

SCHEDULE 2

CONTRARY PROVISION

PART 3

ENACTMENTS ETC. (GENERAL)

Provision to which Schedule 1 is subject

5.—(1) Paragraph 1(1) and (2) of Schedule 1 have effect subject to sub-paragraph (2) of this article.

(2) In applying rules E.3(6)(a), E.4(3)(a) and E.5(3)(a) in Part E of Schedule 1 to the Armed Forces Pension Scheme Order 2005(1) for the purposes of calculating death benefits payable under rules E1 and E2, a surviving spouse who was married to someone of the same sex is to be treated in the same way as the surviving civil partner of a civil partnership.

Commencement Information

II Sch. 2 para. 5 in force at 16.12.2014, see [art. 1\(2\)](#)

Provision disapplying the effect of Schedule 1 in respect of enactments

6. Paragraph 1(1) and (2) and paragraphs 2 to 4 of Schedule 1 do not apply to—
- (a) the Treason Act 1351(2);
 - (b) the Crown Private Estate Act 1800(3);
 - (c) section 60 of the Government Annuities Act 1929(4);
 - (d) the War Pensions (Coastguards) Scheme 1944(5);
 - (e) the Civil Aviation (Births, Deaths and Missing Persons) Regulations 1948(6);
 - (f) the Airways Corporations (General Staff Pensions) Regulations 1948(7);
 - (g) the Airways Corporations (Pilots Pensions) Regulations 1951(8);
 - (h) the Airways Corporations (Radio, Navigating and Engineer Officers Pensions) Regulations 1953(9);
 - (i) the Airways Corporations (General Staff, Pilots and Officers Pensions) (Amendment) Regulations 1957(10);
 - (j) the British Transport Reorganisation (Pensions of Employees) (No. 2) Order 1962(11);

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- (1) S.I. 2005/438; to which there are amendments not relevant to this Order.
 - (2) 1351 c.2; the Act was extended to Scotland by the Treason Act 1708, and amended by the Forgery Act 1830 (c.66), section 31, 2 and 3 Will 4 (c.34), section 1, 9 Geo 4 (c.31), section 1, 10 Geo 4 (c.34), section 1, the Escheat (Procedure) Act 1887 (c.53), the Schedule, the Statute Law Revision Act 1948 (c.62), the Criminal Law Act 1967 (c.58), Schedule 3, Part 1, the Succession to the Crown Act 2013 (c.20), the Schedule (not yet in force).
 - (3) 1800 c.88.
 - (4) 1929 c.29.
 - (5) S.I. 1944/500; to which there are amendments not relevant to this Order.
 - (6) S.I. 1948/1411; to which there are amendments not relevant to this Order.
 - (7) S.I. 1948/2361; to which there are amendments not relevant to this Order.
 - (8) S.I. 1951/527.
 - (9) S.I. 1953/1296.
 - (10) S.I. 1957/87; to which there are amendments not relevant to this Order.
 - (11) S.I. 1962/2715.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to *The Marriage and Civil Partnership (Scotland) Act 2014* and *Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014*. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) [View outstanding changes](#)

