

SCHEDULE 1

Consequential Amendments to Subordinate Legislation

Occupational Pension Schemes (Modification of Schemes) Regulations 2006

44.—(1) The Occupational Pension Schemes (Modification of Schemes) Regulations 2006⁽¹⁾ are amended as follows.

(2) In regulation 3 (non-application of the subsisting rights provisions)—

- (a) omit “or” after paragraph (h),
- (b) at the end of paragraph (i) insert “or”, and
- (c) after paragraph (i) insert—

“**(j)** which provides in relation to all or part of a member’s subsisting rights that after the member’s death—

- (i) a surviving same sex spouse is treated in the same way as a woman whose deceased spouse was a man, or a man whose deceased spouse was a woman, and
- (ii) the rights of any other survivor of the member are determined as if the surviving same sex spouse were a woman whose deceased spouse was a man, or a man whose deceased spouse was a woman.”.

(3) After regulation 7 insert—

“Modification of schemes: surviving same sex spouses

7ZA.—(1) Subject to paragraph (2), the trustees of a trust scheme may by resolution modify the scheme in relation to all or part of a member’s subsisting rights so that after the member’s death—

- (a) a surviving same sex spouse is treated in the same way as a woman whose deceased spouse was a man, or a man whose deceased spouse was a woman, and
- (b) the rights of any other survivor are determined as if the surviving same sex spouse were a woman whose deceased spouse was a man, or a man whose deceased spouse was a woman.

(2) A modification under paragraph (1) which confers rights on surviving same sex spouses which are in excess of what is required to comply with the relevant requirements of the Marriage (Same Sex Couples) Act 2013 shall not be made unless—

- (a) the employer in relation to the scheme consents; or
- (b) in the case of a scheme where there is more than one employer—
 - (i) a person nominated by the employers, or otherwise in accordance with the scheme rules, to act as the employers’ representative (the “nominee”) consents; or
 - (ii) where there is no such nominee, all of the employers in relation to the scheme consent other than any employer who has waived his right to give such consent.”.

⁽¹⁾ [S.I. 2006/759](#), to which there are amendments not relevant to this Order.