

2005 No. 3129

CIVIL PARTNERSHIP

**The Civil Partnership Act 2004 (Overseas Relationships and
Consequential, etc. Amendments) Order 2005**

Made - - - - - *4th November 2005*

Coming into force - - - - - *5th December 2005*

Whereas a draft of this Order has been laid before and approved by a resolution of each House of Parliament;

Now therefore, the Secretary of State, in exercise of the powers conferred upon him by sections 213 and 259 of the Civil Partnership Act 2004(a), and, with respect to the provisions set out in Part 2 of this Order, with the consent of the Scottish Ministers and the Department of Finance and Personnel, hereby makes the following Order:

**PART 1
GENERAL**

Citation and commencement

1. This Order may be cited as the Civil Partnership Act 2004 (Overseas Relationships and Consequential, etc. Amendments) Order 2005 and shall come into force on 5th December 2005.

Extent

2.—(1) This Order does not extend to the Channel Islands or the Isle of Man.
(2) Subject to paragraph (1), any amendment made by this Order has the same extent as the provision subject to amendment.

**PART 2
OVERSEAS RELATIONSHIPS**

Amendments of Schedule 20 to the Civil Partnership Act 2004

3. In Schedule 20 to the Civil Partnership Act 2004 (meaning of overseas relationship: specified relationships), in the table—

(a) 2004 c. 33.

- (a) in the first entry relating to Belgium, for “cohabitation légale (statutory cohabitation)” substitute “the relationship referred to as cohabitation légale, wettelijke samenwoning or gesetzliches zusammenwohnen”,
- (b) in the entry relating to Canada: Quebec, for “civil union” substitute “the relationship referred to as union civile or as civil union”,
- (c) in the entry relating to Finland, for “rekisteröity parisuhde (registered partnership)” substitute “the relationship referred to as rekisteröity parisuhde or as registrerad partnerskap”,
- (d) in the entry relating to France, for “pacte civile de solidarité (civil solidarity pact)” substitute “pacte civil de solidarité”,
- (e) in the first entry relating to the Netherlands, for “geregistreerde partnerschap (registered partnership)” substitute “geregistreerd partnerschap”, and
- (f) in the entries relating to Denmark, Germany, Iceland, Norway and Sweden, omit the words in brackets.

PART 3

CONSEQUENTIAL, ETC. AMENDMENTS

Consequential, etc. amendments

4.—(1) Schedule 1 contains amendments relating to registration matters with respect to civil partnerships.

(2) Schedule 2 contains an amendment of the Marriage Act 1949(a).

(3) Schedule 3 contains amendments of Church legislation.

(4) Schedule 4 contains further consequential amendments.

Meg Munn

Parliamentary Under Secretary of State for Women and Equality
Department of Trade and Industry

28th October 2005

The Scottish Ministers consent to the making of this Order

Hugh Henry

1st November 2005

A member of the Scottish Executive

The Department of Finance and Personnel hereby consents.

Sealed with the Official seal of the Department of Finance and Personnel



Ethne E Harkness

4th November 2005

A Senior Official of the Department of Finance and Personnel

(a) 1949 c. 76.

REGISTRATION MATTERS WITH RESPECT TO CIVIL PARTNERSHIPS

Savings Banks Act 1887

1. After section 10 of the Savings Banks Act 1887^(a) insert—

“10A Civil partnership certificates: England and Wales

(1) This section applies, for the purposes of the Acts relating to the National Savings Bank and the Government Annuities Act 1929, where the formation of a civil partnership by—

- (a) a depositor in the National Savings Bank, or
- (b) a person insured under the 1929 Act,

is recorded in the register kept under section 30 of the Civil Partnership Act 2004.

(2) The registration authority for the area in which the civil partnership was formed must, on an application made in the prescribed manner and on payment of the prescribed fee, give the applicant, for the purposes mentioned in subsection (1), a certified copy of such entries in the register as are prescribed by regulations made under section 36 of the 2004 Act.

(3) “The prescribed manner” means—

- (a) in accordance with any regulations made under section 36 of the 2004 Act, and
- (b) in such form as is approved by the Registrar General for England and Wales.