- (k) the Air Corporations (General Staff, Pilots and Officers Pensions) (Amendment) (No. 2) Regulations 1963**(12)**;
- (l) the Air Corporations (General Staff, Pilots and Officers Pensions) (Amendment) Regulations 1967**(13)**;
- (m) the Harbour Reorganisation (Compensation to Employees) Regulations 1967**(14)**;
- (n) the British Transport (Compensation to Employees) Regulations 1970**(15)**;
- (o) sections 1, 3(7)(a) and 6 and the definition of widow's pension in section 17(1) of the Pensions (Increase) Act 1971**(16)**;
- (p) the Transport Holding Company (Compensation to Employees) Regulations 1972**(17)**;
- (q) section 59(5ZB)(a) and (b) and (5ZC)(a) of the Social Security Pensions Act 1975**(18)**;
- (r) the Vehicle and Driving Licences (Compensation to Officers) Regulations 1977**(19)**;
- (s) articles 2 and 3 of the Pensions Increase (Review) Order 1979**(20)**;
- (t) the National Freight Corporation (Central Trust) (Amendment) Order 1980**(21)**;
- (u) articles 2 and 3 of the Pensions Increase (Review) Order 1980**(22)**;
- (v) articles 2 and 3 of the Pensions Increase (Review) Order 1981**(23)**;
- (w) articles 2 and 3 of the Pensions Increase (Review) Order 1982**(24)**;
- (x) articles 2 and 3 of the Pensions Increase (Review) Order 1983**(25)**;
- (y) articles 2 and 3 of the Pensions Increase (Review) Order 1984**(26)**;
- (z) articles 2 and 3 of the Pensions Increase (Review) Order 1985**(27)**;
- (aa) articles 2 and 3 of the Pensions Increase (Review) Order 1986**(28)**;
- (bb) articles 2 and 3 of the Pensions Increase (Review) Order 1987**(29)**;
- (cc) the Judicial Pensions (Widows' and Children's Benefits) Regulations 1987**(30)**;
- (dd) articles 2 and 3 of the Pensions Increase (Review) Order 1988**(31)**;
- (ee) articles 2 and 3 of the Pensions Increase (Review) Order 1989**(32)**;
- (ff) articles 2 and 3 of the Pensions Increase (Review) Order 1990**(33)**;

(12) [S.I. 1963/1108](#).

(13) [S.I. 1967/739](#).

(14) [S.I. 1967/1889](#).

(15) [S.I. 1970/187](#).

(16) 1971 c.56; section 1 was substituted by the Schedule to [S.I. 1978/1211](#). Section 3(7) was amended by the Children Act 1975 (c.72), section 108(1)(b) and Schedule 4. There are other amendments to section 3 not relevant to this Order. Section 6 was amended by section 3(3) of the Pensions (Increase) Act 1974 (c.9). The definition of "widow's pension" in section 17(1) was inserted by section 3(3) of the Pensions (Increase) Act 1974 and was substituted by the Welfare Reform and Pensions Act 1999 (c.30), section 39(1) and (5)(c). There are other amendments to section 17 not relevant to this Order.

(17) [S.I. 1972/632](#).

(18) 1975 c.60; subsections (5ZB) and (5ZC) were inserted by the Pensions Act 2008 (c.30), section 137(1) and (8).

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

(20) [S.I. 1979/1047](#).

(21) [S.I. 1980/657](#).

(22) [S.I. 1980/1302](#).

(23) [S.I. 1981/1217](#).

(24) [S.I. 1982/1178](#).

(25) [S.I. 1983/1264](#).

(26) [S.I. 1984/1307](#).

(27) [S.I. 1985/1575](#).

(28) [S.I. 1986/1116](#).

(29) [S.I. 1987/130](#).

(30) [S.I. 1987/375](#); to which there are amendments not relevant to this Order.

(31) [S.I. 1988/217](#).

(32) [S.I. 1989/477](#).

(33) [S.I. 1990/483](#).

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- (gg) the Judicial Pensions (Widowers' and Children's Benefits) Regulations 1991(34);
- (hh) paragraphs 5(2)(35), 5A(36) and 6(37) of Schedule 5 to the 1992 Act(38);
 - (ii) the Railways Pension Scheme Order 1994(39);
 - (jj) the Railway Pensions (Transfer and Miscellaneous Provisions) Order 1994(40);
- (kk) the British Coal Staff Superannuation Scheme (Modification) Regulations 1994(41);
 - (ll) the Mineworkers' Pension Scheme (Modification) Regulations 1994(42);
- (mm) the Industry-Wide Coal Staff Superannuation Scheme Regulations 1994(43);
- (nn) the Industry-Wide Mineworkers' Pension Scheme Regulations 1994(44);
- (oo) regulations 55(1) and 69B(3)(c) and (d) of the Occupational Pension Schemes (Contracting-out) Regulations 1996(45);
- (pp) the Transport Act 2000 (Civil Aviation Authority Pension Scheme) Order 2001(46);
- (qq) section 299 of the Pensions Act 2004(47) and the relevant provisions of the reciprocal agreement with Australia (within the meaning of that section) as continued in force by that section;
- (rr) regulations 3(i) and 7(1) of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006(48);
- (ss) Schedule 1, Part E, rule E.1, paragraphs (3)(c) and (5)(c) and rule E.6, paragraph (1)(d) and Schedule 2, Part C, rule C.2, paragraphs (a) and (b) and Part D, rule D.1(3) to the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010(49);
- (tt) Schedule 1, Part E, rule E.1, paragraphs (3)(c) and (5)(c) and rule E.6, paragraph (1)(d) and Schedule 2, Part C, rule C.2, paragraphs (a) and (b) and Part D, rule D.1(3) to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010(50);

