
STATUTORY INSTRUMENTS

2014 No. 560

MARRIAGE

CIVIL PARTNERSHIP

HUMAN FERTILISATION AND EMBRYOLOGY

The Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014

Made - - - - 6th March 2014
Coming into force in accordance with article 1(2) and (3)

A draft of this Order was laid before and approved by a resolution of each House of Parliament in accordance with section 18(2) of the Marriage (Same Sex Couples) Act 2013⁽¹⁾, section 259(8) of the Civil Partnership Act 2004⁽²⁾ and section 62(3) of the Human Fertilisation and Embryology Act 2008⁽³⁾.

In accordance with section 18(11)(a) of the Marriage (Same Sex Couples) Act 2013, the Secretary of State has obtained the consent of the Scottish Ministers to the making of article 5 of, and paragraph 31 of Schedule 1 to, this Order.

This Order is made in exercise of the powers conferred by sections 17(2), (3) and 18(10) of, and paragraph 1(1) of Schedule 2 and paragraph 27(3)(a) and (b) of Schedule 4 to, the Marriage (Same Sex Couples) Act 2013, and in exercise of the powers conferred by section 259(1) and (3) of the Civil Partnership Act 2004 and by section 64(1) and (2) of the Human Fertilisation and Embryology Act 2008.

The Secretary of State, in exercise of those powers, makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014.

(2) Subject to paragraph (3), this Order comes into force on 13th March 2014.

(1) 2013 c. 30.
(2) 2004 c. 33.
(3) 2008 c. 22.

(3) The amendment made to the Family Law (Scotland) Act 2006(4) at paragraph 31 of Schedule 1 comes into force on 3rd June 2014.

(4) In this Order—

“the Act” means the Marriage (Same Sex Couples) Act 2013; and

“the 2004 Act” means the Civil Partnership Act 2004.

Consequential amendments to Acts of Parliament

2. Schedule 1 to this Order (which amends primary legislation in consequence of the Act, the 2004 Act and the Human Fertilisation and Embryology Act 2008) has effect.

Contrary provision to section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act

3. Schedule 2 to this Order (which makes provision to which section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act are subject and which disapplies that section and those paragraphs in specified cases) has effect.

Consequential amendments to enactments etc. as a result of contrary provision made by Schedule 2

4. Schedule 3 to this Order (which makes amendments to enactments etc. in consequence of the provision made by Schedule 2 to this Order) has effect.

Scotland

5. Under the law of Scotland, a marriage of a same sex couple under the law of England and Wales is to be treated as a civil partnership formed under the law of England and Wales, and accordingly, the spouses are to be treated as civil partners.

Extent

6.—(1) Subject to paragraphs (2) to (4), this Order extends to England and Wales only.

(2) The amendment to the Family Law (Scotland) Act 2006 at paragraph 31 of Schedule 1, and article 2 so far as it relates to that paragraph, extend to Scotland only.

(3) The following provisions extend also to Scotland—

(a) article 1,

(b) the amendment to the 2004 Act at paragraph 29(1) and (2) of Schedule 1, and article 2 so far as it relates to that paragraph,

(c) article 5, and

(d) this article.

(4) The following provisions extend also to Northern Ireland—

(a) article 1,

(b) the amendment to the 2004 Act at paragraph 29(1) and (2) of Schedule 1, and article 2 so far as it relates to that paragraph, and

(c) this article.

(4) 2006 asp. 2.

6th March 2014

Maria Miller
Secretary of State for Culture, Media and Sport
and
Minister for Women and Equalities

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SCHEDULE 1

Article 2

Consequential Amendments to Primary Legislation

Metropolitan Public Carriage Act 1869

1. In section 6 of the Metropolitan Public Carriage Act 1869⁽⁵⁾ (grant of hackney carriage licences)—

(a) in subsection (9)(a)—

(i) for “widow” in both places it occurs, substitute “surviving spouse or surviving civil partner”, and

(ii) omit “and”, and

(b) omit subsection (9)(b).

Pensions Commutation Act 1871

2. In section 4 of the Pensions Commutation Act 1871⁽⁶⁾ (power to Treasury to commute pensions), for subsection (2) substitute—

“(2) Where any officer in the naval or land forces of Her Majesty whose pension has been commuted under this Act subsequently marries or forms a civil partnership, the officer’s surviving spouse or surviving civil partner shall not be entitled to any pension, and a child of any such officer born after the date of the commutation of the pension shall not be entitled to compassionate allowance.”.

Local Government (Emergency Provisions) Act 1916

3. For section 2 of the Local Government (Emergency Provisions) Act 1916⁽⁷⁾ (payments under superannuation schemes) substitute—

“If an officer or servant of a local authority dies whilst serving in or with His Majesty’s forces, or in consequence of wounds or disease received or contracted during such service which prevented that person from returning to the service of the local authority, the local authority shall have, and shall be deemed always to have had, power to make to that person’s surviving spouse, surviving civil partner or other dependants, such payments as could have been made to them under any superannuation scheme (whether established by statute or otherwise) in force in the district had that person been actually serving the local authority at the time of death.”.

Population (Statistics) Act 1938

4. For paragraph 1(d) of the Schedule to the Population (Statistics) Act 1938⁽⁸⁾ (particulars which may be required to be provided to registration officer) substitute—

“(d) where the birth is of a child to whom section 1(3) of that Act applies by reason of any marriage or civil partnership between the child’s parents—

(i) the date of the marriage or formation of the civil partnership, and

⁽⁵⁾ 1869 c. 115; section 6 was substituted by the Greater London Authority Act 1999 (c. 29), Schedule 20, paragraph 5(1) and (3).

⁽⁶⁾ 1871 c. 36; section 4(2) was amended by the 2004 Act, Schedule 26, paragraph 3(1); it was repealed in relation to certain persons by the Superannuation Act 1972 (c. 11), Schedule 8. There are other amendments to section 4 not relevant to this Order.

⁽⁷⁾ 1916 c. 12.

⁽⁸⁾ 1938 c. 12; the Schedule was substituted by the Schedule to the Population (Statistics) Act 1960 (c. 32), section 1(2); paragraph 1(c) to (e) was inserted in relation to England and Wales by the Welfare Reform Act 2009 (c. 24), Schedule 6, paragraph 20(1) (b) and (2). There are other amendments to the Schedule not relevant to this Order.

- (ii) whether before she married, or formed the civil partnership with, the child's other parent, the mother had been married to, or had formed a civil partnership with, any other person;”.

Marriage Act 1949

5.—(1) The Marriage Act 1949(9) is amended as follows.

(2) In section 28(10) (declaration to accompany notice of marriage), in subsection (1)(c), for “or widow” substitute “, widow or surviving civil partner”.

(3) After section 42(3)(11) (cancellation of registration of building) insert—

“(3A) In a case where—

- (a) the registration of a building is cancelled under this section, and
- (b) the building is also registered under section 43A,

the Registrar General must also cancel the registration under section 43A.”.

(4) In section 49A(12) (which provides marriages of same sex couples may be void in the absence of the required consent), in subsection (2), after paragraph (b) insert—

“(ba) section 26A(3) and under any regulations made under section 44C that require the consent to use of a building for the solemnization of marriages of same sex couples, in a case where section 26A and section 44C apply to the marriage;”.

Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951

6. In the closing words of section 46(3) of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(13) (payments to make up civil remuneration), for “his widow” substitute “that person’s surviving spouse, surviving civil partner”.

Births and Deaths Registration Act 1953

7. In the heading to section 10 of the Births and Deaths Registration Act 1953(14) (registration of father or of second female parent where parents neither married nor civil partners), before “civil partners” insert “married or”.

Registration of Births, Deaths and Marriages (Special Provisions) Act 1957

8. In section 5(3) of the Registration of Births, Deaths and Marriages (Special Provisions) Act 1957(15) (registration of births of legitimated persons in the service departments registers), in paragraph (b), for “is” substitute “includes”.

(9) 1949 c. 76.

(10) Subsection (1)(c) was amended by the Family Law Reform Act 1987 (c. 42), Schedule 2, paragraph 9. There are other amendments to section 28 not relevant to this Order.

(11) Section 42 was amended by the Marriage Acts Amendment Act 1958 (c. 29), section 1(1) and by the Act, Schedule 7, paragraphs 2 and 9.

(12) Section 49A was inserted by the Act, Schedule 7, paragraphs 2 and 15.

(13) 1951 c. 65; paragraph (a)(i) and (ii) of section 46(3) was substituted by the Superannuation Act 1972, Schedule 6, paragraph 30; paragraph (a)(iii) was amended by the Fire and Rescue Services Act 2004 (c. 21), Schedule 1, paragraph 12(1) and (2); paragraph (a) was amended, and paragraph (b) inserted, by the 2004 Act, Schedule 26, paragraph 25(1) and (3). There are other amendments to section 46 not relevant to this Order.

