

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

PART 1

The Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations 1987 (S.I. 1987/1113)(1)

1. Amend regulation 3 (guaranteed minimum pension to which earner's widow or widower is treated as entitled after minimum contributions have been paid)(2) as follows—
 - (a) in the heading preceding it, for “widow or widower” substitute “widow, widower or surviving civil partner”;
 - (b) for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”;
 - (c) in paragraph (2), after “widower” insert “or surviving civil partner”.
2. Amend regulation 5 (guaranteed minimum pension to which earner's widow or widower is treated as entitled after minimum payments have been made)(3) as follows—
 - (a) in the heading preceding it, for “widow or widower” substitute “widow, widower or surviving civil partner”;
 - (b) for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”;
 - (c) in paragraph (2), after “widower” insert “or surviving civil partner”.

PART 2

The Contracting-out (Protection of Pensions) Regulations 1991 (S.I. 1991/166)

3. In regulation 2 (hybrid benefits), in paragraph (1), for “widow or widower” substitute “widow, widower or surviving civil partner”.
4. Amend regulation 4 (pensions for widows and widowers varied after commencement)(4) as follows—
 - (a) in the heading preceding it, for “widows and widowers” substitute “widows, widowers and surviving civil partners”;
 - (b) in paragraphs (1) and (2), for “widow or widower” substitute “widow, widower or surviving civil partner”.
5. Amend regulation 5 (the relevant sum for widows and widowers)(5) as follows—
 - (a) in the heading preceding it, for “widows and widowers” substitute “widows, widowers and surviving civil partners”;

(1) Section 48 of the Pension Schemes Act 1993 (c.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). Accordingly regulations 3 and 5 of S.I. 1987/1113 lapsed in relation to those cases. However, S.I. 1987/1113 continues to have effect for minimum payments or minimum contributions paid earlier than 6th April 1997.

(2) Regulation 3 was amended by S.I. 1994/1062 and S.I. 1996/776.

(3) Regulation 5 was amended by S.I. 1994/1062 and S.I. 1996/776.

(4) Regulation 4(2) was amended by S.I. 1994/1062.

(5) Regulation 5(2) was amended by S.I. 1994/1062.

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*

(b) in paragraph (2)—

- (i) for “widow or widower” (in the first place where those words occur) substitute “widow, widower or surviving civil partner”;
- (ii) in sub-paragraph (a), after “widow or widower” insert “or being then a civil partner of the surviving civil partner”.

6. In regulation 8 (the later earnings addition), in paragraph (1), for “widow or widower” substitute “widow, widower or surviving civil partner”.

PART 3

The Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996 (S.I. 1996/775)

7. In regulation 5 (conditions on which appropriate policies of insurance may be commuted), in paragraph (a), for “his widow or her widower” substitute “the beneficiary’s widow, widower or surviving civil partner”.

PART 4

The Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172)

8. In regulation 1 (citation, commencement and interpretation), after paragraph (1) insert the following paragraph—

“(1A) For the purposes of these Regulations, 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. In regulation 20 (trivial commutation of benefits derived from section 9(2B) rights)(6), in paragraph (1)(b), for “his widow or widower” substitute “the relevant transferee’s widow, widower or surviving civil partner”.

10. In regulation 23 (requirements for meeting the statutory standard), in paragraph (b), for “widows or widowers” (in each place) substitute “widows, widowers or surviving civil partners”.

11. For regulation 26 (reference scheme: circumstances in which widows’ or widowers’ pensions need not be payable) substitute the following regulation—

“Reference scheme: circumstances in which widows’, widowers’ or surviving civil partners’ pensions need not be payable

26.—(1) For the purposes of section 12B(4)(a) of the 1993 Act (reference scheme to provide widows’, widowers’ and surviving civil partners’ pensions except in prescribed circumstances), and subject to paragraph (2), the prescribed circumstances are where—

- (a) the scheme member marries or forms a civil partnership after having received benefits under the scheme;
- (b) the widow, widower or surviving civil partner of the scheme member—

(6) Paragraph (1) was numbered as such by [S.I. 2002/681](#), and amended by [S.I. 2000/2975](#).

- (i) remarries or, as the case may be, marries;
 - (ii) forms a civil partnership or, as the case may be, forms a subsequent civil partnership;
 - (iii) lives together as husband and wife with another person to whom he or she is not married; or
 - (iv) lives together with a person of the same sex as if they were civil partners, after having received benefits under the scheme;
- (c) the widow, widower or surviving civil partner of the scheme member is at the time of the member's death—
- (i) living together as husband and wife with another person to whom he or she is not married; or
 - (ii) living together with a person of the same sex as if they were civil partners.