(34) S.I. 1991/2731; to which there are amendments not relevant to this Order.

(35) Paragraph 5 was amended by S.I. 2005/2053. Paragraphs 5, 5A and 6 were substituted for paragraphs 5 and 6 as originally enacted by the Pensions Act 1995 (c.26), Schedule 4, paragraph 21(15). Paragraphs 5 to 6A of that Schedule were repealed by the Pensions Act 2011 (c.19), section 2(5). That repeal was brought into force in respect of certain specified provisions by S.I. 2011/3034 but has yet to be brought into force in respect of the remaining provisions.

(36) Paragraph 5A was amended by the Child Support, Pensions and Social Security Act 2000 (c.19), section 39 and the Pensions Act 2007 (c.22), Schedule 1, paragraph 20 and Schedule 7, Part 3.

(37) Paragraph 6 was amended by the Child Support, Pensions and Social Security Act 2000, section 39 and the Pensions Act 2007, Schedule 1, paragraph 20 and Schedule 7, Part 3.

(38) 1992 c.4; there are other amendments to Schedule 5 not relevant to this Order.

(39) S.I. 1994/1433; to which there are amendments not relevant to this Order.

(40) S.I. 1994/2005.

(41) S.I. 1994/2576; to which there are amendments not relevant to this Order.

(42) S.I. 1994/2577; to which there are amendments not relevant to this Order.

(43) S.I. 1994/2973; to which there are amendments not relevant to this Order.

(44) S.I. 1994/2974; to which there are amendments not relevant to this Order.

(45) S.I. 1996/1172; paragraph (1)(c) of regulation 55 was amended by S.I. 1997/786 and S.I. 2005/2050, and regulation 69B was inserted by S.I. 2009/846. There are other amendments to these Regulations not relevant to this Order.

(46) S.I. 2001/853; to which there are amendments not relevant to this Order.

(47) 2004 c.35.

(48) S.I. 2006/759; to which there are amendments not relevant to this Order.

(49) 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. These latter Orders can be found at 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.

(50) 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

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- (uu) Schedule 1, Part E, rule E.1, paragraphs (3)(c) and (5)(c) and rule E.6, paragraph (1)(d) and Schedule 2, Part C, rule C.2, paragraphs (a) and (b) and Part D, rule D.1(3) to the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010(51);
- (vv) Schedule 1, Part D, rule D.3, paragraph (4) and Schedule 2, Part C, rule C.2, paragraphs (4)(d) and (5)(d) to the Reserve Forces Non Regular Payment Permanent Staff (Pensions and Attributable Benefits Schemes) Regulations 2011(52);
- (ww) the Royal Mail Statutory Pension Scheme(53).

Commencement Information

I2 Sch. 2 para. 6 in force at 16.12.2014, see [art. 1\(2\)](#)

2010 and was subsequently amended by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme (Amendment) Warrant 2012. These latter Warrants can be found at 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

- (51) 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. These latter Orders can be found at 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.
- (52) These Regulations are not statutory instruments. Copies can be found at <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.
- (53) The Scheme Rules are in Schedule 1 to [S.I. 2012/687](#).

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- art. 6(1A) inserted by [S.I. 2019/1514 reg. 10\(3\)\(b\)](#)