

2005 No. 3164

PENSIONS

**The Occupational and Personal Pension Schemes (Civil Partnership)
(Miscellaneous Amendments) Regulations 2005**

<i>Made</i> - - - -	<i>11th November 2005</i>
<i>Laid before Parliament</i>	<i>14th November 2005</i>
<i>Coming into force</i> - -	<i>5th December 2005</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 12C(1)(b), 19(4)(d), 28(5), 43(3), 181(1) and 182(2) of, and paragraph 5(3C)(c) of Schedule 2 to, the Pension Schemes Act 1993(a) and by sections 39(3) and (7), 176(1) and 177(2) and (3) of, and paragraph 5(3C)(c) and (4A) of Schedule 1 to, the Pension Schemes (Northern Ireland) Act 1993(b).

In accordance with section 185(1) of the Pension Schemes Act 1993 he has consulted such persons as he considers appropriate.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Occupational and Personal Pension Schemes (Civil Partnership) (Miscellaneous Amendments) Regulations 2005 and shall come into force on 5th December 2005.

- (2) This regulation and regulations 2 to 5 apply to England, Wales and Scotland.
- (3) This regulation and regulations 6 and 7 apply to Northern Ireland.

Amendment of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996

2. In head (ia) of regulation 12(4)(b) of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996(c) (death of member before effect given to his protected rights) for “widow or widower” substitute “widow, widower or surviving civil partner”.

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- (a) 1993 c.48. Section 181(1) is cited because of the meaning there given to “prescribed” and “regulations”. Section 12C(1)(b) was inserted by section 136(5) of the Pensions Act 1995 (c.26), section 28(5) was amended by section 142(6) of that Act and paragraph 3(4) of Schedule 5 to the Child Support Pensions and Social Security Act 2000 (c.19) and paragraph 5(3C) of Schedule 2 was inserted by section 141(2)(b) of the Pensions Act 1995.
 - (b) 1993 c.49. Subsection (7) of section 39 was added by paragraph 54(6) of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671) (“the 1999 Order”). Section 39(7) is cited because of the meaning it gives to “prescribed”. Section 176(1) is cited for the meaning it gives to “prescribe”. Paragraph 5(3A) to (3E) of Schedule 1 was inserted by Article 138(2)(b) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and amended by paragraph 77(5)(c) of Schedule 1 to the 1999 Order and paragraph 5(4A) (which is cited for the meaning it gives to “regulations” and “prescribed”) was inserted by paragraph 77(5)(d) of Schedule 1 to that Order.
 - (c) S.I. 1996/1537, amended by S.I. 2005/704; there are other amending instruments but none is relevant.

Amendment of the Personal Pension Schemes (Appropriate Schemes) Regulations 1997

3. In paragraphs (6), (7) and (8) of regulation 12 of the Personal Pension Schemes (Appropriate Schemes) Regulations 1997(a) (circumstances in which minimum contributions are not to be paid) for “or was not a civil partner at the time of his or her death” in each place where those words occur substitute “and was not a civil partner at the time of his or her death”.

Amendment of the Occupational Pension Schemes (Discharge of Liability) Regulations 1997

4. Amend the Occupational Pension Schemes (Discharge of Liability) Regulations 1997(b) as follows—

- (a) in head (ii) of regulation 5(1)(c) (other requirements applying to policies of insurance and annuity contracts)—
 - (i) for “widow or widower” in both places where those words occur substitute “widow, widower or surviving civil partner”;
 - (ii) for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”;
- (b) in sub-paragraph (c) of regulation 11(3) (conditions on which liability to provide pensions under a relevant scheme may be discharged) for “widow or widower” substitute “widow, widower or surviving civil partner”.

Amendment of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998

5. Amend the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998(c) as follows—

- (a) in regulation 1(2) (interpretation)—
 - (i) in the definition of “earner” before “and” insert—
 - “(aa) in the case of a surviving civil partner member, the deceased civil partner from whose employment that member’s rights under the scheme are derived;”;
 - (ii) insert in the appropriate alphabetical place—
 - ““surviving civil partner member” means a person who has a right to the payment of a surviving civil partner’s pension under the scheme;”;
- (b) in regulation 3 (method of calculation where no election to pay a contributions equivalent premium may be made)—
 - (i) after “surviving spouse member” in each place where those words occur, except in paragraph (1)(f), insert “or surviving civil partner member”;
 - (ii) after paragraph (1)(f) add—
 - “(g) in the case of a woman who is a surviving civil partner member—
$$X \times Factor \quad 0 \times 52 \times market \quad level \quad indicator$$
plus
$$(z_1 + z_2) \times Factor \quad Q \times 52 \times market \quad level \quad indicator \quad ; \quad ”;$$
- (c) in regulation 4 (Market Level Indicator) after “surviving spouse member” in each place where those words occur insert “or surviving civil partner member”;
- (d) in Tables 1 to 5 of Schedule 1 after “SURVIVING SPOUSE MEMBERS” in each place where those words occur insert “and SURVIVING CIVIL PARTNER MEMBERS”;

(a) S.I. 1997/470, regulation 12(6), (7) and (8) was amended by Schedule 2 to the Social Security Contributions (Transfer of Functions, etc) Act 1999 (c.2) and S.I. 2005/2050.