(2) Sub-paragraphs (b)(ii) and (iv) and (c)(ii) of paragraph (1) do not apply where the scheme member dies before 5th December 2005.”.

12. In regulation 37 (circumstances in which the age-related payments are not to be paid)(7), in paragraphs (4) and (5)—

- (a) for “widow or widower” substitute “widow, widower or surviving civil partner”; and
- (b) for “died unmarried” substitute “was not married or a civil partner at the time of his or her death”.

13. In regulation 45 (approval of arrangements for schemes ceasing to be contracted-out), in paragraph (3A)(8), for “widow or widower” substitute “widow, widower or surviving civil partner”.

14. In regulation 50A (persons to be regarded as members)(9), for “widow's or widower's” substitute “widow's, widower's or surviving civil partner's”.

15. In regulation 51 (contributions equivalent premiums)(10)—

- (a) in paragraph (1B)(b)(11), after “spouse” insert “or civil partner”;
- (b) in paragraph (2)(c), for “widow's or widower's” substitute “widow's, widower's or surviving civil partner's”.

16. In regulation 54 (refund of a contributions equivalent premium), in paragraph (5)(12), for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”.

17. In regulation 55 (scheme rules about guaranteed minimum pensions), in paragraph (1)(c), after “widower” insert “or surviving civil partner”.

18. Amend regulation 57 (circumstances in which widower's guaranteed minimum pension is to be payable) as follows—

- (a) in the heading preceding it, after “widower's” insert “or surviving civil partner's”;
- (b) after “widower's” insert “or surviving civil partner's”;
- (c) after “widower” (in each place) insert “or surviving civil partner”;

(7) Paragraphs (4) and (5) were amended by virtue of Schedule 2 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).

(8) Paragraph (3A) was inserted by S.I. 1997/819.

(9) Regulation 50A was inserted by S.I. 1998/1397.

(10) The heading of regulation 51 was substituted by S.I. 2002/681.

(11) Paragraph (1B) was inserted by S.I. 2002/681.

(12) Paragraph (5) was amended by virtue of Schedule 2 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).

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(d) in paragraph (b)—

(i) in sub-paragraph (ii), for “her” substitute “the earner’s”; and

(ii) in sub-paragraph (iii), for “he” substitute “the widower or surviving civil partner”.

19. Amend regulation 58 (period for which widower’s guaranteed minimum pension is to be payable) as follows—

(a) in the heading preceding it, after “widower’s” insert “or surviving civil partner’s”;

(b) in paragraph (1), after “widower’s” (in each place) insert “or surviving civil partner’s”;

(c) for paragraph (2) substitute the following paragraph—

“(2) There is excluded from the periods prescribed under paragraph (1)(b) or (c) any period—

(a) after the widower’s remarriage or surviving civil partner’s marriage under pensionable age;

(b) after the formation of a civil partnership by the widower or the formation of a subsequent civil partnership by the surviving civil partner under pensionable age;

(c) during which the widower or surviving civil partner is under pensionable age and

(i) he or, as the case may be, she and a person of the opposite sex are living together as husband and wife; or

(ii) he or, as the case may be, she and a person of the same sex are living together as if they were civil partners;

(d) after the widower has attained pensionable age if immediately before he attained that age—

(i) he and a woman to whom he was not married were living together as husband and wife; or

(ii) he and a man were living together as if they were civil partners; or

(e) after the surviving civil partner has attained pensionable age if immediately before he or she attained that age—

(i) he or she and a person of the opposite sex to whom he or she was not married were living together as husband and wife; or

(ii) he or she and a person of the same sex were living together as if they were civil partners.”;

(d) after paragraph (2), as substituted by sub-paragraph (c) above, add the following paragraph—

“(3) Sub-paragraphs (b), (c)(ii), and (d)(ii) of paragraph (2) do not apply where a man became a widower before 5th December 2005.”.

20. Amend regulation 59 (statutory references to persons entitled to guaranteed minimum pensions – application to widowers) as follows—

(a) in the heading preceding it, at the end add “and surviving civil partners”;

(b) after “when the earner died” insert “or by virtue of being the surviving civil partner of an earner only in the case where the earner and the surviving civil partner were both over pensionable age when the earner died”.

21. Amend regulation 60 (trivial commutation of guaranteed minimum pensions) as follows—

- (a) in paragraph (1)(b), for “his widow or her widower” substitute “the earner’s widow, widower or surviving civil partner”;
- (b) in paragraph (2), for “widow’s or widower’s” (in each place) substitute “widow’s, widower’s or surviving civil partner’s”.

