
STATUTORY INSTRUMENTS

2005 No. 2053

CIVIL PARTNERSHIP

The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005

*Made - - - - 25th July 2005
Coming into force in accordance with article 1(2) and
(3)*

Whereas a draft of this Order has been laid before and approved by a resolution of each House of Parliament;

Now, therefore, in exercise of the powers conferred upon him by sections 254(4) and 259 of the Civil Partnership Act 2004⁽¹⁾, the Secretary of State for Work and Pensions hereby makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005.

(2) In this Order—

- (a) paragraph 4 of Part 1 of the Schedule shall come into force, for the purposes only of making regulations under section 62 of the Social Security Contributions and Benefits Act 1992⁽²⁾;
- (b) paragraph 5(6) and (12) of Part 1 of the Schedule shall come into force, for the purposes only of making regulations under paragraphs 3C and 7B of Schedule 5 to the Social Security Contributions and Benefits Act 1992⁽³⁾; and
- (c) paragraph 26 of Part 5 of the Schedule shall come into force, for the purposes only of making regulations under section 52(2) of the Welfare Reform and Pensions Act 1999⁽⁴⁾,

on the day following that on which this Order is made.

(3) Subject to paragraph (2), this Order shall come into force on 5th December 2005.

(1) 2004 c. 33. Section 254(4) of the Civil Partnership Act 2004 applies section 175(3), (5) and (6) of the Social Security Contributions and Benefits Act 1992 (c. 4) to the exercise of powers under section 259 of the 2004 Act.
(2) 1992 c. 4. Section 62(1)(c) was inserted by paragraph 17(b) of Schedule 11 to the Pensions Act 2004 (c. 35).
(3) Paragraphs 3C and 7B were inserted by paragraphs 9 and 11 of Schedule 11 to the Pensions Act 2004 (c. 35).
(4) 1999 c. 30. Section 52(2) was amended by paragraph 25 of Schedule 11 to the Pensions Act 2004 (c. 35).

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(4) This Order extends to England and Wales and Scotland except paragraph 27(c) of Part 6 of the Schedule and Article 2 in so far as it relates to that paragraph, which extend to Northern Ireland.

Amendments of legislation

2. The Schedule, which contains amendments of provisions of Acts relating to pensions and benefit payments, extending those provisions to civil partners and surviving civil partners, shall have effect.

Signed by authority of the Secretary of State for Work and Pensions.

25th July 2005

Stephen C. Timms
Minister of State,
Department for Work and Pensions

SCHEDULE

Article 2

Amendments of provisions of Acts relating to pensions and benefit payments, extending those provisions to civil partners and surviving civil partners

PART 1

Amendments of the Social Security Contributions and Benefits Act 1992 (c. 4)

1. In section 48C (Category B retirement pension: general)(5), in subsection (4), after “spouse” insert “or civil partner”.

2. In section 54 (Category A and Category B retirement pensions: supplemental provisions)(6), in subsection (3), after “marriage” insert “or civil partnership”.

3.—(1) Amend section 55 (pension increase or lump sum where entitlement to retirement pension is deferred)(7) as follows.

(2) In subsection (2), after “deceased spouse” (in each place) insert “or civil partner”.

(3) In subsection (3)(a)(ii)—

(a) after “a spouse's” insert “or civil partner's”; and

(b) after “the spouse” insert “or civil partner”.

4. In section 62 (graduated retirement benefit), in subsection (1)(c)—

(a) after “widowed person” insert “or surviving civil partner”; and

(b) at the end, add “or civil partner”.

5.—(1) Amend Schedule 5 (pension increase or lump sum where entitlement to retirement pension is deferred)(8) as follows.

(2) In paragraph A1(4), for “paragraphs 5 to 6” substitute “paragraphs 5 to 6A”.

(3) In paragraph 2(5)(a), for “paragraph 4, 5, 5A or 6” substitute “paragraph 4, 5, 5A, 6 or 6A”.