(14) 1953 c. 20; the heading to section 10 was substituted by the Family Law Reform Act 1987, section 24 and subsequently substituted by the Human Fertilisation and Embryology Act 2008, Schedule 6, paragraph 5(1) and (2). There are other amendments to section 10 not relevant to this Order.

(15) 1957 c. 58; section 5(3) was inserted by the Human Fertilisation and Embryology Act 2008, Schedule 6, paragraph 12. There are other amendments to section 5 not relevant to this Order.

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Transport Act 1962

9. In section 65(5) of the Transport Act 1962(**16**) (railway savings banks), for the words “is a man” to the end substitute “is a person who dies leaving a surviving spouse or surviving civil partner, that survivor for so long as that survivor does not subsequently marry, enter into a civil partnership or die.”.

Harbours Act 1964

10. In section 18(2) of the Harbours Act 1964(**17**) (harbour reorganisation schemes), in paragraph (h), after “spouses” in both places it occurs, insert “, civil partners”.

Sharing of Church Buildings Act 1969

11.—(1) Schedule 1 to the Sharing of Church Buildings Act 1969(**18**) (modifications of application of Marriage Act 1949 to shared church building to which sharing agreement relates) is amended as follows.

(2) In paragraph 3, after “building” insert “which is registered under section 41 of the Act, and”.

(3) After paragraph 3 insert—

“**3A.** Subject to the provision made by sections 44A to 44C of the Act and any regulations made under those sections, where a sharing Church withdraws from the sharing of a registered church building which is registered under section 43A of the Act, and which continues to be used by another Church other than the Church of England, the registration shall not be cancelled.”.

(4) In paragraph 4, after “section 43(1)” insert “or section 43B(1)”.

(5) In paragraph 5—

(a) for the words from “The proviso” to “which prescribes” substitute “Sections 43(1A) and 43B(3) of the Act, both of which prescribe”,

(b) after “paragraph 3” insert “or 3A”, and

(c) for the “said proviso” substitute “section 43(1A) or 43B(3)”.

Consumer Credit Act 1974

12. In section 16C(4) of the Consumer Credit Act 1974(**19**) (exemption relating to investment properties), for paragraph (b) substitute—

“(b) a person whose relationship with that person has the characteristic of the relationship between two people who are married; or”.

Social Security Pensions Act 1975

13. In section 59(5ZA)(**20**) of the Social Security Pensions Act 1975(**21**) (increase of official pensions)—

(16) 1962 c. 46; there are amendments to section 65 not relevant to this Order.

(17) 1964 c. 40; section 18(2) was amended by the Transport Act 1981 (c. 56), Schedule 6. There are other amendments to section 18 not relevant to this Order.

(18) 1969 c. 38. There are amendments to Schedule 1 not relevant to this Order.

(19) 1974 c. 39; section 16C was inserted by S.I. 2008/2826; it has been repealed for specified purposes by S.I. 2013/1881 but will be repealed for all purposes on 1st April 2014.

(20) Subsection (5ZA) was inserted by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7), section 5(1); it was subsequently amended by the Pensions Act 2008 (c.30), section 137(1) to (7), and Schedule 11, Part 6.

(21) 1975 c. 60.

- (a) in the opening words, for the words “widow’s, widower’s” substitute “surviving spouse’s”, and
- (b) in paragraph (c), for the words “widow’s, widower’s” substitute “surviving spouse’s”.

Fatal Accidents Act 1976

14. In section 1(5) of the Fatal Accidents Act 1976(**22**) (right of action for wrongful act causing death), for paragraph (b) substitute—

- “(b) an illegitimate person shall be treated as—
 - (i) the legitimate child of his mother and reputed father, or
 - (ii) in the case of a person who has a female parent by virtue of section 43 of the Human Fertilisation and Embryology Act 2008, the legitimate child of his mother and that female parent.”.

Legitimacy Act 1976

15.—(1) The Legitimacy Act 1976(**23**) is amended as follows.

(2) For section 1(2) (legitimacy of children of certain void marriages) substitute—

- “(2) This section only applies where—
 - (a) the father of the child was domiciled in England and Wales at the time of the birth, or if he died before the birth, was so domiciled immediately before his death, or
 - (b) if a woman is treated as the female parent of a child by virtue of section 42 or 43 of the Human Fertilisation and Embryology Act 2008, that female parent was domiciled in England and Wales at the time of the birth, or if she died before the birth, was so domiciled immediately before her death.”.

(3) In section 2 (subsequent legitimation of child), in the heading and in the section, for “parents” in both places it occurs, substitute “mother and father”.

(4) In section 2A(**24**)(subsequent legitimation of child)—

- (a) in the heading after “subsequent” insert “marriage or”,
- (b) in paragraph (b) for “not” substitute “neither married nor”,
- (c) in paragraph (c) after “subsequently” insert “marry or”,
- (d) in paragraph (d) after “date of” insert “the marriage or”, and
- (e) in the closing words—
 - (i) at the beginning insert “the marriage or”, and
 - (ii) after “date of” insert “the marriage or”.

(5) In section 3(**25**) (legitimation by extraneous law)—

- (a) in subsection (1) for “parents” substitute “mother and father”, and
- (b) in subsection (2)—
 - (i) in paragraph (b) for “not” substitute “neither married nor”,

(22) 1976 c. 30; section 1 was substituted by the Administration of Justice Act 1982 (c. 53), section 3; subsection (5) was subsequently amended by the 2004 Act (c. 33), section 83(1) and (6). There are other amendments to section 1 not relevant to this Order.

(23) 1976 c. 31.

(24) Section 2A was inserted by the Human Fertilisation and Embryology Act 2008 (c. 22), Schedule 6, paragraph 16.

(25) Section 3(1) was numbered as such and subsection (2) was inserted by the Human Fertilisation and Embryology Act 2008, Schedule 6, paragraph 17.

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- (ii) in paragraph (c) after “subsequently” insert “marry or”,
- (iii) in paragraph (d)—
 - (aa) after “time of” insert “the marriage or”, and
 - (bb) before the second “civil partnership” insert “marriage or”, and
- (iv) in the closing words—
 - (aa) after “date of the” insert “marriage or”, and
 - (bb) after “subsequent” insert “marriage or”.

Rent Act 1977

16. In paragraph 2(3) of Schedule 1 to the Rent Act 1977(**26**) (statutory tenants by succession), for the word “treated” to the end substitute “treated as the tenant’s spouse, or if that person is the same sex as the tenant, and falls within paragraph 2(2)(b) of this Schedule, as the tenant’s civil partner.”.

Transport Act 1978

17. In section 21 of the Transport Act 1978(**27**) (travel concessions for transferred employees), for “widows” substitute “surviving spouses, surviving civil partners”.

Pneumoconiosis etc. (Workers’ Compensation) Act 1979

18. In section 3 of the Pneumoconiosis etc. (Workers’ Compensation) Act 1979(**28**) (dependants) —

- (a) for subsection (2A) substitute—
 - “(2A) For the purposes of subsection (1)(c) two persons are in a qualifying relationship if they are living together as a married couple.”, and
- (b) omit subsection (2B).

Family Law Reform Act 1987

19. In section 1(3) of the Family Law Reform Act 1987(**29**) (general principle of construction as to family relationships)—

- (a) in paragraph (ba)—
 - (i) before “a party to” insert “married to a woman or”, and
 - (ii) after “void” insert “marriage or”,
- (b) in paragraph (bb)(i), after “is” insert “married to or”, and
- (c) in paragraph (bb)(ii), after “was” insert “married to or”.

(26) 1977 c. 42; paragraph 2 was substituted in relation to deaths occurring on or after 28th November 1980 by the Housing Act 1980 (c. 51), section 76; sub-paragraphs (2) and (3) were inserted by the Housing Act 1988 (c. 50), Schedule 4, paragraph 2 in cases where the original tenant died on or after 15th January 1989; sub-paragraph (2) was substituted and sub-paragraph (3) was amended by the 2004 Act, Schedule 8, paragraph 13. There are other amendments to Schedule 1 not relevant to this Order.

(27) 1978 c. 55; section 21 was amended by the London Regional Transport Act 1984 (c. 32), Schedule 6, paragraph 14 and by the Transport Act 2000 (c. 38), Schedule 31, Part 4 (not yet in force).

