
STATUTORY INSTRUMENTS

2005 No. 3325

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

PART 6

Amendments of the Judicial Pensions Act 1981

49. The Judicial Pensions Act 1981(1) is amended as follows.

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—

(1) 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 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).

“(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(2) or (in relation to Scotland) section 101(7) of the Civil Partnership Act 2004(3).”.

(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—

“(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”.

(2) 1989 c. 41.

(3) 2004 c. 33.

(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(4)), 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(5), on his or her retirement.

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”.