(4) In paragraph 2A, for “paragraphs 5 to 6” (in each place) substitute “paragraphs 5 to 6A”.

(5) In paragraph 3B(5)(b)(i), for “paragraphs 5 to 6” substitute “paragraphs 5 to 6A”.

(6) Amend paragraph 3C as follows—

(a) in the heading preceding it, after “deceased spouse” insert “or civil partner”;

(b) in sub-paragraph (1)(a), for “widow or widower” substitute “widow, widower or surviving civil partner”;

(c) in sub-paragraph (1)(b)—

(i) after “married to” insert “or was the civil partner of”; and

(ii) after “marriage” insert “or civil partnership”;

(d) in sub-paragraph (5)—

(5) Section 48C was inserted by paragraph 3 of Schedule 4 to the Pensions Act 1995 (c. 26). Subsection (4) was amended by paragraph 7 of Schedule 8 to and paragraph 21 of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30) and section 35(12) of the Child Support, Pensions and Social Security Act 2000 (c. 19).

(6) Section 54(3) was substituted by paragraph 21(8) of Schedule 4 to the Pensions Act 1995 (c. 26).

(7) Section 55 was substituted by section 297 of the Pensions Act 2004 (c. 35).

(8) Schedule 5 was amended by paragraph 21 of Schedule 4 to the Pensions Act 1995 (c. 26) and paragraphs 1 to 14 of Schedule 11 to the Pensions Act 2004 (c. 35). Paragraph 7 of Schedule 5 was amended by paragraph 40 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c. 18).

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- (i) for “paragraphs 5 to 6” substitute “paragraphs 5 to 6A”; and
 - (ii) after “deceased spouse” insert “or civil partner”.
- (7) Amend paragraph 4 as follows—
- (a) in the heading preceding it, after “deceased spouse” insert “or civil partner”;
 - (b) in sub-paragraph (1)—
 - (i) for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”;
 - (ii) after “married to” insert “or was the civil partner of”; and
 - (iii) after “other party to the marriage” insert “or civil partnership”;
 - (c) in sub-paragraph (1A), for “paragraphs 5 to 6” (in each place) substitute “paragraphs 5 to 6A”;
 - (d) in sub-paragraph (3)—
 - (i) after “5th April 2000”(9) insert “or a civil partner dies on or after 5th December 2005”;
 - (ii) for “widow or widower” substitute “widow, widower or surviving civil partner”; and
 - (iii) in paragraph (a), after “deceased spouse” insert “or civil partner”;
 - (e) in sub-paragraph (4)—
 - (i) after “the former spouse” insert “or civil partner”; and
 - (ii) after “the surviving spouse” (in each place) insert “or civil partner”.
- (8) Amend paragraph 5 as follows—
- (a) in sub-paragraph (1)(a)—
 - (i) for “widow or widower” substitute “widow, widower or surviving civil partner”;
 - (ii) after “married to” insert “or was the civil partner of”; and
 - (iii) after “marriage” insert “or civil partnership”;
 - (b) in sub-paragraph (2)—
 - (i) at the end of paragraph (a), omit “and”; and
 - (ii) at the end of paragraph (b), insert—
 - “, and
 - (c) where W is a surviving civil partner, an amount equal to the sum of the amounts set out in paragraph 6A(2) below”.
- (9) After paragraph 6 insert the following paragraph—
- “**6A.**—(1) This paragraph applies where W (referred to in paragraph 5 above) is a surviving civil partner.
- (2) The amounts referred to in paragraph 5(2)(c) above are the following—
 - (a) one-half of the increase mentioned in paragraph 5(1)(b) above, so far as attributable to employment before 6th April 1988,
 - (b) one-half of the appropriate amount after it has been reduced by the amount of any increases under section 109 of the Pensions Act, and

(9) Section 39(1) of the Child Support, Pensions and Social Security Act 2000 (c. 19) provides that the reference to 5th April 2000 in sub-paragraph (3) shall have effect, and be deemed always to have had effect, as a reference to 5th October 2002.