(28) 1979 c. 41; subsections (2A) and (2B) of section 3 were inserted by the Welfare Reform Act 2007 (c. 5), section 59(2). There are other amendments to section 3 not relevant to this Order.

(29) 1987 c. 42; paragraphs (ba) and (bb) of section 1(3) were inserted by the Human Fertilisation and Embryology Act 2008, Schedule 6, paragraph 24(1) and (2). There are other amendments to section 1 not relevant to this Order.

Housing Act 1988

20. In section 17(5) of the Housing Act 1988(**30**) (succession to assured tenancy), for the word “treated” to the end substitute “treated as the tenant’s spouse, or if that person is the same sex as the tenant, and falls within subsection (4)(b), as the tenant’s civil partner.”.

Child Support Act 1991

21.—(1) The Child Support Act 1991(**31**) is amended as follows.

(2) In Schedule 1(**32**) (maintenance assessments), as that Schedule has effect otherwise than by virtue of section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act 2000(**33**), in Part 1 (calculation of child support maintenance), in paragraph 6 (protected income)—

(a) in sub-paragraph (5)(b)(**34**), for sub-paragraphs (i) to (iii) substitute—

“(i) is living together in the same household with another adult who is his or her spouse or civil partner, or

(ii) is living together in the same household with another adult as if they were a married couple.”, and

(b) omit sub-paragraph (5A)(**35**).

(3) In Schedule 1 (maintenance calculations), as that Schedule has effect by virtue of section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act 2000, in Part 1 (calculation of weekly amount of child support maintenance), in paragraph 10C (references to various terms)—

(a) for sub-paragraph (5)(**36**) substitute—

“(5) In sub-paragraph (4)(a), “couple” means—

(a) two people who are married to, or civil partners of, each other and are members of the same household, or

(b) two people who are not married to, or civil partners of, each other but are living together as a married couple.”, and

(b) omit sub-paragraph (6).

Social Security Contributions and Benefits Act 1992

22.—(1) The Social Security Contributions and Benefits Act 1992(**37**) is amended as follows.

(2) For section 36(2)(**38**) (bereavement payment) substitute—

“(2) A bereavement payment shall not be payable to a person if that person and a person whom that person was not married to, or in a civil partnership with, were living together as a married couple at the time of the spouse’s or civil partner’s death.”.

(30) 1988 c. 50; section 17(5) was amended by the 2004 Act, Schedule 8, paragraph 41(1) and (4) and by the Localism Act 2011 (c. 20), section 161(1) and (5). There are other amendments to section 17 not relevant to this Order.

(31) 1991 c. 48.

(32) Schedule 1 was substituted by section 1(3) of, and Schedule 1 to, the Child Support, Pensions and Social Security Act 2000 (c. 19) only for specified purposes by S.I. 2000/2994 and 2003/192.

(33) 2000 c. 19.

(34) Sub-paragraph (5)(b) was substituted by the 2004 Act, Schedule 24, paragraph 4.

(35) Paragraph 6(5A) of Schedule 1 was inserted by the 2004 Act, Schedule 24, paragraph 5.

(36) Sub-paragraphs (5) and (6) of paragraph 10C were substituted by the 2004 Act, Schedule 24, paragraph 6.

(37) 1992 c. 4.

(38) Section 36 was substituted by the Welfare Reform and Pensions Act 1999 (c. 30), section 54(1); subsection (2) was substituted by the 2004 Act, Schedule 24, paragraph 16(1) and (3). There are other amendments to section 36 not relevant to this Order.

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(3) In section 37(4)(**39**) (widowed mother’s allowance), after paragraph (a) insert “or” and for paragraphs (b) and (c) substitute—

“(b) for any period during which she and a person whom she is not married to, or in a civil partnership with, are living together as a married couple.”.

(4) In section 38(3)(**40**) (widow’s pension), after paragraph (b) insert “or” and for paragraphs (c) and (d) substitute—

“(c) for any period during which she and a person whom she is not married to, or in a civil partnership with, are living together as a married couple.”.

(5) In section 39A(5)(**41**) (widowed parent’s allowance), after paragraph (a) insert “or” and for paragraphs (b) and (c) substitute—

“(b) for any period during which the surviving spouse or civil partner and a person whom she or he is not married to, or in a civil partnership with, are living together as a married couple.”.

(6) In section 39B(5)(**42**) (bereavement allowance where no dependent children), after paragraph (a) insert “or” and for paragraphs (b) and (c) substitute—

“(b) for any period during which the surviving spouse or civil partner and a person whom she or he is not married to, or in a civil partnership with, are living together as a married couple.”.

(7) In section 122 (interpretation of Parts 1 to 6 and supplementary provisions), omit subsection (1A)(**43**).

(8) In section 137(**44**) (interpretation of Part 7 and supplementary provisions)—

(a) in subsection (1), for the definition of “couple” substitute—

““couple” means—

(a) two people who are married to, or civil partners of, each other and are members of the same household; or

(b) two people who are not married to, or civil partners of, each other but are living together as a married couple otherwise than in prescribed circumstances;” and

(b) omit subsection (1A).

(9) In Schedule 7 (industrial injuries benefits)—

(a) in paragraph 4(3)(a)(**45**) (increase for beneficiary’s dependent children and qualifying young persons), after sub-paragraph (i) insert “or” and for sub-paragraphs (ii) and (iii) substitute—

“(ii) two people who are not married to, or civil partners of, each other but are living together as a married couple, and”, and

(39) Section 37(4) was amended by the 2004 Act, Schedule 24, paragraph 18(1) and (3), and Schedule 30. There are other amendments to section 37 not relevant to this Order.

(40) Section 38(3) was amended by the 2004 Act, Schedule 24, paragraph 19(1) and (3), and Schedule 30.

(41) Section 39A was inserted by the Welfare Reform and Pensions Act 1999, section 55(2); subsection (5) was amended by the 2004 Act, Schedule 24, paragraph 20(1) to (3) and (7), and Schedule 30.

(42) Section 39B was inserted by the Welfare Reform and Pensions Act 1999, section 55(2); subsection (5) was amended by the 2004 Act, Schedule 24, paragraph 21(1), (2) and (6), and Schedule 30. There are other amendments to section 39B not relevant to this Order.

(43) Section 122(1A) was inserted by the 2004 Act, Schedule 24, paragraph 41(1) and (3).

(44) The definition of “couple” in section 137(1) and (1A) was inserted by the 2004 Act, Schedule 24, paragraph 46(1), (3) and (5). Section 137 has been repealed by the Welfare Reform Act 2012 (c. 5) for certain purposes. That repeal is not fully in force. There are other amendments to section 137 not relevant to this Order.

(45) Paragraph 4(3)(a) of Schedule 7 was substituted by the 2004 Act, Schedule 24, paragraph 52(1) and (2). There are other amendments to Schedule 7 not relevant to this Order.

- (b) in paragraph 15(3)(46) (widow's benefit (entitlement)), for the words from "husband and wife" to the end substitute "a married couple with a person whom she is not married to or in a civil partnership with."

Social Security Administration Act 1992

23. In section 15A of the Social Security Administration Act 1992(47) (payment out of benefit of sums in respect of mortgage interest etc.)—

- (a) in subsection (4)(48), in paragraph (b) of the definition of "partner", for "husband and wife or as if they were civil partners" substitute "if they were a married couple", and
- (b) omit subsection (4B)(49).

Trade Union and Labour Relations (Consolidation) Act 1992

24. In section 38(1) of the Trade Union and Labour Relations (Consolidation) Act 1992(50) (members' superannuation schemes: separate fund to be maintained), in paragraph (a), after "widows" insert ", widowers', surviving civil partners'".

Pension Schemes Act 1993

25. In section 17 of the Pension Schemes Act 1993(51) (minimum pension for widows and widowers)—

- (a) in subsection (4A)(c)(i)(52), for paragraphs (a) and (b) (but not the "nor" following paragraph (b)) substitute "another person are living together as a married couple," and
- (b) omit subsection (9)(53).

Jobseekers Act 1995

26.—(1) Section 35 of the Jobseekers Act 1995(54) (interpretation) is amended as follows.

(2) In subsection (1), for the definition of "couple" substitute—

““couple” means—

- (a) two people who are married to, or civil partners of, each other and are members of the same household; or
- (b) two people who are not married to, or civil partners of, each other but are living together as a married couple otherwise than in prescribed circumstances;”.

(3) Omit subsection (1A).

(46) Paragraph 15(3) of Schedule 7 was amended by the 2004 Act, Schedule 24, paragraph 52(1) and (5)(b).

(47) 1992 c. 5; section 15A was inserted by the Social Security (Mortgage Interest Payments) Act 1992 (c. 33), the Schedule, paragraph 1.

