

SCHEDULE 1

Regulation 2

AMENDMENT TO THE LOCAL GOVERNMENT (DISCRETIONARY PAYMENTS AND INJURY BENEFITS) (SCOTLAND) REGULATIONS 1998

*Amendments to Part III: Compensation for Premature Retirement*

1. In regulation 5 (interpretation of Part III)–
  - (a) in paragraph (2)(c)(ii) after “married” insert “or formed a civil partnership with”; and
  - (b) after paragraph (2) insert–

“(2A) In paragraph (2)(c)(iii) a family includes a family resulting from the formation of a civil partnership.”.
2. For the italicised heading relating to regulations 20 and 21 substitute–

*“Awards to surviving spouses or civil partners”.*

3. Regulation 20(1) (entitlement to surviving spouse’s short-term and long-term compensation) is amended in accordance with paragraphs 4 to 9.
4. In the heading after “surviving spouse's” insert “or civil partner's”.
5. In paragraph (1)–
  - (a) for “a spouse or spouses” substitute “a spouse, spouses or a civil partner”; and
  - (b) for “(surviving spouses' pensions)” substitute “(surviving spouses' or civil partners' pensions)”.
6. In paragraph (2)–
  - (a) after “surviving spouse”, in both places in which it occurs, insert “or civil partner”; and
  - (b) after “surviving spouse's”, in both places in which it occurs, insert “or civil partner's”.
7. In paragraph (3)–
  - (a) after “marriage” insert “or formation of the civil partnership”;
  - (b) after “surviving spouse” insert “or civil partner”; and
  - (c) after “surviving spouse's”, in both places in which it occurs, insert “or “civil partner's”.
8. In paragraph (4)–
  - (a) after “surviving spouse”, in both places in which it occurs, insert “or civil partner”;
  - (b) in sub-paragraph (a) after “marriage”, in both places in which it occurs, insert “or civil partnership”; and
  - (c) in sub-paragraph (b)–
    - (i) after “surviving spouse's” insert “or civil partner's”; and
    - (ii) after “marriage” insert “, civil partnership”.
9. For paragraph (5) substitute–

“(5) Where two persons referred to in paragraph (5A), each of whom is entitled to short-term or long-term compensation under this regulation, marry each other, form a civil partnership or begin to live with each other as if they were husband and wife or as if they were civil partners–

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(1) Regulation 20 was amended by S.I.1998/364, Schedule 3, paragraph 4 and S.S.I. 2000/77, regulation 5.

- (a) only such one of them as they may determine shall be so entitled; and
- (b) the other shall cease to be so entitled until the end of the marriage, civil partnership or period of cohabitation.

(5A) Those persons are—

- (a) a widower,
- (b) a widow, or
- (c) a surviving civil partner

of any eligible person who ceased employment before 1st April 1998.

(5B) For the purposes of this regulation, two people of the same sex are to be regarded as living together as if they were civil partners if they would be regarded as living together as husband and wife if they were not of the same sex.”.

**10.** Regulation 21(2) (amount of surviving spouse’s short term and long term compensation) is amended in accordance with paragraphs 11 to 15.

**11.** In the heading, after “surviving spouse's” insert “or civil partner's”.

**12.** In paragraph (1) after “Surviving spouse's” insert “or civil partner's”.

**13.** In paragraph (2) after “Surviving spouse's” insert “or civil partner's”.

**14.** In paragraph (4)—

- (a) after “surviving spouse” insert “or civil partner”; and
- (b) after “surviving spouse's” insert “or civil partner's”.

**15.** In paragraph (5) after “surviving spouse” insert “or civil partner”.

**16.** In regulation 22(3)(3) (entitlement to children’s short-term compensation)—

- (a) after “surviving spouse's” insert “or civil partner's”; and
- (b) after “surviving spouse” insert “or civil partner”.

**17.** In regulation 25(2)(4) (amount of children’s long term compensation)—

- (a) after “surviving spouse”, in the three places in which it occurs, insert “or civil partner”; and
- (b) after “surviving spouse's” insert “or civil partner's”.

*Amendments to Part V: Injury Allowances etc.*

**18.** Regulation 42 (death benefits) is amended in accordance with paragraphs 19 to 23.

**19.** In paragraph (1)(b)(i) omit “and”.

**20.** After paragraph (1)(b)(i) insert—

“(ia) subject to paragraph (2), if the deceased leaves a surviving civil partner, the surviving civil partner shall be entitled to an annual allowance or lump sum; and”.

**21.** In paragraph (2)—

- (a) after “surviving spouse” insert “or civil partner”; and
- (b) after “marriage” insert “or civil partnership”.

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(2) Regulation 21 was amended by S.I. 1998/364, Schedule 3, paragraph 4.

(3) Regulation 22 was amended by S.I. 1998/364, Schedule 3, paragraph 4.

(4) Regulation 23 was amended by S.I. 1998/364, Schedule 3, paragraph 4.

22. In paragraph (4) for the words from “an allowance” to “that marriage is dissolved” substitute “an allowance to a surviving spouse or civil partner shall cease if he marries, forms a civil partnership or cohabits with another person outside of marriage or civil partnership; but if that marriage or civil partnership is dissolved”.

23. For paragraph (5) substitute—

“(5) Where the person whom the surviving spouse or civil partner marries, or with whom he forms a civil partnership or lives as if they were husband and wife or as if they were civil partners, is also a surviving spouse or civil partner entitled to an allowance under this regulation, they may determine which of them is to be entitled to the allowance and the other shall cease to be entitled to it until the dissolution of the marriage, civil partnership or, as the case may be, the ending of the cohabitation.

(5A) For the purposes of this regulation, two people of the same sex are to be regarded as living together as if they were civil partners if they would be regarded as living together as husband and wife if they were not of the same sex.”.

*Amendments to Part VI: Gratuities as Respects Non-Pensionable Service*

24. In regulation 46(1)(5) (death in service gratuities) after “spouse” insert “or civil partner”.

25. In regulation 47(4)(6) (retirement gratuities) after “spouse” insert “or civil partner”.

26. In regulation 48(7) (redundancy gratuities)—

- (a) in paragraph (3) after “spouse” insert “or civil partner”; and
- (b) in paragraph (4) after “spouse” insert “or civil partner”.

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(5) Regulation 46 was amended by S.I. 1998/364, Schedule 3, paragraph 4.

(6) Regulation 47 was amended by S.I. 1998/364, Schedule 3, paragraph 4.

(7) Regulation 48 was amended by S.I. 1998/364, Schedule 3, paragraph 4.