(4) “The prescribed fee” means any fee prescribed under section 34(1) of the 2004 Act.

10B Civil partnership certificates: Scotland

(1) This section applies, for the purposes of the Acts relating to the National Savings Bank and the Government Annuities Act 1929, where particulars of the formation of a civil partnership by—

- (a) a depositor in the National Savings Bank, or
- (b) a person insured under the 1929 Act,

have been entered in a register under section 95(2) of the 2004 Act.

(2) The district registrar must, on an application made in such manner as is approved by the Registrar General for Scotland, give the applicant, for the purposes mentioned in subsection (1), a certificate of the formation of the civil partnership.

10C Civil partnership certificates: Northern Ireland

(1) This section applies, for the purposes of the Acts relating to the National Savings Bank and the Government Annuities Act 1929, where the formation of a civil partnership by—

- (a) a depositor in the National Savings Bank, or
- (b) a person insured under the 1929 Act,

is recorded in a register kept by virtue of section 159(1) of the 2004 Act.

(2) The Registrar General for Northern Ireland or a registrar or deputy registrar of civil partnerships appointed under section 152(1) of the 2004 Act must, on an application made

(a) 1887 c. 40.

in the prescribed manner and on payment of the prescribed fee, give the applicant, for the purposes mentioned in subsection (1), a certificate of the formation of the civil partnership.

(3) “The prescribed manner” means—

- (a) in accordance with any regulations made under section 159(1) of the 2004 Act, and
- (b) in such form as is approved by the Department of Finance and Personnel.

(4) “The prescribed fee” means any fee prescribed under section 157 of the 2004 Act.”

Registration Service Act 1953

2. In the Registration Service Act 1953(a), in section 19 (annual abstract), for “and marriages” substitute “, marriages and civil partnerships”.

Public Records Act 1958

3. In paragraph 2 of Schedule 1 to the Public Records Act 1958(b) (departmental records), in sub-paragraph (2)(b), after “marriages” insert “, civil partnerships”.

Social Security Administration Act 1992

4.—(1) In the Social Security Administration Act 1992(c), after section 124 insert—

“124A Provisions relating to civil partnership: England and Wales

(1) Regulations made by the Registrar General under section 36 of the Civil Partnership Act 2004 may provide for the furnishing by registration authorities, subject to the payment of the prescribed fee, of such information for the purposes mentioned in section 124(1) above as may be so prescribed.

(2) Where the civil partnership of a person is required to be ascertained or proved for those purposes, any person—

- (a) on presenting to the registration authority for the area in which the civil partnership was formed a request in the prescribed manner in that behalf, and
- (b) on payment of the prescribed fee,

shall be entitled to obtain a certified copy of such entries in the register as are prescribed by regulations made under section 36 of the 2004 Act.

(3) “The prescribed fee” means any fee prescribed under section 34(1) of the 2004 Act.

(4) “The prescribed manner” means—

- (a) in accordance with any regulations made under section 36 of the 2004 Act, and
- (b) in such form as is approved by the Registrar General for England and Wales,

and forms for making a request under subsection (2) shall, on request, be supplied without charge by registration authorities.

124B Provisions relating to civil partnership: Scotland

(1) Where the civil partnership of a person is required to be ascertained or proved for the purposes mentioned in section 124(1) above, any person, on presenting to a district registrar a request in the approved manner in that behalf, shall be entitled to obtain a copy, certified by the registrar, of the entry in the civil partnership register of the particulars of the civil partnership.

(a) 1953 c. 37.

(b) 1958 c. 51.

(c) 1992 c. 5.

(2) “The approved manner” means in such form and containing such particulars as may be approved by the Registrar General for Scotland.

(3) Forms for making a request under subsection (1) shall, on request, be supplied without charge by district registrars.

(4) “Civil partnership register” has the same meaning as in Part 3 of the Civil Partnership Act 2004.”

(2) In Schedule 10 to that Act (supplementary benefit etc.), in paragraph 3(1), for “section 124” substitute “sections 124 to 124B”.

