

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

(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)(1), omit the definition of “widower’s pension”.

**Pensions Increase (Review) Orders 1979 to 1990**

3. In article 2 (interpretation) of each of—

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

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- (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—

“(c) 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,

an amount equal to the sum of the amounts set out in paragraph 6A(2) below.”.

(3) In paragraph 5A(1), for “widow” substitute “woman whose deceased spouse was a man”.

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

(5) In paragraph 6A(2)—

(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”.

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(2) 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.

### **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”.

## **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(3), 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—

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(3) [S.I. 2005/438](#); to which there are amendments not relevant to this Order.

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“(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 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;

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(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.”.

### **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—

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“(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—

<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(4) 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 Scheme (Wales) set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992 as it has effect in Wales(5)	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

(4) 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.

(5) 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.

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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 Local Government Pension Scheme Regulations 1997 <b>(6)</b>	Regulation 42A	Regulation 42B	Regulation 42C
The New Firefighters' Pension Scheme (England) <b>(7)</b>	Part 1, rule 3	Rule 4	Rule 5
The New Firefighters' Pension Scheme (Wales) <b>(8)</b>	Part 1, rule 3	Rule 4	Rule 5
Teachers' Pensions Regulations 2010 <b>(9)</b>	Regulation 2	Regulation 2A	Regulation 2B
The Royal Mail Statutory Pension Scheme <b>(10)</b>	Part 1, rule 2	Rule 2A	Rule 2B

**(6)** [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.

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

**(8)** 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.

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

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