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STATUTORY INSTRUMENTS

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**2005 No. 3325**

**CIVIL PARTNERSHIP**

**The Civil Partnership (Judicial Pensions  
and Church Pensions, etc.) Order 2005**

*Made* - - - - *2nd December 2005*

*Coming into force* - - *5th December 2005*

Whereas a draft of this Order has been laid before, and approved by a resolution of, each House of Parliament;

Now therefore the Lord Chancellor, and in relation to any judicial office whose jurisdiction is exercised exclusively in relation to Scotland, the Secretary of State, in exercise of the powers conferred on them by sections 255 and 259 of the Civil Partnership Act 2004<sup>(1)</sup>, and having consulted such persons as they consider appropriate, as required by section 255(6) of that Act, make the following Order—

**PART 1**

**Citation, Commencement and Extent**

**Citation and commencement**

1.—(1) This Order may be cited as the Civil Partnership (Judicial Pensions and Church Pensions, etc.) Order 2005 and, subject to paragraphs (2), (3), (4) and (5), shall come into force on 5th December 2005.

(2) Article 16 shall come into force on the same day as paragraph 3(2) of Schedule 2 to the Judicial Pensions (Northern Ireland) Order 1991<sup>(2)</sup> comes into force.

(3) Article 31 shall come into force on the same day as paragraph 1(2) of Schedule 2 to the Judicial Pensions (Northern Ireland) Order 1991 comes into force.

(4) Article 46 shall come into force on the same day as paragraph 2(2) of Schedule 2 to the Judicial Pensions (Northern Ireland) Order 1991 comes into force.

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(1) 2004 c. 33.

(2) S.I. 1991/2631 (N.I. 24).

(5) Article 66 shall come into force on the same day as Schedule 13 to the Courts and Legal Services Act 1990(3) comes into force.

## Extent

2.—(1) This Order does not extend to the Channel Islands or the Isle of Man.

(2) Part 5 extends to Northern Ireland only.

(3) Subject to paragraphs (1) and (2), any amendment made by this Order has the same extent as the provision to which it relates.

(4) Subject to paragraph (1), paragraph 4 of Schedule 7 extends to the whole of the provinces of Canterbury and York.

## PART 2

### Amendments of the Judicial Pensions Act (Northern Ireland) 1951

3. The Judicial Pensions Act (Northern Ireland) 1951(4) is amended as follows.

4. In the italic heading before section 6 for “*Widows' and Children's Pensions*” substitute “*Widows', Surviving Civil Partners' and Children's Pensions*”.

5.—(1) Section 6 (power to grant widows' and children's pensions) is amended as follows.

(2) For the heading substitute “Power to grant widows', surviving civil partners' and children's pensions”.

(3) That section becomes subsection (1) of section 6.

(4) In that subsection—

(a) for “and” at the end of paragraph (i) substitute—

“(ia) where he leaves a surviving civil partner, a pension to that surviving civil partner (in this Part referred to as a “surviving civil partner's pension”); and”, and

(b) for paragraph (ii) substitute—

“(ii) where he had a wife or a civil partner at any time during his relevant service (whether or not the marriage or civil partnership continued until his death and whether or not a widow's pension or surviving civil partner's pension is or can be granted), a pension for the benefit of any relevant children (in this Part referred to as a “children's pension”).”.

(5) After that subsection insert—

“(2) In subsection (1)(ii), “relevant children” means—

(a) in relation to a marriage, any children of the marriage, and

(b) in relation to a civil partnership, any children of the family,

and in paragraph (b) “children of the family” is to be construed in accordance with Article 2(2) of the Children (Northern Ireland) Order 1995(5).”.

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(3) 1990 c. 41.

(4) 1951 c. 20; section 6A was inserted by Article 3(2) of the Judicial Pensions (Northern Ireland) Order 1991 (N.I. 24); section 7 was substituted by Article 4 of the Judicial Pensions (Northern Ireland) Order 1991 (N.I. 24); sections 10, 11, 12, 16, 21 and 22 were amended by Article 10(1) of and Schedule 3 to the Judicial Pensions (Northern Ireland) Order 1991; section 16 is also amended by section 82 of and paragraph 9 of Schedule 9 to the Social Security Act 1986 (c. 50) and section 4 of and paragraph 2 of Schedule 2 to the Social Security (Consequential Provisions) (Northern Ireland) Act 1992 (c. 9); Schedule 2A is inserted prospectively by Article 5 of and paragraph 3 of Schedule 2 to the Judicial Pensions (Northern Ireland) Order 1991 (N.I. 24).

(5) S.I. 1995/755 (N.I. 2).

**6.—**(1) Section 6A (widowers' pensions) is amended as follows.

(2) In the heading, after “Widowers” insert “and surviving civil partners”.

(3) In subsection (1)—

(a) after “female person” insert “who has, or has had, a husband or civil partner”, and

(b) after “male person” insert “who has, or has had, a wife or civil partner”.

(4) After subsection (2) insert—

“(3) The transitional provisions set out in Schedule 4A shall have effect in relation to surviving civil partners' pensions.”.

**7.—**(1) Section 7 (widows' and widowers' pensions) is amended as follows.

(2) For the heading substitute “Widows', widowers' and surviving civil partners' pensions”.

(3) In subsection (1)—

(a) for “widow's or widower's” substitute “widow's, widower's or surviving civil partner's”, and

(b) after “marriage” insert “or formation of the civil partnership”.

(4) In subsection (2)—

(a) for “widow's or widower's” substitute “widow's, widower's or surviving civil partner's”, and

(b) for “widow or widower” substitute “widow, widower or surviving civil partner”.

(5) In subsection (3)—

(a) for “widow's or widower's” substitute “widow's, widower's or surviving civil partner's”, and

(b) for “the remarriage of the widow or widower,” substitute

“—

(a) the remarriage of, or formation of a civil partnership by, the widow or widower, or

(b) the formation of a subsequent civil partnership by, or the marriage of, the surviving civil partner,”.

(6) In subsection (5), for “widow's or widower's” substitute “widow's, widower's or surviving civil partner's”.

**8.—**(1) In section 8 (children's pension: beneficiaries), subsection (4) is amended as follows.

(2) After “married” insert “or a person who at the time of the death of the deceased was a civil partner”.

(3) After “marries” insert “or a person forms a civil partnership”.

(4) After “she” insert “or he”.

**9.—**(1) Section 10 (children's pension: rate and mode of payment) is amended as follows.

(2) In subsection (2), for “or widower”, in both places, substitute “, widower or surviving civil partner”.

(3) In subsection (3), for “or widower” substitute “, widower or surviving civil partner”.

(4) In subsection (4)—

(a) for “leaves a widow or widower who remarries,” substitute

“—

- (a) leaves a widow or widower who remarries or forms a civil partnership, or
- (b) leaves a surviving civil partner who forms a subsequent civil partnership or marries,”
- (b) after “husband” insert “or civil partner”,
- (c) after “wife” insert “or civil partner”, and
- (d) for “widow or widower is” substitute “widow, widower or surviving civil partner is”.

**10.**—(1) Section 11 (contribution towards cost of widow’s and children’s pension) is amended as follows.

- (2) In subsections (1), (2) and (3) after “spouse” insert “or civil partner”.
- (3) In subsection (2), after “marriage” insert “or the formation of a civil partnership”.

**11.**—(1) In section 12 (persons serving again after retirement), paragraph (a) is amended as follows.

- (2) After “marrying” insert “or forming a civil partnership”.
- (3) After “widower” insert “, surviving civil partner”.

**12.** For section 15 (effect under this Act of certain nullity decrees) substitute—

**“Effect under this Act of certain nullity decrees**

**15.** Where a marriage or civil partnership which is voidable, but not void from the beginning, is annulled by any court, the same results shall follow under this Part of this Act as would have followed if the marriage or the civil partnership had not been voidable but had been dissolved at the date of the annulment.”.

**13.** In section 16 (Departmental recommendation in certain cases), for “widow’s widower's” substitute “widow's, widower's, surviving civil partner's”.

**14.** In section 21 (financial provisions), in subsections (1)(b) and (2)(a) for “widow’s widower's” substitute “widow's, widower's, surviving civil partner's”.

**15.** In section 22 (interpretation), in subsection (1), in the definition of “derivative benefit”, for “widow’s widower's” substitute “widow's, widower's, surviving civil partner's”.

**16.** In Schedule 2A (transfer of accrued benefits) (to be inserted by the amendments set out in paragraph 3(2) of Schedule 2 to the Judicial Pensions (Northern Ireland) Order 1991(6)), in paragraph 6(7), for “his widow, or her widower” substitute “his widow, her widower or his or her surviving civil partner”.

**17.** After Schedule 4 insert the following Schedule—

“SCHEDULE 4A

Section 6A(3)

SURVIVING CIVIL PARTNERS' PENSIONS: TRANSITIONAL PROVISIONS

*General*

**1.** In this Schedule—

“the relevant date” means 4th December 2005; and

“member” means a person who holds judicial office and to or in respect of whom benefits are payable under this Act on his or her retirement.

*Service wholly on or before the relevant date*

2. No surviving civil partner’s pension shall be payable in respect of a member who retires on or before the relevant date.

*Service on and after the relevant date*

3.—(1) A member who—

- (a) holds judicial office on the relevant date; and
- (b) continues to do so after that date,

shall have the annual value of a surviving civil partner’s pension in respect of the member calculated on the assumption that all of the member’s relevant service fell after the relevant date.

(2) Sub-paragraph (1) does not apply if, within six months of the date of the member’s formation of a civil partnership, the member opts for the annual value of the surviving civil partner’s pension to be calculated under sub-paragraph (3).

(3) Where the annual value of a surviving civil partner’s pension falls to be calculated under this sub-paragraph, its value shall be determined by applying the formula—

$$CPP1 = \{CPP2 \times RS1\} \text{ divided by } RS2$$

where—

CPP1 is the annual value of the surviving civil partner’s pension,

CPP2 is the annual value of the surviving civil partner’s pension that would be payable on the assumption mentioned in sub-paragraph (1),

RS1 is the length of the member’s relevant service after the relevant date, and

RS2 is the whole of the member’s relevant service.

(4) For the purposes of this paragraph there shall be left out of account so much (if any) of the relevant service on or before the relevant date as does not add to the amount of the personal pension and accordingly this paragraph shall not apply if none of the relevant service on or before that date adds to the amount of the personal pension.

(5) No period of service during which an election under paragraph 7A of Schedule 10 to the Social Security (Northern Ireland) Act 1975(7) is in force in respect of the member concerned shall be taken into account for the purposes of any calculation under sub-paragraph (3).

(6) An election under sub-paragraph (2) must be made in writing to the administrators.

(7) An election under sub-paragraph (2) is irrevocable.”.

## PART 3

### Amendments of the County Courts Act (Northern Ireland) 1959

**18.** The County Courts Act (Northern Ireland) 1959(8) is amended as follows.

**19.** In the italic heading before section 119 for “*Widows' and Children's Pensions*” substitute “*Widows', Surviving Civil Partners' and Children's Pensions*”.

**20.** For the italic heading before section 122 substitute “*Widows', Surviving Civil Partners' and Children's Pensions*”.

**21.**—(1) Section 122 (power to grant widows' and children's pensions) is amended as follows.

(2) For the heading substitute “Power to grant widows', surviving civil partners' and children's pensions”.

(3) That section becomes subsection (1) of section 122.