(48) The definition of "partner" in section 15A(4) was amended by the 2004 Act, Schedule 24, paragraph 57(1) and (2).

(49) Subsection (4B) was inserted by the 2004 Act, Schedule 24, paragraph 57(1) and (3). There are other amendments to section 15A not relevant to this Order.

(50) 1992 c. 52.

(51) 1993 c. 48; section 17(2) was amended by the Act, Schedule 4, paragraphs 18 and 20.

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

(53) Subsection (9) was inserted by S.I. 2005/2050.

(54) 1995 c. 18; the definition of "couple" in section 35(1) and subsection (1A) was inserted by the 2004 Act, Schedule 24, paragraph 124(1), (2) and (5). There are other amendments to section 35 not relevant to this Order.

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Pensions Act 1995

27. In section 124(1) of the Pensions Act 1995(**55**) (interpretation of Part 1), omit the definition of “civil partnership status”.

State Pension Credit Act 2002

28.—(1) Section 17 of the State Pension Credit Act 2002(**56**) (other interpretation provisions) is amended as follows.

(2) In subsection (1), for the definition of “couple” substitute—

““couple” means—

- (a) two people who are married to, or civil partners of, each other and are members of the same household; or
- (b) two people who are not married to, or civil partners of, each other but are living together as a married couple otherwise than in prescribed circumstances;”.

(3) Omit subsection (1A).

Civil Partnership Act 2004

29.—(1) The 2004 Act(**57**) is amended as follows.

(2) In section 212 (meaning of “overseas relationship”), after subsection (1) insert—

“(1A) But, for the purposes of the application of this Act to England and Wales, marriage is not an overseas relationship.”.

(3) In each of paragraphs 5 (declaration) and 11 (declaration) of Schedule 2 (civil partnerships of persons under 18: England and Wales), after “civil partner” insert “, widow or widower”.

Mental Capacity Act 2005

30. In paragraph 185 of Schedule A1 to the Mental Capacity Act 2005(**58**) (interpretation), for sub-paragraphs (b) and (c) substitute—

“(b) where the relevant person and another person are not married to each other, nor in a civil partnership with each other, but are living together as if they were a married couple: that other person;”.

Family Law (Scotland) Act 2006

31. In section 38(1) of the Family Law (Scotland) Act 2006(**59**) (validity of marriages), for “the Foreign Marriage Act 1892 (c. 23)” substitute “section 13(1) of, and Schedule 6 to, the Marriage (Same Sex Couples) Act 2013 and any Orders in Council made under that Schedule”.

(55) 1995 c. 26; the definition of “civil partnership status” was inserted by S.I. 2005/2053. There are other amendments to section 124(1) not relevant to this Order.

(56) 2002 c. 16; the definition of “couple” in section 17(1) and (1A) was inserted by the 2004 Act (c. 33), Schedule 24, paragraphs 142(1) and (2) and 143. There are other amendments to section 17 not relevant to this Order.

(57) 2004 c. 33.

(58) 2005 c. 9; Schedule A1 was inserted by the Mental Health Act 2007 (c. 12), Schedule 7. There are amendments to Schedule A1 not relevant to this Order.

(59) 2006 asp. 2.

Welfare Reform Act 2007

32.—(1) Paragraph 6 of Schedule 1 to the Welfare Reform Act 2007(**60**) (income-related allowance) is amended as follows.

(2) In sub-paragraph (5), for the definition of “couple” substitute—

““couple” means—

- (a) two people who are married to, or civil partners of, each other and are members of the same household; or
- (b) two people who are not married to, or civil partners of, each other but are living together as a married couple otherwise than in prescribed circumstances;”.

(3) Omit sub-paragraph (6).

Statistics and Registration Service Act 2007

33. In section 42(2) of the Statistics and Registration Service Act 2007(**61**) (information relating to births and deaths etc.), after paragraph (e) insert—

“(f) any other information received by the Registrar General in relation to any marriage or civil partnership.”.

Welfare Reform Act 2009

34. In paragraph 2(2) of Schedule 6 to the Welfare Reform Act 2009(**62**), before “civil partners” insert “married or”.

Equality Act 2010

35.—(1) The Equality Act 2010(**63**) is amended as follows.

(2) In section 67 (sex equality rule), for subsection (7) substitute—

“(7) If the effect of a relevant matter on a person (A) differs according to the effect it has on a person of the same sex as A, according to whether A is married, in a civil partnership, or for some other reason due to A’s family status, a comparison for the purposes of this section of the effect of that matter on persons of the opposite sex must be with a person of the opposite sex to A who is in the same position as A and in particular—

- (a) where A is married to someone of the opposite sex, A is to be compared to a person of the opposite sex to A (“B”) where B is married to someone of the opposite sex to B;
- (b) where A is married to someone of the same sex as A or is in a civil partnership, A is to be compared to B where B is married to someone of the same sex as B or is in a civil partnership.”.

(3) Omit section 80(7) (interpretation and exceptions).

Welfare Reform Act 2012

36.—(1) Section 39 of the Welfare Reform Act 2012(**64**) (couples) is amended as follows.

(60) 2007 c. 5; paragraph 6 of Schedule 1 was amended by the Welfare Reform Act 2009 (c. 24), sections 5(2), 9(3)(b) and 58(1) and Schedule 7, and repealed by Part 1 of Schedule 14 to the Welfare Reform Act 2012. That repeal has been brought into force for certain purposes, but has yet to be brought into force for the remaining purposes.

(61) 2007 c. 18. There are amendments to section 42 not relevant to this Order.

(62) 2009 c. 24.

(63) 2010 c. 15.

(64) 2012 c. 5.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (2) For subsection (1) substitute—
 - “(1) In this Part “couple” means—
 - (a) two people who are married to, or civil partners of, each other and are members of the same household; or
 - (b) two people who are not married to, or civil partners of, each other but are living together as a married couple.”.
- (3) Omit subsection (2).
- (4) In subsection (3)—
 - (a) in paragraph (a), for “husband and wife” substitute “married”, and
 - (b) in paragraph (b), for “a man and woman are to be treated as living together as husband and wife” substitute “two people are to be treated as living together as a married couple”.

SCHEDULE 2

Article 3

Contrary provision to section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act

PART 1

Common law

Provision disapplying the effect of section 11(1) and (2) of the Act in respect of the common law

1. Section 11(1) and (2) of the Act does not apply to the common law concerning the right of a person—
 - (a) who marries, or who is married to, the King Regnant, to the title of Queen, or
 - (b) who marries, or who is married to, the Prince of Wales, to the title of Princess of Wales.
2. Section 11(1) and (2) of the Act does not apply to the common law concerning the acquisition of a right to, or interest in, a peerage, and all titles, rights, offices, privileges and precedence attaching to it, by a person who marries or who is married to a peer holding that peerage.

PART 2

EU instruments

Provision disapplying the effect of section 11(1) and (2) of the Act in respect of EU instruments

3. Section 11(1) and (2) of the Act does not apply to EU instruments.

PART 3

Enactments etc. (general)

Provision to which section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act are subject

4.—(1) Section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act have effect subject to sub-paragraph (2).

(2) In the calculation of the amount of death benefits payable under 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(65), 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.

Provision disapplying the effect of section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act in respect of enactments

5. Section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act do not apply to—

- (a) the Statute of Westminster the Second 1285(66),
- (b) the Quia Emptores 1289(67),
- (c) the Treason Act 1351(68),
- (d) chapter 2 of the Statute the Fifth(69),
- (e) the Crown Private Estate Act 1800(70),
- (f) the Fines and Recoveries Act 1833(71),
- (g) section 10 of the Married Women’s Property Act 1882(72),
- (h) section 3 of the Married Women’s Property Act 1893(73),
- (i) section 3 of the Married Women’s Property Act 1907(74),
- (j) sections 1(3) and 25(1) of the Settled Land Act 1925(75),
- (k) section 47 of the Criminal Justice Act 1925(76),
- (l) section 60 of the Government Annuities Act 1929(77),
- (m) the War Pensions (Coastguards) Scheme 1944(78),

(65) S.I. 2005/438, to which there are amendments not relevant to this Order.

(66) 1285 c. 1.

(67) 1289 c. 1.

(68) 1351 c. 2; the Act was amended by the Forgery Act 1830 (c. 66), section 31, 2 & 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 and the Succession to the Crown Act 2013 (c. 20), the Schedule (not yet in force).

(69) 1351 c. 2; chapter 2 was amended by the Forgery Act 1830 (c. 66), section 31, 2 & 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) and the Criminal Law Act 1967 (c. 58), Schedule 3, Part 1 and the Criminal Law (Northern Ireland) Act 1967 (c. 18), Schedule 2, Part 1.

