

## SCHEDULE 2

Article 3

### Amendments to enactments etc.: Scotland

#### **Armed Forces Pension Scheme Order 2005**

1.—(1) Part E of Schedule 1 to the Armed Forces Pension Scheme Order 2005<sup>(1)</sup> (death benefits) is amended as follows.

(2) In rule E.1 (surviving spouses' and civil partners' pensions), after paragraph (4) insert—

“(5) Where a deceased active, deferred or pensioner member was—

- (a) a man or a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) at the time of the deceased member's death, the deceased member was married and that marriage subsisted before the time when the certificate was issued,

the surviving spouse of the deceased member is to be treated for the purpose of these Rules as if the certificate had not been issued.”

(3) In each of rules E.3(6)(a), E.4(3)(a) and E.5(3)(a), before “civil partner” insert “person who was married to someone of the same sex or a”.

#### **Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010**

2.—(1) Part E of Schedule 1 to the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010<sup>(2)</sup> (death benefits) is amended as follows.

(2) In rule E.1—

(a) for paragraph (3)(c) (surviving spouse or civil partner's pensions) substitute—

“(c) the member was—

- (i) a man and was married to a woman whom he leaves a widow; or
- (ii) a woman who falls within rule E.1(15) and was married to a woman whom she leaves a widow.”

(b) for paragraph (5)(c) (surviving spouse or civil partner's pensions) substitute—

“(c) the member—

- (i) was a woman and was married to a man whom she leaves a widower;
- (ii) (except for a member who falls within rule E.1(15)) was married to a person of the same sex and leaves that person as a surviving spouse; or
- (iii) leaves a surviving civil partner.”

(c) in paragraph (13) (surviving spouse or civil partner's pensions) for sub-paragraph (c) substitute—

“(c) had that person been the member's surviving spouse or the member's surviving civil partner, one of conditions A to C would be met,” and

(1) [S.I. 2005/438](#). There are amendments to [S.I. 2005/438](#) which are not relevant to this Order.

(2) Order in Council made pursuant to section 3 of the [Naval and Marine Pay and Pensions Act 1865 \(28 and 29 Vict c. 73\)](#). This Order in Council and its amending orders are not statutory instruments. Schedule 1 was substituted in its entirety by the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 and subsequently amended by the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2012. Copies can be obtained from [www.gov.uk/government/publications/armed-forces-pension-scheme-1975-regulations](http://www.gov.uk/government/publications/armed-forces-pension-scheme-1975-regulations). Hard copies are available from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

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- (d) after paragraph (14) (surviving spouse or civil partner’s pensions) insert—
- “(15) A deceased woman falls within this rule if—
- (a) she was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and
  - (b) at the time of her death she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.

(3) In rule E.6 (widows’ pensions: service ended before 31st March 1973), for paragraph (1) (d) substitute—

“(d) the member was—

    - (i) a man and was married to a woman whom he leaves a widow; or
    - (ii) a woman who falls within rule E.6(8) and was married to a woman whom she leaves a widow.”.

(4) After rule E.6(7) (widows’ pensions: service ended before 31st March 1973), insert—

“(8) A deceased woman falls within this rule if—

      - (a) she was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and
      - (b) at the time of her death she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.

(5) In rule E.9 (suspension of pension on marriage etc.), for paragraph (3) substitute—

“(3) This paragraph applies while the surviving spouse or civil partner and another person are living together as if they are a married couple.”.

(6) In rule E.30(4) (death attributable to service), for “widow’s pension” in each place it occurs substitute “surviving spouse’s or civil partner’s pension”.

**3.—(1)** Schedule 2(3) to the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (Naval and Marines Attributable Benefits Scheme) is amended as follows.

- (2) In Part A, in rule A.1 (interpretation) after the definition of “relevant disabling condition” insert—
- ““relevant gender change case” means a case where—
- (a) a deceased woman was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and
  - (b) at the time of her death the deceased woman was married to a woman and that marriage subsisted before the time when the certificate was issued;”.

(3) In Part C—

    - (a) in rule C.2 (conditions relating to the deceased) for paragraphs (a) and (b) substitute—

“(a) the deceased person was in service on or after 31st March 1973 and at the time of the deceased person’s death—

    - (i) was a man married to a woman whom he leaves a widow; or
    - (ii) was a woman married to a woman in a relevant gender change case whom she leaves a widow;

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(3) Schedule 2 was amended by the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 and subsequently amended by the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2012.