(4) In that subsection—

(a) for “and” at the end of paragraph (i) substitute—

“(ia) where he leaves a surviving civil partner, a pension to that surviving civil partner (in this Part referred to as a “surviving civil partner's pension”); and”, and

(b) for paragraph (ii) substitute—

“(ii) where he had a wife or a civil partner at any time during his service (whether or not the marriage or civil partnership continued until his death and whether or not a widow's pension or surviving civil partner's pension is or can be granted), a pension for the benefit of any relevant children (in this Part referred to as a “children's pension”).”.

(5) After that subsection insert—

“(2) In subsection (1)(ii), “relevant children” means—

(a) in relation to a marriage, any children of the marriage, and

(b) in relation to a civil partnership, any children of the family,

and in paragraph (b) “children of the family” is to be construed in accordance with Article 2(2) of the Children (Northern Ireland) Order 1995(9).”.

**22.**—(1) Section 122A (widowers' pensions) is amended as follows.

(2) In the heading, after “Widowers'” insert “and surviving civil partners”.

(3) That section becomes subsection (1) of section 122A.

(4) In that subsection—

(a) after “female person” insert “who has, or has had, a husband or civil partner”, and

(b) after “male person” insert “who has, or has had, a wife or civil partner”.

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(8) 1959 c. 25; section 122A was inserted by Article 3(1) of the Judicial Pensions (Northern Ireland) Order 1991 (N.I.24); section 123 was substituted by Article 4 of the Judicial Pensions (Northern Ireland) Order 1991 (N.I.24); section 126 was amended by Part 2 of Schedule 5 to the Judicature (Northern Ireland) Act 1978 (c. 23) and Article 9(2) of and Schedule 3 to the Judicial Pensions (Northern Ireland) Order 1991; section 128 was amended by Part 2 of Schedule 1 to the County Courts (Northern Ireland) Order 1980 (c. 23) and Schedule 3 to the Judicial Pensions (Northern Ireland) Order 1991 (N.I. 24); section 132 was amended by Part 2 of Schedule 5 to the Judicature (Northern Ireland) Act 1978 (c. 23) and Schedule 3 to the Judicial Pensions (Northern Ireland) Order 1991 (N.I. 24); section 132A was inserted by Part 3 of Schedule 3 to the Judicial Pensions and Retirement Act 1993 (c. 8); section 135 was amended by Schedule 3 to the County Courts (Northern Ireland) Order 1980 (N.I. 3), Part 1 of Schedule 5 to the Adoption (Northern Ireland) Order 1987 (N.I. 22) and Schedule 3 to the Judicial Pensions (Northern Ireland) Order (N.I. 24).

(9) S.I. 1995/755 (N.I. 2).

(5) After that subsection insert—

“(2) The transitional provisions set out in Schedule 2B shall have effect in relation to surviving civil partners' pensions.”.

**23.**—(1) Section 123 (widows' and widowers' pensions) is amended as follows.

(2) For the heading substitute “Widows', widowers' and surviving civil partners' pensions”.

(3) In subsection (1)—

(a) for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”, and

(b) after “marriage” insert “or formation of the civil partnership”.

(4) In subsection (2)—

(a) for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”, and

(b) for “widow or widower” substitute “widow, widower or surviving civil partner”.

(5) In subsection (3)—

(a) for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”, and

(b) for “the remarriage of the widow or widower,” substitute

“—

(a) the remarriage of, or formation of a civil partnership by, the widow or widower, or

(b) the formation of a subsequent civil partnership by, or the marriage of, the surviving civil partner.”.

(6) In subsection (5), for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”.

**24.**—(1) In section 124 (children’s pension: beneficiaries), subsection (4) is amended as follows.

(2) After “married” insert “or a person who at the time of the death of the deceased was a civil partner”.

(3) After “marries” insert “or a person forms a civil partnership”.

(4) After “she” insert “or he”.

**25.**—(1) Section 126 (children’s pension: rate and mode of payment) is amended as follows.

(2) In subsection (2), for “or widower”, in both places, substitute “, widower or surviving civil partner”.

(3) In subsection (3), for “or widower” substitute “, widower or surviving civil partner”.

(4) In subsection (4)—

(a) for “leaves a widow or widower who remarries,” substitute

“—

(a) leaves a widow or widower who remarries or forms a civil partnership, or

(b) leaves a surviving civil partner who forms a subsequent civil partnership or marries,”,

(b) after “husband” insert “or civil partner”,

(c) after “wife” insert “or civil partner”, and

(d) for “widow or widower is” substitute “widow, widower or surviving civil partner is”.

**26.—**(1) In section 128 (persons serving again after retirement), paragraph (a) is amended as follows.

(2) After “marrying” insert “or forming a civil partnership”.

(3) After “widower” insert “, surviving civil partner”.

**27.** For section 131 (effect under this Act of certain nullity decrees) substitute—

**“Effect under this Act of certain nullity decrees**

**131.** Where a marriage or civil partnership which is voidable, but not void from the beginning, is annulled by any court, the same results shall follow under sections one hundred and twenty-two to one hundred and thirty-three as would have followed if the marriage or the civil partnership had not been voidable but had been dissolved at the date of the annulment.”.

**28.** In section 132 (recommendation of Lord Chancellor in certain cases), for “widow’s widower’s” substitute “widow’s, widower’s, surviving civil partner’s”.

**29.** In section 132A (appeals), in subsection (3)(b), for “or widower” substitute “, widower or surviving civil partner”.

**30.** In section 135 (interpretation of Part 13), in subsection (1), in the definition of “derivative benefit”, for “widow’s widower’s” substitute “widow’s, widower’s, surviving civil partner’s”.

**31.** In Schedule 2A (transfer of accrued benefits) (to be inserted by the amendments set out in paragraph 1(2) of Schedule 2 to the Judicial Pensions (Northern Ireland) Order 1991(10)), in paragraph 6(7), for “his widow, or her widower” substitute “his widow, her widower or his or her surviving civil partner”.

**32.** After that Schedule insert the following Schedule—

“SCHEDULE 2B

Section 122A

SURVIVING CIVIL PARTNERS' PENSIONS: TRANSITIONAL PROVISIONS

*General*

**1.** In this Schedule—

“the relevant date” means 4th December 2005; and

“member” means a person who holds judicial office and to or in respect of whom benefits are payable under this Act on his or her retirement.

*Service wholly on or before the relevant date*

**2.** No surviving civil partner’s pension shall be payable in respect of a member who retires on or before the relevant date.

*Service on and after the relevant date*

**3.—**(1) A member who—



- (a) holds judicial office on the relevant date; and
- (b) continues to do so after that date,

shall have the annual value of a surviving civil partner's pension in respect of the member calculated on the assumption that all of the member's relevant service fell after the relevant date.

(2) Sub-paragraph (1) does not apply if, within six months of the date of the member's formation of a civil partnership, the member opts for the annual value of the surviving civil partner's pension to be calculated under sub-paragraph (3).

(3) Where the annual value of a surviving civil partner's pension falls to be calculated under this sub-paragraph, its value shall be determined by applying the formula—

$$\text{CPP1} - (\text{CPP2} \times \text{RS1}) \text{ divided by RS2}$$

where—

CPP1 is the annual value of the surviving civil partner's pension,

CPP2 is the annual value of the surviving civil partner's pension that would be payable on the assumption mentioned in sub-paragraph (1),

RS1 is the length of the member's relevant service after the relevant date, and

RS2 is the whole of the member's relevant service.

(4) For the purposes of this paragraph there shall be left out of account so much (if any) of the relevant service on or before the relevant date as does not add to the amount of the personal pension and accordingly this paragraph shall not apply if none of the relevant service on or before that date adds to the amount of the personal pension.

(5) An election under sub-paragraph (2) must be made in writing to the administrators.

(6) An election under sub-paragraph (2) is irrevocable.”

## PART 4

### Amendments of the Resident Magistrates' Pensions Act (Northern Ireland) 1960

**33.** The Resident Magistrates' Pensions Act (Northern Ireland) 1960(**11**) is amended as follows.

**34.** For the italic heading before section 4 substitute “*Widows', surviving civil partners' and children's pensions*”.

**35.**—(1) Section 4 (power to grant widows' and children's pensions) is amended as follows.

(2) For the heading substitute “Power to grant widows', surviving civil partners' and children's pensions”.

(3) That section becomes subsection (1) of section 4.

(4) In that subsection—

- (a) for “and” at the end of paragraph (i) substitute—

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(11) ()1960 c. 2; section 5 was substituted by Article 4 of the Judicial Pensions (Northern Ireland) Order 1991 (N.I. 24); section 8 was amended by Article 9 of and Schedule 3 to the Judicial Pensions (Northern Ireland) Order 1991 (N.I. 24); section 10 was amended by Schedules 3 and 4 to the Judicial Pensions (Northern Ireland) Order 1991 (N.I. 24); section 21A was inserted by Part 3 of Schedule 3 to the Judicial Pensions and Retirement Act 1993 (c. 8); section 22 was amended by section 14 of the Administration of Justice Act 1973 (c. 15), Part 1 of Schedule 5 to the Adoption (Northern Ireland) Order 1987 (N.I. 22) and Schedule 3 to the Judicial Pensions (Northern Ireland) Order 1991 (N.I. 24); Schedule 2 was inserted by Article 3(3) of, and Schedule 1 to, the Judicial Pensions (Northern Ireland) Order 1991 (N.I. 24).

“(ia) where he leaves a surviving civil partner, a pension to that surviving civil partner (in this Act referred to as a “surviving civil partner’s pension”); and”, and

(b) for paragraph (ii) substitute—

“(ii) where he had a wife or a civil partner at any time during his service as a resident magistrate, or, where he was a person to whom paragraph (b) of subsection (2) of section two applied, during his service as a resident magistrate or his service in whole-time employment to which the Superannuation Acts apply (whether or not the marriage or civil partnership continued until his death and whether or not a widow’s pension or surviving civil partner’s pension is or can be granted), a pension for the benefit of any relevant children (in this Act referred to as a “children’s pension”).”.

(5) After that subsection insert—

“(2) In subsection (1)(ii), “relevant children” means—

(a) in relation to a marriage, any children of the marriage, and

(b) in relation to a civil partnership, any children of the family,

and in paragraph (b) “children of the family” is to be construed in accordance with Article 2(2) of the Children (Northern Ireland) Order 1995(12).”.

**36.** In section 4A (as inserted by paragraph (3) of Schedule 3 to the Personal Pension Option (No.1) Regulations (Northern Ireland) 1989(13)), after “widow's” insert “, surviving civil partner's”.

**37.**—(1) Section 4A (widowers' pensions) (as inserted by Article 3(3) of the Judicial Pensions (Northern Ireland) Order 1991(14)) is amended as follows.

(2) In the heading, after “Widowers” insert “and surviving civil partners”.

(3) In subsection (1)—

(a) after “female person” insert “who has, or has had, a husband or civil partner”, and

(b) after “male person” insert “who has, or has had, a wife or civil partner”.

(4) In subsection (2) for “Schedule 2” substitute “Part 1 of Schedule 2”.

(5) After that subsection insert—

“(3) The transitional provisions set out in Part 2 of Schedule 2 shall have effect in relation to surviving civil partners' pensions.”.

**38.**—(1) Section 5 (widows' and widowers' pensions) is amended as follows.

(2) For the heading substitute “Widows', widowers' and surviving civil partners' pensions”.

(3) In subsection (1)—

(a) for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”, and

(b) after “marriage” insert “or formation of the civil partnership”.

(4) In subsection (2)—

(a) for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”, and

(b) for “widow or widower” substitute “widow, widower or surviving civil partner”.

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(12) S.I. 1995/755 (N.I. 2)

(13) S.R. (NI) 1989/100.