(70) 1800 c. 88.

(71) 1833 c. 74.

(72) 1882 c. 75.

(73) 1893 c. 63.

(74) 1907 c. 18; section 3 was amended by the Law Reform (Married Women and Tortfeasors) Act 1935 (c. 30), Schedule 2.

(75) 1925 c. 18; there are amendments to section 1 not relevant to this Order. Section 25(2) was repealed by the Married Women (Restraint upon Anticipation) Act 1949 (c. 78), section 1(4) and Schedule 2.

(76) 1925 c. 86; section 47 was repealed in relation to the Isle of Man by the Statute Law (Repeals) Act 2004 (c. 14).

(77) 1929 c. 29.

(78) S.I. 1944/500; to which there are amendments not relevant to this Order.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

- (n) the Civil Aviation (Births, Deaths and Missing Persons) Regulations 1948**(79)**,
- (o) the Airways Corporations (General Staff Pensions) Regulations 1948**(80)**,
- (p) the Airways Corporations (Pilots Pensions) Regulations 1951**(81)**,
- (q) the Airways Corporations (Radio, Navigating and Engineer Officers Pensions) Regulations 1953**(82)**,
- (r) the Airways Corporations (General Staff, Pilots and Officers Pensions) (Amendment) Regulations 1957**(83)**,
- (s) the Greenwich Hospital (Widows' Pensions and Dependants' Gratuities) Order 1960**(84)**,
- (t) the British Transport Reorganisation (Pensions of Employees) (No. 2) Order 1962**(85)**,
- (u) the Air Corporations (General Staff, Pilots and Officers Pensions) (Amendment) (No. 2) Regulations 1963**(86)**,
- (v) the Air Corporations (General Staff, Pilots and Officers Pensions) (Amendment) Regulations 1967**(87)**,
- (w) the Harbour Reorganisation (Compensation to Employees) Regulations 1967**(88)**,
- (x) the Port of London Act 1968**(89)**,
- (y) the British Transport (Compensation to Employees) Regulations 1970**(90)**,
- (z) the London Transport (Compensation to Employees) Regulations 1970**(91)**,
- (aa) sections 1, 3(7)(a), 6 and the definition of "widow's pension" in section 17(1) of the Pensions (Increase) Act 1971**(92)**,
- (bb) the Transport Holding Company (Compensation to Employees) Regulations 1972**(93)**,
- (cc) section 59(5ZB)(a) and (b) and (5ZC)(a) of the Social Security Pensions Act 1975**(94)**,
- (dd) the Vehicle and Driving Licences (Compensation to Officers) Regulations 1977**(95)**,
- (ee) articles 2 and 3 of the Pensions Increase (Review) Order 1979**(96)**,
- (ff) the Greater London Council Housing (Compensation) Regulations 1980**(97)**,
- (gg) the National Freight Corporation (Central Trust) (Amendment) Order 1980**(98)**,
- (hh) articles 2 and 3 of the Pensions Increase (Review) Order 1980**(99)**,

(79) S.I. 1948/1411; to which there are amendments not relevant to this Order.

(80) S.I. 1948/2361; to which there are amendments not relevant to this Order.

(81) S.I. 1951/527.

(82) S.I. 1953/1296.

(83) S.I. 1957/87; to which there are amendments not relevant to this Order.

(84) S.I. 1960/1052.

(85) S.I. 1962/2715.

(86) S.I. 1963/1108.

(87) S.I. 1967/739.

(88) S.I. 1967/1889.

(89) 1968 c. 32.

(90) S.I. 1970/187.

(91) S.I. 1970/2019.

(92) 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.

(93) S.I. 1972/632.

(94) 1975 c. 60; subsections (5ZB) and (5ZC) were inserted by the Pensions Act 2008 (c. 30), section 137(1) and (8).

(95) S.I. 1977/1316; to which there are amendments not relevant to this Order.

(96) S.I. 1979/1047.

(97) S.I. 1980/646.

(98) S.I. 1980/657.

(99) S.I. 1980/1302.

- (ii) articles 2 and 3 of the Pensions Increase (Review) Order 1981(**100**),
- (jj) articles 2 and 3 of the Pensions Increase (Review) Order 1982(**101**),
- (kk) articles 2 and 3 of the Pensions Increase (Review) Order 1983(**102**),
- (ll) articles 2 and 3 of the Pensions Increase (Review) Order 1984(**103**),
- (mm) articles 2 and 3 of the Pensions Increase (Review) Order 1985(**104**),
- (nn) articles 2 and 3 of the Pensions Increase (Review) Order 1986(**105**),
- (oo) articles 2 and 3 of the Pensions Increase (Review) Order 1987(**106**),
- (pp) the Judicial Pensions (Widows' and Children's Benefits) Regulations 1987(**107**),
- (qq) articles 2 and 3 of the Pensions Increase (Review) Order 1988(**108**),
- (rr) articles 2 and 3 of the Pensions Increase (Review) Order 1989(**109**),
- (ss) articles 2 and 3 of the Pensions Increase (Review) Order 1990(**110**),
- (tt) the Judicial Pensions (Widowers' and Children's Benefits) Regulations 1991(**111**),
- (uu) paragraphs 5(2)(**112**), 5A(**113**) and 6(**114**) of Schedule 5 to the Social Security Contributions and Benefits Act 1992(**115**),
- (vv) the Firefighters' Pension Scheme set out in Schedule 2 to the Firemen's Pension Scheme Order 1992 as it has effect in England(**116**),
- (ww) the Firefighters' Pension (Wales) Scheme set out in Schedule 2 to the Firemen's Pension Scheme Order 1992 as it has effect in Wales(**117**),
- (xx) the Railways Pension Scheme Order 1994(**118**),
- (yy) the Railway Pensions (Transfer and Miscellaneous Provisions) Order 1994(**119**),
- (zz) the British Coal Staff Superannuation Scheme (Modification) Regulations 1994(**120**),

(**100**) S.I. 1981/1217.

(**101**) S.I. 1982/1178.

(**102**) S.I. 1983/1264.

(**103**) S.I. 1984/1307.

(**104**) S.I. 1985/1575.

(**105**) S.I. 1986/1116.

(**106**) S.I. 1987/130.

(**107**) S.I. 1987/375; to which there are amendments not relevant to this Order.

(**108**) S.I. 1988/217.

(**109**) S.I. 1989/477.

(**110**) S.I. 1990/483.

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

(**112**) 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.

(**113**) 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.

(**114**) 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.

(**115**) 1992 c. 4; there are other amendments to Schedule 5 not relevant to this Order.

(**116**) The scheme is in Schedule 2 to S.I. 1992/129; Schedule 2 is the subject of amendments not relevant to this Order. The name of the scheme was changed to the Firefighters' Pension Scheme by S.I. 2004/2306. By virtue of S.I. 2006/3432, subject to certain savings, the scheme has no effect in relation to any person who takes up employment with an English fire and rescue authority on or after 6th April 2006.

(**117**) The scheme is in Schedule 2 to S.I. 1992/129; Schedule 2 is the subject of amendments not relevant to this Order. The name of the scheme was changed to the Firefighters' Pension (Wales) Scheme by S.I. 2004/2918 (W. 257). By virtue of S.I. 2007/1072 (W. 110), subject to certain savings, the scheme has no effect in relation to any person who takes up employment with a Welsh fire and rescue authority on or after 6th April 2006.

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

(**119**) S.I. 1994/2005.

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

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- (aaa) the Mineworkers' Pension Scheme (Modification) Regulations 1994(**121**),
- (bbb) the Industry-Wide Coal Staff Superannuation Scheme Regulations 1994(**122**),
- (ccc) the Industry-Wide Mineworkers' Pension Scheme Regulations 1994(**123**),
- (ddd) regulations 55(1) and 69B(3)(c) and (d) of the Occupational Pension Schemes (Contracting-out) Regulations 1996(**124**),
- (eee) the Local Government Pension Scheme Regulations 1997(**125**),
- (fff) the Transport Act 2000 (Civil Aviation Authority Pension Scheme) Order 2001(**126**),
- (ggg) section 299 of the Pensions Act 2004(**127**) and the relevant provisions of the reciprocal agreement with Australia (within the meaning of that section) as continued in force by that section,
- (hhh) regulations 3(i) and 7(1) of the Occupational Pension Schemes (Modification of Schemes) Regulations 2006(**128**),
- (iii) the New Firefighters' Pension Scheme (England)(**129**),
- (jjj) the New Firefighters' Pension Scheme (Wales)(**130**),
- (kkk) the Teachers' Pensions Regulations 2010(**131**),
- (lll) 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(**132**),
- (mmm) 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(**133**),
- (nnn) 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

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

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

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

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

(125) S.I. 1997/1612; these Regulations were revoked, with savings, by S.I. 2008/238 and continue to have effect in respect of deferred and pensioner members of the scheme constituted by them. There are other amendments to these Regulations not relevant to this Order.

