

**EXPLANATORY MEMORANDUM TO
THE CIVIL PARTNERSHIP (MISCELLANEOUS AND CONSEQUENTIAL
PROVISIONS) ORDER (NORTHERN IRELAND) 2005**

2005 No. 471

1. This Explanatory Memorandum has been prepared by the Department for Social Development and is laid before Parliament by command of Her Majesty.

2. Description

2.1 The Civil Partnership Act 2004 (c.33) (“the Act”) and the Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order (Northern Ireland) 2005 (S.R.2005 No. 434) amend various provisions of social security and pensions legislation to cater for civil partners.

2.2 This Order amends section 62 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7) and Article 162 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) to extend those provisions to civil partners or surviving civil partners. The amendments correspond to those being made for Great Britain by paragraphs 1 and 4 of Schedule 1 to the Civil Partnership (Miscellaneous and Consequential Provisions) Order 2005 (S.I. 2005/3029).

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

3.1 None.

4. Legislative background

4.1 The Order is made under powers conferred by sections 254(5) and 259 of the Act, which allow for orders to make further provisions for the general purposes of, in consequence of, and to give full effect to, any provision of the Act. The amendments made by this Order make consequential changes necessary to primary legislation as a result of the Act. The Order is laid before Parliament under paragraph 7(3) of the Schedule to the Northern Ireland Act 2000 and is subject to the negative resolution procedure.

5. Extent

5.1 This Order extends to Northern Ireland.

6. European Convention on Human Rights

6.1 David Hanson, MP, has made the following statement regarding Human Rights:

“In my view the provisions of the Civil Partnership (Miscellaneous and Consequential Provisions) Order (Northern Ireland) 2005 are compatible with the Convention rights.”

7. Policy background

- 7.1 The Act received Royal Assent on 18 November 2004. Its purpose 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 This Order amends and clarifies existing primary legislation to ensure that:
- prior to 2010, surviving civil partners are given the same rights to inherit Graduated Retirement Benefit¹ as widowers;
 - a private pension, which is subject to an earmarking order, is treated in the same way for a civil partner as for a spouse in that the court may order the pension scheme to make payments of pension, when it becomes payable on behalf of a member, directly to their former spouse or civil partner.
- 7.3 The Government held a public consultation in England and Wales on the proposal to create a same-sex civil partnership registration scheme. This ran from 30 June 2003 to 30 September 2003. On 26 November 2003 the Government announced that it intended to bring forward a Civil Partnership Bill.
- 7.4 On 19 December 2003, the Office of Law Reform in Northern Ireland launched the consultation paper “Civil Partnership: A Legal Status for Committed Same-Sex Couples in Northern Ireland”. The consultation was widely circulated and sought views on the proposal to create a civil partnership registration scheme in Northern Ireland. The consultation period closed on 5 March 2004.
- 7.5 Of the 462 responses received, 416 (90%) were from individuals and 46 (10%) were from interested representative groups or bodies, such as lesbian, gay, bisexual organisations, churches, non-governmental organisations, local councils, health and social services trusts, trade unions, student representatives and statutory bodies. Most respondents (86%) were opposed to the introduction of civil partnership in Northern Ireland. The majority of organisations (60%), however, including the Equality Commission for

¹ Graduated Retirement Benefit (GRB) is an increase in the weekly rate of a Category A or B retirement pension based on the amount of national insurance contributions paid by an employee into a scheme that existed between 1961 and 1975. Prior to 1979, inheritance rights to GRB were not available to widowers. Since 1979, when the rules were changed, a widower has been entitled to inherit half of his late wife’s GRB provided they were both over state pension age when she died. The amendment in this Order will ensure that surviving civil partners receive the same inheritance rights as widowers (from 2010, inheritance rights will be equalised between men and women).

Northern Ireland and the Northern Ireland Human Rights Commission, were supportive of the proposal. A full analysis of responses can be found on the Office of Law Reform's website at <http://www.olrni.gov.uk/consultations>

- 7.6 Following the consultation, Northern Ireland Ministers agreed to include Northern Ireland provisions in the Westminster Bill prior to it being published on 30 March 2004.

8. Impact

- 8.1 A full Regulatory Impact Assessment (RIA) has not been produced for this rule as it has no impact on the costs of business. However a full RIA was produced for the Civil Partnership Act which reflects all the costs to Government, business and the voluntary sector. The RIA can be accessed at <http://www.dti.gov.uk/access/ria/pdf/ria-civilpartnerships2004.pdf>

9. Contact

- 9.1 Seamus Cassidy at the Department for Social Development can answer any queries regarding this Order. Telephone (028) 90817105 or e-mail Seamus.Cassidy@dndni.gov.uk .