

**EXPLANATORY MEMORANDUM TO
THE FAMILY PROCEEDINGS (CIVIL PARTNERSHIP: STAYING OF
PROCEEDINGS) RULES 2005**

2005 No. 2921 (L. 25)

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

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Description

- 2.1. These Rules provide for the circumstances in which civil partnership proceedings must, or can, be stayed, where there are proceedings relating to the same civil partnership in another jurisdiction.

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

- 3.1. None

4. Legislative background

Staying of Proceedings Rules

- 4.1. These Rules are made under section 223 of the Civil Partnership Act 2004 which allows for provision to be made in relation to Civil Partnerships corresponding to the provision made in respect of marriages by Schedule 1 to the Domicile and Matrimonial Proceedings Act 1973.

The Civil Partnership Act 2004

- 4.2. The Civil Partnership Act 2004 received Royal Assent on 18 November 2004. The purpose of the Civil Partnership Act 2004 is to enable same-sex couples to obtain legal recognition of their relationship by forming a civil partnership. To this end the Act creates a new legal status of civil partnership – under which certain rights and obligations will flow. Civil partners will be subject to many of the same legal rights and responsibilities as spouses.
- 4.3. Two people may register as civil partners of each other provided:
 - they are of the same sex;
 - neither of them is already a civil partner or married;
 - they are not within the prohibited degrees of relationship;

- they are both over the age of sixteen (and the consent of the appropriate persons has been obtained if either of the parties are under eighteen).
- 4.4. The Civil Partnership Act 2004 also contains provisions enabling certain overseas same-sex relationships to be treated as civil partnerships.
- 4.5. The principal provisions of the Civil Partnership Act 2004 will come into force on the 5th December 2005 by an order to be made by the Secretary of State.

5. Extent

- 5.1. This order applies to England and Wales.

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 Government 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 and generated substantial public and media interest. There were 3,167 responses to the public consultation. 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>
- 7.2. The Government announced on 26 November 2003 that it intended to bring forward a Civil Partnership Bill. 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>
- 7.3. The purpose of these Rules is to ensure the same legislative regime relating to concurrent proceedings in England and Wales and in another jurisdiction applies to civil partnership proceedings as it does to matrimonial proceedings.

8. Impact

- 8.1. A full Regulatory Impact Assessment has not been produced for this statutory instrument as it does not impose any new burdens on businesses or public

authorities. However a full Regulatory Impact Assessment for civil partnership was published alongside the Civil Partnership Act 2004 and can be viewed at <http://www.dti.gov.uk/access/ria/index.htm#equality>. This assessment includes the impact on the Court Service.

9. Contact

- 9.1. Vicky Rayne at Her Majesty's Court Service, Tel: 020 7210 1446 or e-mail Victoria.Rayne@hmcourts-service.gsi.gov.uk can answer any queries regarding the instrument.