

SCHEDULE 2

Amendments of provisions of Regulations relating to contracted-out occupational and appropriate personal pension schemes, extending those provisions to surviving civil partners

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)(1), 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—
 - (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.

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

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

14. In regulation 50A (persons to be regarded as members)(4), for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.

15. In regulation 51 (contributions equivalent premiums)(5)—

- (a) in paragraph (1B)(b)(6), 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)(7), 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”;
- (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;

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

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

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

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

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

(7) 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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- (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”.

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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”.