SCOTTISH STATUTORY INSTRUMENTS

2005 No. 572

CIVIL PARTNERSHIP

The Civil Partnership Act 2004 (Modification of Subordinate Legislation) Order 2005

Made - - - -	*10th November 2005*
Laid before the Scottish Parliament	*11th November 2005*
Coming into force - -	*5th December 2005*

The Scottish Ministers, in exercise of the powers conferred on them by section 259(1) and (2) of the Civil Partnership Act 2004(**a**) and all other powers enabling them in that behalf, hereby make the following Order:

Citation, commencement and extent

1. This Order may be cited as the Civil Partnership Act 2004 (Modification of Subordinate Legislation) Order 2005, and shall come into force on 5th December 2005.

2. This Order shall extend to Scotland only.

Amendment of the Cremation (Scotland) Regulations 1935

3. The Cremation (Scotland) Regulations 1935(**b**) are amended as follows.

4. In the Schedule–

(a) in Form A (Application for Cremation)–

(i) after "married," insert "civil partner,"; and

(ii) in the definition of "near relative" at question 4 after "widower," insert "civil partner,".

(b) in Form AA (Application for cremation of body parts)–

(i) after "married," insert "civil partnership,";

(ii) in question 1 after "nearest surviving relative" insert ", who may be the civil partner,"; and

(iii) in the definition of "near relative" after "widow or widower," insert "civil partner,".

Amendment of the Anatomy Regulations 1988

5. In regulations 2(2)(e) and 4(1)(e) of the Anatomy Regulations 1988(**c**) after "surviving spouse" insert ", civil partner".

(**a**) 2004 c.33. Section 259(11) contains a definition of "enactment" and "relevant Scottish provision" which are relevant to the exercise of the statutory powers under which this order is made.
(**b**) S.R.&O. 1935/247, relevant amending instruments are S.I. 1985/820 and S.S.I. 2003/301.
(**c**) S.I. 1988/44, to which there are amendments not relevant to this order.

Amendment of the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989

6. In regulations 4(1), 4A, 5(b) and (e) of the National Health Service (Charges to Overseas Visitors) (Scotland) Regulations 1989(**a**) after "spouse" insert ", civil partner".

Amendment of the Nursing and Midwifery Student Allowances (Scotland) Regulations 1992

7. The Nursing and Midwifery Student Allowances (Scotland) Regulations 1992(**b**) are amended as follows.

8. In Schedule 1 (Persons Eligible for Allowances)–

(a) in paragraph 3 after each occurrence of "spouse" insert "or civil partner"; and

(b) in paragraphs 5 and 6 after "spouse" insert ", civil partner".

9. In Schedule 2 (Ordinary Residence) in paragraphs 1 and 2 after "spouse" insert "or civil partner".

Amendment of the Council Tax (Discounts) (Scotland) Regulations 1992

10. The Council Tax (Discounts) (Scotland) Regulations 1992(**c**) are amended as follows.

11. In regulation 2 (care workers)–

(a) in paragraph (3)(b) after "spouse" insert ", civil partner"; and

(b) for paragraph (4) there is substituted–

"(4) For the purposes of sub-paragraph (b) of paragraph (3) above–

(a) a person is the spouse of another if they are a man and a woman–

(i) who are married to each other; or

(ii) who are not married to each other but are living together as husband and wife; and

(b) a person is the civil partner of another if they are of the same sex and–

(i) are civil partners of each other; or

(ii) are not civil partners of each other but are living together as civil partners to each other.".

12. In Schedule 1 (Persons Disregarded for Purposes of Discount), in paragraph 5 (spouses and dependents of students) after "spouse" insert ", civil partner".

Amendment of the Education Authority Bursaries (Scotland) Regulations 1995

13. The Education Authority Bursaries (Scotland) Regulations 1995(**d**) are amended as follows.

14. In regulation 4 (amount of bursaries), in paragraph (3) after "spouse" insert "or civil partner".

15. In Schedule 1 (Persons Eligible for Bursaries)–

(a) in paragraph 2A after each occurrence of "spouse" insert "or civil partner"; and

(b) in paragraphs 3(a)(ii) and 3A(b) after "spouse" insert ", civil partner".

(**a**) S.I. 1989/364, relevant amending instrument being S.S.I. 2004/369.
(**b**) S.I. 1992/580, relevant amending instruments are S.S.I. 2002/423, 2004/469 and 2005/341.
(**c**) S.I. 1992/1409, relevant amending instrument being S.I. 1998/340.
(**d**) S.I. 1995/1739, relevant amending instruments are S.I. 1997/1049 and S.S.I. 2004/469 and 2005/341.

16. In Schedule 2 (Ordinary Residence)–

(a) in paragraphs 1(a) and 2(3)(b) after "spouse" insert ", civil partner"; and

(b) in paragraph 2(4)(b) after "married" insert "or in a civil partnership".

