

Status: Point in time view as at 10/11/2005. This version of this Rule contains provisions that are not valid for this point in time.

Changes to legislation: There are currently no known outstanding effects for the The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005. (See end of Document for details)

This Statutory Rule is being issued free of charge to all known recipients of Statutory Rule No. 433 which contained errors.

STATUTORY RULES OF NORTHERN IRELAND

2005 No. 433

CIVIL PARTNERSHIP

The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005

*Made - - - - 29th September 2005
To be laid before Parliament under paragraph 7(3) of
the Schedule to the Northern Ireland Act 2000
Coming into operation in accordance with Article 1(2)
and (3)*

The Department for Social Development, in exercise of the powers conferred by section 255 of the Civil Partnership Act 2004⁽¹⁾, and of all other powers enabling it in that behalf, having consulted such persons as it considers appropriate⁽²⁾, hereby makes the following Order:

PROSPECTIVE

VALID FROM 05/12/2005

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005.

(2) In this Order—

- (a) paragraphs 5 and 8 of Schedule 1 shall come into operation, for the purposes only of making regulations under section 17(1) of the Pension Schemes Act⁽³⁾ (commutation, surrender and forfeiture);

(1) 2004 c. 33

(2) See section 255(6) of the Civil Partnership Act 2004 for the requirement to consult

(3) 1993 c. 49; section 17(1) was substituted by Article 261(1) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))

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(b) paragraph 10 of Schedule 1 shall come into operation, for the purposes only of making regulations under section 24(5) of the Pension Schemes Act(4) (ways of giving effect to protected rights), and

(c) paragraph 11 of Schedule 1 shall come into operation, for the purposes only of making regulations under section 24A(5)(a) of the Pension Schemes Act(5) (requirements for interim arrangements),

on 10th November 2005.

(3) Subject to paragraph (2), this Order shall come into operation on 5th December 2005.

(4) In this Order “the Pension Schemes Act” means the Pension Schemes (Northern Ireland) Act 1993(6).

Commencement Information

II Art. 1 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

Amendment of legislation

2.—(1) Schedule 1, which contains amendments of provisions of the Pension Schemes Act which relate to contracted-out occupational and appropriate personal pension schemes, extending those provisions to surviving civil partners, shall have effect.

(2) Schedule 2, which contains amendments of provisions of Regulations which relate to contracted-out occupational and appropriate personal pension schemes, extending those provisions to surviving civil partners, shall have effect.

Commencement Information

I2 Art. 2 in operation at 5.12.2005, see [art. 1\(3\)](#)

Sealed with the Official Seal of the Department for Social Development on 29th September 2005.

L.S.

John O'Neill
A senior officer of the
Department for Social Development

(4) Section 24(5) was amended by Article 139(6) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and paragraph 3(4) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))
(5) Section 24A was inserted by Article 140 of the Pensions (Northern Ireland) Order 1995
(6) 1993 c. 49

SCHEDULE 1

Article 2(1)

Amendments of the Pension Schemes Act relating to contracted-out occupational and appropriate personal pension schemes, extending those provisions to surviving civil partners

VALID FROM 05/12/2005

1. The Pension Schemes Act is amended in accordance with paragraphs 2 to 24.

Commencement Information

I3 Sch. 1 para. 1 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

2. In section 4(2) (meaning of “contracted-out employment”, “guaranteed minimum pension” and “minimum payment”), in the definition of “guaranteed minimum pension”, for “widow’s or widower’s” there shall be substituted “widow’s, widower’s or surviving civil partner’s”.

Commencement Information

I4 Sch. 1 para. 2 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

3. In section 8A(1) and (2)(b)(7) (the statutory standard) for “widows or widowers” there shall be substituted “widows, widowers or surviving civil partners”.

Commencement Information

I5 Sch. 1 para. 3 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

4. In section 8B(4)(8) (reference scheme) for “widows or widowers”, in each place where it occurs, there shall be substituted “widows, widowers or surviving civil partners”.

Commencement Information

I6 Sch. 1 para. 4 in operation at 5.12.2005, see [art. 1\(3\)](#)

5. In section 13 (minimum pensions for widows and widowers)—

(7) Section 8A was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995

(8) Section 8B was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995 and amended by regulation 2 of S.R. 1997 No. 162