Pension Schemes Act 1993

5. In section 167 of the Pension Schemes Act 1993(a) (application of general provisions relating to administration of social security), for subsection (5) substitute—

“(5) Sections 124 to 124B of the Social Security Administration Act 1992 (provisions relating to age, death, marriage and civil partnership) shall apply as if information for the purposes mentioned in section 124(1) of that Act included information for the purposes of the relevant provisions.”

SCHEDULE 2

Article 4(2)

AMENDMENT OF THE MARRIAGE ACT 1949

1. In the Marriage Act 1949(b), after section 39 insert—

“39A Marriage of former civil partners one of whom has changed sex

(1) This section applies if—

(a) a court—

(i) makes final a nullity order which annuls a civil partnership on the ground that an interim gender recognition certificate has been issued to one of the civil partners, or

(ii) (in Scotland) grants a decree of dissolution of a civil partnership on that ground,

and, on doing so, issues a full gender recognition certificate (under section 5A(1) of the Gender Recognition Act 2004(c)) to that civil partner, and

(b) the former civil partners wish to marry each other in England or Wales in accordance with this Part without being delayed by the waiting period.

(2) For the purposes of this section the relevant period is the period—

(a) beginning with the issue of the full gender recognition certificate, and

(b) ending at the end of 1 month from the day on which it is issued.

(3) If either of the former civil partners —

(a) gives notice of marriage in accordance with this Part during the relevant period, and

(b) on doing so, makes an election under this section,

this Act applies with the modifications set out in subsections (4) to (6).

(a) 1993 c. 48.

(b) 1949 c. 76; Part 3 and section 75 were amended by the Immigration and Asylum Act 1999 (c. 33), sections 160 to 163 and Schedule 14.

(c) 2004 c. 7; Section 5A was inserted by section 250 (1) and (4) of the Civil Partnership Act 2004.

- (4) In section 31 (marriage under certificates)—
 - (a) omit subsections (1), (4), (4A) and (5A) to (5I), and
 - (b) in subsection (2), for “At the expiration of the said period of 15 days”, substitute “As soon as notice of marriage has been given,”.
- (5) For section 33(3) (period of validity of certificate: applicable period) substitute —

“(3) The applicable period, in relation to a marriage, is the period of 1 month beginning with the day on which the notice of marriage was entered in the marriage notice book.”
- (6) In section 75 (offences relating to solemnization of marriages), omit subsections (2)(d), (2A) and (3)(a).
- (7) Where one of the former civil partners is residing in Scotland—
 - (a) this section applies as if subsection (3) referred to the giving of notice and the making of an election by the former civil partner residing in England or Wales, and
 - (b) section 37(d) does not apply.
- (8) In subsection (1)(b), “the waiting period” has the meaning given by section 31(4A).”

SCHEDULE 3

Article 4(3)

AMENDMENTS OF CHURCH LEGISLATION

Pluralities Act 1838

- 1.—(1) The Pluralities Act 1838(a) shall be amended as follows.
 - (2) In section 36 (widow of any spiritual person may continue in the house of residence for two months after his decease), for “widow or widower” substitute “surviving spouse or surviving civil partner”.
 - (3) In section 43 (bishop may grant licences for non-residence in certain enumerated cases), after “spouse” insert (in each place) “or civil partner”.

Parsonages Measure 1938

- 2. In section 1(6) of the Parsonages Measure 1938(b) (definition of “connected person”), after “spouse” insert “or civil partner”.

Patronage (Benefices) Measure 1986

- 3.—(1) The Patronage (Benefices) Measure 1986(c) shall be amended as follows.
 - (2) In section 11(2)(a) (requirements as to meetings of parochial church council), after “spouse” insert “or civil partner”.
 - (3) In section 12(4) (joint meeting of parochial church council with bishop and patron), after “spouse” insert “or civil partner”.