(14) S.I. 1991/2631 (N.I. 24)

- (5) In subsection (3)—
- (a) for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”, and
  - (b) for “the remarriage of the widow or widower,” substitute  
“—  
(a) the remarriage of, or formation of a civil partnership by, the widow or widower, or  
(b) the formation of a subsequent civil partnership by, or the marriage of, the surviving civil partner.”.
- (6) In subsection (5), for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.

**39.**—(1) In section 6 (children’s pension: beneficiaries), subsection (4) is amended as follows.

- (2) After “married” insert “or a person who at the time of the death of the deceased was a civil partner”.
- (3) After “marries” insert “or a person forms a civil partnership”.
- (4) After “she” insert “or he”.

**40.**—(1) Section 8 (children’s pension: rate and mode of payment) is amended as follows.

- (2) In subsection (2), for “or widower”, in both places, substitute “, widower or surviving civil partner”.
- (3) In subsection (3), for “or widower” substitute “, widower or surviving civil partner”.
- (4) In subsection (4)—
  - (a) for “leaves a widow or widower who remarries,” substitute  
“—  
(a) leaves a widow or widower who remarries or forms a civil partnership, or  
(b) leaves a surviving civil partner who forms a subsequent civil partnership or marries,”,
  - (b) after “husband” insert “or civil partner”,
  - (c) after “wife” insert “or civil partner”, and
  - (d) for “widow or widower is” substitute “widow, widower or surviving civil partner is”.

**41.**—(1) In section 10 (resident magistrates serving again after retirement), paragraph (a) is amended as follows.

- (2) After “marrying” insert “or forming a civil partnership”.
- (3) After “widower” insert “, surviving civil partner”.

**42.** For section 15 (effect of certain nullity decrees) substitute—

**“Effect of certain nullity decrees**

**15.** Where a marriage or civil partnership which is voidable, but not void from the beginning, is annulled by any court, the same results shall follow under this Part as would have followed if the marriage or the civil partnership had not been voidable but had been dissolved at the date of the annulment.”.

**43.** In section 21A (appeals), in subsection (3)(b), for “or widower” substitute “, widower or surviving civil partner”.

44. In section 22 (interpretation), in the definition of “personal pension”, for “or widower” substitute “, widower or surviving civil partner”.

45.—(1) Schedule 2 (widowers' pensions: transitional provisions) is amended as follows.

(2) That Schedule becomes Part 1 of Schedule 2.

(3) In paragraph 1 of Part 1 of Schedule 2, for “In this Schedule” substitute “In this Part of this Schedule”.

(4) After paragraph 4 insert—

## “PART 2

### SURVIVING CIVIL PARTNERS' PENSIONS: TRANSITIONAL PROVISIONS

#### *General*

5. In this Part of this Schedule—

“the relevant date” means 4th December 2005; and

“member” means a person who holds judicial office and to or in respect of whom benefits are payable under this Act on his or her retirement.

#### *Service wholly on or before the relevant date*

6. No surviving civil partner’s pension shall be payable in respect of a member who retires on or before the relevant date.

#### *Service on and after the relevant date*

7.—(1) A member who—

(a) holds judicial office on the relevant date; and

(b) continues to do so after that date,

shall have the annual value of a surviving civil partner’s pension in respect of the member calculated on the assumption that all of the member’s relevant service fell after the relevant date.

(2) Sub-paragraph (1) does not apply if, within six months of the date of the member’s formation of a civil partnership, the member opts for the annual value of the surviving civil partner’s pension to be calculated under sub-paragraph (3).

(3) Where the annual value of a surviving civil partner’s pension falls to be calculated under this sub-paragraph, its value shall be determined by applying the formula—

$$CPP1 = (CPP2 \times RS1) \text{ divided by } RS2$$

where—

CPP1 is the annual value of the surviving civil partner’s pension,

CPP2 is the annual value of the surviving civil partner’s pension that would be payable on the assumption mentioned in sub-paragraph (1),

RS1 is the length of the member’s relevant service after the relevant date, and

RS2 is the whole of the member’s relevant service.

(4) For the purposes of this paragraph there shall be left out of account so much (if any) of the relevant service on or before the relevant date as does not add to the amount of the personal pension and accordingly this paragraph shall not apply if none of the relevant service on or before that date adds to the amount of the personal pension.

(5) An election under sub-paragraph (2) must be made in writing to the administrators.

(6) An election under sub-paragraph (2) is irrevocable.”.

**46.** In Schedule 3 (transfer of accrued benefits) (to be inserted by the amendments set out in paragraph 2(2) of Schedule 2 to the Judicial Pensions (Northern Ireland) Order 1991(**15**)), in paragraph 6(7), for “his widow, or her widower” substitute “his widow, her widower or his or her surviving civil partner”.

## PART 5

### Amendments of the Administration of Justice Act 1973

**47.** The Administration of Justice Act 1973(**16**) is amended as follows.

**48.**—(1) Section 10 (judicial pensions (increase of widow’s and children’s pensions)), as applied by subsection (8) of that section, is amended as follows.

(2) In subsection (1), for “widow’s or widower’s”, in both places, substitute “widow’s, widower’s or surviving civil partner’s”.

(3) In subsection (2)—

(a) in paragraph (a), for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”, and

(b) in paragraph (b)—

(i) for “a widow or widower remarrying” substitute “effect of survivor’s marriage or formation of a civil partnership”, and

(ii) in sub-paragraph (i), after “spouse” insert “or civil partner”.

(4) In subsection (3), for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.

(5) In subsection (4), paragraph (c) for “widow’s widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.

(6) In subsection (5), for “widow’s widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.

## PART 6

### Amendments of the Judicial Pensions Act 1981

**49.** The Judicial Pensions Act 1981(**17**) is amended as follows.

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(15) S.I. 1991/2631 (N.I. 24).

(16) 1973 c. 15; section 10 was amended by Schedule 4 to the Judicial Pensions Act 1981 (c. 20) and paragraph 10(1) of Schedule 8 to the Judicial Pensions and Retirement Act 1993 (c. 8).

(17) 1981 c. 20; section 14A was inserted by the Schedule to the Judicial Pensions (Personal Pension Option) Regulations 1988 (SI 1988/1417); section 14A was further amended by regulation 3 of the Judicial Pensions (Election against Benefits) Regulations 2003 (SI 2916/2003); sections 16, 18, 20, 22, 25, 29, 31 and 32 and paragraphs 15 of Schedule 1 and 7 of Schedule 3 were amended by and sections 18A and 19 and paragraph 6 of Schedule 1A inserted by, sections 79, 80, 118, 125 and 188 of, and Schedule 13 and paragraphs 26, 27, 29, 30 and 35 of Schedule 18 and Schedule 20 to the Courts and Legal Services

**50.** In section 14A(2) (which relates to election out of the judicial pension schemes), in the definition of “judicial pension schemes”, for “widows and children” substitute “widows, surviving civil partners and children”.

**51.** For the title of Part 2 substitute “LUMP SUMS AND WIDOWS', SURVIVING CIVIL PARTNERS' AND CHILDREN'S PENSIONS”.

**52.** In section 16 (application of Part 2, and interpretation), in the definition of “derivative benefit”, for “widow’s widower's” substitute “widow's, widower's, surviving civil partner's”.

**53.** For the italic cross heading before section 18 substitute “*Widows', surviving civil partners' and children's pensions*”.

**54.**—(1) Section 18 (conditions of grant) is amended as follows.

(2) In subsection (1)—

(a) for “and” at the end of paragraph (i) substitute—

“(ia) where he leaves a surviving civil partner, a pension to that surviving civil partner (hereafter in this Part of this Act referred to as a “surviving civil partner’s pension”), and”, and

(b) for paragraph (ii) substitute—

“(ii) where he had a wife or a civil partner at any time during his relevant service (whether or not the marriage or civil partnership continued until his death and whether or not a widow’s pension or surviving civil partner’s pension is or can be granted), a pension (hereafter in this Part of this Act referred to as a “children’s pension”) for the benefit of any relevant children.”.

(3) After that subsection insert—

“(1A) In subsection (1)(ii) above, “relevant children” means—

(a) in relation to a marriage, any children of the marriage, and

(b) in relation to a civil partnership, any children of the family,

and in paragraph (b) of this subsection “children of the family” is to be construed in accordance with section 105(1) of the Children Act 1989<sup>(18)</sup> or (in relation to Scotland) section 101(7) of the Civil Partnership Act 2004<sup>(19)</sup>.”.

(4) In subsection (2), after “marriage”, in each place, insert “or civil partnership”.

**55.**—(1) Section 18A (widowers' pensions) is amended as follows.

(2) In the side-note, after “Widowers” insert “and surviving civil partners”.

(3) In subsection (1)—

(a) after “female person” insert “who has, or has had, a husband or civil partner”, and

(b) after “male person” insert “who has, or has had, a wife or civil partner”.

(4) After that subsection insert—

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Act 1990 (c. 41); further amendments to section 14A were made by paragraph 4 of Schedule 1 to the Employment Rights (Dispute Resolution) Act 1998 (c. 8); further amendments to section 18 were made by Part 1 of Schedule 5 to the Adoption (Northern Ireland) Order 1987 (SI 1987/2203); section 32A was inserted by paragraph 2 of Schedule 3 to the Judicial Pensions and Retirement Act 1993 (c. 8); paragraph 6 of Schedule 1A was further amended by paragraph 29 of Schedule 4 to the Commissioners for Revenue and Customs Act 2005 (c. 11), paragraph 14 of Schedule 8 to the Pension Schemes Act 1993 (c. 48) and paragraph 18 of Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 (c. 49).

<sup>(18)</sup> 1989 c. 41.

<sup>(19)</sup> 2004 c. 33.

“(2A) The transitional provisions in Part 5 of Schedule 2 to this Act shall have effect in relation to surviving civil partners' pensions.”.

**56.**—(1) Section 19 (widows' and widowers' pensions) is amended as follows.

(2) For the side-note substitute “Widows', widowers' and surviving civil partners' pensions”.

(3) In subsection (1)—

(a) for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”, and

(b) after “marriage” insert “or formation of the civil partnership”.

(4) In subsection (2)—

(a) for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”, and

(b) for “widow or widower” substitute “widow, widower or surviving civil partner”.

(5) In subsection (3)—

(a) for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”, and

(b) for “the remarriage of the widow or widower,” substitute

“—

(a) the remarriage of, or formation of a civil partnership by, the widow or widower, or

(b) the formation of a subsequent civil partnership by, or the marriage of, the surviving civil partner,”.

(6) In subsection (5), for “widow’s or widower's” substitute “widow's, widower’s or surviving civil partner's”.

**57.**—(1) In section 20 (children’s pension: beneficiaries), subsection (5) is amended as follows.

(2) After “married” insert “or a person who at the time of the death of the deceased was a civil partner”.

(3) After “marries” insert “or a person forms a civil partnership”.

(4) After “she” insert “or he”.

**58.**—(1) Section 22 (children’s pension: rate and mode of payment) is amended as follows.

(2) In subsection (2), for “or widower”, in both places, substitute “, widower or surviving civil partner”.

(3) In subsection (3), for “or widower” substitute “, widower or surviving civil partner”.

(4) In subsection (4)—

(a) for “leaves a widow or widower who remarries,” substitute

“—

(a) leaves a widow or widower who remarries or forms a civil partnership, or

(b) leaves a surviving civil partner who forms a subsequent civil partnership or marries,”

(b) after “husband” insert “or civil partner”,

(c) after “wife” insert “or civil partner”, and

(d) for “widow or widower is” substitute “widow, widower or surviving civil partner is”.