22. Amend regulation 61 (suspension and forfeiture of guaranteed minimum pensions) as follows—

- (a) in paragraph (1), for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”;
- (b) in paragraph (2)—
 - (i) for “widow’s or widower’s” (in each place) substitute “widow’s, widower’s or surviving civil partner’s”; and
 - (ii) in sub-paragraph (c), for “widow or widower” substitute “widow, widower or surviving civil partner”.

23. In regulation 63 (provision of information about guaranteed minimum pensions) for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”.

PART 5

The Protected Rights (Transfer Payment) Regulations 1996 (S.I.1996/1461)

24. In regulation 4 (transfer payments to salary-related contracted-out schemes), in paragraph (d), for “widow or widower” substitute “widow, widower or surviving civil partner”.

PART 6

The Contracting-out (Transfer and Transfer Payment) Regulations 1996

(S.I. 1996/1462)

25. In Schedule 1, Part III, paragraph 6(b) (further conditions for transfer of liability for the payment of a guaranteed minimum pension to or in respect of a person who has become entitled to it), for “his widow or her widower” substitute “the widow, widower or surviving civil partner of that person”.

PART 7

The Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996

(S.I. 1996/1537)

26. In regulation 1 (citation, commencement and interpretation), in paragraph (2), after the definition of “child benefit” insert the following definition—

““marital or civil partnership status”, in relation to a person, means whether that person has previously formed a marriage or a civil partnership and, if so, whether that marriage or civil partnership has ended;”.

27. Amend regulation 4 (conditions applying to pensions and annuities which give effect to protected rights) as follows—

- (a) in paragraph (2)(b)(**13**), for “an unmarried member” substitute “a member who is neither married nor a civil partner”, and for “widow or widower” substitute “widow, widower or surviving civil partner”;
- (b) in paragraph (9)(a), for “widow or widower” substitute “widow, widower or surviving civil partner”.

28. Amend regulation 5 (circumstances in which and periods for which pension or annuity is to be paid to widow or widower after being paid to member)(**14**) as follows—

- (a) in the heading preceding it, for “widow or widower” substitute “widow, widower or surviving civil partner”;
- (b) in paragraph (1)—
 - (i) for “widow or widower” substitute “widow, widower or surviving civil partner”; and
 - (ii) in sub-paragraph (b) for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”;
- (c) for paragraph (2), substitute the following paragraphs—

“(2) There is excluded from the period prescribed in paragraph (1)(b) any period after—

- (a) the widow’s or widower’s remarriage or the surviving civil partner’s marriage under pensionable age; or
- (b) subject to paragraph (3), the widow’s or widower’s formation of a civil partnership, or the surviving civil partner’s formation of a subsequent civil partnership under pensionable age.

(3) Paragraph (2)(b) does not apply where the member dies before 5th December 2005.”.

29. In regulation 6 (interim arrangements), in paragraph (c)—

- (a) for “an unmarried member” substitute “a member who is neither married nor a civil partner”;
- (b) for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”.

30. In regulation 11 (insurers that may provide protected rights by way of annuities)(**15**), in paragraph (b), after “marital” insert “or civil partnership”.

31. Amend regulation 12 (death of member before effect given to his protected rights)(**16**) as follows—

- (a) in paragraph (2) (in each place) and paragraphs (3), (5), (9), (11)(a), (12), (13) and (14), for “widow or widower” substitute “widow, widower or surviving civil partner”;
- (b) for sub-paragraph (b) of paragraph (5) substitute the following sub-paragraphs—
 - “(b) in the case of a widow or widower, remarries or, in the case of a surviving civil partner, marries while under pensionable age; or
 - (c) subject to paragraph (15), in the case of a widow or widower, forms a civil partnership or, in the case of a surviving civil partner, forms a subsequent civil partnership while under pensionable age.”;

(13) Sub-paragraph (b) was substituted by S.I. 2002/681.

(14) Regulation 5 was substituted by S.I. 2002/681.

(15) The heading to regulation 11 was amended and paragraph (1) numbered as such by S.I. 2001/3649.

(16) Regulation 12 was amended by S.I. 2002/681.