(a) 1838 c. 106.
 (b) 1938 1 & 2 Geo 6. No. 3. The definition of “connected person” in section 1(6) was substituted by section 1 of, and Schedule 1, paragraph 2(b) to, the Church of England (Miscellaneous Provisions) Measure 2005.
 (c) 1986 No. 3. The word “spouse” in sections 11(2)(a) and 12(4) was substituted by section 10 of, and paragraphs 10(b) and 11 of Schedule 3 to, the Priests (Ordination of Women) Measure 1993.

Church of England (Legal Aid) Measure 1994

4. In section 2(5) of the Church of England (Legal Aid) Measure 1994(a) (applications for legal aid), for “wife or husband” substitute “spouse or civil partner”.

SCHEDULE 4

Article 4(4)

FURTHER CONSEQUENTIAL AMENDMENTS

Foreign Marriage Act 1892

1. In section 22 of the Foreign Marriage Act 1892(b) (validity of marriages solemnized by chaplains of HM forces serving abroad and other persons), for subsection (1B) substitute—

“(1B) In determining for the purposes of subsection (1A) above whether one person is the child of another, a person who is or was treated by another as a child of the family in relation to—

- (a) a marriage to which the other is or was a party, or
- (b) a civil partnership in which the other is or was a civil partner,

shall be regarded as the other’s child.”

Consumer Credit Act 1974

2. In section 184(5) of the Consumer Credit Act 1974(c) (associates: meaning of “relative”), after “former civil partner” insert “and a reputed civil partner”.

Adoption Act 1976

3. In section 47(1) of the Adoption Act 1976(d) (enactments for whose purpose section 39 does not apply), for the words from “the table” to “or”, substitute “section 1 of and Schedule 1 to the Marriage Act 1949 or Schedule 1 to the Civil Partnership Act 2004 (prohibited degrees of kindred and affinity)”.

Credit Unions Act 1979

4. In section 31(1) of the Credit Unions Act 1979(e) (interpretation, etc) in the definition of “civil partner”, after “former civil partner” insert “and reputed civil partner”.

Estate Agents Act 1979

5. In section 32(3) of the Estate Agents Act 1979(f) (associates: meaning of “relative”), after “former civil partner” insert “and a reputed civil partner”.

(a) 1994 No. 3.

(b) 1892 c. 23. Subsection (1B) of section 22 was inserted by section 6 of the Foreign Marriage (Amendment) Act 1988 (c. 44).

(c) 1974 c. 39. The words “or wife, and references to a civil partner include a former civil partner” in section 184(5) were substituted by paragraph 51(4)(b) of Schedule 27 to the Civil Partnership Act 2004.

(d) 1976 c. 36.

(e) 1979 c. 34. The definition of “civil partner” in section 31(1) was inserted by paragraph 61(2) of Schedule 27 to the Civil Partnership Act 2004.

(f) 1979 c. 38. The words “and references to a civil partner include a former civil partner” in section 32(3) were inserted by paragraph 63(3)(b) of Schedule 27 to the Civil Partnership Act 2004.

Transport Act 1982

6. In section 70(2)(bb) of the Transport Act 1982(a) (payments in respect of applicants for exemption from wearing seat belts), for “married or unmarried couple” substitute “couple”.

Representation of the People Act 1985

7.—(1) The Representation of the People Act 1985(b) shall be amended as follows.

(2) In section 6 (absent vote at elections for an indefinite period), in subsection (2)(c), after “spouse” (in each place) insert “or civil partner”(c).

(3) In section 8 (proxies at elections), in subsection (5), for “husband, wife” substitute “spouse or civil partner”.

Insolvency Act 1986

8. In section 435(8) of the Insolvency Act 1986(d) (associates: meaning of “relative”), after “former civil partner” insert “and a reputed civil partner”.

Children Act 1989

9. In section 29(3B)(b) of the Children Act 1989(e) (recoupment of cost of providing services), for “married or unmarried couple” substitute “couple”.

Broadcasting Act 1990

10. In paragraph 1(2) of Part 1 of Schedule 2 to the Broadcasting Act 1990(f) (restrictions on the holding of licences), after “former civil partner” insert “and a reputed civil partner”.