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- (a) in subsection (1) for “widow or widower”, in each place where it occurs, there shall be substituted “widow, widower or surviving civil partner”;
- (b) in subsection (2), after paragraph (b) there shall be added the following paragraph—
 - “(c) if the earner is a person who has a guaranteed minimum under that section, the weekly rate of the surviving civil partner’s pension will not be less than the surviving civil partner’s guaranteed minimum.”;
- (c) in subsection (4) after “widower's” there shall be inserted “or surviving civil partner's”;
- (d) in subsection (4A)(9)—
 - (i) at the beginning there shall be inserted “Subject to subsection (4B)”;
 - (ii) for “widow or widower's” there shall be substituted “widow's, widower’s or surviving civil partner's”;
 - (iii) for “widow or widower”, in each place where it occurs (other than paragraph (c)(i) and (ii)), there shall be substituted “widow, widower or surviving civil partner”;
 - (iv) for paragraph (c)(i) and (ii) there shall be substituted the following sub-paragraphs—
 - “(i) comprises a period during which the widow, widower or surviving civil partner and—
 - (a) a person of the opposite sex are living together as husband and wife, or
 - (b) a person of the same sex are living together as if they were civil partners, nor
 - (ii) falls after the time of any—
 - (a) marriage, or
 - (b) formation of a civil partnership,by the widow or widower or surviving civil partner which takes place after the earner’s death.”;
- (e) after subsection (4A), there shall be inserted the following subsection—
 - “(4B) Sub-paragraphs (i)(b) and (ii)(b) of subsection (4A)(c) do not apply where the earner dies before 5th December 2005.”;
- (f) in subsection (6)(10) for “widower’s pension to be payable to him” there shall be substituted “widower’s or surviving civil partner’s pension to be payable”;
- (g) in subsection (7)(11) for “widowers or widows” there shall be substituted “widows, widowers or surviving civil partners”, and
- (h) after subsection (8)(12) there shall be added the following subsection—
 - “(9) For the purposes of subsection (4A), two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”.

(9) Subsection (4A) was inserted by paragraph 1 of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(10) Subsection (6) was amended by paragraph 1(3) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(11) Subsection (7) was amended by paragraph 22 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and by paragraph 42 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(12) Subsection (8) is added by Article 261(2) of the Pensions (Northern Ireland) Order 2005

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Commencement Information

I7 Sch. 1 para. 5 in operation at 10.11.2005 for specified purposes, see [art. 1\(2\)\(a\)](#)

VALID FROM 05/12/2005

6. In section 15(5)(a)(i) and (ii) (discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”.

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Commencement Information

I8 Sch. 1 para. 6 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

7. In section 16(6) (transfer of accrued rights) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”.

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Commencement Information

I9 Sch. 1 para. 7 in operation at 5.12.2005, see [art. 1\(3\)](#)

8. In section 17(2) (commutation, surrender and forfeiture) for “widow’s or widower’s” there shall be substituted “widow’s, widower’s or surviving civil partner’s”.

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Commencement Information

I10 Sch. 1 para. 8 in operation at 10.11.2005 for specified purposes, see [art. 1\(2\)\(a\)](#)

VALID FROM 05/12/2005

9. In section 19(3)(b) (securing of benefits)(**13**) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”.

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Commencement Information

I11 Sch. 1 para. 9 in operation at 5.12.2005, see [art. 1\(3\)](#)

10. In section 24 (ways of giving effect to protected rights)—

- (a) in subsection (3)(b)(**14**) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”;

(13) See paragraph 24 of Schedule 3 to the Pensions (Northern Ireland) Order 1995

(14) Subsection (3)(b) was amended by Article 139(4) of the Pensions (Northern Ireland) Order 1995

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- (b) in subsection (4B)(15) for “a married person” there shall be substituted “married or a civil partner”;
- (c) in subsection (8)(16) in the definition of “the termination date”—
 - (i) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”, and
 - (ii) for “widow or widower's” there shall be substituted “widow's, widower's or surviving civil partner's”.

Commencement Information

I12 Sch. 1 para. 10 in operation at 10.11.2005 for specified purposes, see [art. 1\(2\)\(b\)](#)

11. In section 24A(1), (2) and (5)(b)(ii)(17) (requirements for interim arrangements) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”.

Commencement Information

I13 Sch. 1 para. 11 in operation at 10.11.2005 for specified purposes, see [art. 1\(2\)\(c\)](#)

VALID FROM 05/12/2005

12. In section 25 (the pension and annuity requirements), in subsections (1)(b) in each place where it occurs, (3)(b) and (4)(18), for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”.

Commencement Information

I14 Sch. 1 para. 12 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

13. In section 33(4)(19) (alteration of rules of contracted-out schemes) after “widower” there shall be inserted “or surviving civil partner”.

