

**EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CIVIL PARTNERSHIP)
(CONSEQUENTIAL AMENDMENTS)
REGULATIONS 2005**

2005 No. 2878

1. This Explanatory Memorandum has been prepared by the Department for Work and Pensions and is laid before Parliament by Command of Her Majesty.

2. Description

2.1. This Instrument makes amendments to several sets of social security regulations in order to extend their application to civil partners.

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

3.1 None.

4. Legislative Background

4.1 The amendments to subordinate legislation within these Regulations are consequential on the Civil Partnership Act 2004 (“the Act”). They ensure that in matters of social security civil partners and surviving civil partners will be afforded the rights and responsibilities currently available to spouses and surviving spouses. The Regulations also provide for circumstances where same sex couples who are living together as if they were civil partners (but have not formed a civil partnership) are treated in the same way as unmarried couples who are living together as if they were husband and wife.

4.2 This Instrument is one of two sets of negative Instruments that are required to extend parity of treatment to civil partners in relation to pensions and benefits with effect from 5 December 2005, the other being the Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 made under section 259 of the Civil Partnership Act 2004. These Regulations deal with matters which could not be included in that Order because the powers conferred by section 259 cannot be exercised to amend provisions which have been amended by other statutory instruments since the Act received Royal Assent.

5. Extent

5.1 This instrument applies to Great Britain. Equivalent provision will be made for Northern Ireland by statutory rules.

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 The Civil Partnership Act 2004 received Royal Assent on 18 November 2004 and will come into force on 5 December 2005. The purpose of that Act is to enable same-sex couples to obtain legal recognition of their relationship by forming a civil partnership. The policy intention behind this instrument is to ensure that civil partners have the same or similar treatment as spouses in the area of social security benefits.

Consultation

- 7.2 There was no requirement to consult on this Instrument as it gives effect to the Act. The Government, however, held a three-month public consultation on the proposal to create a same-sex civil partnership registration scheme in England and Wales. This ran from 30 June 2003 to 30 September 2003. There were a total of 3,167 responses of which 83 per cent expressed support for the principle of civil partnership. A more detailed analysis of these responses showed that 84 per cent of individuals who responded supported the principle of civil partnership and 74 per cent of organisations that responded supported the principle of civil partnership.
- 7.3 The Government's response to the consultation was published in November 2003 and can be found on the DTI's website at <http://www.womenandequalityunit.gov.uk/lgbt/partnership.htm>. Some respondents felt that the Government should introduce gay marriage whilst others said it should be a purely civil, separate legal status. The Government response was that civil partnership would be a civil, separate legal status distinct from marriage. Some respondents also felt that civil partnership should also be extended to opposite sex couples. The Government response was that opposite sex couples already had the option of gaining legal and social recognition for their relationships by getting married, if they wished to do so. The Government announced on 26 November 2003 that it intended to bring forward a Civil Partnership Bill.
- 7.4 On 3 June 2004 the Scottish Parliament agreed to the inclusion of Scottish provisions in the Westminster Civil Partnership Bill, following a public consultation in Scotland. Northern Ireland Ministers also agreed to include Northern Ireland provisions in the Westminster Civil Partnership Bill after a public consultation in Northern Ireland. The responses to those respective consultations can be found on the DTI's website at <http://www.womenandequalityunit.gov.uk/lgbt/partnership.htm>

8. Impact

- 8.1 A full Regulatory Impact Assessment (RIA) has not been produced for this instrument as it has no impact on the costs of business, however a full RIA was produced for the Civil Partnership Bill which reflects all the costs to Government, business and the voluntary sector. The RIA can be accessed at <http://www.dti.gov.uk/access/ria/pdf/ria-civilpartnerships2004.pdf>.
- 8.2 There is no impact on the public sector.

9. Contact

- 9.1 Carol Krahe at the Department for Work and Pensions can answer any queries regarding the instrument. Tel: 0113 232 4646 or e-mail: Carol.krahe@dwp.gsi.gov.uk