

SCHEDULE 5

CONSEQUENTIAL MODIFICATIONS TO PRIMARY LEGISLATION

Pension Schemes Act 1993

11.—(1) The Pension Schemes Act 1993(1) is amended as follows.

(2) In section 8(2) (meaning of certain terms), in the definition of “guaranteed minimum pension”, after “widower’s” insert “, surviving same sex spouse’s”.

(3) In section 17 (minimum pensions for widows and widowers)(2)—

(a) in subsection (2)—

(i) in paragraph (a), after “man” insert “, or a woman in a relevant gender change case,”; and

(ii) after paragraph (c) insert—

“(d) if the earner is a man who has a guaranteed minimum under that section, the weekly rate of the widower’s pension will not be less than the surviving same sex spouse’s guaranteed minimum;

(e) if the earner is a woman (other than in a relevant gender change case) who has a guaranteed minimum under that section, the weekly rate of the widow’s pension will not be less than the surviving same sex spouse’s guaranteed minimum.”;

(b) in subsection (4), after “partner’s” insert “or surviving same sex spouse’s;

(c) in subsection (4A)(c)(i)(3), for paragraphs (a) and (b) (but not the “nor” following paragraph (b)) substitute “another person are living together as a married couple,”;

(d) in subsection (5), at the beginning insert “In the case of a woman who is the widow of a man,”;

(e) in subsection (6)—

(i) at the beginning insert “In any other case,”; and

(ii) after “widower’s” insert “, widow’s”;

(f) for subsection (9) substitute—

“(9) In relation to an earner who is a woman, a reference in this section to a relevant gender change case is a reference to a case where—

(a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and

(b) the marriage of the earner and her widow (that ends with the earner’s death) subsisted before the time when the certificate was issued.”.

(4) In section 24D (survivors’ benefits)(4)—

(a) in subsection (2), after “earner” insert “is a man married to a woman or a woman married to a woman in a relevant gender change case, and the earner”;

(b) in subsection (3)—

(1) 1993 c.48; sections 8, 17, 24D, 37, 47, 83 and Schedule 3 were amended, and section 38A inserted by the 2013 Act, Schedule 4, paragraphs 18 to 26. Section 17 was further amended by [S.I. 2014/560](#).

(2) Section 17(2) was amended for England and Wales by the 2013 Act, Schedule 4, paragraphs 18 and 20 and by [S.I. 2014/560](#).

(3) Subsection (4A) was inserted by the Child Support, Pensions and Social Security Act 2000, Schedule 5, Part 1, paragraph 1(1) and amended by [S.I. 2005/2050](#).

(4) Section 24D was inserted by the Pensions Act 2007 (c.22), section 14(3). Section 24D was amended in relation to England and Wales by the 2013 Act, Schedule 4, paragraph 21(2)-(4).

Changes to legislation: There are outstanding changes not yet made by the [legislation.gov.uk](https://www.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](#)

- (i) after “earner” insert “is a married woman (other than in a relevant gender change case), a man married to a man, or a civil partner, and the earner”; and
- (ii) after “widower” insert “, widow”; and
- (c) after subsection (3) insert—
 - “(4) In relation to an earner who is a woman, a reference in this section to a relevant gender change case is a reference to a case where—
 - (a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and
 - (b) the marriage of the earner and her widow (that ends with the earner’s death) subsisted before the time when the certificate was issued.”
- (5) In section 37 (alteration of rules of contracted-out schemes)(5) for subsection (4) substitute—
 - “(4) The reference in subsection (3) to a person entitled to receive benefits under a scheme includes a person who is so entitled by virtue of a qualifying relationship only in such cases as may be prescribed.
 - (5) For that purpose a person is entitled to receive benefits by virtue of a qualifying relationship if the person is so entitled by virtue of being—
 - (a) the widower of a female earner;
 - (b) the widower of a male earner;
 - (c) the widow of a female earner, except where it is a relevant gender change case; or
 - (d) the survivor of a civil partnership with an earner.
 - (6) In relation to a widow of a female earner, the reference in subsection (5)(c) to a relevant gender change case is a reference to a case where—
 - (a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004; and
 - (b) the marriage of the earner and her widow (that ends with the earner’s death) subsisted before the time when the certificate was issued.”
- (6) In section 47 (further provisions about effect of entitlement to guaranteed minimum pension on payment of social security benefits)(6), in subsection (1) after “widower” insert “, surviving same sex spouse”.
- (7) In section 84 (basis of revaluation)(7), in subsection (5), after “widower” insert “, surviving same sex spouse”.
- (8) In section 99(3)(b) (trustees’ duties after exercise of option)(8), for “his widow” substitute “his or her surviving spouse or civil partner”.
- (9) In Schedule 3 (methods of revaluing accrued pension benefits)(9), in paragraph 1(1E)(b), after “widower” insert “, surviving same sex spouse”.

(5) Section 37 was substituted by the Pensions Act 1995 (c.26), Schedule 5, paragraph 39. Subsection (4) was amended by the [Civil Partnership \(Contracted Out Occupational and Appropriate Personal Pension Schemes\) \(Surviving Civil Partners\) Order 2005/2050](#), Schedule 1 paragraph 12; section 37(4)-(7) was, in relation to England and Wales, substituted by the 2013 Act, Schedule 4 paragraph 22.

(6) Section 47 was amended, in relation to England and Wales, by the 2013 Act, Schedule 4, paragraph 24. There are other amendments to that section not relevant to this Order.

(7) Section 84 was amended, in relation to England and Wales, by the 2013 Act, Schedule 4, paragraph 25. There are other amendments to that section not relevant to this Order.

(8) Section 99(3)(b) was amended, in relation to England and Wales, by the 2013 Act, Schedule 7, paragraph 32. There are other amendments to this section which are not relevant to this Order.

(9) Schedule 3 paragraph 1(1)-(3A) were substituted by the Pensions Act 2008 (c.30), Schedule 2, paragraph 2. Paragraph 1(1E) of Schedule 3 was amended, in relation to England and Wales, by the 2013 Act, Schedule 4, paragraph 26.

Document Generated: 2023-10-10

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](#)

Commencement Information

II Sch. 5 para. 11 in force at 16.12.2014, see [art. 1\(2\)](#)

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.

[View outstanding changes](#)

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\(3\)\(b\)](#)