
STATUTORY INSTRUMENTS

2005 No. 3325

**The Civil Partnership (Judicial Pensions
and Church Pensions, etc.) Order 2005**

PART 3

Amendments of the County Courts Act (Northern Ireland) 1959

- 18.** The County Courts Act (Northern Ireland) 1959(1) is amended as follows.
- 19.** In the italic heading before section 119 for “*Widows' and Children's Pensions*” substitute “*Widows', Surviving Civil Partners' and Children's Pensions*”.
- 20.** For the italic heading before section 122 substitute “*Widows', Surviving Civil Partners' and Children's Pensions*”.
- 21.**—(1) Section 122 (power to grant widows' and children's pensions) is amended as follows.
- (2) For the heading substitute “Power to grant widows', surviving civil partners' and children's pensions”.
- (3) That section becomes subsection (1) of section 122.
- (4) In that subsection—
- (a) for “and” at the end of paragraph (i) substitute—
- “*(ia) where he leaves a surviving civil partner, a pension to that surviving civil partner (in this Part referred to as a “surviving civil partner's pension”); and*”, and
- (b) for paragraph (ii) substitute—
- “*(ii) where he had a wife or a civil partner at any time during his service (whether or not the marriage or civil partnership continued until his death and whether or not a widow's pension or surviving civil partner's pension is or can be granted), a pension for the benefit of any relevant children (in this Part referred to as a “children's pension”).*”.
- (5) After that subsection insert—
- “(2) In subsection (1)(ii), “relevant children” means—
- (a) in relation to a marriage, any children of the marriage, and
- (b) in relation to a civil partnership, any children of the family,

(1) 1959 c. 25; section 122A was inserted by Article 3(1) of the Judicial Pensions (Northern Ireland) Order 1991 (N.I.24); section 123 was substituted by Article 4 of the Judicial Pensions (Northern Ireland) Order 1991 (N.I.24); section 126 was amended by Part 2 of Schedule 5 to the Judicature (Northern Ireland) Act 1978 (c. 23) and Article 9(2) of and Schedule 3 to the Judicial Pensions (Northern Ireland) Order 1991; section 128 was amended by Part 2 of Schedule 1 to the County Courts (Northern Ireland) Order 1980 (c. 23) and Schedule 3 to the Judicial Pensions (Northern Ireland) Order 1991 (N.I. 24); section 132 was amended by Part 2 of Schedule 5 to the Judicature (Northern Ireland) Act 1978 (c. 23) and Schedule 3 to the Judicial Pensions (Northern Ireland) Order 1991 (N.I. 24); section 132A was inserted by Part 3 of Schedule 3 to the Judicial Pensions and Retirement Act 1993 (c. 8); section 135 was amended by Schedule 3 to the County Courts (Northern Ireland) Order 1980 (N.I. 3), Part 1 of Schedule 5 to the Adoption (Northern Ireland) Order 1987 (N.I. 22) and Schedule 3 to the Judicial Pensions (Northern Ireland) Order (N.I. 24).

and in paragraph (b) “children of the family” is to be construed in accordance with Article 2(2) of the Children (Northern Ireland) Order 1995(2).”.

22.—(1) Section 122A (widowers' pensions) is amended as follows.

(2) In the heading, after “Widowers” insert “and surviving civil partners”.

(3) That section becomes subsection (1) of section 122A.

(4) In that subsection—

(a) after “female person” insert “who has, or has had, a husband or civil partner”, and

(b) after “male person” insert “who has, or has had, a wife or civil partner”.

(5) After that subsection insert—

“(2) The transitional provisions set out in Schedule 2B shall have effect in relation to surviving civil partners' pensions.”.

23.—(1) Section 123 (widows' and widowers' pensions) is amended as follows.

(2) For the heading substitute “Widows', widowers' and surviving civil partners' pensions”.

(3) In subsection (1)—

(a) for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”, and

(b) after “marriage” insert “or formation of the civil partnership”.

(4) In subsection (2)—

(a) for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”, and

(b) for “widow or widower” substitute “widow, widower or surviving civil partner”.

(5) In subsection (3)—

(a) for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”, and

(b) for “the remarriage of the widow or widower,” substitute

“—

(a) the remarriage of, or formation of a civil partnership by, the widow or widower, or

(b) the formation of a subsequent civil partnership by, or the marriage of, the surviving civil partner.”.

