

**2005 No. 3029**

**CIVIL PARTNERSHIP**

**The Civil Partnership (Miscellaneous and Consequential Provisions) Order 2005**

*Made* - - - - *28th October 2005*

*Coming into force in accordance with article 1(2)*

Whereas a draft of this Instrument was laid before Parliament in accordance with sections 255(10)(a) and 259(8)(a) of the Civil Partnership Act 2004(a), and approved by a resolution of each House of Parliament;

Now, therefore, the Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 254(4), 255(1), (4) and (5), 258 and 259 of the Civil Partnership Act 2004 and of all other powers enabling him in that behalf, after consultation with such persons as he considers appropriate in accordance with section 255(6) of that Act, hereby makes the following Order:

**Citation, commencement and extent**

**1.**—(1) This Order may be cited as the Civil Partnership (Miscellaneous and Consequential Provisions) Order 2005.

(2) This Order shall come into force as follows—

- (a) paragraph 1 of Schedule 1, shall come into force on the day after the day on which this Order is made;
- (b) paragraphs 3 and 5 of Schedule 1, and Schedule 2, shall come into force on 5th December 2005;
- (c) article 2 and paragraphs 2 and 4 of Schedule 1, shall come into force on 5th December 2005, immediately after the coming into force of the Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005(b),

and this article, article 3 and article 4 shall come into force accordingly.

- (3) Subject to paragraphs (4) to (6), this Order extends to England and Wales and Scotland only.
- (4) Article 2, article 3 and this article, also extend to Northern Ireland.
- (5) Article 4, paragraph 3 of Schedule 1, and Schedule 2 extend to Northern Ireland only.
- (6) Paragraph 5 of Schedule 1 does not extend to Scotland.

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(a) 2004 c.33.  
(b) S.I. 2005/2053.

## **Amendment of the Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005**

2. In article 1 of the Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005 (citation, commencement and extent), in paragraph (4) omit “except paragraph 27(c) of Part 6 of the Schedule and Article 2 in so far as it relates to that paragraph, which extend to Northern Ireland”.

### **Amendments of Acts**

3. Schedule 1 to this Order, which contains amendments of Acts relating to pensions and benefit payments and the protection of vulnerable adults, and which extends those provisions to civil partners and surviving civil partners, and those living together as if civil partners, shall have effect.

### **Amendments of Secondary Legislation**

4. Schedule 2 to this Order, which contains amendments of secondary legislation relating to occupational and personal pensions, and which extends those provisions to civil partners and surviving civil partners, shall have effect.

Signed by authority of the Secretary of State for Work and Pensions.

*Anne C McGuire*  
Parliamentary Under-Secretary of State,  
Department for Work and Pensions

28th October 2005

## **SCHEDULE 1**

Article 3

### **Amendments of Acts**

1. In section 62 of the Social Security Contributions and Benefits Act 1992(a) (graduated retirement benefit), after subsection (1)(ab) insert—

“(ac) for extending section 37 of that Act (increase of woman’s retirement pension by reference to her late husband’s graduated retirement benefit) to civil partners and their late civil partners who attain pensionable age before 6th April 2010 and for that section (except subsection (5)) so to apply as it applies to men and their late wives;”.

2. In section 129 of the Pension Schemes Act 1993(b) (overriding requirements), in subsection (3)(e)(i) after “widow, widower or surviving civil partner married” insert “or, as the case may be, formed a civil partnership”.

3. In subsection (2A)(c) of section 51 of the Pension Schemes (Northern Ireland) Act 1993(c) (payment of state scheme premiums on termination of certified status) for “widow or widower”, substitute “widow, widower or surviving civil partner”.

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- (a) 1992 c.4. Section 62(1) is amended by sections 126(1) and 131(1) of, and paragraph 7 of Schedule 4 to, the Pensions Act 1995 (c.26), section 297(4) and paragraphs 16 and 17(a) of Schedule 11 to, the Pensions Act 2004 (c.35) and section 254(1) of, and paragraph 33 of Schedule 24 to, the Civil Partnership Act 2004 and was amended by S.I. 2005/2053. Subsection (1)(ab) was inserted by section 254(1) of, and Schedule 24 to the Civil Partnership Act 2004.
- (b) 1993 c.48. Section 129 is amended by sections 122 and 177 of, and paragraph 31 of Schedule 3, and Part I of Schedule 7 to, the Pensions Act 1995, section 84(1) of, and paragraphs 28, and 39(1) and (2) of Schedule 12 to, the Welfare Reform and Pensions Act 1999 (c.30), and sections 319(1) and 320 of, and paragraphs 9 and 21 of Schedule 12, and Part I of Schedule 13 to, the Pensions Act 2004 and by S.I. 2005/2053.
- (c) 1993 c.49; subsection (2A) was substituted by Article 138(1) of the Pensions (Northern Ireland) Order 1995 (S.I.1995/3213) (N.I.22) and amended by paragraph 7(2) of Schedule 2 to the Welfare Reform and Pensions Act 1999.