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- (b) the deceased person was in service on or after 6th April 1978 and at the time of the deceased person's death—
    - (i) was a man married to a woman whom he married after discharge and whom he leaves a widow; or
    - (ii) was a woman married to a woman in a relevant gender change case whom she married after discharge and whom she leaves a widow;”,
  - (b) in the heading to rule C.4 (persons regarded as living together) and in paragraph (1) of that rule, for “husband and wife” substitute “a married couple”,
  - (c) in rule C.12 (level of compensation for post service marriages and civil partnerships), for “husband and wife” substitute “a married couple”, and
  - (d) in rule C.19 (restoration of long term compensation to surviving adult dependant)—
    - (i) in paragraph (2) for “widow or widower” in both places it occurs substitute “spouse”, and
    - (ii) for paragraph (7) substitute—

“(7) Where no long term compensation has been payable to a surviving spouse by virtue of the operation of paragraph (1)(b) to (e) because of that surviving spouse having lived with another person as if they were a married couple, the long term compensation will be restored where the Defence Council is satisfied that the surviving spouse has ceased to live with that other person as if they were a married couple.”.
- (4) In Part D of Schedule 2 to the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (benefits payable in respect of eligible children) for rule D.1(3) (entitlement to a child's compensation) substitute—
- “(3) This Part will only apply when—
- (a) the deceased person was in service on or after 31st March 1973 and at the time of the deceased person's death—
    - (i) was a man married to a woman whom he leaves a widow; or
    - (ii) was a woman married to a woman in a relevant gender change case whom she leaves a widow;
  - (b) the deceased person was a woman who was in service on or after 1st October 1987, and at the time of her death was married to a man whom she leaves a widower;
  - (c) the deceased person was in service on or after 1st October 1987 and at the time of the deceased person's death was either—
    - (i) married to a person of the same sex (except in a case where sub-paragraph (a)(ii) applies to the deceased person); or
    - (ii) was in a civil partnership with a person,
- whom the deceased person leaves as a surviving spouse or surviving civil partner;
- (d) the deceased person was an eligible partner and was in service on or after 5th December 2005.”.

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## **Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010**

4.—(1) Part E of Schedule 1 to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010(4) (death benefits) is amended as follows.

(2) In rule E.1—

(a) for paragraph (3)(c) (surviving spouse or civil partner’s pensions) substitute—

“(c) the member was—

(i) a man and was married to a woman whom he leaves a widow; or

(ii) a woman who falls within rule E.1(15) and was married to a woman whom she leaves a widow.”,

(b) for paragraph (5)(c) (surviving spouse or civil partner’s pensions) substitute—

“(c) the member—

(i) was a woman and was married to a man whom she leaves a widower;

(ii) (except for a member who falls within rule E.1(15)) was married to a person of the same sex and leaves that person as a surviving spouse; or

(iii) leaves a surviving civil partner.”,

(c) in paragraph (13) (surviving spouse or civil partner’s pensions) for sub-paragraph (c) substitute—

“(c) had that person been the member’s surviving spouse or the member’s surviving civil partner, one of conditions A to C would be met,” and

(d) after paragraph (14) (surviving spouse or civil partner’s pensions) insert—

“(15) A deceased woman falls within this rule if—

(a) she was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and

(b) at the time of her death she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.

(3) In rule E.6 (widows’ pensions: service ended before 31st March 1973), for paragraph (1) (d) substitute—

“(d) the member was—

(i) a man and was married to a woman whom he leaves a widow; or

(ii) a woman who falls within rule E.6(8) and was married to a woman whom she leaves a widow.”.

(4) After rule E.6(7) (widows’ pensions: service ended before 31st March 1973) insert—

“(8) A deceased woman falls within this rule if—

(a) she was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and

(b) at the time of her death she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.

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(4) Royal Warrant made under section 2 of the [Pensions and Yeomanry Pay Act 1884 \(47 and 48 Vict c. 55\)](#) and prerogative powers. This Warrant and the warrants which amend it are not statutory instruments. Schedule 1 was substituted in its entirety by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Warrant 2010 and was subsequently amended by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Warrant 2012. Copies can be obtained from [www.gov.uk/government/publications/armed-forces-pension-scheme-1975-regulations](http://www.gov.uk/government/publications/armed-forces-pension-scheme-1975-regulations). Hard copies are available from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

(5) In rule E.9 (suspensions of pension on marriage etc.), for paragraph (3) substitute—

“(3) This paragraph applies while the surviving spouse or civil partner and another person are living together as if they are a married couple.”.

(6) In rule E.30(4) (death attributable to service), for “widow’s pension” in each place it occurs substitute “surviving spouse’s or civil partner’s pension”.

5.—(1) Schedule 2(5) to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010 (Army Attributable Benefits Scheme) is amended as follows.