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

(127) 2004 c. 35.

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

(129) The scheme is in Schedule 1 to S.I. 2006/3432; Schedule 1 is the subject of amendments not relevant to this Order.

(130) The scheme is in Schedule 1 to S.I. 2007/1072 (W.110); Schedule 1 is the subject of amendments not relevant to this Order.

(131) S.I. 2010/990; to which there are amendments not relevant to this Order.

(132) 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.

(133) 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 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.

Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010(134), and
(ooo) the Royal Mail Statutory Pension Scheme(135).

SCHEDULE 3

Article 4

Consequential amendments to enactments etc. as
a result of contrary provision made by Schedule 2

PART 1

Enactments (general)

Pensions (Increase) Act 1971

1.—(1) The Pensions (Increase) Act 1971 is amended as follows.

(2) In section 3(7) (qualifying conditions), in paragraph (a), for “husband’s” substitute “male spouse’s”.

(3) In section 17(1) (interpretation), in the definition of “widow’s pension”—

(a) in the opening words after “payable” insert “to a woman”, and

(b) for “husband” in both places it occurs, substitute “male spouse”.

Social Security Pensions Act 1975

2.—(1) Section 59 of the Social Security Pensions Act 1975 (increase of official pensions) is amended as follows.

(2) In subsection (5ZB)—

(a) in paragraph (a) for “widow’s pension” substitute “pension payable to a woman in respect of the services of her deceased male spouse”, and

(b) in paragraph (b)—

(i) for a “widower’s” substitute “any other surviving spouse’s”, and

(ii) “for wife’s” substitute “spouse’s”.

(3) In subsection (5ZC)—

(a) for paragraph (a) substitute—

“(a) does not apply to—

(i) a pension payable to a woman in respect of the services of her deceased male spouse; or

(134) 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.

(135) The Scheme Rules are in Schedule 1 to [S.I. 2012/687](#).

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- (ii) a pension payable to a man in respect of the services of his deceased female spouse,
in respect of any service of the deceased spouse if that deceased spouse's pension in respect of that service became payable before 24 July 1990;”, and
- (b) in paragraph (b), before “surviving civil partner’s” insert “pension due to a surviving spouse who was married to someone of the same sex and a”.
- (4) In subsection (7)(136), omit the definition of “widower’s pension”.

Pensions Increase (Review) Orders 1979 to 1990

- 3. In article 2 (interpretation) of each of—
 - (a) the Pensions Increase (Review) Order 1979,
 - (b) the Pensions Increase (Review) Order 1980,
 - (c) the Pensions Increase (Review) Order 1981,
 - (d) the Pensions Increase (Review) Order 1982,
 - (e) the Pensions Increase (Review) Order 1983,
 - (f) the Pensions Increase (Review) Order 1984,
 - (g) the Pensions Increase (Review) Order 1985,
 - (h) the Pensions Increase (Review) Order 1986,
 - (i) the Pensions Increase (Review) Order 1987,
 - (j) the Pensions Increase (Review) Order 1988,
 - (k) the Pensions Increase (Review) Order 1989, and
 - (l) the Pensions Increase (Review) Order 1990,

in the definition of “widow’s pension”, for “in respect” to the end substitute “to a woman in respect of the services of her deceased male spouse.”.

Social Security Contributions and Benefits Act 1992

4.—(1) Schedule 5 to the Social Security Contributions and Benefits Act 1992 (pension increase or lump sum where entitlement to retirement pension is deferred) is amended as follows.

- (2) In paragraph 5(2)—
 - (a) in paragraph (a), for “widow” substitute “woman whose deceased spouse was a man”,
 - (b) in paragraph (b), for “widower” substitute “man whose deceased spouse was a woman”,
and
 - (c) for paragraph (c) substitute—
 - “where W is—
 - (i) a woman whose deceased spouse was a woman,
 - (ii) a man whose deceased spouse was a man, or
 - (iii) a surviving civil partner,
- (3) In paragraph 5A(1), for “widow” substitute “woman whose deceased spouse was a man”.

(136) The definition of “widower’s pension” in subsection (7) was inserted by the Pensions (Miscellaneous Provisions) Act 1990, section 5(2).

(4) In paragraph 6(1), for “widower” substitute “man whose deceased spouse was a woman”.

(5) In paragraph 6A(137)—

(a) for sub-paragraph (1) substitute—

“(1) This paragraph applies where W (referred to in paragraph 5 above) is—

(a) a woman whose deceased spouse was a woman,

(b) a man whose deceased spouse was a man, or

(c) a surviving civil partner.”, and

(b) in sub-paragraph (2)(c), before “civil partner” insert “spouse or”.

Occupational Pension Schemes (Contracting-out) Regulations 1996

5.—(1) The Occupational Pension Schemes (Contracting-out) Regulations 1996 are amended as follows.

(2) In regulation 55(1) (scheme rules about guaranteed minimum pensions)—

(a) in sub-paragraph (b), for the words from “widow” to “appointed day” substitute “widow of the earner under the scheme in respect of the earner’s service before the principal appointed day, in a case where the earner is a man,”, and

(b) in sub-paragraph (c), for the words from “widower” to “appointed day” substitute “widower or surviving civil partner of the earner under the scheme in respect of the earner’s service before the principal appointed day, or to any widow of the earner under the scheme in respect of that service in a case where the earner is a woman.”.

(3) In regulation 69B(3) (conversion of guaranteed minimum pensions into other benefits: survivors’ benefits)—

(a) in sub-paragraph (c), for “widows” substitute “widows whose spouse was a man”, and

(b) in sub-paragraph (d), for “widowers” substitute “widowers, widows whose spouse was a woman”.

Occupational Pension Schemes (Modification of Schemes) Regulations 2006

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

(2) In regulation 3(i) (non-application of the subsisting rights provisions), for “widow or widower”, in both places it occurs, substitute “woman whose deceased spouse was a man, or a man whose deceased spouse was a woman”.

(3) In regulation 7(1) (modification of schemes: surviving civil partners), for “widow or widower”, in both places it occurs, substitute “woman whose deceased spouse was a man, or a man whose deceased spouse was a woman”.

(137) Paragraph 6A was inserted by [S.I. 2005/2053](#) and was amended by the Pensions Act 2007, Schedule 1, paragraph 20 and Schedule 7, Part 3. It was repealed by the Pensions Act 2011 (c. 19) but that repeal is not fully in force.

PART 2

Enactments etc. (public service pension schemes)

Armed Forces Pension Scheme Order 2005

7. In each of 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(**138**), before “civil partner” insert “person who was married to someone of the same sex or a”.

Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010

8.—(1) Part E of Schedule 1 to the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (death benefits) is amended as follows.

(2) In rule E.1 (surviving spouse’s or civil partner’s pensions)—

(a) for paragraph (3)(c) substitute—

“(c) the member was a man and was married to a woman whom he leaves a widow.”, and

(b) for paragraph (5)(c) substitute—

“(c) the member—

(i) was a woman and was married to a man whom she leaves a widower;

(ii) was married to a person of the same sex and leaves that person as a surviving spouse; or

(iii) leaves a surviving civil partner.”.

(3) In rule E.6 (widows’ pensions: service ended before 31st March 1973), for paragraph (1) (d) substitute—

“(d) the member was a man and was married to a woman whom he leaves a widow.”.

9. In Part C of Schedule 2 to the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (benefits payable to surviving adult dependants), in rule C.2 (conditions relating to the deceased), for paragraphs (a) and (b) substitute—

“(a) the deceased person was in service on or after 31st March 1973 and at the time of his death was a man married to a woman;

(b) the deceased person was in service on or after 6th April 1978, married after discharge, and at the time of his death was a man married to a woman;”.

10. In Part D of Schedule 2 to the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (benefits payable in respect of eligible children), for rule D.1(3) (entitlement to a child’s compensation) substitute—

“(3) This Part will only apply when—

(a) the deceased person was a man who was in service on or after 31st March 1973, and at the time of his death was married to a woman whom he leaves a widow;

(b) the deceased person was a woman who was in service on or after 1st October 1987, and at the time of her death was married to a man whom she leaves a widower;

(c) the deceased person was in service on or after 1st October 1987, and at the time of that person’s death was either married to a person of the same sex or was in a

(138)S.I. 2005/438; to which there are amendments not relevant to this Order.

