

SCHEDULE 2

Amendments of provisions of Regulations relating to contracted-out occupational and appropriate personal pension schemes, extending those provisions to surviving civil partners

PART 10

The Occupational Pension Schemes (Discharge of Liability) Regulations 1997

(S.I. 1997/784)

38. In regulation 1 (citation, commencement and interpretation), after paragraph (1), insert the following paragraph—

“(1A) For the purposes of these Regulations, two people of the same sex are to be regarded as living together as if they were civil partners if, but only if, they would be regarded as living together as husband and wife were they instead two people of the opposite sex.”

39. In regulation 3 (conditions on which policies of insurance and annuity contracts may be assigned or surrendered), in paragraph (a), for “widow or widower” substitute “widow, widower or surviving civil partner”.

40. Amend regulation 4 (conditions on which policies of insurance and annuity contracts may be commuted) as follows—

- (a) in paragraph (1)(a)(i), for “his widow or her widower” substitute “the earner’s widow, widower or surviving civil partner”;
- (b) in paragraph (2), for “widow or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”.

41. Amend regulation 6 (further conditions on which liability may be discharged) as follows—

- (a) in paragraph (2)(a), for “his widow or her widower” substitute “the earner’s widow, widower or surviving civil partner”;
- (b) in paragraph (5), for “widow or widower” (in each place) substitute “widow, widower or surviving civil partner”.

42. In regulation 9 (circumstances in which liability to provide pensions under a relevant scheme may be discharged), in paragraph (2), for “his widow or her widower, or if there is no such widow or widower” substitute “the member’s widow, widower or surviving civil partner or, if there is no such person”.

43. Amend regulation 11 (conditions on which liability to provide pensions under a relevant scheme may be discharged) as follows—

- (a) in paragraph (3)—
 - (i) in sub-paragraphs (a) and (b), for “widow or widower” substitute “widow, widower or surviving civil partner”;
 - (ii) in sub-paragraph (b), omit “and (c)”;
- (b) for paragraph (4) substitute the following paragraph—

“(4) Subject to paragraph (7), the circumstances referred to in paragraph (3) are—

 - (a) the beneficiary marries or forms a civil partnership after having received benefits under the policy or contract;

Draft Legislation: This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 No. 2050*

- (b) the widow, widower or surviving civil partner of the beneficiary—
 - (i) remarries or, as the case may be, marries;
 - (ii) forms a civil partnership or, as the case may be, forms a subsequent civil partnership;
 - (iii) lives together as husband and wife with another person to whom he or she is not married;
 - (iv) lives together with a person of the same sex as if they were civil partners; or
 - (v) at the time of the beneficiary’s death—
 - (a) is living together as husband and wife with another person to whom he or she is not married; or
 - (b) is living together with a person of the same sex as if they were civil partners.”;

- (c) after paragraph (6), add the following paragraph—

“(7) Sub-paragraphs (b)(ii), (iv) and (v)(b) of paragraph (4) do not apply where the beneficiary dies before 5th December 2005.”

44. In Schedule 1 (form of consent to arrangement for securing benefit), after “widower” (in each place) insert “/surviving civil partner”.