

SCHEDULE 1

Article 2(1)

Amendments of the Pension Schemes Act 1993 (c.48) relating to contracted-out occupational and appropriate personal pension schemes, extending those provisions to surviving civil partners

1. In section 8 (meaning of “contracted-out employment”, “guaranteed minimum pension” and “minimum payment”), in subsection (2), in the definition of “guaranteed minimum pension”, for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.

2. In section 12A (the statutory standard)(1), in subsections (1) and (2)(b), for “widows or widowers” substitute “widows, widowers or surviving civil partners”.

3. In section 12B (reference scheme)(2), in subsection (4), for “widows or widowers” (in each place) substitute “widows, widowers or surviving civil partners”.

4. Amend section 17 (minimum pensions for widows and widowers)(3) as follows—

(a) in subsection (1), for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”;

(b) in subsection (2), after paragraph (b) add 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” insert “or surviving civil partner’s”;

(d) in subsection (4A)—

(i) at the beginning insert “Subject to subsection (4B)”;

(ii) for “widow or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”;

(iii) for “widow or widower” (in each place, other than sub-paragraphs (i) and (ii) of paragraph (c)) substitute “widow, widower or surviving civil partner”;

(iv) for sub-paragraphs (i) and (ii) of paragraph (c) substitute 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.”;

(1) Section 12A was inserted by section 136(5) of the Pensions Act 1995 (c.26).

(2) Section 12B was inserted by section 136(5) of the Pensions Act 1995 (c.26).

(3) In section 17, subsection (4A) was inserted by and subsection (6) amended by paragraph 1 of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c.19), and subsection (7) was amended by paragraph 39 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2) and by paragraph 29 of Schedule 5 to the Pensions Act 1995 (c.26), and subsection (8) is added by section 284(2) of the Pensions Act 2004 (c.35).

- (e) after subsection (4A), insert 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), for “widower’s pension to be payable to him” substitute “widower’s or surviving civil partner’s pension to be payable”;
- (g) in subsection (7), for “widowers or widows” substitute “widows, widowers or surviving civil partners”;
- (h) after subsection (8) add 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.”
- 5.** In section 19 (discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts), in subsection (5)(a)(i) and (ii), for “widow or widower” substitute “widow, widower or surviving civil partner”.
- 6.** In section 20 (transfer of accrued rights), in subsection (6), for “widow or widower” substitute “widow, widower or surviving civil partner”.
- 7.** In section 21 (commutation, surrender and forfeiture), in subsection (2), for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.
- 8.** In section 23 (securing of benefits)(4), in subsection (3)(b), for “widow or widower” substitute “widow, widower or surviving civil partner”.
- 9.** Amend section 28 (ways of giving effect to protected rights) as follows—
- (a) in subsection (3)(b)(5) for “widow or widower” substitute “widow, widower or surviving civil partner”;
- (b) in subsection (4B)(6), for “a married person” substitute “married or a civil partner”;
- (c) in subsection (8), in the definition of “the termination date”—
- (i) for “widow or widower” substitute “widow, widower or surviving civil partner”; and
- (ii) for “widow or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.
- 10.** In section 28A (requirements for interim arrangements)(7), in subsections (1), (2) and (5)(b)(ii), for “widow or widower” substitute “widow, widower or surviving civil partner”.
- 11.** In section 29 (the pension and annuity requirements), in subsection (1)(b) (in each place) and subsections (3)(b) and (4)(8), for “widow or widower” substitute “widow, widower or surviving civil partner”.
- 12.** In section 37 (alteration of rules of contracted-out schemes)(9), in subsection (4), after “widower” insert “or surviving civil partner”.
- 13.** In section 38 (alteration of rules of appropriate schemes), in subsection (2)—

(4) Paragraph 31 of Schedule 5 to the Pensions Act 1995 (c.26) provides that subsections (2) and (3) of section 23 will not apply where winding up is begun on or after the principal appointed day, which was designated as 6th April 1997 by article 2(7) of S.I. 1996/778.

