

**EXPLANATORY MEMORANDUM TO THE SOCIAL SECURITY,
(CONTRIBUTIONS) (AMENDMENT No. 6) REGULATIONS 2005**

2005 No. 3130

This explanatory memorandum has been prepared by the HM Revenue and Customs 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 Regulations amend the Social Security (Contributions) Regulations 2001 (the Regulations) as a consequence of the Civil Partnership Act 2004. The amendments will provide for treatment of civil partners or those couples living as civil partners to be treated the same as married couples.

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

3.1 None

4. Legislative Background

4.1 This Instrument uses the powers at Sections 1(6) and (7) and 3(2) and (3) of the Social Security Contributions and Benefits Act 1992 and Sections 1(6) and (7) and 3(2) and (3) of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 to make amendments to the Regulations.

5. Extent

5.1 These Regulations extend to the whole of the United Kingdom.

6. European Convention on Human Rights

6.1 This instrument is subject to the negative resolution procedure and does not amend primary legislation. Accordingly, no statement of compliance with the European Convention on Human Rights is required.

7. Policy background

7.1 The Civil Partnership Act 2004 introduced the provision of "Civil Partnership" for couples of the same sex. Section 1 of that Act provides for a Civil Partnership to be formed by two persons of the same sex when they register as civil partners. The registration process will confer on the same-sex couple the status of being each other's civil partner that will have a comparable status to marriage. It is the Government's policy that civil partners should in general be subject to all the same legal rights and responsibilities as married couples. This instrument makes amendments which will come into force on 5 December 2005 to give effect to that policy for National Insurance purposes.

- 7.2 Regulation 3 of this instrument amends the Regulations so that where civil partners are jointly paid in respect of the same employment, the earnings figure for each civil partner that is used for income tax purposes is also used for National Insurance purposes. This is consistent with the treatment of a husband and wife who are jointly paid in respect of the same employment.
- 7.3 Regulation 4 of this instrument amends the Regulations so that certain payments made to directors cannot be disregarded from National Insurance liability when they are made by a person connected with the director which includes the civil partner. This mirrors the treatment of a spouse who is treated as a person connected to the director.
- 7.4 Regulation 5(2) also makes changes to the headings at paragraph 4C and sub-paragraph (2)(a) of Part 8 of Schedule 3 to make it clear that the travel costs of civil partners are disregarded in the same way as those of a spouse when they visit their partner abroad.
- 7.5 Regulation 5(3) makes changes to paragraph 5 of Part 8 of Schedule 3 so that the travel costs and expenses of a the civil partner of a non-domiciled employee are disregarded where the duties are performed in the United Kingdom.

8. Impact

- 8.1 A regulatory impact assessment has not been prepared for this instrument as it does not impose any new costs on business.

9. Contact

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