Draft Order laid before Parliament under section 259(8) of the Civil Partnership Act 2004, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2005 No.

FAMILY LAW, ENGLAND AND WALES
FAMILY LAW, NORTHERN IRELAND
HOUSING, ENGLAND AND WALES
CIVIL PARTNERSHIP

The Civil Partnership (Family Proceedings and Housing Consequential Amendments) Order 2005

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

The Secretary of State makes the following Order in exercise of the powers conferred by section 259(1) and (3) of the Civil Partnership Act 2004(**1**). In accordance with section 259(8) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation, commencement and extent

1. This Order may be cited as the Civil Partnership (Family Proceedings and Housing Consequential Amendments) Order 2005 and shall come into force on 5 December 2005.

2.—(1) Articles 3, 5 to 10 and 20 extend to England and Wales only.

(2) Articles 11 to 17 extend to Northern Ireland only.

(3) Article 1, this article and articles 4, 18 and 19 extend to England and Wales and Northern Ireland only.

(4) Nothing in the amendments to the Family Law Act 1986 made by this Order is to be read as affecting a dependent territory specified in column 1 of Schedule 1 to the Family Law Act 1986 (Dependent Territories) Order 1991(**2**).

(**1**) 2004 c.33.
(**2**) S.I. 1991/1723

Amendments to the Matrimonial and Family Proceedings Act 1984(3)

3. In section 38 of the Matrimonial and Family Proceedings Act 1984 (transfer of family proceedings from High Court to county court), in subsection (2)(a), for "or divorce county court" substitute ", divorce county court or civil partnership proceedings county court".

Amendments to the Family Law Act 1986(4)

4. Amend the Family Law Act 1986 as follows.

5. In section 2 (jurisdiction of courts in England and Wales: general), in subsection (1)(b)(i), after "matrimonial proceedings" insert "or civil partnership proceedings".

6. In the section 2A title after "matrimonial proceedings" insert "or civil partnership proceedings".

7.—(1) Amend section 2A (jurisdiction in or in connection with matrimonial proceedings or civil partnership proceedings) as follows.

(2) In subsection (1)—

(a) omit "matrimonial";

(b) after "the marriage" insert "or civil partnership";

(c) in paragraph (a)(i) after "of marriage" insert ", or dissolution or annulment of a civil partnership"; and

(d) in paragraph (b)(i) after "separation" insert "or legal separation of civil partners".

(3) For subsection (2) substitute—

"(2) For the purposes of subsection (1)(b) above, the jurisdiction of the court is excluded if—

(a) after the grant of a decree of judicial separation, on the relevant date, proceedings for divorce or nullity in respect of the marriage, or

(b) after the making of a separation order, on the relevant date, proceedings for dissolution or annulment in respect of the civil partnership,

are continuing in Scotland or Northern Ireland.".

8. In section 3 (habitual residence or presence of the child), in subsection (2)—

(a) after "matrimonial proceedings" insert "or civil partnership proceedings"; and

(b) after "marriage" insert "or civil partnership".

9.—(1) Amend section 6 (duration and variation of custody orders) as follows.

(2) In subsection (3)—

(a) after "matrimonial proceedings" insert "or civil partnership proceedings"; and

(b) after "marriage" insert "or civil partnership".

(3) For subsections (3A) and (3B) substitute—

"(3A) Subsection (3) shall not apply if—

(a) the Part 1 order was made in or in connection with proceedings—

(3) 1984 c.42.

(4) 1986 c.55, as amended by the Children Act 1989 s. 108(5) Schedule 13, the Children (NI) Order 1995 S.I. 1995/755 and S.I. 2005/265.

(i) for divorce or nullity in England and Wales in respect of the marriage of the parents of the child concerned; or

(ii) for dissolution or annulment in England and Wales in respect of the civil partnership of the parents of the child concerned; and

(b) those proceedings are continuing.

(3B) Subsection (3) shall not apply if—

(a) the Part 1 order was made in or in connection with proceedings—

(i) for judicial separation in England and Wales; or

(ii) for a separation order in England and Wales; and

(b) those proceedings are continuing; and

(c) as the case may be, the decree of judicial separation has not yet been granted or the separation order has not yet been made."

10. In section 7 (interpretation of Chapter 2), after paragraph (a) insert—

"(aa) "civil partnership proceedings" means proceedings for the dissolution or annulment of a civil partnership or for legal separation of the civil partners;".

11. In the section 19 title after "divorce" insert ", dissolution of a civil partnership".

12. In section 19 (jurisdiction of courts in Northern Ireland in cases other than divorce, dissolution of a civil partnership, etc), in subsection (1)(b)(i), after "matrimonial proceedings" insert "or civil partnership proceedings".

13. In the section 19A title after "matrimonial proceedings" insert "or civil partnership proceedings".

14.—(1) Amend section 19A (jurisdiction in or in connection with matrimonial proceedings or civil partnership proceedings) as follows.

(2) In subsection (1)—

(a) omit "matrimonial";

(b) after "the marriage" insert "or civil partnership";

(c) in paragraph (a)(i) after "of marriage" insert ", or dissolution or annulment of a civil partnership"; and

(d) in paragraph (b)(i) after "separation" insert "or legal separation of civil partners".

(3) For subsection (2) substitute—

"(2) For the purposes of subsection (1)(b) above, the jurisdiction of the court is excluded if—

(a) after the grant of a decree of judicial separation, on the relevant date, proceedings for divorce or nullity in respect of the marriage, or

(b) after the making of a separation order, on the relevant date, proceedings for dissolution or annulment in respect of the civil partnership,

are continuing in England and Wales or Scotland.".

15. In section 20 (habitual residence or presence of the child), in subsection (2)—

(a) after "matrimonial proceedings" insert "or civil partnership proceedings"; and

(b) after "marriage" insert "or civil partnership".

16.—(1) Amend section 23 (duration and variation of custody orders) as follows.