(2) In Part A, in rule A.1 (interpretation) after the definition of “relevant disabling condition” insert—

““relevant gender change case” means a case where—

- (a) a deceased woman was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and
- (b) at the time of her death the deceased woman was married to a woman and that marriage subsisted before the time when the certificate was issued;”.

(3) In Part C—

(a) in rule C.2 (conditions relating to the deceased) for paragraphs (a) and (b) substitute—

“(a) the deceased person was in service on or after 31st March 1973 and at the time of the deceased person’s death—

- (i) was a man married to a woman whom he leaves a widow; or
- (ii) was a woman married to a woman in a relevant gender change case whom she leaves a widow;

(b) the deceased person was in service on or after 6th April 1978 and at the time of the deceased person’s death—

- (i) was a man married to a woman whom he married after discharge and whom he leaves a widow; or
- (ii) was a woman married to a woman in a relevant gender change case whom she married after discharge and whom she leaves a widow;”.

(b) in the heading to rule C.4 (persons regarded as living together) and in paragraph (1) of that rule, for “husband and wife” substitute “a married couple”,

(c) in rule C.12 (level of compensation for post service marriages and civil partnerships), for “husband and wife” substitute “a married couple”, and

(d) in rule C.19 (restoration of long term compensation to surviving adult dependant)—

(i) in paragraph (2) for “widow or widower” in both places it occurs substitute “spouse”, and

(ii) for paragraph (7), substitute—

“(7) Where no long term compensation has been payable to a surviving spouse by virtue of the operation of paragraph (1)(b) to (e) because of that surviving spouse having lived with another person as if they were a married couple, the long term compensation will be restored where the Defence Council is satisfied that the surviving spouse has ceased to live with that other person as if they were a married couple.”.

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(5) Schedule 2 was amended by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Warrant 2010 and was subsequently amended by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme (Amendment) Warrant 2012.

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(4) In Part D of Schedule 2 to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010 (benefits payable in respect of eligible children) for rule D.1(3) (entitlement to a child's compensation) substitute—

“(3) This Part will only apply when—

- (a) the deceased person was in service on or after 31st March 1973 and at the time of the deceased person's death—
  - (i) was a man married to a woman whom he leaves a widow; or
  - (ii) was a woman married to a woman in a relevant gender change case whom she leaves a widow;
- (b) the deceased person was a woman who was in service on or after 1st October 1987, and at the time of her death was married to a man whom she leaves a widower;
- (c) the deceased person was in service on or after 1st October 1987 and at the time of the deceased person's death was either—
  - (i) married to a person of the same sex (except in a case where sub-paragraph (a)(ii) applies to the deceased person); or
  - (ii) was in a civil partnership with a person,

whom the deceased person leaves as a surviving spouse or surviving civil partner;

- (d) the deceased person was an eligible partner and was in service on or after 5th December 2005.”.

### **Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010**

**6.—**(1) Part E of Schedule 1 to the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010<sup>(6)</sup> (death benefits) is amended as follows.

(2) In rule E.1—

- (a) for paragraph (3)(c) (surviving spouse or civil partner's pensions) substitute—
  - “(c) the member was—
    - (i) a man and was married to a woman whom he leaves a widow; or
    - (ii) a woman who falls within rule E.1(15) and who was married to a woman whom she leaves a widow.”,
- (b) for paragraph (5)(c) (surviving spouse or civil partner's pensions) substitute—
  - “(c) the member—
    - (i) was a woman and was married to a man whom she leaves a widower;
    - (ii) (except for a member who falls within rule E.1(15)) was married to a person of the same sex and leaves that person as a surviving spouse; or
    - (iii) leaves a surviving civil partner.”,
- (c) in paragraph (13) (surviving spouse or civil partner's pensions) for sub-paragraph (c) substitute—

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<sup>(6)</sup> Queen's Order made under section 2(1) of the [Air Force \(Constitution\) Act 1917 \(7 and 8 Geo 5 c. 51\)](#). This Order and its amending orders are not statutory instruments. Schedule 1 was substituted by the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 and subsequently amended by the Air Force Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2012. Copies can be obtained from [www.gov.uk/government/publications/armed-forces-pension-scheme-1975-regulations-and-in-relation-to-england-and-wales](http://www.gov.uk/government/publications/armed-forces-pension-scheme-1975-regulations-and-in-relation-to-england-and-wales) by [S.I. 2014/107](#) and [S.I. 2014/560](#). Hard copies are available from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