Commencement Information

I15 Sch. 1 para. 13 in operation at 5.12.2005, see [art. 1\(3\)](#)

- (15) Subsections (4A) and (4B) were inserted by paragraph 3(3) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000
- (16) Subsection (8) was added by Article 139(7) of the Pensions (Northern Ireland) Order 1995
- (17) Section 24A was inserted by Article 140 of the Pensions (Northern Ireland) Order 1995
- (18) Subsection (1)(b) was amended by paragraph 28 of Schedule 3 to the Pensions (Northern Ireland) Order 1995; subsection (3)(b) was amended by Article 141(3) of that Order and article 130(2) of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649); subsection (4) was amended by Article 141(4) of the Pensions (Northern Ireland) Order 1995 and article 130(3) of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001
- (19) Section 33 was substituted by paragraph 32 of Schedule 3 to the Pensions (Northern Ireland) Order 1995

VALID FROM 05/12/2005

14. In section 34(2) (alteration of rules of appropriate schemes)—
- (a) after “apply” there shall be inserted “(a)”, and
 - (b) after “prescribed description” there shall be inserted—
 - “; or
 - (b) where the rules of the relevant scheme are altered to make provision for pensions for surviving civil partners”.

Commencement Information

I16 Sch. 1 para. 14 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

15. In section 43(20) (further provisions concerning entitlement to guaranteed minimum pensions for the purposes of section 42)—
- (a) in subsection (1) after “widower” there shall be inserted “or surviving civil partner”;
 - (b) in subsection (3)—
 - (i) for “widow or widower”, in each place where it occurs, there shall be substituted “widow, widower or surviving civil partner”, and
 - (ii) for “widow’s or widower’s” there shall be substituted “widow’s, widower’s or surviving civil partner’s”.

Commencement Information

I17 Sch. 1 para. 15 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

16. In section 44(2)(c)(21) (reduced benefits where minimum payments or minimum contributions paid) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”.

Commencement Information

I18 Sch. 1 para. 16 in operation at 5.12.2005, see [art. 1\(3\)](#)

(20) Subsection (1) was amended by section 18 of the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)) and by paragraph 55 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)); subsection (3) was amended by article 20 of the Financial Services and Markets Act 2000 (Consequential Amendments) Order 2002 (S.I. 2002/1555)

(21) Section 44 ceased to have effect for minimum payments or minimum contributions paid from 6th April 1997 in consequence of Article 137(3) of the Pensions (Northern Ireland) Order 1995; subsection (2)(c) was amended by Article 137(2) of the Pensions (Northern Ireland) Order 1995

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17. In section 56(5)(22) (effect of payment of premium on rights) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”.

Commencement Information

I19 Sch. 1 para. 17 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

18. In section 83 (general protection principle)—

- (a) in subsection (2)(c) for “widow or widower, the widow’s or, as the case may be, the widower’s” there shall be substituted “widow, widower or surviving civil partner, the widow’s, widower’s or surviving civil partner’s (as the case may be)”;
- (b) in subsection (3) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”;
- (c) in subsections (3)(a) and (4)(d) for “widow’s or widower’s” there shall be substituted “widow’s, widower’s or surviving civil partner’s”.

Commencement Information

I20 Sch. 1 para. 18 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

19. In section 84(1)(b) (the relevant sum) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”.

Commencement Information

I21 Sch. 1 para. 19 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

20. In section 85(1)(a) and (b) and (2)(b) (the appropriate addition) for “widow’s or widower’s” there shall be substituted “widow’s, widower’s or surviving civil partner’s”.

Commencement Information

I22 Sch. 1 para. 20 in operation at 5.12.2005, see [art. 1\(3\)](#)

(22) Subsection (5) was amended by paragraph 46(c) of Schedule 3 to the Pensions (Northern Ireland) Order 1995

VALID FROM 05/12/2005

21. In section 86(2)(a) and (b) (the later earnings addition) for “widow’s or widower’s” there shall be substituted “widow’s, widower’s or surviving civil partner’s”.

Commencement Information

I23 Sch. 1 para. 21 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

22. In section 105(1)(b) (annual increase of guaranteed minimum pensions) for “widows and widowers” there shall be substituted “widows, widowers and surviving civil partners”.

Commencement Information

I24 Sch. 1 para. 22 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

23. In section 106(1)(b)(**23**) (requirement as to resources for annual increase of guaranteed minimum pensions) for “widow or widower”, in each place where it occurs, there shall be substituted “widow, widower or surviving civil partner”.

Commencement Information

I25 Sch. 1 para. 23 in operation at 5.12.2005, see [art. 1\(3\)](#)

VALID FROM 05/12/2005

24.—(1) In section 165(1)(c)(**24**) (determination of questions by Department) for “widow or widower” there shall be substituted “widow, widower or surviving civil partner”.

(2) The reference in sub-paragraph (1) to section 165 is a reference to that section as it has effect without the substitution made by paragraph 99 of Schedule 6 to the Social Security (Northern Ireland) Order 1998(**25**).