**59.**—(1) In section 25 (persons serving again after retirement), subsection (1)(a) is amended as follows.

(2) After “marrying” insert “or forming a civil partnership”.

(3) After “widower” insert “, surviving civil partner”.

**60.** For section 28 (effect of certain nullity decrees) substitute—

**“Effect of certain nullity decrees**

**28** Where a marriage or civil partnership which is voidable, but not void from the beginning, is annulled by any court, the same results shall follow under this Part as would have followed if the marriage or the civil partnership had not been voidable but had been dissolved at the date of the annulment.”.

**61.** In section 29 (recommendation of a Minister required in certain cases), for “widow’s widower’s” substitute “widow’s, widower’s, surviving civil partner’s”.

**62.** In section 31 (payments charged on Consolidated Fund), in paragraph (b), for “widow’s widower’s” substitute “widow’s, widower’s, surviving civil partner’s”.

**63.** In section 32 (other financial provisions), in subsection (3)(b), for “widow’s widower’s” substitute “widow’s, widower’s, surviving civil partner’s”.

**64.** In section 32A (appeals), in subsection (3)(b), for “or widower” substitute “, widower or surviving civil partner”.

**65.** In Schedule 1 (certain Supreme Court and County Court officers, and President of Transport Tribunal), in paragraph 15(2), after paragraph (a) insert—

“(aa) his or her surviving civil partner,”.

**66.** In Schedule 1A (transfer of accrued benefits) (to be inserted by the amendments set out in Schedule 13 to the Courts and Legal Services Act 1990(**20**)), in paragraph 6(7), for “his widow, or her widower” substitute “his widow, her widower or his or her surviving civil partner”.

**67.** In Schedule 2 (transitory provisions), after paragraph 28 insert—

**“PART 5**

**SURVIVING CIVIL PARTNERS' PENSIONS**

*General*

**29.** In this Part of this Schedule—

“the relevant date” means 4th December 2005; and

“member” means a person who holds judicial office and to or in respect of whom benefits are payable under this Act, or the Sheriffs' Pensions (Scotland) Act 1961(**21**), on his or her retirement.

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(20) 1990 c. 41.

(21) 1961 c. 42.



*Service wholly on or before the relevant date*

**30.** No surviving civil partner's pension shall be payable in respect of a member who retires on or before the relevant date.

*Service on and after the relevant date*

**31.**—(1) A member who—

- (a) holds judicial office on the relevant date; and
- (b) continues to do so after that date,

shall have the annual value of a surviving civil partner's pension in respect of the member calculated on the assumption that all of the member's relevant service fell after the relevant date.

(2) Sub-paragraph (1) does not apply if, within six months of the date of the member's formation of a civil partnership, the member opts for the annual value of the surviving civil partner's pension to be calculated under sub-paragraph (3).

(3) Where the annual value of a surviving civil partner's pension falls to be calculated under this sub-paragraph, its value shall be determined by applying the formula—

$$CPP1 = (CPP2 \times RS1) \text{ divided by } RS2$$

where—

CPP1 is the annual value of the surviving civil partner's pension,

CPP2 is the annual value of the surviving civil partner's pension that would be payable on the assumption mentioned in sub-paragraph (1),

RS1 is the length of the member's relevant service after the relevant date, and

RS2 is the whole of the member's relevant service.

(4) For the purposes of this paragraph there shall be left out of account so much (if any) of the relevant service on or before the relevant date as does not add to the amount of the personal pension and accordingly this paragraph shall not apply if none of the relevant service on or before that date adds to the amount of the personal pension.

(5) An election under sub-paragraph (2) must be made in writing to the administrators.

(6) An election under sub-paragraph (2) is irrevocable.”.

**68.** In Schedule 3 (consequential amendments), in paragraph 7(3), for “widow's widower's” substitute “widow's, widower's, surviving civil partner's”.

## PART 7

### Amendments of the Judicial Pensions and Retirement Act 1993

**69.** The Judicial Pensions and Retirement Act 1993(22) is amended as follows.

**70.**—(1) Section 5 (surviving spouse's pension) is amended as follows.

(2) In the side-note, after “Surviving spouse's” insert “and surviving civil partner's”.

(3) In subsection (1)—

- (a) after “surviving spouse”, in both places, insert “or surviving civil partner”,

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(22) 1993 c. 8; no amendments to the 1993 Act are relevant to those made in this Order.

- (b) in paragraph (b), after “marriage took place” insert “or their civil partnership was formed”, and
  - (c) omit “(a “surviving spouse’s pension”)”.
- (4) After that subsection insert—
- “(1A) For the purposes of this Act—
    - (a) a pension under this section which is payable to a surviving spouse is a “surviving spouse’s pension”, and
    - (b) a pension under this section which is payable to a surviving civil partner is a “surviving civil partner’s pension”.”.
- (5) For subsection (3) substitute—
- “(3) If—
    - (a) the surviving spouse re-marries or forms a civil partnership, or
    - (b) the surviving civil partner marries or forms a subsequent civil partnership,
 the Treasury may, on or at any time after the marriage or the formation of the civil partnership, direct that the pension shall cease to be payable.”.
- (6) After subsection (5) insert—
- “(5A) Schedule 1A to this Act (which makes transitional provision in relation to surviving civil partners' pensions) shall have effect.”.
- 71.** In section 6 (grant and payment of a children’s pension), for subsection (7) substitute—
- “(7) In this section, “step-children of the deceased” means—
    - (a) any children who—
      - (i) are the natural children of a person who at any time was married to, or the civil partner of, the deceased, and
      - (ii) at the time of the marriage or the formation of the civil partnership, either had been born or were in gestation;
    - (b) any children adopted by such a person before the marriage to, or the formation of the civil partnership with, the deceased; and
    - (c) any children adopted by such a person after the marriage to, or the formation of the civil partnership with, the deceased in a case where the adoption proceedings were pending at the time of the marriage or the formation of the civil partnership.”.
- 72.**—(1) Section 8 (rate of children’s pension) is amended as follows.
- (2) In subsection (1), after “surviving spouse” insert “or surviving civil partner”.
  - (3) In subsection (2), after “surviving spouse”, in each place, insert “or surviving civil partner”.
  - (4) For subsection (3) substitute—
    - “(3) Where the deceased—
      - (a) leaves a surviving spouse who re-marries or forms a civil partnership, or
      - (b) leaves a surviving civil partner who marries or forms a subsequent civil partnership,
 the Treasury may, if they think fit, direct that subsection (1) above shall apply instead of subsection (2) above as respects any period when the surviving spouse or surviving civil partner has a spouse or civil partner.”.

73. In the side-note to section 9 (contribution towards cost of surviving spouse's and children's pension), after "surviving spouse's" insert ", surviving civil partner's".

74. For section 17 (effect of certain nullity decrees) substitute—

**“Effect of certain nullity decrees**

17 Where a marriage or civil partnership which is voidable, but not void from the beginning, is annulled by any court, the same results shall follow under this Part as would have followed if the marriage or the civil partnership had not been voidable but had been dissolved at the date of the annulment.”.

75. In section 20 (appeals), in subsection (3)(b), for “widow or widower” substitute “widow, widower or surviving civil partner”.

76.—(1) Section 30 (interpretation) is amended as follows.

(2) In subsection (1)—

(a) in the definition of “the deceased”, after “surviving spouse's” insert “, surviving civil partner's”,

(b) in the definition of “derivative benefit”, after “surviving spouse's” insert “, surviving civil partner's”, and

(c) at the appropriate place insert—

““surviving civil partner’s pension” has the meaning given by section 5 above;”.

77. After Schedule 1 (the offices which may be qualifying judicial offices) insert—

“SCHEDULE 1A

Section 5

SURVIVING CIVIL PARTNER'S PENSION: TRANSITIONAL PROVISIONS

*The commencement date*

1. In this Schedule “the commencement date” means 5th December 2005.

*Service wholly before the commencement date*

2. No surviving civil partner’s pension shall be payable in respect of a person who retires from qualifying judicial office before the commencement date.

*Service partly before and partly on the commencement date*

3.—(1) The annual rate of a surviving civil partner’s pension in respect of a person who—

(a) holds qualifying judicial office before the commencement date; and

(b) continues to do so on that date,

shall be calculated in accordance with section 5.

(2) Sub-paragraph (1) does not apply if, within, 6 months of the formation of the civil partnership, the person elects for the annual rate of the surviving civil partner’s pension to be calculated under sub-paragraph (3).

(3) Where the annual rate of a surviving civil partner’s pension falls to be calculated under this sub-paragraph, that pension shall be calculated in accordance with section 5,

but solely for the purpose of this sub-paragraph, the annual rate of the deceased's judicial pension shall be deemed to be that to which he would have been entitled had he first been appointed to qualifying judicial office on the commencement date.

- (4) An election under sub-paragraph (2) must be made in writing to the administrators.
- (5) An election under sub-paragraph (2) is irrevocable.”.

## PART 8

### Amendments of Church Measures

#### Church Property (Miscellaneous Provisions) Measure 1960

**78.** The Church Property (Miscellaneous Provisions) Measure 1960(**23**) is amended as follows.

**79.** In section 20 (provisions as to pensions of Church Estates Commissioners), in subsection (2A)—

- (a) after “widower” insert “or surviving civil partner”, and
- (b) after “spouse” insert “or civil partner”.

#### Clergy Pensions Measure 1961

**80.** The Clergy Pensions Measure 1961(**24**) is amended as follows.

**81.**—(1) In section 17 (payments out of general fund of Commissioners), in subsection (3), after “widowers” insert “, surviving civil partners”.

(2) In section 26 (powers of Board as to provision of residences)—

- (a) in subsection (1)(a), after “former spouses” insert “and civil partners or former civil partners”,
- (b) in subsection (1)(b), after “spouses” insert “, surviving civil partners, former civil partners”,
- (c) in subsection (3A)(b), after “spouse” insert “or surviving civil partner or former civil partner”, and
- (d) in subsection (3A), in the words following paragraph (b), after “former spouse” insert “or civil partner or former civil partner”.

(3) In section 27 (powers of Board to administer pensions schemes for church workers), in subsection (1), for “widows widowers” substitute “widows, widowers, surviving civil partners”.

(4) In section 30 (power of Board to act as Trustee), in subsections (1) and (2), for “widows widowers”, in each place, substitute “widows, widowers, surviving civil partners”.

(5) In section 38 (determination of questions), in subsection (1)(g), after “widower” insert “, surviving civil partner.”.

(6) In section 38A (power of Board to establish additional pensions schemes for clerks), in subsection (1), after “widowers” insert “, surviving civil partners”.

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(23) 1960 8 & 9 Eliz 2 No. 1; section 20(2A) was substituted by the [Church of England \(Miscellaneous Provisions\) Measure 2005 \(2005 No. 3\)](#), section 5(4).

(24) 1961 9 & 10 Eliz 2 No. 3; sections 17(3) and 26 were amended by the [Clergy Pensions \(Amendment\) Measure 1982 \(1982 No. 2\)](#), sections 1 and 2; further amendments were made to these sections and to sections 27(1), 30, 38(1) and 40 by the [Church of England \(Pensions\) Measure 1988 \(1988 No. 4\)](#), sections 11 to 13 and Schedule 2, Part 1, paragraphs 12, 16 and 17; section 38A was inserted by [S.I. 1988/2239](#); section 26 was further amended by the [Church of England \(Pensions\) Measure 2003 \(2003 No.2\)](#), section 3.

(7) In section 40 (diocesan widows and dependants committees), for “widows widowers”, in each place, substitute “widows, widowers, surviving civil partners”.