Amendment of the Education (Fees and Awards) (Scotland) Regulations 1997

17. The Education (Fees and Awards) (Scotland) Regulations 1997(**a**) are amended as follows.

18. In Schedule 1 (Fee – Excepted Students)–

(a) in paragraphs 3(b), 5 and 7 after "spouse" insert ", civil partner"; and

(b) in paragraph 6(1)(b) after "spouse" insert "or civil partner".

19. In Schedule 2 (Post-Graduate Agricultural Studentships and Newbattle Abbey College Maintenance Awards – Excepted Candidates)–

(a) in paragraphs 2(1)(b), 4(1)(b)(ii) and 4(2)(b) after each occurrence of "spouse" insert "or civil partner"; and

(b) in paragraphs 3, 4(1)(b)(i) and 4(2)(a) after "spouse" insert ", civil partner".

20. In Schedule 3 (Fees Awards – Excepted Candidates) in paragraph 5 after "spouse"–

(a) where it first occurs insert ", civil partner"; and

(b) where it second occurs insert "or civil partner".

Amendment of the Home Energy Efficiency Scheme Regulations 1997

21. The Home Energy Efficiency Scheme Regulations 1997(**b**) are amended as follows.

22. In regulation 4(1) after each occurrence of "spouse" insert "or civil partner".

23. In regulation 4(3), at the appropriate place, insert–

""civil partner" includes any person who lives together with the applicant as his or her civil partner;".

24. In regulation 15–

(a) at the appropriate place, insert–

""civil partner" includes any person who lives together with the applicant as his or her civil partner;"; and

(b) in the definition of "spouse" omit–

"or in a relationship which has the characteristics of the relationship between husband and wife except that the persons are of the same sex".

25. In regulation 17(1)(a) after "spouse" insert "or civil partner".

Amendment of the Scotland Act 1998 (Transitory and Transitional Provisions) (Scottish Parliamentary Pension Scheme) Order 1999

26. The Scotland Act 1998 (Transitory and Transitional Provisions) (Scottish Parliamentary Pension Scheme) Order 1999(**c**) is amended as follows.

27. In Part K (Surviving Spouses and Children)–

(a) in article K1 (Pensions for surviving spouses)–

(i) in paragraphs (1), (4) and (5) after each occurrence of "spouse" insert "or civil partner"; and

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(**a**) S.I. 1997/93, relevant amending instrument being S.S.I. 2004/469.
(**b**) S.I. 1997/790, to which there are amendments not relevant to this order.
(**c**) S.I. 1999/1082, to which there are amendments not relevant to this order.

(ii) in paragraphs (3) and (6) after each occurrence of "spouse's" insert "or civil partner's";

(b) in article K2 (Pensions for children) at paragraph 2(b) and article K3 (Death in service of participating member) after each occurrence of "spouse" insert "or civil partner"; and

(c) in article K4 (Enhancement of initial surviving spouses' pensions)–

(i) after each occurrence of "spouse" insert "or civil partner"; and

(ii) in paragraph (9) after "spouse's" insert "or civil partner's".

28. In Parts L (Death Gratuities) and N (Refunds) after each occurrence of "spouse" insert "or civil partner".

29. In Part M (Five Year Guarantee)–

(a) after each occurrence of "spouse" insert "or civil partner"; and

(b) in article M5(1)(b) after "spouse's" insert "or civil partner's".

30. In Schedule 6 (Additional Voluntary Contributions)–

(a) in paragraph 1 (Interpretation) inthe definition of "dependant" after "spouse" insert ", civil partner"; and

(b) in paragraph 6 (Benefits which may be provided), at sub-paragraph (2)(c) after "spouse" insert "or civil partner".

Amendment of the Students' Allowances (Scotland) Regulations 1999

31. The Students' Allowances (Scotland) Regulations 1999(**a**) are amended as follows.

32. In regulation 4 (amount of allowances), in paragraph (3) after "spouse" insert "or civil partner".

33. In Schedule 1 (Persons Eligible for Allowances)–

(a) in paragraph 3 after each occurrence of "spouse" insert "or civil partner"; and

(b) in paragraphs 5(a)(ii) and 6(b) after "spouse" insert ", civil partner".

34. In Schedule 2 (Ordinary Residence)–

(a) in paragraph 1(a) and 2(3)(b) after "spouse" insert ", civil partner"; and

(b) in paragraph 3(1)(b) at the end insert "or in a civil partnership".

Amendment of the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999

35. In Schedule 2 (General Definitions) to the Scotland Act 1998 (Transitory and Transitional Provisions) (Publication and Interpretation etc. of Acts of the Scottish Parliament) Order 1999(**b**), at the appropriate place, insert–

> ""civil partnership" means a civil partnership which exists under or by virtue of the Civil Partnership Act 2004 (and any reference to a civil partner shall be construed accordingly);".

