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STATUTORY INSTRUMENTS

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**2005 No. 3325**

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

**PART 7**

Amendments of the Judicial Pensions and Retirement Act 1993

- 69.** The Judicial Pensions and Retirement Act 1993(1) is amended as follows.
- 70.**—(1) Section 5 (surviving spouse’s pension) is amended as follows.
- (2) In the side-note, after “Surviving spouse's” insert “and surviving civil partner's”.
- (3) In subsection (1)—
- (a) after “surviving spouse”, in both places, insert “or surviving civil partner”,
- (b) in paragraph (b), after “marriage took place” insert “or their civil partnership was formed”, and
- (c) omit “(a “surviving spouse’s pension”)”.
- (4) After that subsection insert—
- “(1A) For the purposes of this Act—
- (a) a pension under this section which is payable to a surviving spouse is a “surviving spouse’s pension”, and
- (b) a pension under this section which is payable to a surviving civil partner is a “surviving civil partner’s pension”.”.
- (5) For subsection (3) substitute—
- “(3) If—
- (a) the surviving spouse re-marries or forms a civil partnership, or
- (b) the surviving civil partner marries or forms a subsequent civil partnership,
- the Treasury may, on or at any time after the marriage or the formation of the civil partnership, direct that the pension shall cease to be payable.”.
- (6) After subsection (5) insert—
- “(5A) Schedule 1A to this Act (which makes transitional provision in relation to surviving civil partners' pensions) shall have effect.”.
- 71.** In section 6 (grant and payment of a children’s pension), for subsection (7) substitute—
- “(7) In this section, “step-children of the deceased” means—
- (a) any children who—
- (i) are the natural children of a person who at any time was married to, or the civil partner of, the deceased, and

- (ii) at the time of the marriage or the formation of the civil partnership, either had been born or were in gestation;
- (b) any children adopted by such a person before the marriage to, or the formation of the civil partnership with, the deceased; and
- (c) any children adopted by such a person after the marriage to, or the formation of the civil partnership with, the deceased in a case where the adoption proceedings were pending at the time of the marriage or the formation of the civil partnership.”.

**72.**—(1) Section 8 (rate of children’s pension) is amended as follows.

- (2) In subsection (1), after “surviving spouse” insert “or surviving civil partner”.
- (3) In subsection (2), after “surviving spouse”, in each place, insert “or surviving civil partner”.
- (4) For subsection (3) substitute—

“**(3)** Where the deceased—

- (a) leaves a surviving spouse who re-marries or forms a civil partnership, or
- (b) leaves a surviving civil partner who marries or forms a subsequent civil partnership,

the Treasury may, if they think fit, direct that subsection (1) above shall apply instead of subsection (2) above as respects any period when the surviving spouse or surviving civil partner has a spouse or civil partner.”.

**73.** In the side-note to section 9 (contribution towards cost of surviving spouse’s and children’s pension), after “surviving spouse's” insert “, surviving civil partner's”.

**74.** For section 17 (effect of certain nullity decrees) substitute—

**“Effect of certain nullity decrees**

**17** 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 this Part 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.”.

**75.** In section 20 (appeals), in subsection (3)(b), for “widow or widower” substitute “widow, widower or surviving civil partner”.

**76.**—(1) Section 30 (interpretation) is amended as follows.

- (2) In subsection (1)—
  - (a) in the definition of “the deceased”, after “surviving spouse's” insert “, surviving civil partner's”,
  - (b) in the definition of “derivative benefit”, after “surviving spouse's” insert “, surviving civil partner's”, and
  - (c) at the appropriate place insert—

““surviving civil partner’s pension” has the meaning given by section 5 above;”.

**77.** After Schedule 1 (the offices which may be qualifying judicial offices) insert—

“SCHEDULE 1A

Section 5

SURVIVING CIVIL PARTNER'S PENSION: TRANSITIONAL PROVISIONS

*The commencement date*

1. In this Schedule “the commencement date” means 5th December 2005.

*Service wholly before the commencement date*

2. No surviving civil partner’s pension shall be payable in respect of a person who retires from qualifying judicial office before the commencement date.

*Service partly before and partly on the commencement date*

- 3.—(1) The annual rate of a surviving civil partner’s pension in respect of a person who—

- (a) holds qualifying judicial office before the commencement date; and
- (b) continues to do so on that date,

shall be calculated in accordance with section 5.

- (2) Sub-paragraph (1) does not apply if, within, 6 months of the formation of the civil partnership, the person elects for the annual rate of the surviving civil partner’s pension to be calculated under sub-paragraph (3).

(3) Where the annual rate of a surviving civil partner’s pension falls to be calculated under this sub-paragraph, that pension shall be calculated in accordance with section 5, but solely for the purpose of this sub-paragraph, the annual rate of the deceased’s judicial pension shall be deemed to be that to which he would have been entitled had he first been appointed to qualifying judicial office on the commencement date.

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