DRAFT STATUTORY INSTRUMENTS

2005 No.

CIVIL PARTNERSHIP

The Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005

Made - - - - 2005

Coming into force in accordance with Article 1(2)

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

Now, therefore, in exercise of the powers conferred upon him by sections 254(4) and 259 of the Civil Partnership Act 2004(**1**), the Secretary of State for Work and Pensions hereby makes the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005.

(2) In this Order—

(a) paragraph 4 of Part 1 of the Schedule shall come into force, for the purposes only of making regulations under section 62 of the Social Security Contributions and Benefits Act 1992(**2**);

(b) paragraph 5(6) and (12) of Part 1 of the Schedule shall come into force, for the purposes only of making regulations under paragraphs 3C and 7B of Schedule 5 to the Social Security Contributions and Benefits Act 1992(**3**); and

(c) paragraph 26 of Part 5 of the Schedule shall come into force, for the purposes only of making regulations under section 52(2) of the Welfare Reform and Pensions Act 1999(**4**),on the day following that on which this Order is made.

(3) Subject to paragraph (2), this Order shall come into force on 5th December 2005.

(4) This Order extends to England and Wales and Scotland 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.

(**1**) 2004 c. 33. Section 254(4) of the Civil Partnership Act 2004 applies section 175(3), (5) and (6) of the Social Security Contributions and Benefits Act 1992 (c. 4) to the exercise of powers under section 259 of the 2004 Act.
(**2**) 1992 c. 4. Section 62(1)(c) was inserted by paragraph 17(b) of Schedule 11 to the Pensions Act 2004 (c. 35).
(**3**) Paragraphs 3C and 7B were inserted by paragraphs 9 and 11 of Schedule 11 to the Pensions Act 2004(c. 35).
(**4**) 1999 c. 30. Section 52(2) was amended by paragraph 25 of Schedule 11 to the Pensions Act 2004(c. 35).

Amendments of legislation

2. The Schedule, which contains amendments of provisions of Acts relating to pensions and benefit payments, extending those provisions to civil partners and surviving civil partners, shall have effect.

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

Parliamentary Under-Secretary of State,
2005 Department for Work and Pensions

SCHEDULE Article 2

Amendments of provisions of Acts relating to pensions and benefit payments, extending those provisions to civil partners and surviving civil partners

PART 1

Amendments of the Social Security Contributions and Benefits Act 1992 (c. 4)

1. In section 48C (Category B retirement pension: general)(**5**), in subsection (4), after "spouse" insert "or civil partner".

2. In section 54 (Category A and Category B retirement pensions: supplemental provisions)(**6**), in subsection (3), after "marriage" insert "or civil partnership".

3.—(1) Amend section 55 (pension increase or lump sum where entitlement to retirement pension is deferred)(**7**) as follows.

(2) In subsection (2), after "deceased spouse" (in each place) insert "or civil partner".

(3) In subsection (3)(a)(ii)—

(a) after "a spouse's" insert "or civil partner's"; and

(b) after "the spouse" insert "or civil partner".

4. In section 62 (graduated retirement benefit), in subsection (1)(c)—

(a) after "widowed person" insert "or surviving civil partner"; and

(b) at the end, add "or civil partner".

5.—(1) Amend Schedule 5 (pension increase or lump sum where entitlement to retirement pension is deferred)(**8**) as follows.

(2) In paragraph A1(4), for "paragraphs 5 to 6" substitute "paragraphs 5 to 6A".

(3) In paragraph 2(5)(a), for "paragraph 4, 5, 5A or 6" substitute "paragraph 4, 5, 5A, 6 or 6A".

(4) In paragraph 2A, for "paragraphs 5 to 6" (in each place) substitute "paragraphs 5 to 6A".

(5) In paragraph 3B(5)(b)(i), for "paragraphs 5 to 6" substitute "paragraphs 5 to 6A".

(6) Amend paragraph 3C as follows—

(a) in the heading preceding it, after "deceased spouse" insert "or civil partner";

(b) in sub-paragraph (1)(a), for "widow or widower" substitute "widow, widower or surviving civil partner";

(c) in sub-paragraph (1)(b)—

(i) after "married to" insert "or was the civil partner of"; and

(ii) after "marriage" insert "or civil partnership";

(d) in sub-paragraph (5)—

(**5**) Section 48C was inserted by paragraph 3 of Schedule 4 to the Pensions Act 1995 (c. 26). Subsection (4) was amended by paragraph 7 of Schedule 8 to and paragraph 21 of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c. 30) and section 35(12) of the Child Support, Pensions and Social Security Act 2000 (c. 19).

(**6**) Section 54(3) was substituted by paragraph 21(8) of Schedule 4 to the Pensions Act 1995 (c. 26).

(**7**) Section 55 was substituted by section 297 of the Pensions Act 2004 (c. 35).

(**8**) Schedule 5 was amended by paragraph 21 of Schedule 4 to the Pensions Act 1995 (c. 26) and paragraphs 1 to 14 of Schedule 11 to the Pensions Act 2004 (c. 35). Paragraph 7 of Schedule 5 was amended by paragraph 40 of Schedule 1 to the Social Security (Incapacity for Work) Act 1994 (c. 18).

(i) for "paragraphs 5 to 6" substitute "paragraphs 5 to 6A"; and

(ii) after "deceased spouse" insert "or civil partner".

(7) Amend paragraph 4 as follows—

(a) in the heading preceding it, after "deceased spouse" insert "or civil partner";

(b) in sub-paragraph (1)—

(i) for "widow or widower" (in each place) substitute "widow, widower or surviving civil partner";

(ii) after "married to" insert "or was the civil partner of"; and

(iii) after "other party to the marriage" insert "or civil partnership";

(c) in sub-paragraph (1A), for "paragraphs 5 to 6" (in each place) substitute "paragraphs 5 to 6A";

(d) in sub-paragraph (3)—

(i) after "5th April 2000"(**9**) insert "or a civil partner dies on or after 5th December 2005";

(ii) for "widow or widower" substitute "widow, widower or surviving civil partner"; and

(iii) in paragraph (a), after "deceased spouse" insert "or civil partner";

(e) in sub-paragraph (4)—

(i) after "the former spouse" insert "or civil partner"; and

(ii) after "the surviving spouse" (in each place) insert "or civil partner".

(8) Amend paragraph 5 as follows—

(a) in sub-paragraph (1)(a)—

(i) for "widow or widower" substitute "widow, widower or surviving civil partner";

(ii) after "married to" insert "or was the civil partner of"; and

(iii) after "marriage" insert "or civil partnership";

(b) in sub-paragraph (2)—

(i) at the end of paragraph (a), omit "and"; and

(ii) at the end of paragraph (b), insert—

", and

(c) where W is a surviving civil partner, an amount equal to the sum of the amounts set out in paragraph 6A(2) below".

(9) After paragraph 6 insert the following paragraph—

"**6A.**—(1) This paragraph applies where W (referred to in paragraph 5 above) is a surviving civil partner.

(2) The amounts referred to in paragraph 5(2)(c) above are the following—

(a) one-half of the increase mentioned in paragraph 5(1)(b) above, so far as attributable to employment before 6th April 1988,

(b) one-half of the appropriate amount after it has been reduced by the amount of any increases under section 109 of the Pensions Act, and

(**9**) Section 39(1) of the Child Support, Pensions and Social Security Act 2000 (c. 19) provides that the reference to 5th April 2000 in sub-paragraph (3) shall have effect, and be deemed always to have had effect, as a reference to 5th October 2002.