Amendment of the Education (Student Loans) (Scotland) Regulations 2000

36. The Education (Student Loans) (Scotland) Regulations 2000(**c**) are amended as follows.

37. In regulation 2 (interpretation) in paragraph (3) after "spouse" insert ", civil partner".

(**a**) S.I. 1999/1131, relevant amending instruments are S.S.I. 2004/469 and 2005/341.
(**b**) S.I. 1999/1379, to which there is an amendment not relevant to this order.
(**c**) S.S.I. 2000/200, to which there are amendments not relevant to this order.

38. In regulation 4 (eligible students), at paragraph (2)(g)(ii), at the end, insert "or in a civil partnership".

39. In regulation 11 (means test), at paragraph (1) after "spouse" insert "or civil partner".

40. In Schedule 1 (eligible students)–

(a) in paragraphs 2 and 3 after each occurrence of "spouse" insert ", civil partner"; and

(b) in paragraph 5 after each occurrence of "spouse" insert "or civil partner".

Amendment of the Graduate Endowment (Scotland) Regulations 2001

41. The Graduate Endowment (Scotland) Regulations 2001(**a**) are amended as follows.

42. In regulation 4 (exempt graduates), at paragraph (1)(b) after "married" insert "or in a civil partnership".

43. In Schedule 1 (Liable Graduates)–

(a) in paragraph 4 after each occurrence of "spouse" insert "or civil partner"; and

(b) In paragraph 6(b) after "spouse" insert ", civil partner".

44. In Schedule 2 (Ordinary Residence)–

(a) in paragraphs 1(a) and 2(3)(b) after "spouse" insert ", civil partner"; and

(b) in paragraph 3(1)(b) after "married" insert "or in a civil partnership".

Amendment of the Scottish Local Government Election Rules 2002

45. The Scottish Local Government Election Rules 2002(**b**) are amended as follows.

46. In Schedule 2, Part III (Contested Elections)–

(a) in paragraph 28 (questions to be put to voters), at sub-paragraph (2) after each occurrence of ["wife"] insert, "civil partner";

(b) in paragraph 32 (voting by persons with disabilities), at sub-paragraph (3)(b) after "wife" insert ", civil partner"; and

(c) in appendix 1 (Forms for Use at Scottish Local Government Elections) to Schedule 2–

(i) in the form titled "Proxy's Official Notification" after "wife" insert ", civil partner"; and

(ii) in the form titled "Declaration by the Companion of a Voter with Disabilities" after "wife" insert ", civil partner".

Amendment of the Education Maintenance Allowances (Scotland) Regulations 2004

47. The Education Maintenance Allowances (Scotland) Regulations 2004(**c**) are amended as follows.

48. In regulation 4 (amount of education maintenance allowances) in paragraph (4) after "to each other" insert "nor are in a civil partnership, with each other".

49. In Schedule 1 (persons eligible for education maintenance allowances)–

(a) in paragraph 3 after each occurrence of "spouse" insert "or civil partner"; and

(b) in paragraphs 5(a)(ii) and 6(b) after "spouse" insert ", civil partner".

50. In Schedule 2 (Ordinary Residence)–

(a) in paragraphs 1(a) and 2(3)(b) after "spouse" insert "or civil partner"; and

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(**a**) S.S.I. 2001/280, relevant amending instruments are S.S.I. 2004/469 and 2005/341.
(**b**) S.S.I. 2002/457, to which there are amendments not relevant to this order.
(**c**) S.S.I. 2004/273, relevant amending instrument being S.S.I. 2004/469.

(b) in paragraph 2(4)(a) after "married" insert "or in a civil partnership".

Amendment of the Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005

51. The Council Tax (Discount for Unoccupied Dwellings) (Scotland) Regulations 2005(**a**) are amended as follows.

52. In the Schedule (Classes of Dwellings) at paragraph 2 (job-related dwellings)–

(a) after each occurrence of "spouse" insert "or civil partner";

(b) in sub-paragraph (4)(a) after "spouse's" insert "or civil partner's";

(c) in sub-paragraph (7) for the words from "or in a relationship" to the end substitute "and references to a person's civil partner include references to another person living together with that person as civil partners".

HUGH HENRY
Authorised to sign by the Scottish Ministers

St Andrew's House,
Edinburgh
10th November 2005

(**a**) S.S.I. 2005/51.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes modifications to subordinate legislation. These modifications are consequential to the Civil Partnership Act 2004 (c.33) ("the 2004 Act").

It amends a number of pieces of subordinate legislation to ensure that civil partners are given parity of treatment and status as spouses in areas of law that are not contained within the 2004 Act.

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