- (c) had that person been the member’s surviving spouse or the member’s surviving civil partner, one of conditions A to C would be met,” and
- (d) after paragraph (14) (surviving spouse or civil partner’s pensions) insert—
- “(15) A deceased woman falls within this rule if—
- (a) she was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and
- (b) at the time of her death she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.
- (3) In rule E.6 (widows’ pensions: service ended before 31st March 1973), for paragraph (1) (d) substitute—
- “(d) the member was—
- (i) a man and was married to a woman whom he leaves a widow; or
- (ii) a woman who falls within rule E.6(8) and was married to a woman whom she leaves a widow.”.
- (4) After rule E.6(7) (widows’ pensions: service ended before 31st March 1973) insert—
- “(8) A deceased woman falls within this rule if—
- (a) she was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and
- (b) at the time of her death she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.
- (5) In rule E.9 (suspension of pension on marriage etc.), for paragraph (3) substitute—
- “(3) This paragraph applies while the surviving spouse or civil partner and another person are living together as if they are a married couple.”.
- (6) In rule E.30(4) (death attributable to service), for “widow’s pension” in each place it occurs substitute “surviving spouse’s or civil partner’s pension”.

7.—(1) Schedule 2(7) to the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (Royal Air Force Attributable Benefits Scheme) is amended as follows.

- (2) In Part A, in rule A.1 (interpretation) after the definition of “relevant disabling condition” insert—
- ““relevant gender change case” means a case where—
- (a) a deceased woman was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and
- (b) at the time of her death the deceased woman was married to a woman and that marriage subsisted before the time when the certificate was issued;”.
- (3) In Part C—
- (a) in rule C.2 (conditions relating to the deceased) for paragraphs (a) and (b) substitute—
- “(a) the deceased person was in service on or after 31st March 1973 and at the time of the deceased person’s death—
- (i) was a man married to a woman who he leaves a widow; or

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(7) Schedule 2 was amended by the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 and the Air Force Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2012.

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- (ii) was a woman married to a woman in a relevant gender change case whom she leaves a widow;
  - (b) the deceased person was in service on or after 6th April 1978 and at the time of the deceased person's death—
    - (i) was a man married to a woman whom he married after discharge and whom he leaves a widow; or
    - (ii) was a woman married to a woman in a relevant gender change case whom she married after discharge and whom she leaves a widow;”,
  - (b) in the heading to rule C.4 (persons regarded as living together) and in paragraph (1) of that rule, for “husband and wife” substitute “a married couple”,
  - (c) in rule C.12 (level of compensation for post service marriages and civil partnerships), for “husband and wife” substitute “a married couple”, and
  - (d) in rule C.19 (restoration of long term compensation to surviving adult dependant)—
    - (i) in paragraph (2), for “widow or widower” in both places it occurs substitute “spouse”, and
    - (ii) for paragraph (7), substitute—

“(7) Where no long term compensation has been payable to a surviving spouse by virtue of the operation of paragraph (1)(b) to (e) because of that surviving spouse having lived with another person as if they were a married couple, the long term compensation will be restored where the Defence Council is satisfied that the surviving spouse has ceased to live with that other person as if they were a married couple.”.
- (4) In Part D of Schedule 2 to the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (benefits payable in respect of eligible children) for rule D.1(3) (entitlement to a child's compensation) substitute—
- “(3) This Part will only apply when—
- (a) the deceased person was in service on or after 31st March 1973 and at the time of the deceased person's death—
    - (i) was a man married to a woman whom he leaves a widow; or
    - (ii) was a woman married to a woman in a relevant gender change case whom she leaves a widow;
  - (b) the deceased person was a woman who was in service on or after 1st October 1987, and at the time of her death was married to a man whom she leaves a widower;
  - (c) the deceased person was in service on or after 1st October 1987 and at the time of the deceased person's death was either—
    - (i) married to a person of the same sex (except in a case where sub-paragraph (a)(ii) applies to the deceased person); or
    - (ii) was in a civil partnership with a person,
- whom the deceased person leaves as a surviving spouse or surviving civil partner;
- (d) the deceased person was an eligible partner and was in service on or after 5th December 2005.”.



## **Reserve Forces Non Regular Permanent Staff (Pension and Attributable Benefits Schemes) Regulations 2011**

**8.**—(1) The Reserve Forces Non Regular Permanent Staff (Pension and Attributable Benefits Schemes) Regulations 2011(**8**) are amended as follows.