### **Clergy Pensions (Amendment) Measure 1972**

**82.** The Clergy Pensions (Amendment) Measure 1972(25) is amended as follows.

**83.** In section 6 (power of General Synod to make further provision by regulations for clergy pensions)—

- (a) in subsection (1)(b), after “widowers” insert “, surviving civil partners”,
- (b) in subsection (1)(c), after “spouses” insert “or civil partners”,
- (c) in subsection (1)(d), after “widowers” insert “, surviving civil partners”, and
- (d) in subsection (2), after “widowers” insert “, surviving civil partners”.

### **Deaconesses and Lay Workers (Pensions) Measure 1980**

**84.** The Deaconesses and Lay Workers (Pensions) Measure 1980(26) is amended as follows.

**85.** In section 1 (power of Church Commissioners to make payments for provision, etc of pension benefits for deaconesses and lay workers), in subsection (1)(a), after “widowers” insert “or surviving civil partners”.

### **Pastoral Measure 1983**

**86.** The Pastoral Measure 1983(27) is amended as follows.

**87.** In Schedule 4 (compensation of clergy), in paragraph 13(1)(c) and (3), after “spouse”, in each place, insert “or surviving civil partner”.

### **Pensions Measure 1997**

**88.** The Pensions Measure 1997(28) is amended as follows.

**89.** In section 1 (past service and funded schemes), in subsection (1), after “widowers” insert “, surviving civil partners”.

### **Church of England (Pensions) Measure 2003**

**90.** The Church of England (Pensions) Measure 2003(29) is amended as follows.

**91.**—(1) In section 1 (General Purposes Fund), in subsection (2)—

- (a) in paragraph (b), after “spouse,” insert “surviving civil partner or former civil partner,”
- (b) in paragraph (c), after “former spouses” insert “or civil partners or former civil partners”, and
- (c) in paragraph (d), after “spouses” insert “, surviving civil partners, former civil partners”.

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(25) 1972 No. 5; section 6 was amended by the [Church of England \(Pensions\) Measure 1988 \(1988 No. 4\)](#), section 16 and the [Pensions Measure 1997 \(1997 No. 1\)](#), section 10(1), Schedule 1, Part 1, paragraphs 15 and 17(b).

(26) 1980 No. 1; section 1 was amended by the [Church of England \(Pensions\) Measure 1988 \(1988 No. 4\)](#), Schedule 2, Part 2, paragraph 23 and the [Pensions Measure 1997 \(1997 No. 1\)](#), Schedule 1, Part 1, paragraph 18(a).

(27) 1983 No. 1; paragraph 13 of Schedule 4 was amended by the [Priests \(Ordination of Women\) Measure 1993 \(1993 No. 2\)](#), Schedule 3, paragraph 8.

(28) 1997 No. 1.

(29) 2003 No. 2.

(2) In section 2 (dissolution of Pensions Augmentation Fund), in subsection (3), after “spouse” insert “, surviving civil partner, former civil partner”.

## PART 9

### Miscellaneous Amendments

#### **Amendments of subordinate legislation relating to judicial pensions**

**92.** Schedule 1 amends subordinate legislation made pursuant to the County Courts Act (Northern Ireland) 1959 and the Resident Magistrates' Pensions Act (Northern Ireland) 1960.

**93.** Schedule 2 amends subordinate legislation made pursuant to the Administration of Justice Act 1973.

**94.** Schedule 3 amends subordinate legislation made pursuant to the Judicial Pensions Act 1981.

**95.** Schedule 4 amends subordinate legislation made pursuant to the Judicial Pensions and Retirement Act 1993.

**96.** Schedule 5 amends subordinate legislation made pursuant to the Judicial Pensions Act 1981 and the Judicial Pensions and Retirement Act 1993.

**97.** Schedule 6 makes amendments to other subordinate legislation relating to judicial pensions.

#### **Amendments of subordinate legislation, etc. relating to Church pensions**

**98.** Schedule 7 amends subordinate legislation and scheme rules relating to Church pensions.

Date 1st December 2005

*Falconer of Thoroton, C*

Date 2nd December 2005

*Alistair Darling*  
Secretary of State

## SCHEDULE 1

Article 92

Amendments of subordinate legislation made pursuant to the County Courts Act (Northern Ireland) 1959 and the Resident Magistrates' Pensions Act (Northern Ireland) 1960

### **The Judicial Pensions (Additional Voluntary Contributions) Regulations (Northern Ireland) 1995(30)**

**99.**—(1) The Judicial Pensions (Additional Voluntary Contributions) Regulations (Northern Ireland) 1995 in their application to members of the judicial pension schemes constituted—

- (a) under or by virtue of the County Courts Act (Northern Ireland) 1959 as modified and amended; and
- (b) under or by virtue of the Resident Magistrates' Pensions Act (Northern Ireland) 1960 as modified and amended,

are amended as follows.

(2) In regulation 1.2 (interpretation), in paragraph (1), in the definition of “additional voluntary contributions” after “surviving spouse's” insert “or surviving civil partner's”.

(3) In regulation 2.7 (aggregated retirement benefit), in paragraph (2), after “surviving spouse” insert “or surviving civil partner”.

(4) In regulation 2.9 (rate of surviving spouse's or children's pension), in paragraph (1), —

- (a) after “surviving spouse's” insert “or surviving civil partner's”, and
- (b) after “surviving spouse” insert “or surviving civil partner”.

(5) In regulation 2.20 (benefits which may be provided), in paragraph (2)(d)(i), after “spouse” insert “or civil partner”.

(6) In regulation 2.21 (payment of benefits), in paragraph (b), after “surviving spouse's” insert “or surviving civil partner's”.

(7) Amend regulation 4.7 (refund of contributions) as follows—

- (a) in paragraph (1), for “is both unmarried and has no eligible children” substitute “is neither married, nor a civil partner and has no eligible children”, and
- (b) in paragraph (2), after “spouse” insert “or a civil partner”.

## SCHEDULE 2

Article 93

Amendments of subordinate legislation made pursuant to the Administration of Justice Act 1973

### **The Judicial Pensions (Northern Ireland) (Widows' and Children's Benefits) Regulations 1987(31)**

**1.** The Judicial Pensions (Northern Ireland) (Widows' and Children's Benefits) Regulations 1987 are amended as follows.

**2.**—(1) Regulation 2 (interpretation and scope of regulations) is amended as follows.

(2) In paragraph (1)—

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(30) **S.R. 1995/189** as amended by **S.R. 1996/10**.

(31) **S.R. 1987/101** as amended by **S.R. 1987/160** and **S.R. 1989/130**.

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- (a) in the definition of “contribution”, for “or children's” substitute “, surviving civil partner’s or children's”,
  - (b) in the definition of “office-holder”, after “widow's” insert “, or surviving civil partner's”,
  - (c) in the definition of “personal pension”—
    - (i) for “he”, in each place, substitute “the office-holder”, and
    - (ii) for “his” substitute “the office-holder's”,
  - (d) in the definition of “responsible authority”, for “his” substitute “the office-holder's”, and
  - (e) after “references to a widow's” insert “or a surviving civil partner's”.
- (3) In paragraph (2), after “decrees” insert “and nullity orders”.

3.—(1) Regulation 4 (application of Part II) is amended as follows.

- (2) In paragraph (1), for “his” substitute “the office-holder's”.
- (3) In paragraph (2)—
  - (a) for “his”, in each place, substitute “the office-holder's”, and
  - (b) after “wife” insert “, or in the case of a person who at no time during their service had a civil partner”.

4.—(1) Regulation 5 (relevant service wholly after 17<sup>th</sup> April 1973) is amended as follows.

- (2) For the title substitute—

**“Relevant service wholly after 17<sup>th</sup> April 1973 (in relation to widows' pensions) or 4th December 2005 (in relation to surviving civil partners' pensions)”.**

- (3) For paragraph (1) substitute—

“(1) If the whole of the office-holder’s relevant service is or, by virtue of an election made under section 10(4)(a) of the Act of 1973, or an option exercised under either paragraph 3 (2) of Schedule 2B to the Act of 1959 or paragraph 7 (2) of Schedule 2 to the Act of 1960, is treated as service after 17th April 1973, for the purpose of widow’s pensions, or 4th December 2005, for the purpose of surviving civil partner’s pensions, the amount of the contribution shall be three quarters of the lump sum.”.

- (4) In paragraph (2)—

- (i) after “wife”, in each place, insert “or civil partner”,
- (ii) for “his”, in each place, substitute “the office-holder's”, and
- (iii) for “he” substitute “the office-holder”.

5.—(1) Regulation 6 (relevant service partly before 18<sup>th</sup> April 1973) is amended as follows.

- (2) In the title, after “1973” insert “(in relation to widow’s pensions)”.
- (3) After “If” insert “, for the purposes of widow’s pensions,”.

6. After regulation 6 insert—

**“Relevant service partly before 5th December 2005 (in relation to surviving civil partner’s pensions)**

6A.—(1) If, for the purposes of surviving civil partner’s pensions, the office-holder’s relevant service is not, or is not treated as, wholly after 4th December 2005 by virtue of an



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election made by the office holder under either paragraph 3(2) of Schedule 2A to the Act of 1959 or paragraph 7(2) of Schedule 2 to the Act of 1960, such that the surviving civil partner's pension falls to be calculated under either paragraph 3(3) of Schedule 2A to the Act of 1959 or paragraph 7(3) of Schedule 2 to the Act of 1960, then the amount of the contribution shall be three quarters of the lump sum multiplied by the fraction—

$$\frac{Q}{S}$$

where—

Q represents the number of months of the office-holder's relevant service after 4th December 2005, and

S represents the total number of months of the office-holder's relevant service.

(2) If the office-holder last had a civil partner at a time before the end of the office-holder's relevant service the amount of the contribution shall (instead of that in paragraph (1)) be that arrived at under paragraph (1) multiplied by the following fraction—

$$\frac{T}{Q}$$

where—

T represents the number of months of the office-holder's relevant service before the time the office-holder last had a civil partner and after 4th December 2005, and

Q represents the number of months of the office-holder's relevant service after 4th December 2005.”.

7.—(1) Regulation 8 (election to make periodical payments) is amended as follows.

(2) In paragraph (3)—

- (a) for the first and third “his” substitute “the office-holder's”,
- (b) for the second “his” substitute “their”,
- (c) after “(or remarries” insert “or forms a civil partnership”, and
- (d) for “or remarriage” substitute “, remarriage or formation of a civil partnership”.

(3) In paragraph (4)—

- (a) after “married” insert “or who ceases to be a civil partner”, and
- (b) for each “his” substitute “their”.

(4) In paragraph (5), for “not married” substitute “neither married nor a civil partner”.

8. In the side-note of regulation 9, after “service” insert “in relation to widow's benefits”.

9. After regulation 9 (additional payments for back service) insert—

**“Additional payments for back service in relation to surviving civil partner's benefits**

9A.—(1) In this regulation—

“back service” means—

- (a) in the case of an office-holder who has specified that the annual value of the surviving civil partner's pension is to be calculated on the basis of service before 5th December 2005 (the “back service election”), service before 5th December 2005; and
- (b) in the case of an office-holder who has formed a civil partnership on or after that date, service on or after that date for any period during which the office-holder has made no periodical payments;

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(2) An office-holder who has back service and who elects to make periodical payments at the standard rate may also elect to make, in respect of that back service, additional payments at such of the following rates as the office-holder may specify—

- (a) if the office-holder is serving in a 15-year office, 4 per cent, 8 per cent or 11 per cent of the office-holder's salary for the time being (that is to say, at the standard rate, or at twice, or at two and three quarters times, that rate);
- (b) if the office-holder is serving in a 20-year office, 3 per cent, 6 per cent, 9 per cent, or 12 per cent, of the office-holder's salary for the time being (that is to say, at the standard rate, or at twice, or at three times, or at four times, that rate).