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- (c) one-half of any increase to which the deceased civil partner had been entitled under paragraph 5 above.”.
- (10) Amend paragraph 7 as follows—
 - (a) in sub-paragraph (1)—
 - (i) for “paragraphs 5 to 6” substitute “paragraphs 5 to 6A”; and
 - (ii) in paragraph (b), after “surviving spouse” insert “or civil partner”;
 - (b) in sub-paragraph (2), for “paragraph 5, 5A or 6” substitute “paragraph 5, 5A, 6 or 6A”.
- (11) Amend paragraph 7A as follows—
 - (a) in the heading preceding it, after “deceased spouse” insert “or civil partner”; and
 - (b) in sub-paragraph (2), after “widowed person's” insert “or surviving civil partner's”.
- (12) Amend paragraph 7B as follows—
 - (a) in the heading preceding it, and in sub-paragraphs (1) and (5), after “widowed person's” insert “or surviving civil partner's”;
 - (b) in sub-paragraph (2), after “other party to the marriage” insert “or civil partnership”; and
 - (c) in sub-paragraph (5)(b)(i), for “paragraphs 5 to 6” substitute “paragraphs 5 to 6A”.
- (13) Amend paragraph 8 as follows—
 - (a) in the heading preceding it, at the end add “and civil partners”; and
 - (b) in sub-paragraph (3)—
 - (i) after “married person” insert “or a civil partner”; and
 - (ii) after “other party to the marriage” insert “or civil partnership”.

PART 2

Amendments of the Social Security Administration Act 1992 (c. 5)

- 6.—(1) Amend section 133 (furnishing of addresses for maintenance proceedings, etc.) as follows.
 - (2) For “man or woman” (in each place) substitute “person”.
 - (3) In paragraph (a), for “man’s wife or former wife, or the woman’s husband or former husband” substitute “person’s spouse, former spouse, civil partner or former civil partner”.
 - (4) For paragraph (b) substitute the following paragraph—
 - “(b) for the maintenance or education of any child of the person, or of any child of the person’s spouse, former spouse, civil partner or former civil partner.”.
- 7. In section 134 (arrangements for housing benefit), in subsection (8)(a), after “widow's” insert “or surviving civil partner's”.
- 8. In section 150 (annual up-rating of benefits)(10), in subsection (1)(dza), after “surviving spouses” insert “or civil partners”.
- 9. In section 155 (effect of alteration of rates of benefit under Parts 2 to 5 of Contributions and Benefits Act), in subsection (7)(c)(11), for “widows and widowers” substitute “widows, widowers and surviving civil partners”.

(10) Section 150(1)(dza) was inserted by paragraph 21 of Schedule 11 to the Pensions Act 2004 (c. 35).

(11) Subsection (7)(c) was substituted by section 131(3) of the Pensions Act 1995 (c. 26).

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10. In section 159B (effect of alterations affecting state pension credit)(**12**), in subsection (6), in the definition of “war widow’s or widower’s pension”—

- (a) in paragraph (a), for “any widow’s or widower’s” substitute “any widow’s, widower’s or surviving civil partner’s”; and
- (b) in paragraph (b), for “widow or widower” substitute “widow, widower or surviving civil partner”.

PART 3

Amendments of the Pension Schemes Act 1993 (c. 48)

11. In section 70 (interpretation), in subsection (1), in the definition of “long service benefit”, for “wife or husband, widow or widower” substitute “wife, husband, civil partner, widow, widower, or surviving civil partner”.

12. In section 84 (basis of revaluation)(**13**), in subsection (5), for “widow or widower” substitute “widow, widower or surviving civil partner”.

13. In section 96 (further provisions concerning exercise of option under section 95)(**14**), in subsection (3)(a), for “widow’s or, as the case may be, widower’s” substitute “widow’s, widower’s or surviving civil partner’s (as the case may be)”.