Commencement Information

I26 Sch. 1 para. 24 in operation at 5.12.2005, see [art. 1\(3\)](#)

(23) Subsection (1) was amended by Article 53(4) of the Pensions (Northern Ireland) Order 1995

(24) Subsection (1)(c) was amended by article 21 of the Financial Services and Markets Act 2000 (Consequential Amendments) Order 2002. See Article 15(1) of the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999

(25) [S.I. 1998/1506 \(N.I. 10\)](#)

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VALID FROM 05/12/2005

SCHEDULE 2

Article 2(2)

Amendments of provisions of Regulations relating to contracted-out occupational and appropriate personal pension schemes, extending those provisions to surviving civil partners

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EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Pension Schemes (Northern Ireland) Act 1993 (“the 1993 Act”) and subordinate legislation, making provision for surviving civil partners to receive pensions under contracted-out occupational and appropriate personal pension schemes.

Article 1 provides for citation, commencement and interpretation.

Article 2 introduces Schedule 1, containing amendments of the 1993 Act, and Schedule 2, containing amendments of provisions of Regulations.

Schedule 1 amends provisions of the 1993 Act to extend to surviving civil partners existing contracting-out requirements to provide survivor benefits to widows and widowers.

Paragraphs 2 to 4, 6 to 13 and 15 to 23 extend provisions in respect of widows and widowers in the 1993 Act to surviving civil partners.

Paragraph 5 amends section 13 of the 1993 Act, to extend to surviving civil partners the provisions in relation to guaranteed minimum pensions for widows and widowers so that surviving civil partners are treated in the same way as widowers. It also extends the circumstances where pensions to survivors need not be paid. These extended circumstances are subject to a transitional provision which ensures that they do not apply to survivors of scheme members where the member dies before the civil partnership provisions come into force.

Paragraph 14 amends section 34(2) of the 1993 Act to extend its scope to allow appropriate schemes to alter their rules to make provision for survivor benefits for civil partners.

Paragraph 24 amends section 165(1)(c) of the 1993 Act in relation to the determination of certain questions. Section 165 was amended by the Social Security (Northern Ireland) Order 1998 but those amendments have not yet been brought into operation (except for the purpose of making regulations). Accordingly it is the version of section 165(1)(c) prior to those amendments that has been amended.

Schedule 2 amends Regulations relating to contracting-out by extending to surviving civil partners existing provisions relating to widows and widowers. Where existing provisions apply only to widowers, they are extended to apply to surviving civil partners. Each Part of Schedule 2 amends a separate set of Regulations—

Part 1 amends the Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations (Northern Ireland) 1987;

Part 2 amends the Contracting-out (Protection of Pensions) Regulations (Northern Ireland) 1991;

Part 3 amends the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations (Northern Ireland) 1996;

Part 4 amends the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996. Paragraph 14 substitutes regulation 26, to extend the circumstances in which, in relation to the reference scheme, widows', widowers' and civil partners' pensions need not be paid. These extended circumstances are subject to a transitional provision which ensures that they do not apply to survivors of scheme members where the member dies before the civil partnership provisions come into force. Paragraph 19 amends regulation 58 to extend the circumstances in which a guaranteed minimum pension payable to a widower or surviving civil partner need not be paid. These extended circumstances are subject to a transitional provision which ensures that they do not apply to survivors of scheme members where the member dies before the civil partnership provisions come into force;

Part 5 amends the Protected Rights (Transfer Payment) Regulations (Northern Ireland) 1996;

Part 6 amends the Contracting-out (Transfer and Transfer Payment) Regulations (Northern Ireland) 1996;

Part 7 amends the Personal and Occupational Pension Schemes (Protected Rights) Regulations (Northern Ireland) 1997. Paragraph 29 amends regulation 5 to extend the circumstances in which a pension or annuity payable to a widow, widower or surviving civil partner need not be paid. These extended circumstances are subject to a transitional provision which ensures that they do not apply to survivors of scheme members where the member dies before the civil partnership provisions come into force. Paragraph 32 amends regulation 12 to extend the circumstances in which a pension or annuity need not be paid to the widow, widower or surviving civil partner when the member dies before effect is given to his or her protected rights. These extended circumstances are subject to a transitional provision which ensures that they do not apply to survivors of scheme members where the member dies before the civil partnership provisions come into force;

Part 8 amends the Occupational Pension Schemes (Modification of Schemes) Regulations (Northern Ireland) 1997;

Part 9 amends the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997;

Part 10 amends the Occupational Pension Schemes (Discharge of Liability) Regulations (Northern Ireland) 1997. Paragraph 44 amends regulation 11 to extend the circumstances in which a pension need not be provided for widows, widowers and surviving civil partners. These extended circumstances are subject to a transitional provision which ensures that they do not apply to survivors of scheme members where the member dies before the civil partnership provisions come into force.

An assessment of the impact on business, charities or the voluntary sector of the provisions in this Order is included in the Regulatory Impact Assessment that accompanied the Civil Partnership Act 2004. A copy of that assessment has been placed in the libraries of both Houses of Parliament. Copies may be obtained from the DTI website at <http://www.dti.gov.uk/access/ria/index.htm#equality>.

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