(3) An election under this regulation must have been made before, or be made not later than six months after, the office-holder's formation of a civil partnership.

(4) An office-holder who has made an election under this regulation may at any time by notice in writing to the responsible authority, either—

- (a) revoke that election; or
- (b) vary its effect by specifying a different rate of additional payments, being one of the rates mentioned in sub-paragraph (a) or (b), as the case may be, of paragraph (2) above.

(5) An election made under this regulation shall, if it has not been previously revoked, cease to have effect when the office-holder has made additional payments for a period equal in length to the office-holder's back service and for this purpose, for any period during which the office-holder has made additional payments at a rate higher than the standard rate, the office-holder shall be treated as having made such payments for a correspondingly longer period (so that, for example, if the office-holder has made additional payments at twice the standard rate for one year the office-holder shall be treated as having made additional payments for two years)."

**10.**—(1) Regulation 10 (method of payment) is amended as follows.

- (2) In paragraph (1), for "8 or 9" substitute "8, 9 or 9A".
- (3) In paragraph (3)(b), after "remarriage" insert "or formation of a civil partnership".

**11.**—(1) Regulation 11 (effect of making periodical payments) is amended as follows.

- (2) For "he", in each place, substitute "the office-holder".
- (3) For "his", in each place, substitute "the office-holder's".
- (4) In paragraph (5), after "regulation 9(5)" insert "or 9A(5)".

**12.** In regulation 12 (non-aggregable service), for "he" and "his", in each place, substitute "the office-holder".

**13.**—(1) Regulation 13 (refunds of periodical payments) is amended as follows.

- (2) In paragraph (1)—
  - (a) for "him" substitute "the office-holder",
  - (b) for "he" substitute "the office-holder", and
  - (c) for "his" substitute "the office-holder's".
- (3) In paragraph (1)(a)—
  - (a) for "his" substitute "the office-holder's", and
  - (b) after "widow's" insert "or surviving civil partner's".
- (4) In paragraph (1)(b), for "his", in each place, substitute "the office-holder's".

## SCHEDULE 3

Article 94

Amendments of subordinate legislation made pursuant to the Judicial Pensions Act 1981

### **The Judicial Pensions (Widowers' and Children's Benefits) Regulations 1991(32)**

1. The Judicial Pensions (Widowers' and Children's Benefits) Regulations 1991 are amended as follows.

2.—(1) Regulation 2 (interpretation and scope of regulations) is amended as follows.

(2) In paragraph (1)—

- (a) in the definition of “contribution”, for “or children's” substitute “, surviving civil partner's or children's pension”,
- (b) in the definition of “office-holder”, after “Act” insert “or a person serving in an office in respect of which a pension may be granted to their surviving civil partner under or by virtue of Part II of the Act”,
- (c) in the definition of “personal pension”—
  - (i) for “she”, in each place, substitute “the office-holder”, and
  - (ii) for “her” substitute “the office-holder's”,
- (d) in the definition of “responsible authority”, for “her” substitute “the office-holder's”, and
- (e) after “references to a widower's” insert “or surviving civil partner's”.

(3) In paragraph (3), after “decrees” insert “and nullity orders”.

3. In regulation 3 (application of Parts II and III), after “relevant service” insert “or a person's relevant service where the pension or pensions are in respect of a surviving civil partner”.

4.—(1) Regulation 4 (application of Part II) is amended as follows.

(2) In paragraph (1), for “her” substitute “the office-holder's”.

(3) In paragraph (2)—

- (a) for “her”, in each place, substitute “the office-holder's”, and
- (b) after “husband” insert “, or in the case of a person who at no time during their service had a civil partner”.

5.—(1) Regulation 5 (relevant service wholly after 31st December 1991) is amended as follows.

(2) For the side-note substitute—

**“Relevant service wholly after 31st December 1991(in relation to widowers' pensions) or 4th December 2005 (in relation to surviving civil partners' pensions)”.**

(3) For paragraph (1) substitute—

“(1) If the whole of the office-holder's relevant service is or, by virtue of an option exercised under either paragraph 27(1) and (2)(b) or paragraph 31 (2) of Schedule 2 to the Act, is treated as service after 31st December 1991, for the purpose of widower's pensions, or 4th December 2005, for the purpose of surviving civil partner's pensions, the amount of the contribution shall be three quarters of the lump sum.”.

(4) In paragraph (2)—

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- (i) after “husband”, in each place, insert “or civil partner”,
- (ii) for “her”, in each place, substitute “the office-holder's”, and
- (iii) for “she” substitute “the office-holder”.

- 6.—(1) Regulation 6 (relevant service partly before 1st January 1992) is amended as follows.
- (2) In the side-note, after “1992” insert “(in relation to widower’s pensions)”.
  - (3) After “If” insert “, for the purposes of widower’s pensions,”.
7. After regulation 6 (relevant service partly before 1st January 1992) insert—

**“Relevant service partly before 5th December 2005 (in relation to surviving civil partner’s pensions)”**

6A.—(1) If, for the purposes of surviving civil partner’s pensions, the office-holder’s relevant service is not, or is not treated as, wholly after 4th December 2005 by virtue of an election made by the office holder under paragraph 31(2) of Schedule 2 to the Act, such that the surviving civil partner’s pension falls to be calculated under paragraph 31(3) of that Schedule then the amount of the contribution shall be three quarters of the lump sum multiplied by the fraction—

$$Q/S$$

where—

Q represents the number of months of the office-holder’s relevant service after 4th December 2005, and

S represents the total number of months of the office-holder’s relevant service.

(2) If the office-holder last had a civil partner at a time before the end of the office-holder’s relevant service the amount of the contribution shall (instead of that in paragraph (1)) be that arrived at under paragraph (1) multiplied by the following fraction—

$$T/Q$$

where—

T represents the number of months of the office-holder’s relevant service before the time the office-holder last had a civil partner and after 4th December 2005, and

Q represents the number of months of the office-holder’s relevant service after 4th December 2005.”.

- 8.—(1) Regulation 8 (election to make periodical payments) is amended as follows.
- (2) In paragraph (3)—
    - (a) for the first and third “her” substitute “the office-holder's”,
    - (b) for the second “her” substitute “their”,
    - (c) after “(or remarries” insert “or forms a civil partnership”, and
    - (d) for “or remarriage” substitute “, remarriage or formation of a civil partnership”.
  - (3) In paragraph (4)—
    - (a) after “married” insert “or who ceases to be a civil partner”, and
    - (b) for “her”, in each place, substitute “their”.
  - (4) In paragraph (5), for “not married” substitute “neither married nor a civil partner”.

9. In the side-note of regulation 9 (additional payments for back service), after “service” insert “in relation to widower’s benefits”.

10. After regulation 9 (additional payments for back service) insert—

**“Additional payments for back service in relation to surviving civil partner’s benefits**

9A.—(1) In this regulation—

“back service” means—

- (a) in the case of an office-holder who has specified that the annual value of the surviving civil partner’s pension is to be calculated on the basis of service before 5th December 2005 (the “back service election”), service before 5th December 2005; and
- (b) in the case of an office-holder who has formed a civil partnership on or after that date, service on or after that date for any period during which the office-holder has made no periodical payments;

(2) An office-holder who has back service and who elects to make periodical payments at the standard rate may also elect to make, in respect of that back service, additional payments at such of the following rates as the office-holder may specify—

- (a) if the office-holder is serving in a 15-year office, 4 per cent, 8 per cent or 11 per cent of the office-holder’s salary for the time being (that is to say, at the standard rate, or at twice, or at two and three quarters times, that rate);
- (b) if the office-holder is serving in a 20-year office, 3 per cent, 6 per cent, 9 per cent, or 12 per cent, of the office-holder’s salary for the time being (that is to say, at the standard rate, or at twice, or at three times or at four times, that rate).

(3) An election under this regulation must have been made before, or be made not later than six months after, the office-holder’s formation of a civil partnership.

(4) An office-holder who has made an election under this regulation may at any time by notice in writing to the responsible authority, either—

- (a) revoke that election; or
- (b) vary its effect by specifying a different rate of additional payments, being one of the rates mentioned in sub-paragraph (a) or (b), as the case may be, of paragraph (2) above.

(5) An election made under this regulation shall, if it has not been previously revoked, cease to have effect when the office-holder has made additional payments for a period equal in length to the office-holder’s back service and for this purpose, for any period during which the office-holder has made additional payments at a rate higher than the standard rate, the office-holder shall be treated as having made such payments for a correspondingly longer period (so that, for example, if the office-holder has made additional payments at twice the standard rate for one year the office-holder shall be treated as having made additional payments for two years).”.

11.—(1) Regulation 10 (method of payment) is amended as follows.

(2) In paragraph (1), for “8 or 9” substitute “8, 9 or 9A”.

(3) In paragraph (3)(b), after “remarriage” insert “or formation of a civil partnership”.

12.—(1) Regulation 11 (effect of making periodical payments) is amended as follows.

(2) For “she”, in each place, substitute “the office-holder”.

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- (3) For “her”, in each place, substitute “the office-holder's”.
- (4) In paragraph (5), after “regulation 9(5)” insert “or 9A(5)”.

**13.** In regulation 12 (non-aggregable service) for “she” and “her”, in each place, substitute “the office-holder”.

**14.—**(1) Regulation 13 (refunds of periodical payments) is amended as follows.

- (2) In paragraph (1)—
  - (a) for the first “her” substitute “the office-holder”,
  - (b) for “she” substitute “the office-holder”, and
  - (c) for the second “her” substitute “the office-holder's”.
- (3) In paragraph (1)(a)—
  - (a) for “her” substitute “the office-holder's”, and
  - (b) after “widower's” insert “or surviving civil partner's”.
- (4) In paragraph (1)(b), for “her”, in each place, substitute “the office-holder's”.

**15.—**(1) The Schedule (office of the Lord Chancellor) is amended as follows.

- (2) In paragraph 1(1) of the Schedule, after “Lord Chancellor” insert “and to a person who holds the office of Lord Chancellor and is or was a civil partner”.
- (3) In paragraph 1(3) of the Schedule—
  - (a) after “whether or not” insert “he or”, and
  - (b) for “her” substitute “their”.

## SCHEDULE 4

Article 95

### Amendments of subordinate legislation made pursuant to the Judicial Pensions and Retirement Act 1993

#### **The Judicial Pensions (Miscellaneous) Regulations 1995(33)**

- 1. The Judicial Pensions (Miscellaneous) Regulations 1995 are amended as follows.
- 2.—(1) Regulation 4B (circumstances in which a personal representative may make an election) is amended as follows.
  - (2) After “surviving spouse's”, in each place, insert “or surviving civil partner's”.
  - (3) After “surviving spouse”, in each place, insert “or surviving civil partner”.

#### **The Judicial Pensions (Qualifying Judicial Offices etc.) (City of London) Order 1995(34)**

- 3. The Judicial Pensions (Qualifying Judicial offices etc.) (City of London) Order 1995 is amended as follows.
- 4. In article 10 (adjustment of overpayment), in paragraph (2)(b) after “surviving spouse's” insert “or surviving civil partner's”.

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(33) [S.I. 1995/632](#), amended by [S.I. 1996/2893](#), [1997/1687](#).

(34) [S.I.1995/ 633](#).