14. In section 113 (disclosure of information about schemes to members etc.), in subsection (2)(b), after “spouses” insert “or civil partners”.

15. In section 129 (overriding requirements), in subsection (3)(e)—

- (a) for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”; and
- (b) for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”.

16. In section 146 (functions of the Pensions Ombudsman), in subsection (7)(b), for “widow or widower” substitute “widow, widower or surviving civil partner”.

17. In section 159A (no forfeiture on bankruptcy of rights under personal pension schemes)(**15**), in subsection (2)(a)(i), after “rights on divorce etc.” insert “or on dissolution etc. of a civil partnership”.

18. In section 181 (general interpretation), in subsection (1), in the definition of “money purchase benefits”, for “widow or widower” substitute “widow, widower or surviving civil partner”.

19. In paragraph 1(1)(a) of Schedule 3 (methods of revaluing accrued pension benefits), for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.

(12) Section 159B was inserted by paragraph 17 of Schedule 2 to the State Pension Credit Act 2002 (c. 16). The definition of “war widow’s or widower’s pension” in subsection (6) was amended by paragraph 188 of Schedule 6 to the Income Tax (Earnings and Pensions) Act 2003 (c. 1).

(13) Section 84(5) was amended by paragraph 62 of Schedule 5 to and Part III of Schedule 7 to the Pensions Act 1995 (c. 26) and section 281 of the Pensions Act 2004 (c. 35).

(14) Section 96(3)(a) was amended by paragraph 63(b) of Schedule 5 to the Pensions Act 1995 (c. 26).

(15) Section 159A was inserted by section 14 of the Welfare Reform and Pensions Act 1999 (c. 30).

PART 4

Amendments of the Pensions Act 1995 (c. 26)

20. In section 41 (provision of documents for members), in subsection (4)(b), after “spouses” insert “or civil partners”.

21. In section 50A (meaning of “person with an interest in the scheme”)(**16**), in subsection (1)(b), after “widower” insert “, surviving civil partner”.

22. In section 63 (equal treatment rule: supplementary), in subsection (2), for “family or marital” substitute “family, marital or civil partnership”.

23. In section 91 (inalienability of occupational pension)(**17**), in subsection (5)(a), (b) and (c), after “widower” insert “, surviving civil partner”.

24. In section 92 (forfeiture, etc.), in subsection (3), for paragraph (b) substitute the following paragraph—

“(b) the spouse, civil partner, widow, widower or surviving civil partner of the member,”.

25. In section 124 (interpretation of Part I), in subsection (1), in the appropriate place insert—
““civil partnership status”, in relation to a person, means whether that person has previously formed a civil partnership and, if so, whether that civil partnership has ended,”.

PART 5

Amendment of the Welfare Reform and Pensions Act 1999 (c. 30)

26. In section 52 (preservation of rights in respect of additional pensions), in subsection (2), for “widows or widowers” substitute “widows, widowers or surviving civil partners”.

PART 6

Amendments of the Pensions Act 2004 (c. 35)

27. In section 24 (consequences of freezing order), in subsection (6), in the definition of “pension earmarking order”—

(a) after paragraph (a) insert the following paragraph—

“(aa) an order under Part 1 (financial provision in connection with dissolution, nullity or separation) of Schedule 5 to the Civil Partnership Act 2004 (c. 33) (financial relief in the High Court or a county court etc.) so far as it includes provision made by virtue of paragraphs 25 and 26 of Part 6 of that Schedule (powers to include provisions about pensions),”;

(b) in paragraph (b) omit “or”;

(c) at the end of paragraph (c) insert—

“, or

(16) Section 273 of the Pensions Act 2004 (c. 35) substituted new sections 50, 50A and 50B in the Pensions Act 1995 (c. 26) for the former section 50 of that Act.

(17) Section 91(5) was amended by paragraph 57(4) of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30).