(5) Subsection (3)(b) was amended by section 142(4) of the Pensions Act 1995 (c.26).

(6) Subsections (4A) and (4B) were inserted by paragraph 3(3) of Schedule 5 to the Child Support, Pensions and Social Security Act 2000 (c.19).

(7) Section 28A was inserted by section 143 of the Pensions Act 1995 (c.26).

(8) Subsection (1)(b) was amended by paragraph 35 of Schedule 5 to the Pensions Act 1995 (c.26) and subsection (4) was amended by section 144(4) of that Act and article 117(1) and (3) of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649).

(9) Section 37 was substituted by paragraph 39 of Schedule 5 to the Pensions Act 1995 (c.26).

- (a) after “apply” insert “(a)”; and
 - (b) after “prescribed description” insert “; or (b) where the rules of the relevant scheme are altered to make provision for pensions for surviving civil partners”.
- 14.** Amend section 47 (further provisions concerning entitlement to guaranteed minimum pensions for the purposes of section 46) as follows—
- (a) in subsection (1)(10), after “widower” insert “or surviving civil partner”;
 - (b) in subsection (3)—
 - (i) for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”; and
 - (ii) for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.
- 15.** In section 48 (reduced benefits where minimum payments or minimum contributions paid), in subsection (2)(c)(11), for “widow or widower” substitute “widow, widower or surviving civil partner”.
- 16.** In section 55 (payment of state scheme premiums on termination of certified status), in subsection (2A)(c)(12), for “widow or widower” substitute “widow, widower or surviving civil partner”.
- 17.** In section 60 (effect of payment of premium on rights), in subsection (5)(13), for “widow or widower” substitute “widow, widower or surviving civil partner”.
- 18.** Amend section 87 (general protection principle) as follows—
- (a) in subsection (2)(c), for “widow or widower, the widow’s or, as the case may be, the widower’s” substitute “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” substitute “widow, widower or surviving civil partner”;
 - (c) in subsections (3)(a) and (4)(d), for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.
- 19.** In section 88 (the relevant sum), in subsection (1)(b), for “widow or widower” substitute “widow, widower or surviving civil partner”.
- 20.** In section 89 (the appropriate addition), in subsections (1)(a) and (b) and (2)(b), for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.
- 21.** In section 90 (the later earnings addition), in subsection (2)(a) and (b), for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.
- 22.** In section 109 (annual increase of guaranteed minimum pensions), in subsection (2)(b), for “widows and widowers” substitute “widows, widowers and surviving civil partners”.
- 23.** In section 110 (requirement as to resources for annual increase of guaranteed minimum pensions)(14), in subsection (1)(b), for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”.

(10) Subsection (1) was amended by section 18 of the State Pension Credit Act 2002 (c.16) and by paragraph 57 of Schedule 1 to and Schedule 2 to the Social Security (Incapacity for Work) Act 1994 (c.18).

(11) Section 48 ceased to have effect for minimum payments or minimum contributions paid from 6th April 1997 in consequence of section 140(3) of the Pensions Act 1995 (c.26); subsection (2)(c) was amended by section 140(2) of, and Part III of Schedule 7 to, the Pensions Act 1995 (c.26).

(12) Subsection (2A) was inserted by section 141(1) of the Pensions Act 1995 (c.26).

(13) Subsection (5) was amended by paragraph 54(c) of Schedule 5 to the Pensions Act 1995 (c.26).

(14) Subsection (1) was amended by section 53(4)(b) of the Pensions Act 1995 (c.26).

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 No. 2050*

24.—(1) In section 170 (determination of questions by Secretary of State), in subsection (1)(c), for “widow or widower” substitute “widow, widower or surviving civil partner”.

(2) The reference in sub-paragraph (1) to section 170 is a reference to that section as it has effect without the substitution made by paragraph 131 of Schedule 7 to the Social Security Act 1998**(15)**.

(15) 1998 c.14.