Employment Rights Act 1996

11. In section 206(5)(b) of the Employment Rights Act 1996(g) (institution or continuance of tribunal proceedings: meaning of “appropriate person”), after “widow or widower,” insert “surviving civil partner,”.

Human Tissue Act 2004

12.—(1) Amend the Human Tissue Act 2004(h) as follows.

(2) In section 27 (provision with respect to consent), in subsection (4)(a), after “spouse” insert “, civil partner”.

(3) In section 54 (general interpretation), in subsection (9) after “spouse” insert “civil partner,”.

(a) 1982 c. 49. Paragraph (bb) of subsection (2) was inserted by section 14 of, and Schedule 2, Part 3, paragraph 26 to, the State Pension Credit Act 2002.

(b) 1985 c. 50. Sections 12(2) and 15(2) of, and Schedule 7 to, the Representation of the People Act 2000 (c. 2) repealed sections 6 and 8 of the Representation of the People Act 1985 in relation to England, Scotland and Wales.

(c) The words from “or by reason” to “of his spouse” were inserted by section 15(1) of, and Schedule 6 to, the Representation of the People Act 2000.

(d) 1986 c. 45. The words “and references to a civil partner include a former civil partner” in section 435(8) were inserted by paragraph 122(4) of Schedule 27 to the Civil Partnership Act 2004.

(e) 1989 c. 41. Subsection (3B) was inserted by section 14 of, and Schedule 2, Part 3, paragraph 30 to, the State Pension Credit Act 2002.

(f) 1990 c. 42. The words “and references to a civil partner shall include a former civil partner” in paragraph 1(2) of Part 1 of Schedule 2 were inserted by paragraph 139 of Schedule 27 to the Civil Partnership Act 2004.

(g) 1996 c. 18.

(h) 2004 c. 30.

EXPLANATORY NOTE

(This note is not part of the Order)

Part 2 of this Order contains article 3 which 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. Paragraphs (a), (b) and (c) add references to the names for the relationship under other official language(s) of the country or territory in question. Paragraph (a) of article 3 adds the Dutch and German expressions in relation to Belgium, paragraph (b) adds the French name in relation to Quebec and paragraph (c) adds the Swedish in relation to Finland. Paragraphs (d) and (e) of article 3 rectify two typographical errors relating to a “pacte civil de solidarité” (civil solidarity pact in France), and a “geregistreerd partnerschap” (registered partnership in the Netherlands). Paragraph (f) omits the translations previously given.

Part 3 of this Order introduces Schedules 1 to 4 to the Order. The Schedules make amendments, which are consequential on and supplementary to the Act, of other Acts and Church legislation.

Schedule 1 contains amendments relating to registration matters with respect to civil partnerships.

Paragraph 1 of Schedule 1 amends the Savings Banks Act 1887 by inserting sections 10A, 10B, and 10C.

Section 10A applies to England and Wales. The amendment enables a person to obtain a certificate of civil partnership from the registration authority for the area in which the civil partnership was formed in accordance with regulations made under section 36 of the Act and for a fee prescribed under section 34(1) of the Act.

Section 10B applies to Scotland. The amendment enables a person to obtain a certificate of civil partnership from a district registrar in such manner as approved by the Registrar General for Scotland.

Section 10C applies to Northern Ireland. The amendment enables a person to obtain a certification of civil partnership from the Registrar General for Northern Ireland or a registrar or deputy registrar of civil partnership in accordance with regulations made under section 159(1) of the Act for a fee prescribed under section 157 of the Act and in such form as is approved by the Department of Finance and Personnel.

Paragraph 2 of Schedule 1 amends section 19 of the Registration Service Act 1953. The reference to abstracts of live births, still births, deaths and marriages registered in section 19 is amended to include abstracts of civil partnerships registered. The effect of the amendment is to enable the Registrar General to send to the Minister annually a general abstract of the number of civil partnerships registered in the year last preceding for laying before each House of Parliament.

Paragraph 3 of Schedule 1 extends the exclusion from the definition of public records under paragraph 2 of Schedule 1 to the Public Records Act 1958 to records relating to the registration of civil partnerships.