- (c) for sub-paragraph (b) of paragraph (9), substitute the following sub-paragraphs—
 - “(b) in the case of a widow or widower remarried or, in the case of a surviving civil partner, married while under pensionable age; or
 - (c) subject to paragraph (15), in the case of a widow or widower, formed a civil partnership or, in the case of a surviving civil partner, formed a subsequent civil partnership while under pensionable age.”;
 - (d) after paragraph (14) add the following paragraph—
 - “(15) Paragraphs (5)(c) and (9)(c) do not apply where the member dies before 5th December 2005.”.
- 32.** Amend regulation 13 (death before effect given to protected rights: interim arrangements for widow or widower)(**17**) as follows—
- (a) in the heading preceding it, for “widow or widower” substitute “widow, widower or surviving civil partner”;
 - (b) in paragraph (1), for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”;
 - (c) in paragraph (2)(a)(ii), for “widow or widower” substitute “widow, widower or surviving civil partner”.
- 33.** In regulation 14 (enforceable entitlement after death of member), after “widower” insert “, surviving civil partner”.
- 34.** In regulation 15 (further requirements in respect of giving effect to protected rights), after “marital” insert “or civil partnership”.

PART 8

The Occupational Pension Schemes (Modification of Schemes) Regulations 1996

(S.I. 1996/2517)

- 35.** In regulation 6 (exemption from the restriction on powers to modify schemes), in paragraph (1)(da)(**18**), for “widow or widower” substitute “widow, widower or surviving civil partner”.

PART 9

The Personal Pension Schemes (Appropriate Schemes) Regulations 1997 (S.I. 1997/470)

- 36.** In regulation 6A (provision of information for purposes of contracting-out)(**19**), for “widow or widower” substitute “widow, widower or surviving civil partner”.
- 37.** In regulation 12 (circumstances in which minimum contributions are not to be paid), in paragraphs (6), (7) and (8)(**20**)

(17) Regulation 13 was amended by [S.I. 2002/681](#).

(18) Regulation 6 was substituted by [S.I. 1999/3198](#); sub-paragraph (da) of paragraph (1) was inserted by [S.I. 2002/681](#).

(19) Regulation 6A was inserted by [S.I. 2002/681](#).

(20) Paragraphs (6), (7) and (8) were amended by virtue of Schedule 2 to the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c.2).

- (a) for “widow or widower” substitute “widow, widower or surviving civil partner”;
- (b) after “unmarried” insert “or was not a civil partner at the time of his or her death”.

PART 10

The Occupational Pension Schemes (Discharge of Liability) Regulations 1997

(S.I. 1997/784)

38. In regulation 1 (citation, commencement and interpretation), after paragraph (1), insert the following paragraph—

“(1A) For the purposes of these Regulations, 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.”

39. In regulation 3 (conditions on which policies of insurance and annuity contracts may be assigned or surrendered), in paragraph (a), for “widow or widower” substitute “widow, widower or surviving civil partner”.

40. Amend regulation 4 (conditions on which policies of insurance and annuity contracts may be commuted) as follows—

- (a) in paragraph (1)(a)(i), for “his widow or her widower” substitute “the earner’s widow, widower or surviving civil partner”;
- (b) in paragraph (2), for “widow or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.

41. Amend regulation 6 (further conditions on which liability may be discharged) as follows—

- (a) in paragraph (2)(a), for “his widow or her widower” substitute “the earner’s widow, widower or surviving civil partner”;
- (b) in paragraph (5), for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”.

42. In regulation 9 (circumstances in which liability to provide pensions under a relevant scheme may be discharged), in paragraph (2), for “his widow or her widower, or if there is no such widow or widower” substitute “the member’s widow, widower or surviving civil partner or, if there is no such person”.

43. Amend regulation 11 (conditions on which liability to provide pensions under a relevant scheme may be discharged) as follows—

- (a) in paragraph (3)—
 - (i) in sub-paragraphs (a) and (b), for “widow or widower” substitute “widow, widower or surviving civil partner”;
 - (ii) in sub-paragraph (b), omit “and (c)”;
- (b) for paragraph (4) substitute the following paragraph—

“(4) Subject to paragraph (7), the circumstances referred to in paragraph (3) are—

 - (a) the beneficiary marries or forms a civil partnership after having received benefits under the policy or contract;
 - (b) the widow, widower or surviving civil partner of the beneficiary—
 - (i) remarries or, as the case may be, marries;

- (ii) forms a civil partnership or, as the case may be, forms a subsequent civil partnership;
 - (iii) lives together as husband and wife with another person to whom he or she is not married;
 - (iv) lives together with a person of the same sex as if they were civil partners; or
 - (v) at the time of the beneficiary's death—
 - (a) is living together as husband and wife with another person to whom he or she is not married; or
 - (b) is living together with a person of the same sex as if they were civil partners.”;
 - (c) after paragraph (6), add the following paragraph—
 - “(7) Sub-paragraphs (b)(ii), (iv) and (v)(b) of paragraph (4) do not apply where the beneficiary dies before 5th December 2005.”
- 44.** In Schedule 1 (form of consent to arrangement for securing benefit), after “widower” (in each place) insert “/surviving civil partner”.