- civil partnership with a person whom the deceased person leaves as a surviving spouse or surviving civil partner;
- (d) the deceased person was an eligible partner and was in service on or after 5th December 2005.”.

Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010

11.—(1) Part E of Schedule 1 to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010 (death benefits) is amended as follows.

(2) In rule E.1 (surviving spouse’s or civil partner’s pensions)—

(a) for paragraph (3)(c) substitute—

“(c) the member was a man and was married to a woman whom he leaves a widow.”, and

(b) for paragraph (5)(c) substitute—

“(c) the member—

(i) was a woman and was married to a man whom she leaves a widower;

(ii) was married to a person of the same sex and leaves that person as a surviving spouse; or

(iii) leaves a surviving civil partner.”.

(3) In rule E.6 (widows’ pensions: service ended before 31st March 1973), for paragraph (1)(d) substitute—

“(d) the member was a man and was married to a woman whom he leaves a widow.”.

12. In Part C of Schedule 2 to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010 (benefits payable to surviving adult dependants), in rule C.2 (conditions relating to the deceased), for paragraphs (a) and (b) substitute—

“(a) the deceased person was in service on or after 31st March 1973 and at the time of his death was a man married to a woman;

(b) the deceased person was in service on or after 6th April 1978, married after discharge, and at the time of his death was a man married to a woman;”.

13. In Part D of Schedule 2 to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010 (benefits payable in respect of eligible children), for rule D.1(3) (entitlement to a child’s compensation) substitute—

“(3) This Part will only apply when—

(a) the deceased person was a man who was in service on or after 31st March 1973, and at the time of his death was married to a woman whom he leaves a widow;

(b) the deceased person was a woman who was in service on or after 1st October 1987, and at the time of her death was married to a man whom she leaves a widower;

(c) the deceased person was in service on or after 1st October 1987, and at the time of that person’s death was either married to a person of the same sex or was in a civil partnership with a person whom the deceased person leaves as a surviving spouse or surviving civil partner;

(d) the deceased person was an eligible partner and was in service on or after 5th December 2005.”.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010

14.—(1) Part E of Schedule 1 to the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (death benefits) is amended as follows.

(2) In rule E.1 (surviving spouse’s or civil partner’s pensions)—

(a) for paragraph (3)(c) substitute—

“(c) the member was a man and was married to a woman whom he leaves a widow.”, and

(b) for paragraph (5)(c) substitute—

“(c) the member—

(i) was a woman and was married to a man whom she leaves a widower;

(ii) was married to a person of the same sex and leaves that person as a surviving spouse; or

(iii) leaves a surviving civil partner.”.

(3) In rule E.6 (widows’ pensions: service ended before 31st March 1973), for paragraph (1)(d) substitute—

“(d) the member was a man and was married to a woman whom he leaves a widow.”.

15. In Part C of Schedule 2 to the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (benefits payable to surviving adult dependants), in rule C.2 (conditions relating to the deceased), for paragraphs (a) and (b) substitute—

“(a) the deceased person was in service on or after 31st March 1973 and at the time of his death was a man married to a woman;

(b) the deceased person was in service on or after 6th April 1978, married after discharge, and at the time of his death was a man married to a woman;”.

16. In Part D of Schedule 2 to the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (benefits payable in respect of eligible children), for rule D.1(3) (entitlement to a child’s compensation) substitute—

“(3) This Part will only apply when—

(a) the deceased person was a man who was in service on or after 31st March 1973, and at the time of his death was married to a woman whom he leaves a widow;

(b) the deceased person was a woman who was in service on or after 1st October 1987, and at the time of her death was married to a man whom she leaves a widower;

(c) the deceased person was in service on or after 1st October 1987 and, at the time of that person’s death was either married to a person of the same sex or was in a civil partnership with a person whom the deceased person leaves as a surviving spouse or surviving civil partner;

(d) the deceased person was an eligible partner and was in service on or after 5th December 2005.”.

17.—(1) Pension schemes referred to in the first column of the table at sub-paragraph (2) are amended in the appropriate place as specified in the second column by the insertion of—

(a) the following provision, with the number 1 substituted by the appropriate number specified in the third column—

“Marriage of a same sex couple

1.—(1) In this Scheme—

- (a) a reference to civil partnership is to be read as including a reference to marriage of a same sex couple,
- (b) a reference to civil partners is to be read as including a reference to a married same sex couple, and
- (c) a reference to a person who is in a civil partnership is to be read as including a reference to a person who is married to a person of the same sex.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a civil partnership that has ended, or a reference to a person whose civil partnership has ended) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

(4) Paragraph 1 of Schedule 3 to the Marriage (Same Sex Couples) Act 2013 does not apply to the interpretation of this Scheme.

(5) Section 11(1) and (2) of, and paragraph 3 of Schedule 3 to, that Act have effect subject to paragraphs (1) to (3).”, and

- (b) the following provision, with the number 2 substituted by the appropriate number specified in the fourth column—

“Living together as a same sex couple

2.—(1) In this Scheme—

- (a) a reference to persons who are not in a civil partnership but are living together as civil partners is to be read as including a reference to a same sex couple who are not married but are living together as a married couple, and
- (b) a reference to a person who is living with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

(4) Paragraph 2 of Schedule 3 to the Marriage (Same Sex Couples) Act 2013 does not apply to the interpretation of this Scheme.

(5) Section 11(1) and (2) of, and paragraph 3 of Schedule 3 to, that Act have effect subject to paragraphs (1) to (3).”.

- (2) The table referred to in sub-paragraph (1) is as set out below—

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<i>Pension scheme</i>	<i>Provision after which wording in paragraph 17 is inserted</i>	<i>New numbering for (a) in paragraph 17</i>	<i>New numbering for (b) in paragraph 17</i>
The Firefighters' Pension Scheme(139) set out in Schedule 2 to the Firemen's Pension Scheme Order 1992 as it has effect in England	Schedule 1, Part 2: Expressions related to National Insurance and Social Security Acts	Part 3: Provision relating to same sex couples, rule 1	Part 3: Provision relating to same sex couples, rule 2
The Firefighters' Pension (Wales) Scheme set out in Schedule 2 to the Firemen's Pension Scheme Order 1992 as it has effect in Wales(140)	Schedule 1, Part 2: Expressions related to National Insurance and Social Security Acts	Part 3: Provision relating to same sex couples, rule 1	Part 3: Provision relating to same sex couples, rule 2
The Local Government Pension Scheme Regulations 1997(141)	Regulation 42A	Regulation 42B	Regulation 42C
The New Firefighters' Pension Scheme (England)(142)	Part 1, rule 3	Rule 4	Rule 5
The New Firefighters' Pension Scheme (Wales)(143)	Part 1, rule 3	Rule 4	Rule 5
Teachers' Pensions Regulations 2010(144)	Regulation 2	Regulation 2A	Regulation 2B
The Royal Mail Statutory Pension Scheme(145)	Part 1, rule 2	Rule 2A	Rule 2B

(139) The scheme is in Schedule 2 to [S.I. 1992/129](#); Schedule 2 is the subject of amendments not relevant to this Order. The name of the scheme was changed to the Firefighters' Pension Scheme by [S.I. 2004/2306](#). By virtue of [S.I. 2006/3432](#), subject to certain savings, the scheme has no effect in relation to any person who takes up employment with an English fire and rescue authority on or after 6th April 2006.

(140) The scheme is in Schedule 2 to [S.I. 1992/129](#); Schedule 2 is the subject of amendments not relevant to this Order. The name of the scheme was changed to the Firefighters' Pension (Wales) Scheme by [S.I. 2004/2918 \(W. 257\)](#). By virtue of [S.I. 2007/1072 \(W. 110\)](#), subject to certain savings, the scheme has no effect in relation to any person who takes up employment with a Welsh fire and rescue authority on or after 6th April 2006.

(141) [S.I. 1997/1612](#); these Regulations were revoked, with savings, by [S.I. 2008/238](#) and continue to have effect in respect of deferred and pensioner members of the scheme constituted by them.

(142) The scheme is in Schedule 1 to [S.I. 2006/3432](#); Schedule 1 is the subject of amendments not relevant to this Order.

(143) The scheme is in Schedule 1 to [S.I. 2007/1072 \(W.110\)](#); Schedule 1 is the subject of amendments not relevant to this Order.

(144) [S.I. 2010/990](#), to which there are amendments not relevant to this Order.

