

EXECUTIVE NOTE

THE LOCAL GOVERNMENT PENSIONS ETC. (CIVIL PARTNERSHIP) (SCOTLAND) AMENDMENT REGULATIONS 2005 SSI/2005/554

The above instrument is made in exercise of the powers conferred by sections 7, 12 and 24 of the Superannuation Act 1972. These powers have been devolved to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750). The Instrument is subject to negative resolution procedure.

Policy Objectives

This instrument makes amendments to the Local Government Pension Scheme (Scotland) Regulations 1998 (“the 1998 Regulations”), the Local Government (Discretionary Payments and Injury Benefits) (Scotland) Regulations 1998 (“the Discretionary Payments Regulations”) and the Local Government Pension Scheme (Transitional Provisions) (Scotland) Regulations 1998 (“the Transitional Regulations”).

The Civil Partnership Act 2004 (c.33), which comes into force on 5 December 2005, introduces the new status of “civil partner” where same sex couples form a legal civil partnership and this instrument makes provision for civil partners to receive similar pension rights as are provided to married couples.

The main changes to the 1998 Regulations are outlined at 1-6 and the main changes to the other Regulations are outlined at 7-11 below:

Amendments to the 1998 Regulations

1. Provision is made to provide that certain lump sum payments and dependent’s pensions can be paid to a surviving civil partner in a similar way as they are paid to a surviving spouse.
2. Pensions for surviving civil partners will be backdated at no cost to the member to 6 April 1988 or to the start of the member’s pensionable service if this commences after this date.
3. Provision is made to permit a member to surrender part of his or her pension so that it can be paid on the member’s death to a surviving civil partner.
4. Provision is made for a pension to be paid in certain circumstances to a surviving civil partner of a scheme member who has a guaranteed minimum (within the meaning of the Pensions Schemes Act 1993).
5. Provision is made for pension sharing to have effect on the dissolution of a civil partnership.
6. Surviving civil partners are given the opportunity to apply for the resolution of a dispute in respect of their deceased partner’s pension in the same way as a surviving spouse or dependent may do.

Amendments to the Discretionary Payments Regulations

7. Provision is made for short and long-term compensation to be paid to the surviving civil partner of a person who was entitled to a discretionary payment before his or her death.
8. The definition of “eligible child” is amended to that children entitled to benefits include children accepted into a family resulting from the formation of a civil partnership, or adopted children of a person’s civil partner.
9. Provision is made for a surviving civil partner to receive death benefits where the other civil partner dies as a result of injury or disease contracted during employment, or where the other civil partner dies in service.
10. Provision is made for annuities to be paid to a surviving civil partner in certain circumstances where a retirement or redundancy gratuity had been paid to the other civil partner by way of an annuity before his or her death.

Amendments to the Transitional Regulations

11. The Transitional Regulations are amended to provide survivor benefits for surviving civil partners in a similar manner to those for surviving spouses. This provision applies where a person who is a deferred or pensioner member under the previous Local Government Pension Scheme forms a civil partnership. Such survivor benefits will be calculated by reference to the member’s service from 6 April 1998.

The Regulations have been the subject of consultation with local authorities, with employer and employee representatives, and with other Government Departments. Responses were supportive of civil partner inclusion in the Local Government Pension Scheme.

Financial effects

An assessment of the financial impact to public sector pension schemes was included in the regulatory impact assessment published with the Civil Partnership Act 2004. The impact from the cost of extending survivor benefits to include civil partners and from providing survivor benefits on the basis of service from 1988 depends on the take-up rate of civil partnerships. The final Regulatory Impact Assessment for the Civil Partnership Act 2004 can be viewed at <http://www.dti.gov.uk/access/ria/index.htm#equality>.

Scottish Public Pensions Agency
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