## **The Judicial Pensions (Transfer of Accrued Benefits) Regulations 1995(35)**

5. The Judicial Pensions (Transfer of Accrued Benefits) Regulations 1995 are amended as follows.

6.—(1) Regulation 6 (Part I scheme: calculation of cash equivalents) is amended as follows.

(2) In paragraph (1)—

- (a) after “married”, in each place, insert “or a civil partner”, and
- (b) for “unmarried”, in each place, substitute “neither married nor a civil partner”.

(3) In paragraph (2)—

- (a) after “spouse's”, in each place, insert “or civil partner's”,
- (b) for “unmarried”, in each place, substitute “neither married nor a civil partner”, and
- (c) in sub-paragraph (f)(i), after “married” insert “or a civil partner”.

7.—(1) Regulation 7 (section 19 scheme: calculation of cash equivalents) is amended as follows.

(2) In paragraph (1)—

- (a) in sub-paragraph (a), after “married” insert “or a civil partner”, and
- (b) in sub-paragraph (b), for “unmarried” substitute “neither married nor a civil partner”.

(3) In paragraph (2)(d), after “spouse's” insert “or civil partner's”.

8.—(1) Regulation 14 (Part I scheme: calculation of pension credit) is amended as follows.

(2) In paragraph (3)—

- (a) in sub-paragraph (a), after “married” insert “or a civil partner”, and
- (b) for “unmarried”, in each place, substitute “neither married nor a civil partner”.

(3) In paragraph (4)—

- (a) after “spouse's”, in each place, insert “or civil partner's”,
- (b) in sub-paragraph (c)(i), after “married” insert “or a civil partner”, and
- (c) for “unmarried”, in each place, substitute “neither married nor a civil partner”.

(4) In paragraph (6), after “spouse's” insert “or civil partner's”.

9.—(1) Regulation 15 (section 19 scheme: calculation of pension credit) is amended as follows.

(2) In paragraph (1)—

- (a) in sub-paragraph (c), after “spouse's” insert “or “civil partner's”,
- (b) in sub-paragraph (c)(i), after “married” insert “or a civil partner”, and
- (c) in sub-paragraph (c)(ii), for “unmarried” substitute “neither married nor a civil partner”.

(3) In paragraph (3), after “spouse's” insert “or civil partner's”.

10. In Schedule 2 (which shows tables of market level adjustment factors), after “Spouse's”, in each column heading, insert “or Civil Partner's”.

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### **The Judicial Pensions (Additional Benefits for Disregarded Earnings) Regulations 1995(36)**

11. The Judicial Pensions (Additional Benefits for Disregarded Earnings) Regulations 1995 are amended as follows.

12. In regulation 3 (timing and manner of payments of pensions and lump sums under section 19), in paragraph (2), after “surviving spouse's”, in each place, insert “or surviving civil partner's”.

### **The Judicial Pensions (Contributions) Regulations 1998(37)**

13. The Judicial Pensions (Contributions) Regulations 1998 are amended as follows.

14.—(1) Regulation 2 (interpretation) is amended as follows.

(2) In paragraph (1)—

- (a) in the definition of “contribution”, after “surviving spouse's” insert “or surviving civil partner's”, and
- (b) in the definition of “office-holder”, after “surviving spouse's” insert “or surviving civil partner's”.

15.—(1) Regulation 12 (contributions liability period) is amended as follows.

(2) In paragraph (3)—

- (a) for “unmarried” substitute “neither married nor a civil partner”, and
- (b) after “spouse” insert “or a civil partner”.

(3) In paragraph (4)—

- (a) for “unmarried” substitute “neither married nor a civil partner”, and
- (b) after “spouse” insert “or a civil partner”.

(4) In paragraph (5), after “spouse”, in each place, insert “or a civil partner”.

(5) In paragraph (6), after “spouse”, in each place, insert “or a civil partner”.

(6) In paragraph (7), after “spouse”, in each place, insert “or a civil partner”.

(7) In paragraph (8), after “married” insert “or a civil partner”.

(8) In paragraph (9)(a), after “married” insert “or a civil partner”.

(9) After paragraph (10) insert—

- “(11) Where, at the date he ceases to hold qualifying judicial office, an office holder—
  - (a) has made an election under Schedule 1A, paragraph 3(2) in respect of a surviving civil partner's pension; and
  - (b) has never had a spouse or eligible children during his service in qualifying judicial office;

his contributions liability period shall not include his service in qualifying judicial office before 5<sup>th</sup> December 2005.”.

16.—(1) Regulation 15 (refund of contributions-section 1(1)(a) office holders) is amended as follows.

(2) In paragraph (2) —

- (a) for “unmarried” substitute “neither married nor a civil partner”, and

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(36) S.I. 1995/640.

(37) S.I. 1998/1219.



- (b) after “spouse” insert “, civil partner”.
- (3) In paragraph (3) —
  - (a) for “unmarried” substitute “neither married nor a civil partner”, and
  - (b) after “spouse”, in each place, insert “, civil partner”.
- (4) After paragraph (3) insert—
  - “(3A) Where, at the date he ceases to hold qualifying judicial office, an office holder—
    - (a) has made an election under Schedule 1A, paragraph 3(2) in respect of a surviving civil partner’s pension, and
    - (b) has never had a spouse or eligible children during his service in qualifying judicial office,there shall be refunded, together with compound interest, contributions in respect of a period equal to the difference between—
    - (i) the total period during which contributions have been paid (subject to a maximum of 20 years), and
    - (ii) the period of service (subject to a maximum of 20 years) on or after 5<sup>th</sup> December 2005.
  - (3B) Paragraph (3A) shall apply without prejudice to any other refund to which an office holder is entitled under this regulation.”.
- (5) In paragraph (4)(a), after “married” insert “or a civil partner”.

## SCHEDULE 5

Article 96

### Amendments of subordinate legislation made pursuant to the Judicial Pensions Act 1981 and the Judicial Pensions and Retirement Act 1993

#### **The Judicial Pensions (Additional Voluntary Contributions) Regulations 1995(38)**

1. The Judicial Pensions (Additional Voluntary Contributions) Regulations 1995 are amended as follows.
2. In regulation 1.2 (interpretation), in the definition of “additional voluntary contributions” after “surviving spouse's” insert “or surviving civil partner's”.
3. In regulation 2.8 (aggregated retirement benefit), in paragraph (2), after “surviving spouse” insert “or surviving civil partner”.
- 4.—(1) Regulation 2.10 (rate of surviving spouse’s or children’s pension) is amended as follows.
  - (2) In paragraph (1)—
    - (a) after “surviving spouse's” insert “or surviving civil partner's”, and
    - (b) after “surviving spouse” insert “or surviving civil partner”.
5. In regulation 2.24 (benefits which may be provided), in paragraph (2)(d)(i), after “spouse” insert “or civil partner”.
6. In regulation 2.25 (payment of benefits), in paragraph (b), after “surviving spouse's” insert “or surviving civil partner's”.

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(38) **S.I. 1995/639**, amended by **S.I. 1996/52**; the other amending instrument is not relevant.

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7. In regulation 4.1 (interpretation: JASSPS), in paragraph (2), after “surviving spouse's”, in each place, insert “or surviving civil partner's”.

8.—(1) Regulation 4.2 (membership: JASSPS) is amended as follows.

(2) In paragraph (3)—

- (a) after “surviving spouse's” insert “or surviving civil partner's”, and
- (b) after “spouse” insert “or civil partner”.

9. In regulation 4.4 (limits on the added benefits that may be purchased under JASSPS), after “surviving spouse's” insert “or surviving civil partner's”.

10. In regulation 4.7 (manner of making contributions into the JASSPS), after “surviving spouse's”, in each place, insert “or surviving civil partner's”.

11.—(1) Regulation 4.11 (valuation of benefits under the JASSPS) is amended as follows.

- (2) After “surviving spouse's”, in each place, insert “or surviving civil partner's”.
- (3) In paragraph (1), after “surviving spouse” insert “or surviving civil partner”.

12.—(1) Regulation 4.12 (valuation of benefits under the JABS) is amended as follows.

- (2) After “surviving spouse” insert “or surviving civil partner”.
- (3) After “surviving spouse's” insert “or surviving civil partner's”.

13.—(1) Regulation 4.13 (refund of contributions) is amended as follows.

- (2) After “spouse”, in each place, insert “or a civil partner”.
- (3) In paragraph (1), for “is both unmarried and has no eligible children” substitute “is neither married, nor a civil partner and has no eligible children”.
- (4) For paragraph (5) substitute—
  - “(5) Where the spouse or civil partner of a member who has bought added units of surviving spouse's or surviving civil partner's pension dies or is divorced or the civil partnership is dissolved before the member ceases to be a member of the scheme constituted under Part 1 of the 1993 Act, contributions to the JASSPS shall not be refunded.”.

## SCHEDULE 6

Article 97

Further amendments of subordinate legislation relating to judicial pensions

### **The Judicial Pensions (Requisite Benefits) Order 1988(39)**

1. The Judicial Pensions (Requisite Benefits) Order 1988 is amended as follows.

2.—(1) Article 10 (widower's guaranteed pension) is amended as follows.

- (2) In the side-note, after “Widower's” insert “or surviving civil partner's”.
- (3) In paragraph (1)—
  - (i) for “female office-holder” substitute “person who is an office-holder”, and
  - (ii) for “her widower” substitute “their widower or surviving civil partner”.

- (4) In paragraph (3)(b), after “widower's” insert “or surviving civil partner's”.

#### **The Judicial Pensions (Requisite Benefits) Order (Northern Ireland) 1988(40)**

3. The Judicial Pensions (Requisite Benefits) Order (Northern Ireland) 1988 is amended as follows.

- 4.—(1) Article 10 (widower’s guaranteed pension) is amended as follows.
- (2) In the side-note, after “Widower's” insert “or surviving civil partner's”.
- (3) In paragraph (1)—
- (i) for “female office-holder” substitute “person who is an office-holder”, and
- (ii) for “her widower” substitute “their widower or surviving civil partner”.
- (4) In paragraph (3)(b), after “widower's” insert “or surviving civil partner's”.

#### **The Judicial Pensions (Preservation of Benefits) Order 1995(41)**

5. The Judicial Pensions (Preservation of Benefits) Order 1995 is amended as follows.
6. In article 7 (inalienability), after “surviving spouse” insert “or surviving civil partner”.

#### **The Judicial Pensions (Guaranteed Minimum Pension etc) Order 1995(42)**

7. The Judicial Pensions (Guaranteed Minimum Pension etc) Order 1995 is amended as follows.
- 8.—(1) Article 5 (surviving spouse’s guaranteed minimum pension) is amended as follows.
- (2) In the side-note, after “Surviving spouse's” insert “or surviving civil partner's”.
- (3) In paragraph (1), after “surviving spouse” insert “or surviving civil partner”.
- (4) In paragraph (2), after “widower” insert “or surviving civil partner”.
- (5) In paragraph (3), after “surviving spouse's” insert “or surviving civil partner's”.
- 9.—(1) Article 6 (contribution in the event of marriage during retirement) is amended as follows.
- (2) In the side-note, after “marriage” insert “or formation of civil partnership”.
- (3) For paragraph (1) substitute—
- “(1) Where an office-holder is neither married nor a civil partner on the date that he ceases to hold office, he may be required to undertake that, in return for payment of a lump sum to him under the scheme, he will, on his first marriage or the formation of his first civil partnership afterwards, pay a contribution in respect of the benefits that may become payable to his surviving spouse or surviving civil partner by virtue of article 5.”
- (4) In paragraph (2)(a)(ii)—
- (i) after “married” insert “or a civil partner”, and
- (ii) after “marriage of his contracted” insert “or civil partnership of his formed”.

