

EXPLANATORY MEMORANDUM TO
THE CIVIL PARTNERSHIP ACT 2004 (OVERSEAS RELATIONSHIPS) ORDER
2005

2005 No. 3135

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

2. Description

This Order amends Schedule 20 to the Civil Partnership Act 2004 (“the Act”). Schedule 20 specifies certain overseas relationships that may be treated as civil partnerships for the purposes of the Act. This Order adds a number of relationships to the list in Schedule 20.

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

None.

4. Legislative Background

4.1 This Order is made in exercise of the power conferred by section 213 of the Act. Section 213 provides that the Secretary of State may by Order amend Schedule 20 to the Act. Schedule 20 specifies certain overseas relationships that may be treated as civil partnerships. This Order adds a number of relationships to the list in Schedule 20. An Order made under section 213, which adds a relationship to Schedule 20, is subject to the negative resolution procedure.

4.2 The power conferred by section 213 has been exercised on one previous occasion to make the Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 (S.I. 2005/[to be added]). This previous Order made minor amendments to the description of a number of the relationships already listed in Schedule 20, and it was therefore subject to the affirmative resolution procedure.

4.3 In a written answer to Parliament on 31st January 2005 (31 Jan 2005: Column WA6), Baroness Scotland of Asthal said that the Government would make appropriate additions to Schedule 20 prior to the commencement of the Act.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

Meg Munn MP has made the following statement regarding Human Rights:

In my view the provisions of the Civil Partnership Act 2004 (Overseas Relationships) Order 2005 are compatible with the Convention rights

7. Policy background

7.1 The Act received Royal Assent on 18 November 2004. The purpose of the Act is to enable same-sex couples to obtain legal recognition of their relationship by forming a civil partnership. The Act also contains provisions enabling certain overseas same-sex relationships to be treated as civil partnerships. Civil partners will be subject to many of the same legal rights and responsibilities as spouses.

7.2 Under the Act, 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).

7.3 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 a total of 3,167 responses to the public consultation of which 83 per cent expressed support for the principle of civil partnership.

7.4 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>

7.5 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 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>. The Act received Royal Assent on 18th November 2004.

7.6 This Order amends Schedule 20 to the Act. Schedule 20 specifies overseas relationships that may be treated as civil partnerships for the purposes of the Act, provided certain conditions in the Act are satisfied. This Order adds the following relationships to the list in Schedule 20 –

- unió estable de parella (Catalan translation) in Andorra
- significant relationship in Tasmania, Australia
- marriage in Canada
- the relationship referred to as partenariat enregistré (French translation) or eingetragene partnerschaft (German translation) in Luxembourg
- civil union in New Zealand
- marriage in Spain
- domestic partnership in California, United States of America
- civil union in Connecticut, United States of America

- domestic partnership in Maine, United States of America
- marriage in Massachusetts, United States of America
- domestic partnership in New Jersey, United States of America.

8. Impact

A regulatory impact assessment has not been prepared for this Order, as it has no impact on the costs of business, charities, voluntary bodies or any public bodies distinct from that of the Act itself. A full regulatory impact assessment for civil partnership was published alongside the Act and can be viewed at <http://www.dti.gov.uk/access/ria/index.htm#equality>.

9. Contact

Yuen Cheung at the Department of Trade and Industry (Tel: 020 7215 5417 or e-mail: YuenFan.Cheung@dti.gsi.gov.uk) can answer any queries regarding this Order.