

**EXPLANATORY MEMORANDUM TO
THE SOCIAL SECURITY (CATEGORISATION OF EARNERS)
(AMENDMENT) REGULATIONS 2005**

2005 No.3133

1. 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 (Categorisation of Earners) Regulations 1978 (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 2(2) and (2A) of the Social Security Contributions and Benefits Act 1992 to make amendments to the Regulations.

5. Extent

- 5.1 These Regulations apply only to Great Britain and correspond to regulations being made for Northern Ireland.

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 The Regulations define whether certain types of employment are treated as self employment or employed earners employment. Paragraph 3 of Part 1 of Schedule 1 specifies that employment of a person by his or her spouse is treated as employed earners employment. Exceptions are covered in Paragraph 8 of Part 3 of Schedule 1. Regulation 3 of this instrument introduces amendment to treat employment by a civil partner in the same way.
- 7.3 Paragraph 3 of Schedule 3 of the Regulations specifies that when a spouse is employed by his or her spouse that the latter is treated as secondary contributor (i.e. the person responsible for deducting employees contributions and paying employers' contributions). Regulation 4 of this instrument introduces amendments that treat a civil partner as the secondary contributor when he or she employs the other partner.

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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