(6) In subsection (5), for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”.

24.—(1) In section 124 (children’s pension: beneficiaries), subsection (4) is amended as follows.

(2) After “married” insert “or a person who at the time of the death of the deceased was a civil partner”.

(3) After “marries” insert “or a person forms a civil partnership”.

(4) After “she” insert “or he”.

25.—(1) Section 126 (children’s pension: rate and mode of payment) is amended as follows.

(2) In subsection (2), for “or widower”, in both places, substitute “, widower or surviving civil partner”.

- (3) In subsection (3), for “or widower” substitute “, widower or surviving civil partner”.
- (4) In subsection (4)—
 - (a) for “leaves a widow or widower who remarries,” substitute
“—
 - (a) leaves a widow or widower who remarries or forms a civil partnership, or
 - (b) leaves a surviving civil partner who forms a subsequent civil partnership or marries,”
 - (b) after “husband” insert “or civil partner”,
 - (c) after “wife” insert “or civil partner”, and
 - (d) for “widow or widower is” substitute “widow, widower or surviving civil partner is”.

26.—(1) In section 128 (persons serving again after retirement), paragraph (a) is amended as follows.

- (2) After “marrying” insert “or forming a civil partnership”.
- (3) After “widower” insert “, surviving civil partner”.

27. For section 131 (effect under this Act of certain nullity decrees) substitute—

“Effect under this Act of certain nullity decrees

131. Where a marriage or civil partnership which is voidable, but not void from the beginning, is annulled by any court, the same results shall follow under sections one hundred and twenty-two to one hundred and thirty-three as would have followed if the marriage or the civil partnership had not been voidable but had been dissolved at the date of the annulment.”.

28. In section 132 (recommendation of Lord Chancellor in certain cases), for “widow’s widower’s” substitute “widow’s, widower’s, surviving civil partner’s”.

29. In section 132A (appeals), in subsection (3)(b), for “or widower” substitute “, widower or surviving civil partner”.

30. In section 135 (interpretation of Part 13), in subsection (1), in the definition of “derivative benefit”, for “widow’s widower’s” substitute “widow’s, widower’s, surviving civil partner’s”.

31. In Schedule 2A (transfer of accrued benefits) (to be inserted by the amendments set out in paragraph 1(2) of Schedule 2 to the Judicial Pensions (Northern Ireland) Order 1991(3)), in paragraph 6(7), for “his widow, or her widower” substitute “his widow, her widower or his or her surviving civil partner”.

32. After that Schedule insert the following Schedule—

“SCHEDULE 2B

Section 122A

SURVIVING CIVIL PARTNERS' PENSIONS: TRANSITIONAL PROVISIONS

General

1. In this Schedule—

“the relevant date” means 4th December 2005; and

“member” means a person who holds judicial office and to or in respect of whom benefits are payable under this Act on his or her retirement.

Service wholly on or before the relevant date

2. No surviving civil partner’s pension shall be payable in respect of a member who retires on or before the relevant date.

Service on and after the relevant date

3.—(1) A member who—

- (a) holds judicial office on the relevant date; and
- (b) continues to do so after that date,

shall have the annual value of a surviving civil partner’s pension in respect of the member calculated on the assumption that all of the member’s relevant service fell after the relevant date.

(2) Sub-paragraph (1) does not apply if, within six months of the date of the member’s formation of a civil partnership, the member opts for the annual value of the surviving civil partner’s pension to be calculated under sub-paragraph (3).

(3) Where the annual value of a surviving civil partner’s pension falls to be calculated under this sub-paragraph, its value shall be determined by applying the formula—

$$\text{CPP1} - (\text{CPP2} \times \text{RS1}) \text{ divided by RS2}$$

where—

CPP1 is the annual value of the surviving civil partner’s pension,

CPP2 is the annual value of the surviving civil partner’s pension that would be payable on the assumption mentioned in sub-paragraph (1),

RS1 is the length of the member’s relevant service after the relevant date, and

RS2 is the whole of the member’s relevant service.

(4) For the purposes of this paragraph there shall be left out of account so much (if any) of the relevant service on or before the relevant date as does not add to the amount of the personal pension and accordingly this paragraph shall not apply if none of the relevant service on or before that date adds to the amount of the personal pension.

(5) An election under sub-paragraph (2) must be made in writing to the administrators.

(6) An election under sub-paragraph (2) is irrevocable.”.