

SCHEDULE 6

CONSEQUENTIAL MODIFICATIONS TO SECONDARY LEGISLATION

Occupational Pension Schemes (Modification of Schemes) Regulations 2006

31.—(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 and the Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership 2004 (Consequential Provisions and Modifications) Order 2014 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](#); Regulation 3 was amended by [S.I. 2014/107](#). There are other amending instruments but none is relevant.

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. 6 para. 31 in force at 16.12.2014, see [art. 1\(2\)](#)

Changes to legislation:

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