Executive Note

DRAFT: The Civil Partnership (Jurisdiction and Recognition of Judgments) (Scotland) Regulations 2005

The above instrument was made in exercise of the powers conferred by section 219(2), (3), (4) and (5) of the Civil Partnership Act 2004 ("the 2004 Act"). The instrument is subject to affirmative resolution procedure.

Policy Objectives

The purpose of the instrument is to align the rules on jurisdiction and recognition of judgements in respect of dissolution and annulment of civil partnerships and separation of civil partners with the corresponding rules for marriage contained in Council Regulation (EC) 2201/2003 ("the Council Regulation"), so far as possible.

The Council Regulation contains pan-EU rules on jurisdiction and the recognition and enforcement of judgements in matrimonial cases. These rules do not extend to civil partnerships, an institution which is not known in all of the Member States. However, the instrument seeks so far as possible to place proceedings relating to civil partnerships (and overseas relationships entitled to be treated as civil partnerships under the 2004 Act) in the same position as matrimonial proceedings under the Council Regulation. It is not possible to fully equate the two situations, because the Council Regulation contains certain provisions which can only be applied on a pan-EU basis, for example protection against being sued in another Member State on jurisdictional grounds not provided for in the Council Regulation. Such provisions cannot be replicated on a purely national basis. The instrument does provide for the Scottish courts to exercise jurisdiction in civil partnership proceedings on the same jurisdictional bases as are set out in the Council Regulation, and for the recognition and enforcement of judgements in civil partnership proceedings emanating from other Member States.

Financial Effects

The instrument has no significant financial effects on the Scottish Executive, in that it simply applies to civil partnerships rules which are already well-established as regards matrimonial proceedings. It has no financial effects on local government or on business.

Scottish Executive Justice Department
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