4. In section 166 of the Pensions Act 1995(a) (pensions on divorce, etc.)—
- (a) after subsection (4), insert—
    - “(4A) Nothing in the provisions mentioned in subsection (5) applies to a court exercising its powers under Part 6 of Schedule 5 to the Civil Partnership Act 2004 (making of Part 1 orders having regard to pension benefits).”; and
  - (b) in subsection (5), for “subsection (4)” substitute “subsections (4) and (4A)”.
5. In section 80(4A) of the Care Standards Act 2000(b) (basic definitions)—
- (a) in paragraphs (a), (b) and (c), after “spouse” insert “or civil partner”;
  - (b) after “his or her child,” omit “and”; and
  - (c) after “as if they were husband and wife” insert “and references to “civil partner” include a former civil partner and a person who is living with the person as if they were civil partners”.

## SCHEDULE 2

Article 4

### Amendments of Secondary Legislation

1. In the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996(c)—
- (a) in paragraphs (4) and (5) of regulation 37 (circumstances in which the age-related payments are not to be paid)—
    - (i) for “widow or widower” substitute “widow, widower or surviving civil partner”; and
    - (ii) for “died unmarried” substitute “was not married or a civil partner at the time of his or her death”;
  - (b) in regulation 51 (contributions equivalent premiums)—
    - (i) in paragraph (1B)(b)(d), after “spouse” insert “or civil partner”;
    - (ii) in paragraph (2)(c), for “widow’s or widower’s” substitute “widow’s, widower’s or surviving civil partner’s”;
  - (c) in paragraph (5) of regulation 54 (refund of a contributions equivalent premium), for “widow or widower” (twice) substitute “widow, widower or surviving civil partner”.
2. In paragraphs (6), (7) and (8) of regulation 12 of the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997(e) (circumstances in which minimum contributions are not to be paid)—
- (a) for “widow or widower”, substitute “widow, widower or surviving civil partner”;
  - (b) after “unmarried”, insert “or was not a civil partner at the time of his or her death”.

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(a) 1995 c.26. Section 166 is as amended by section 84(1) of, and paragraphs 43 and 62 of Schedule 12 to, the Welfare Reform and Pensions Act 1999.

(b) 2000 c.14. Subsection (4A) was inserted by S.I. 2004/2070.

(c) S.R. 1996 No.493; relevant amending regulations are S.I. 2002/681.

(d) Paragraph (1B) was inserted by S.I. 2002/681.

(e) S.R. 1997 No.139.

## EXPLANATORY NOTE

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

This Order amends the Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005 (S.I. 2005/2053) (“the Pensions and Benefits Order”), and certain provisions of Acts and secondary legislation, relating to pensions and benefit payments, and the protection of vulnerable adults, extending those provisions to cover civil partnerships.

Article 2 provides for an amendment to the extent provision in the Pensions and Benefits Order.

Article 3 introduces Schedule 1 to the Order.

Article 4 introduces Schedule 2 to the Order.

Paragraph 1 of Schedule 1 contains an amendment of section 62(1) of the Social Security Contributions and Benefits Act 1992 (c.4) to allow regulations to extend section 37 of the National Insurance Act 1965 (c.51) in order to provide that a surviving civil partner who attains pensionable age before 6th April 2010, may be entitled to graduated retirement benefit on the same conditions as a widower.

Paragraph 2 of Schedule 1 amends section 129 of the Pension Schemes Act 1993 (c.48) to insert a reference to a civil partnership.

Paragraph 3 of Schedule 1 amends section 51 of the Pension Schemes (Northern Ireland) Act 1993 (c.49) to extend the provisions in respect of widows and widowers in this section to surviving civil partners.

Paragraph 4 of Schedule 1 amends section 166 of the Pensions Act 1995 (c.26) which has the effect of disapplying the prohibitions on assignment of private pensions to third parties in a number of statutory provisions in the case of a pension earmarking or attachment order made by a court under the powers contained in Part 6 of Schedule 5 to the Civil Partnership Act 2004 (c.33).

Paragraph 5 of Schedule 1 amends section 80 of the Care Standards Act 2000 (c.14) which sets out a scheme for the protection of vulnerable adults. This amendment extends the same treatment to civil partners of vulnerable adults, to specified relatives of civil partners and to civil partners of their specified relatives, as currently extends to spouses of vulnerable adults, to specified relatives of spouses and to spouses of their specified relatives. It also provides that “civil partner” is to be read as including former civil partners, and those living together as if they were civil partners.

Schedule 2 amends the Occupational Pension Schemes (Contracting-out) Regulations (Northern Ireland) 1996 and the Personal Pension Schemes (Appropriate Schemes) Regulations (Northern Ireland) 1997 to extend the provisions to civil partners and surviving civil partners.

An assessment of the impact on business, charities or the voluntary sector of the provisions in this Order is included in the Regulatory Impact Assessment that accompanied the Civil Partnership Act 2004. A copy of that assessment has been placed in the libraries of both Houses of Parliament. Copies may be obtained from the DTI website at [www.dti.gov.uk/ria/index.htm#equality](http://www.dti.gov.uk/ria/index.htm#equality).

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