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- (d) an order under Part 1 (financial provision in connection with dissolution, nullity or separation) of Schedule 15 to the Civil Partnership Act 2004 (financial relief in the High Court or a county court etc.: Northern Ireland) so far as it includes provision made by virtue of paragraphs 20 and 21 of Part 5 of that Schedule (powers to include provisions about pensions)”.

28. Amend paragraph 26 of Part 3 (transitional provisions) of Schedule 11 (deferral of retirement pensions and shared additional pensions) as follows—

- (a) in the heading preceding it, after “Widowers” insert “and surviving civil partners”, and after “widowed person's” insert “or surviving civil partner's”;
- (b) after “widower” insert “or surviving civil partner”;
- (c) after “widowed person's” insert “or surviving civil partner's”; and
- (d) for “he was over pensionable age when his wife died” substitute “the widower or surviving civil partner was over pensionable age when his wife or, as the case may be, his or her civil partner, died”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to provisions of Acts relating to pensions and benefit payments, extending those provisions to civil partners and surviving civil partners.

Article 1 provides for citation, commencement and extent, and article 2 introduces the Schedule containing the amendments.

Part 1 of the Schedule contains amendments of the Social Security Contributions and Benefits Act 1992 (c. 4) (“the Contributions and Benefits Act”).

Paragraphs 1 to 4 extend retirement pension provisions in sections 48C, 54, 55 and 62 of the Contributions and Benefits Act relating to spouses and surviving spouses to civil partners and surviving civil partners.

Paragraph 5 contains amendments of Schedule 5 to the Contributions and Benefits Act, which has itself been amended by the Social Security (Incapacity for Work) Act 1994, the Pensions Act 1995 and the Pensions Act 2004. The amendments provide for the rights to a pension increase or a lump sum where entitlement to state retirement pension is deferred to apply to civil partners and surviving civil partners.

Part 2 contains amendments of the Social Security Administration Act 1992 (c. 5) (“the Administration Act”).

Paragraph 6 extends the duty to furnish addresses for maintenance proceedings, etc. in section 133 of the Administration Act to civil partners and former civil partners.

Paragraphs 7 to 9 extend benefit provisions in sections 134, 150 and 155, of the Administration Act relating to surviving widows or surviving spouses to apply to surviving civil partners.

Paragraph 10 amends section 159B of the Administration Act to include surviving civil partners within the provisions on the effect of alterations affecting state pension credit.

Part 3 contains amendments to sections 70, 84, 96, 113, 129, 146, 159A, 181 of and paragraph 1 of Schedule 3 to the Pension Schemes Act 1993 (c. 48) to extend provisions in the Act in respect of spouses to civil partners, and in respect of widows or widowers to surviving civil partners.

Part 4 contains amendments to sections 41, 50A, 63, 91, 92 and 124 of the Pensions Act 1995 (c. 26) extending certain provisions to civil partners and surviving civil partners.

Part 5 amends section 52(2) of the Welfare Reform and Pensions Act 1999 (c. 30), extending the provision on the preservation of rights in respect of additional pensions to surviving civil partners.

Part 6 amends the Pensions Act 2004 (c. 35).

Paragraph 27 amends the definition of “pension earmarking order” in section 24(6) (consequences of freezing order) to include orders made under Part 1 of Schedule 5 to the Civil Partnership Act (financial relief in the High Court or a county court etc.) (England and Wales) and Part 1 of Schedule 15 to that Act (financial relief in the High Court or a county court etc.) (Northern Ireland).

Paragraph 28 amends a transitional provision in paragraph 26 of Schedule 11 (widowers' entitlement to increase of pension or widowed person's lump sum) to surviving civil partners.

An assessment of the impact on business, charities or the voluntary sector of the provisions in this Order is included in the Regulatory Impact Assessment that accompanied the Civil Partnership Act 2004. A copy of that assessment has been placed in the libraries of both Houses of Parliament. Copies may be obtained from the DTI website at <http://www.dti.gov.uk/access/ria/index.htm#equality>.