 4(1)(b) of the 1989 Act is also substituted. Minor amendments to ensure clarity are made to this form.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The Regulations make changes consequential to amendments to the Children Act 1989 (c.41) made by section 112 of the Adoption and Children Act 2002 (c.38). Section 112 of the 2002 Act inserts section 4A into the Children Act 1989 to enable a step-parent to acquire parental responsibility for a child of his spouse or civil partner.

5. Extent

5.1 This instrument applies to England and Wales only.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 Section 112 of the Adoption and Children Act 2002 amends the Children Act 1989 to include a new section 4A which introduces the concept of Step-parent Parental Responsibility by agreement between the parent(s) with parental responsibility and the step-parent of the child. It also provides for a step-parent to be able to apply to the court for an order for parental responsibility.

- 7.2 Step-parent parental responsibility is intended to provide an alternative to step-parent adoption, where a step-parent wishes to acquire parental responsibility with regard to the child for whom they care. It has the advantage of not removing parental responsibility from the other birth parent and does not legally separate the child from membership of the family of the other parent. The Adoption law review recommended such a change to reduce the number of inappropriate applications to adopt and a number of organisations and officials who submitted evidence to the Special Standing Committee were supportive of this change.
- 7.3 A new form of agreement (C(PRA2)) has been produced to allow for agreements to be recorded and registered.
- 7.4 The existing form for recording and registering agreements between Mothers and Fathers has also been amended to include reference to agreements being witnessed by an assistant to a justices' clerk and to provide more details on how identity may be proved.

8. Impact

- 8.1 This order provides an alternative for step-parents who wish to be able to make practical decisions for the child for whom they care e.g. medical decisions at hospitals, without severing the relationship with a living birth parent by a formal adoption order. A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

9. Contact

Joanna Wilkinson of the Children's Proceedings Branch, 0207 210 8324 or joanna.wilkinson@hmcourts-service.gsi.gov.uk can answer any queries regarding the instrument.