(145) The scheme rules are in Schedule 1 to [S.I. 2012/687](#).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to primary legislation as a consequence of the coming into force of the majority of the provisions of the Marriage (Same Sex Couples) Act 2013 (c. 30) (“the Act”). The Order comes into force on 13th March 2014 (except for the provision made by paragraph 31 of Schedule 1 which comes into force on 3rd June 2014). A separate Order (the Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014) making consequential amendments to subordinate legislation is also coming into force on 13th March 2014.

The Order also makes consequential amendments to primary legislation which should have been made as part of the implementation of the Civil Partnership Act 2004 (c. 33) (“the 2004 Act”) and the Human Fertilisation and Embryology Act 2008 (c. 22) (“the 2008 Act”) but which were inadvertently omitted in the orders making consequential amendments to those Acts. The Order corrects these omissions.

The Order also makes provision concerning the effect of the statutory gloss set out in section 11(1) and (2) of, and paragraphs 1 to 3 of Schedule 3 to, the Act (“the gloss”). Section 11(1) provides that in the law of England and Wales, marriage has the same effect in relation to same sex couples as it has in relation to opposite sex couples. Section 11(2) provides that the law of England and Wales (including all England and Wales legislation whenever passed or made) has effect in accordance with subsection (1). Paragraphs 1 to 3 of Schedule 3 provide that, in existing English and Welsh legislation, a reference to a marriage is to be read as including a reference to the marriage of a same sex couple, a reference to a married couple is to be read as including a reference to a married same sex couple, and a reference to a person who is married is to be read as including a reference to a person who is married to a person of the same sex. Paragraph 1(2) of Schedule 3 provides that related references such as a reference to a person whose marriage has ended are to be read in the same way.

In addition, Schedule 3 to the Act provides that references to persons who are not married but living together as if they are married are to be read as including references to a same sex couple who are not married but living together as a married couple; and that a reference to a person who is living with another person as if they were married is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

Paragraph 27 of Schedule 4 to the Act makes provision about when the gloss described above is subject to contrary provision i.e. disapplied or when it is to apply but subject to other provision. The Order makes contrary provision to the gloss in both primary and secondary legislation.

The Order extends only to England and Wales subject to the following exceptions: article 5 also extends to Scotland; the amendment to the 2004 Act made in paragraph 29(1) and (2) of Schedule 1 also extends to Scotland and Northern Ireland; finally, the amendment to the Family Law (Scotland) Act (2006 asp. 2) made by paragraph 31 of Schedule 1 extends only to Scotland.

As set out above, article 2 of, and Schedule 1 to, the Order make consequential amendments to primary legislation as a result of the extension of marriage to same sex couples, as well as consequential amendments as a result of the 2004 Act and the 2008 Act.

Paragraph 1 of Schedule 1 amends section 6(9)(a) of the Metropolitan Public Carriage Act 1869 (c. 115) to substitute a reference to “widows” with “surviving spouse” and “surviving civil partner” so that all spouses and civil partners are caught by the section. It also repeals section 6(9)(b). This provided that a London cab order may make provision about the transfer by a married woman of her licence to her husband when she was granted the licence and then marries during its continuation.

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Paragraph 2 amends the Pension Commutation Act 1871 (c. 36) to substitute a reference to “widows” with “surviving spouse”. Similar amendments are made by paragraphs 3, 6, 9, 17 and 24. In certain cases amendments also rectify the omission of references to civil partners. References to civil partners are inserted into existing provisions by paragraphs 1, 3, 6, 9, 10, 17 and 24.

Paragraphs 14 and 15 also make provision concerning the legitimacy of children born to same sex couples and make amendments to the Fatal Accidents Act 1976 (c. 30) and the Legitimacy Act 1976 (c. 31). The amendments to the Fatal Accidents Act 1976 and section 1 of the Legitimacy Act 1976 are made under the enabling powers in section 64 of the 2008 Act.

Paragraph 29 of Schedule 1 amends the 2004 Act. The amendment made by paragraph 29(2) concerns recognition of overseas marriages between two people of the same sex. Until the coming into force of the provisions of the Act regarding recognition of overseas marriages of same sex couples, a legal relationship between two persons of the same sex was treated as a civil partnership under the law of England and Wales, Scotland and Northern Ireland. Following the extension of marriage to same sex couples under the law of England and Wales, overseas marriages of same sex couples are no longer treated as civil partnerships in England and Wales but are instead recognised as marriages, in the same way as marriages of opposite sex couples. Paragraph 29(2) makes the consequential amendment (in place of paragraph 5 of Schedule 2 to the Act, which will not be commenced).

Paragraph 31 of Schedule 1 makes an amendment to section 38 of the Family Law (Scotland) Act 2006 in consequence of the repeal of the Foreign Marriage Act 1892 (c. 23) made by section 13(2) of the Act. The amendment substitutes a reference to the Foreign Marriage Act 1892 with appropriate references to the Act.

Paragraph 33 amends section 42 of the Statistics and Registration Service Act 2007 (c. 18) to ensure that the Registrar General can pass on all relevant information about marriages and civil partnerships to the Office for National Statistics.

Paragraph 35 amends section 67 of the Equality Act 2010 (c. 15) which makes provision about sex equality with reference to occupational pension schemes. Subsection (7) makes provision about the identity of a comparator of the opposite sex to a complainant to enable a decision to be made as to whether there has been sex discrimination in the context of an equal pay claim. Paragraph 35 substitutes this subsection for new provision which takes account of the fact that same sex couples can now marry. A person in a relationship with a person of the opposite sex will be compared to a person of the opposite sex to them who is also in a relationship with someone of the opposite sex; and a person in a relationship with a person of the same sex will be compared to a person of the opposite sex to them who is also in a relationship with someone of the same sex. This means that a woman married to a woman would need to compare herself to a man married to a man, rather than a man married to a woman; or she could compare herself to a man in a civil partnership.

The remaining amendments in Schedule 1 make provision amending definitions of “couple” or making other consequential provision which reflects the fact that same sex couples can now marry. In particular, paragraph 5 amends the Marriage Act 1949 (c. 76) to make provision about registered buildings. Paragraph 5(4) amends the definition of “required consents” in section 49A of the Marriage Act 1949 to include the consents required under the Marriage of Same Sex Couples (Registration of Shared Buildings) Regulations 2014 (which come into force on 13th March 2014). If a same sex couple knowingly and wilfully marries in the absence of the required consents, the marriage will be void.

Schedule 2 contains provision to which the gloss is subject and specifies cases in which the gloss is disapplied (contrary provision).

Part 1 of Schedule 2 concerns disapplication of the gloss from certain provisions of English and Welsh common law. The gloss is disapplied from the common law concerning the conferral of the titles of Queen or Princess of Wales on a person who marries or who is married to the King Regnant

or the Prince of Wales. The gloss is also disappplied as regards the conferral of a title on the spouse of a peer. This aligns the treatment of married couples of the same sex with that of civil partners.

Part 2 of Schedule 2 makes it clear that section 11(1) and (2) of the Act do not apply to any EU instruments. Paragraph 3 of Schedule 2 disapplies the effect of section 11(1) and (2).

Part 3 of Schedule 2 makes provision to which section 11(1) and (2) and Schedule 3 are subject in respect of the Armed Forces Pension Scheme Order 2005 (S.I. 2005/438), but also disapplies the gloss from various enactments. The gloss is disapplied in its entirety from the list of enactments at paragraph 5 of Schedule 2.

Schedule 3 makes consequential amendments to particular primary and secondary legislation from which Schedule 2 has disapplied the gloss and also as a result of the provision made by paragraph 4 of Schedule 2.

Paragraphs 1 and 3 amend the Pensions (Increase) Act 1971 (c. 56) and article 2 of various Pension Increase (Review) Orders to ensure that these apply appropriately in certain cases to women formerly married to men only.

Paragraph 2 similarly confines certain provisions of section 59 of the Social Security Pensions Act 1975 (c. 60) to women formerly married to men and men formerly married to women and makes consequential amendments to that section.

Paragraph 4 confines certain provisions of Schedule 5 to the Social Security Contributions and Benefits Act 1992 (c. 4) to women formerly married to men and men formerly married to women but also makes specific provision about same sex married couples, treating them on a par with civil partners.

Paragraphs 5 and 6 make similar amendments to the Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172) and the Occupational Pension Schemes (Modification of Schemes) Regulations 2006 (S.I. 2006/759) to confine references to married persons as appropriate to opposite sex couples. The former also makes specific provision for same sex married couples.

Part 2 of Schedule 3 is concerned with public service pension schemes. These are occupational pension schemes established to provide pensions for particular public sector workers. Schedule 3 makes amendments in respect of various public service pension schemes which follow the approach taken in the Act.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen over and above that identified in the Impact Assessment published when the Act received Royal Assent.