

## **EXPLANATORY NOTE**

### **CLAUSE 103: CIVIL PARTNERSHIPS ETC**

#### **SUMMARY**

1. Clause 103 paves the way to changing all relevant tax legislation to ensure parity of tax treatment between married couples and civil partners and in each case those treated as such.
2. These explanatory notes relate to the powers in the Bill that enable changes to be made to all primary and secondary tax legislation by way of regulations. The regulations will reflect the social policy that led to the Civil Partnership Act 2004 and are the means of implementing the appropriate tax changes.

#### **DETAILS OF THE CLAUSE**

3. Subsection (1) provides that in relation to any tax or duty, the Treasury may by regulations provide similar treatment for civil partners and civil partnerships as is given to married persons and marriage. Provision can also be made for related persons or events such as persons who have been married or persons who are not married but treated as if they are.
4. Subsection (2) clarifies the scope of the power in subsection (1); the Treasury may, in order to achieve similar treatment, vary the treatment presently given to married persons, marriage etc.
5. Subsection (3) gives the Treasury power to make regulations to remove any inequality of treatment of persons based on gender or, in the case of a parent, marital status.
6. Subsections (4) and (5) provide the parliamentary procedure for making the regulations; they are to be made by statutory instrument and subject to affirmative procedure exercisable only by the House of Commons.

7. Subsection (6) clarifies the scope of the powers in this section. The Treasury can amend any enactment (defined in subsection (9)) or apply any enactment, and such enactment can first be modified.
8. Subsection (8) specifies the enactments which can be amended or applied under this section. This includes the Finance (No. 2) Bill 2005 and any enactments made after the Finance Act 2005 is passed but before the end of the parliamentary session following the session in which the Finance Act 2005 is passed.
9. Subsection (9) is a definition section.

### **BACKGROUND NOTES**

10. On 18 December 2004 the Civil Partnership Act received its Royal Assent. It provides a new legal framework that enables recognition of same-sex relationships through the new status of civil partnership. Same-sex couples across the UK will be able to form a civil partnership.
11. Couples who enter into a civil partnership will gain a package of rights and responsibilities. The Government believes that the tax system should, wherever possible, adapt to reflect changes in society and recognises that there are implications for the tax system arising from the new legal relationship that can be established under the Civil Partnership Act. Because civil partnership is a parallel status to marriage, the Government's policy is that civil partners should be subject to all the same legal rights and responsibilities as spouses.
12. To ensure fairness, the Government made the commitment that legislation would be introduced to ensure that civil partners would be treated the same as married couples for tax purposes. Finance (No. 2) Bill 2005 contains the powers to make the necessary regulations and to ensure that the results are compatible with the Human Rights Act.
13. It is planned to lay two affirmative Instruments, one amending primary, the other with secondary legislation. This package will ensure that tax charges and reliefs and anti-avoidance rules will apply equally to married couples and civil partners and in each case those treated as such. It is intended that these changes will

**BOARD OF INLAND REVENUE  
RESOLUTIONS: 56**

**FINANCE (No. 2) BILL 2005  
CLAUSE 103**

apply from the commencement of the civil partnership scheme on  
5 December 2005.

**EXPLANATORY NOTE**

**SUPPLEMENTARY CLAUSES**

**CLAUSE 104 AND SCHEDULE 11: REPEALS**

1. Clause 104 provides for the repeals contained in Schedule 11 of the Bill to have effect. It also gives effect to the Notes in the Schedule that set out the commencement provisions and savings applying to the repeals.

**CLAUSE 105: INTERPRETATION**

2. Clause 105 provides for the use of abbreviations for a variety of Acts. For example, provides for the use of “ICTA” as an abbreviation for the Income and Corporation Taxes Act 1988.

**CLAUSE 106: SHORT TITLE**

3. Clause 106 provides for the Bill to be known as the “Finance Act 2005” upon enactment.