(2) In Schedule 1, in Part D (death benefits)—

(a) for rule D.3(4)(b) substitute—

“(b) the member was—

(i) a man and was married to a woman whom he leaves a widow; or

(ii) a woman and was married to a woman in a relevant gender change case whom she leaves a widow.”, and

(b) after rule D.3(7) insert—

“(8) In this rule, “relevant gender change case” means a case where—

(a) a deceased woman was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and

(b) at the time of her death the deceased woman was married to a woman and that marriage subsisted before the time when the certificate was issued.”.

(3) In Schedule 2, in Part C (death benefits), for rules C.2(4) and (5) substitute—

“(4) Condition B is that the deceased person—

(a) was—

(i) a man; or

(ii) a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004;

(b) was in service on or after 31st March 1973;

(c) was married to a woman and that marriage—

(i) took place before the deceased person ceased service; and

(ii) in the case of a deceased person falling within sub-paragraph (a)(ii), subsisted before the time when the certificate was issued; and

(d) died leaving her a widow.

(5) Condition C is that the deceased person—

(a) was—

(i) a man; or

(ii) a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004;

(b) was in service on or after 6th April 1978;

(c) married a woman—

(i) after leaving service; and

(ii) in the case of a deceased person falling within sub-paragraph (a)(ii), the marriage subsisted before the time when the certificate was issued; and

(d) died leaving her a widow.”.

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(8) These regulations are not statutory instruments. Copies can be found at [www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations](http://www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations). Hard copies can be obtained from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

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## **Postal Services Act 2011 (Transfer of Accrued Pension Rights) Order 2012**

**9.**—(1) The Royal Mail Statutory Pension Scheme in Schedule 1 to the Postal Services Act 2011 (Transfer of Accrued Pension Rights) Order 2012<sup>(9)</sup> is amended as follows.

(2) In Part 1, after rule 2, insert—

### **“Marriage of a same sex couple**

**2A.**—(1) In this Scheme—

- (a) a reference to civil partnership is to be read as including a reference to marriage of a same sex couple,
- (b) a reference to civil partners is to be read as including a reference to a married same sex couple, and
- (c) a reference to a person who is in a civil partnership is to be read as including a reference to a person who is married to a person of the same sex.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a civil partnership that has ended, or a reference to a person whose civil partnership has ended) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

### **Living together as a same sex couple**

**2B.**—(1) In this Scheme—

- (a) a reference to persons who are not in a civil partnership but are living together as civil partners is to be read as including a reference to a same sex couple who are not married but are living together as a married couple, and
- (b) a reference to a person who is living together with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

### **Continuation of marriage where Scheme member acquires new legal gender**

**2C.**—(1) Where—

- (a) a deceased Scheme member was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) at the time of the deceased Scheme member’s death, she was married to a woman and that marriage subsisted before the time when the certificate was issued,

the Scheme member’s widow is to be treated for the purpose of this Scheme as if the certificate had not been issued.

(2) Where—

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(9) [S.I. 2012/687](#).

- (a) a deceased Scheme member was a man by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
  - (b) at the time of the deceased Scheme member's death, he was married to a man and that marriage subsisted before the time when the certificate was issued,
- the Scheme member's widower is to be treated for the purpose of this Scheme as if the certificate had not been issued.”.

### **Public service pension schemes: general**

**10.**—(1) In each of the enactments set out at sub-paragraph (4), any reference to a “widow” includes a woman who is the surviving spouse of a woman to whom sub-paragraph (3) applies.

(2) In each of the enactments set out in sub-paragraph (4)(c) to (f), any reference to a “husband” includes a reference to a woman to whom sub-paragraph (3) applies.

(3) This sub-paragraph applies to a deceased woman who—

- (a) was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) at the time of her death was married to a woman, and that marriage subsisted before the time when the certificate was issued.

(4) The enactments referred to in sub-paragraphs (1) and (2) are—

- (a) the War Pensions (Coastguards) Scheme 1944**(10)**,
- (b) the British Transport Reorganisation (Pensions of Employees) (No. 2) Order 1962**(11)**,
- (c) the Harbour Reorganisation (Compensation to Employees) Regulations 1967**(12)**,
- (d) the British Transport (Compensation to Employees) Regulations 1970**(13)**,
- (e) the Transport Holding Company (Compensation to Employees) Regulations 1972**(14)**, and
- (f) the Vehicle and Driving Licences (Compensation to Officers) Regulations 1977**(15)**.

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**(10)** [S.I. 1944/500](#), to which there are amendments not relevant to this Order.

**(11)** [S.I. 1962/2715](#).

**(12)** [S.I. 1967/1889](#).

**(13)** [S.I. 1970/187](#).

**(14)** [S.I. 1972/632](#).

**(15)** [S.I. 1977/1316](#), to which there are amendments not relevant to this Order.