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(40) [S.R. \(NI\) 1988/294](#).

(41) [S.I. 1995/634](#) revoked in relation to Northern Ireland by [1995/2647](#).

(42) [S.I. 1995/2647](#), amended by [1997/2667](#).

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### **The Judicial Pensions (Preservation of Benefits) Order (Northern Ireland) 1995(43)**

10. The Judicial Pensions (Preservation of Benefits) Order (Northern Ireland) 1995 is amended as follows.

11. In article 7 (inalienability), after “surviving spouse” insert “or surviving civil partner”.

### **The Judicial Pensions (Guaranteed Minimum Pension) Order (Northern Ireland) 1995(44)**

12. The Judicial Pensions (Guaranteed Minimum Pension) Order (Northern Ireland) 1995 is amended as follows.

13.—(1) Article 5 (surviving spouse’s guaranteed minimum pension) is amended as follows.

(2) In the side-note, after “Surviving spouse's” insert “or surviving civil partner's”.

(3) In paragraph (1), after “surviving spouse” insert “or surviving civil partner”.

(4) In paragraph (2), after “widower” insert “or surviving civil partner”.

(5) In paragraph (3), after “surviving spouse's” insert “or surviving civil partner's”.

14.—(1) Article 6 (contribution in the event of marriage during retirement) is amended as follows.

(2) In the side-note, after “marriage” insert “or formation of civil partnership”.

(3) For paragraph (1) substitute—

“(1) Where an office-holder is neither married nor a civil partner on the date that he ceases to hold office, he may be required to undertake that, in return for payment of a lump sum to him under the scheme, he will, on his first marriage or the formation of his first civil partnership afterwards, pay a contribution in respect of the benefits that may become payable to his surviving spouse or surviving civil partner by virtue of article 5.”.

(4) In paragraph (2)(a)(ii)—

(i) after “married” insert “or a civil partner”, and

(ii) after “marriage of his contracted” insert “or civil partnership of his formed”.

### **The Judicial Pensions (Requisite Surviving Spouses' Benefits etc) Order 1997(45)**

15. The Judicial Pensions (Requisite Surviving Spouses' Benefits etc) Order 1997 is amended as follows.

16.—(1) Article 3 (entitlement of surviving spouse to a pension) is amended as follows.

(2) In the side-note, after “surviving spouse” insert “or surviving civil partner”.

(3) After “surviving spouse”, in each place, insert “or surviving civil partner”.

(4) In paragraph (b), after “the marriage took place” insert “or the civil partnership was formed”.

17. In article 4 (which describes when article 3 does not apply), in paragraph (1) after “surviving spouse's” insert “or surviving civil partner's”.

18.—(1) Article 5 (annual rate of surviving spouse’s pension) is amended as follows.

(2) In the side-note, after “surviving spouse's” insert “or surviving civil partner's”.

(3) After “surviving spouse's” insert “or surviving civil partner's”.

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(43) [S.R \(NI\)1995/388](#).

(44) [S.R. \(NI\) 1995/389](#).

(45) [S.I. 1997/2667](#).

19. In article 6 (relationship to other benefits), after “surviving spouse”, in each place, insert “or surviving civil partner”.

20. In article 7 (entitlement to have effect notwithstanding other enactments), after “surviving spouse's” insert “or surviving civil partner's”.

### **The Judicial Pensions (Requisite Surviving Spouses' Benefits etc) Order (Northern Ireland) 1997(46)**

21. The Judicial Pensions (Requisite Surviving Spouses' Benefits etc) Order (Northern Ireland) 1997 is amended as follows.

22.—(1) Article 3 (entitlement of surviving spouse to a pension) is amended as follows.

(2) In the side-note, after “surviving spouse” insert “or surviving civil partner”.

(3) After “surviving spouse”, in each place, insert “or surviving civil partner”.

(4) In paragraph (b), after “the marriage took place” insert “or the civil partnership was formed”.

23. In article 4 (which describes when article 3 does not apply), in paragraph (1) after “surviving spouse's” insert “or surviving civil partner's”.

24.—(1) Article 5 (annual rate of surviving spouse's pension) is amended as follows.

(2) In the side-note, after “surviving spouse's” insert “or surviving civil partner's”.

(3) After “surviving spouse's” insert “or surviving civil partner's”.

25. In article 6 (relationship to other benefits), after “surviving spouse”, in each place, insert “or surviving civil partner”.

26. In article 7 (entitlement to have effect notwithstanding other enactments), after “surviving spouse's” insert “or surviving civil partner's”.

## SCHEDULE 7

Article 98

Amendments of subordinate legislation, etc. relating to Church pensions

### **Church of England Pensions Regulations 1988**

1. In the Church of England Pensions Regulations 1988(47), regulation 19 (guaranteed minimum pensions) is amended as follows—

(a) in the side-note, after “spouses” insert “or civil partners”, and

(b) after regulation 19(5) insert—

“(6) Notwithstanding any other provision of these Regulations, the Board will pay pensions to the surviving civil partners of scheme members as required in order to comply with any applicable enactment or subordinate legislation in relation to pensions for the surviving civil partners of deceased civil partners.”.

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(46) S.R. (NI) 1997/479.

(47) S.I. 1988/2256; amended by the Pensions Measure 1997 (1997 No. 1) and by S.I. 1992/1748 and 1997/1929.

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## Rules of the Church of England Funded Pensions Scheme

2. The Rules of the Church of England Funded Pensions Scheme<sup>(48)</sup> are amended as follows.

3.—(1) In the heading to rule 7 (pensions for spouses and children), after “spouses” insert “, civil partners”.

(2) In rule 7.1 (spouse’s pension), after “remarries” insert “or forms a civil partnership”.

(3) In rule 7.5 (children’s pension)—

(a) after “adopted by the Member” insert “, and any other children of the Member’s civil partner to whom a children’s pension must be paid in order to comply with regulation 9A(1) of the Employment Equality (Sexual Orientation) Regulations 2003<sup>(49)</sup> and with any applicable enactment or subordinate legislation in relation to pensions for the surviving dependants of deceased civil partners”, and

(b) at the end insert—

“A children’s pension will be paid to the child of a Member’s civil partner, where that child is not the Member’s child or step-child, only to the extent required in order to comply with regulation 9A(1) of the Employment Equality (Sexual Orientation) Regulations 2003 and with any applicable enactment or subordinate legislation in relation to pensions for the surviving dependants of deceased civil partners.”.

(4) After rule 7.5 insert—

### “7.6 Civil Partners

7.6. If a Member dies leaving a surviving civil partner, all references in rule 7.1 to 7.5 to a spouse or surviving spouse are to be treated as references to a civil partner or surviving civil partner (and all references to a spouse’s pension are to be treated as references to a civil partner’s pension), to the extent required in order to comply with regulation 9A(1) of the Employment Equality (Sexual Orientation) Regulations 2003 and with any applicable enactment or subordinate legislation in relation to pensions for the surviving civil partners of deceased civil partners. The reference in rule 7.1 to the marriage is to be treated as a reference to the formation of the civil partnership, and the reference in rule 7.1 to the surviving spouse remarrying or forming a civil partnership is to be treated as a reference to the surviving civil partner marrying or forming a further civil partnership.”.

(5) In rule 12.3 (benefits not assignable), after “spouse” insert “or civil partner”.

(6) In the heading to rule 12.9 (pension sharing on divorce), after “divorce” insert “etc.”.

(7) In rule 12.9.3(ii), after “new spouse” insert “or civil partner”.

(8) In rule 12.9.4, after “surviving spouse” insert “or civil partner”.

(9) After rule 12.9.4 insert—

### “12.9.5 Civil Partners

12.9.5. If a pension sharing order is made in respect of a Member’s civil partner all references in rule 12.9.1 to 12.9.4 to a former spouse are to be treated as references to the Member’s former civil partner.”.

<sup>(48)</sup> Scheduled to the Trust Deed made on 5th December 1997 by the Church of England Pensions Board under section 1(3) of the Pensions Measure 1997 (1997 No. 1). The Rules took effect on 1st January 1998. Rule 12.9 was inserted (and other amendments made which are not relevant to this Order) by a further Deed dated 22nd July 2002.

<sup>(49)</sup> S.I. 2003/1661 as amended by S.I. 2003/2827. Regulation 9A is subject to an exception in regulation 25, which is amended by S.I. 2005/2114, Schedule 17, paragraph 7(3).

4. Paragraphs 2 and 3 do not affect any other power to amend any provision of the Rules (including any provision amended or inserted by those paragraphs).

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Parts 1 to 7 and 9 of this Order amend the Judicial Pensions Act (Northern Ireland) 1951 (c. 20), the County Courts Act (Northern Ireland) 1959 (c. 25), the Resident Magistrates' Pensions Act (Northern Ireland) 1960 (c. 2), the Judicial Pensions Act 1981 (c. 20) and the Judicial Pensions and Retirement Act 1993 (c. 8) (and associated primary and subordinate legislation) to make provision for the payment of pension benefits to surviving civil partners of holders of certain judicial offices and eligible children. The main changes are as follows—

- to provide that a civil partner of a judicial office holder will be entitled to the payment of a surviving civil partner's pension should the judicial office holder die in service or in retirement;
- to provide that eligible children will be entitled to the payment of a children's pension;
- to provide that a judicial office holder, who is a member of the scheme before 5th December 2005 and subsequently forms a civil partnership whilst in judicial office, may choose whether any period of service before the date this Order comes into force is to be considered for the purposes of calculating a civil partner's pension;
- the Order sets out the arrangements for making payment from the office holder's lump sum benefits (except in respect of members of a scheme constituted under the 1993 Act) or by way of making periodic contributions in respect of a surviving civil partner's pension, and for making additional periodical payments to reflect a judicial office holder's choice that service before 5th December 2005 is to be counted for the purposes of calculating any resultant surviving civil partner's pension benefit;
- where a person ceased to hold judicial office before 5th December 2005 and they subsequently form a civil partnership there shall only be entitlement to a surviving civil partner's guaranteed minimum pension calculated in accordance with the Pension Schemes Act 1993 or the Pensions Schemes (Northern Ireland) Act 1993.

The remainder of the Order makes provision in relation to Church pensions etc.

Part 8 amends Church Measures to ensure that the pension entitlements of spouses, widows, widowers and former spouses of clergy and certain other church officials are extended to their civil partners, surviving civil partners and former civil partners. In addition, articles 81 and 83 include similar amendments to provisions which concern the provision of residences to such persons.

In Part 9, article 98 and Schedule 7 amend the Church of England Pensions Regulations 1988 (S.I. 1988/2256) and the Rules of the Church of England Funded Pensions Scheme to ensure that payments under these provisions may be made to the surviving civil partners of scheme members, and to children of the civil partners of scheme members, to the extent required by any applicable enactment or subordinate legislation in relation to such pensions, and (in relation to the Funded Scheme only) to comply with regulation 9A(1) of the Employment Equality (Sexual Orientation) Regulations 2003 (S.I. 2003/1661). The provision in the Rules for pension sharing on divorce is also extended to former civil partners.

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A full regulatory impact assessment has not been produced for this instrument, as it has no impact on the costs of businesses, charities or voluntary bodies, other than certain charities and voluntary bodies within the Church of England. In relation to judicial pensions, contributions will be levied from judicial office holders who form a civil partnership. The contributions are set at an actuarially determined level which seeks to meet the average cost of providing contingent surviving dependants' pension benefits. The Order is expected to have a negligible financial impact on the public bodies responsible for the pensionable remuneration of judicial office holders.