(b) S.I. 1997/784, amended by S.I. 2005/704; there are other amending instruments but none is relevant.

(c) S.I. 1998/1397, amended by S.I. 1999/3069 and 2005/891; there are other amending instruments but none is relevant.

- (e) in Table 6 of Schedule 1—
 - (i) after “SURVIVING SPOUSE MEMBERS” insert “and SURVIVING CIVIL PARTNER MEMBERS”;
 - (ii) after “Widowers” insert “and Male Surviving Civil Partners”;
 - (iii) after “Widows” insert “and Female Surviving Civil Partners”.

Amendment of the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997

6. In paragraphs (6), (7) and (8) of regulation 12 of the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997(a) (circumstances in which minimum contributions are not to be paid) for “or was not a civil partner at the time of his or her death” in each place where those words occur substitute “and was not a civil partner at the time of his or her death”.

Amendment of the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations (Northern Ireland) 1998

7. Amend the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations (Northern Ireland) 1998(b) as follows—

- (a) in regulation 1(2) (interpretation)—
 - (i) in the definition of “earner” before “and” insert—
 - “(aa) in the case of a surviving civil partner member, the deceased civil partner from whose employment that member’s rights under the scheme are derived;”;
 - (ii) after the definition of “scheme” insert—
 - ““surviving civil partner member” means a person who has a right to the payment of a surviving civil partner’s pension under the scheme;”;
- (b) in regulation 3 (method of calculation where no election to pay a contributions equivalent premium may be made)—
 - (i) after “surviving spouse member” in each place where those words occur, except in paragraph (1)(f), insert “or surviving civil partner member”;
 - (ii) after paragraph (1)(f) add—
 - “(g) in the case of a woman who is a surviving civil partner member—

$$X \times \text{Factor} \quad 0 \times 52 \times \text{market level indicator}$$
 plus

$$(z_1 + z_2) \times \text{Factor} \quad Q \times 52 \times \text{market level indicator} \quad ;”;$$
- (c) in regulation 4 (Market Level Indicator) after “surviving spouse member” in each place where those words occur insert “or surviving civil partner member”;
- (d) in Tables 1 to 5 of Schedule 1 after “SURVIVING SPOUSE MEMBERS” in each place where those words occur insert “and SURVIVING CIVIL PARTNER MEMBERS”;
- (e) in Table 6 of Schedule 1—
 - (i) after “SURVIVING SPOUSE MEMBERS” insert “and SURVIVING CIVIL PARTNER MEMBERS”;
 - (ii) after “Widowers” insert “and Male Surviving Civil Partners”;
 - (iii) after “Widows” insert “and Female Surviving Civil Partners”.

(a) S.R. 1997 No. 139, amended by S.I. 2005/3029; there are other amendments but none are relevant.
 (b) S.R. 1998 No. 208, relevant amending instruments are S.I. 1999/3069 and S.I. 2005/891.

Signed by authority of the Secretary of State for Work and Pensions.

11th November 2005

Philip A Hunt
Parliamentary Under-Secretary of State,
Department for Work and Pensions

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make consequential amendments to ensure that surviving civil partners are treated in the same way as widows and widowers.

Regulation 2 amends regulation 12(4)(b)(ia) of the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 (S.I. 1996/1537) to deal with where a member dies leaving a surviving civil partner but before giving effect to his protected rights.

Regulation 3 amends regulation 12 of the Personal Pension Schemes (Appropriate Schemes) Regulations 1997 (S.I. 1997/470) which applies where minimum contributions become payable in circumstances where an earner died after giving effect to his protected rights but was not married and was not in a civil partnership. The minimum contributions will be paid to such a person as the HM Revenue and Customs decide.

Regulation 4 amends the Occupational Pension Schemes (Discharge of Liability) Regulations 1997 (S.I. 1997/784). Regulation 5 of those Regulations is amended so that where liability for a guaranteed minimum pension (GMP) is discharged using a policy of insurance, the annuity payable to a surviving civil partner must be equal to the GMP payable to him or her. Regulation 11 of those Regulations is amended so that where a relevant scheme discharges its liability to provide a pension, the policy or contract used must provide that payments to surviving civil partners are subject to increases required by paragraph 4A of that regulation.

Regulation 5 amends the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations 1998 (S.I. 1998/1397) so that an insolvent scheme may restore the state scheme rights of a surviving civil partner who has a right to payment of a pension from the scheme by virtue of his deceased partner.

Regulation 6 makes amendments to the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997 (S.R. 1997 No. 139) which correspond to those made in regulation 3.

Regulation 7 makes amendments to the Occupational Pension Schemes (Contracting-out) (Amount Required for Restoring State Scheme Rights and Miscellaneous Amendment) Regulations (Northern Ireland) 1998 (S.R. 1998 No. 208) which correspond to those made in regulation 5.

An assessment of the impact on business, charities or the voluntary sector of the provisions in this Regulation is included in the Regulatory Impact Assessment that accompanied the Civil Partnership Act 2004 (c.33). 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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