Paragraph 4 of Schedule 1 amends the Social Security Administration Act 1992 by inserting sections 124A and 124B.

Section 124A applies to England and Wales. The amendment enables a person, for the purposes mentioned in section 124(1) of the Social Security Administration Act 1992, to obtain from the registration authority for the area in which the civil partnership was formed, a certified copy of an entry in the civil partnership register in accordance with regulations made under section 36 of the Act and for a fee prescribed under section 34(1) of the Act.

Section 124B applies to Scotland. The amendment enables a person, for the purposes mentioned in section 124(1) of the Social Security Administration Act 1992, to obtain from a district registrar, a certified copy of the entry in the civil partnership register, of the particulars of the civil

partnership. Requests for certificates are to be made in such manner as is approved by the Registrar General for Scotland.

Paragraph 5 of Schedule 1 amends section 167(5) of the Pension Schemes Act 1993. Section 167(5) of the Pension Schemes Act 1993 applies section 124 of the Social Security Administration Act 1992 so that the purposes mentioned in section 124(1) of the Social Security Administration Act 1992 for which prescribed information may be provided also includes the purposes of specified provisions of the Pension Schemes Act 1993 referred to as “the relevant provisions” (see section 164(1)(b) of the Pension Schemes Act 1993). The amendment to section 167(5) of the Pension Schemes Act 1993 ensures that prescribed information about civil partnerships which may be provided for the purposes mentioned in section 124(1) of the Social Security Administration Act 1992, by virtue of the new sections 124A and 124B of that Act, may also be provided for the purposes of the relevant provisions.

Schedule 2 amends the Marriage Act 1949 (“the 1949 Act”) to enable former civil partners, one of whom has changed sex as a result of the issue of a full gender recognition certificate under section 5A(1) of the Gender Recognition Act 2004, to marry under Part 3 of the 1949 Act without being delayed by the waiting period ordinarily provided for in section 31(4A).

Schedule 3 contains amendments of Church legislation.

Paragraph 1(2) of Schedule 3 amends section 36 of the Pluralities Act 1838 to extend to surviving civil partners the right presently enjoyed by the surviving spouse of a cleric who has died in office to remain in occupation of the parsonage house for a period of not more than two months after the date of that cleric’s death.

Paragraph 1(3) of Schedule 3 amends section 43 of the Pluralities Act 1838 to extend the discretion of a bishop to grant a licence to a cleric to reside out of the benefice or the parsonage house, for a period of not exceeding six months, in circumstances where that cleric’s spouse or child is dangerously ill, to enable the illness of a civil partner to be taken into account in the same way.

Paragraph 2 of Schedule 3 amends section 1(6) of the Parsonages Measure 1938 to extend the definition of a “connected person”, whose involvement in certain transactions relating to parsonage houses requires the consent of the Church Commissioners, to include a civil partner of various specified persons already within this definition.

Paragraph 3(2) of Schedule 3 amends section 11 of the Patronage (Benefices) Measure 1986, which sets out the requirements relating to the meeting of a parochial church council convened after notification of a vacancy, to provide that a civil partner of the outgoing incumbent may not attend such a meeting.

Paragraph 3(3) of Schedule 3 amends section 12(4) of the 1986 Measure to make similar provision to that in paragraph 3(2) in the case of a joint meeting of the parochial church council with the bishop and patron.

Paragraph 4 of Schedule 3 amends section 2(5) of the Church of England (Legal Aid) Measure 1994 to extend the criteria to which the Legal Aid Commission must have regard in deciding whether to grant legal aid to a cleric (and, if so, to what extent) so that the financial resources of a civil partner are to be taken into account in the same way as those of a spouse.

Schedule 4 contains further amendments, which are consequential upon the Act.

A Regulatory Impact Assessment has not been produced for this Order as it has no impact on the costs of business, charities or voluntary bodies; neither does it have significant financial impact on any public bodies. 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>.

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£3.00

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Stationery Office and Queen's Printer of Acts of Parliament.

E1596 11/2005 151596T 19585