STATUTORY RULES OF NORTHERN IRELAND

2005 No. 433

CIVIL PARTNERSHIP

The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005

Made - - - - 29th September 2005
To be laid before Parliament under paragraph 7(3) of the Schedule to the Northern Ireland Act 2000
Coming into operation in accordance with Article 1(2) and (3)

The Department for Social Development, in exercise of the powers conferred by section 255 of the Civil Partnership Act 2004(**1**), and of all other powers enabling it in that behalf, having consulted such persons as it considers appropriate(**2**), hereby makes the following Order:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order (Northern Ireland) 2005.

(2) In this Order—

(a) paragraphs 5 and 8 of Schedule 1 shall come into operation, for the purposes only of making regulations under section 17(1) of the Pension Schemes Act(**3**) (commutation, surrender and forfeiture);

(b) paragraph 10 of Schedule 1 shall come into operation, for the purposes only of making regulations under section 24(5) of the Pension Schemes Act(**4**) (ways of giving effect to protected rights), and

(c) paragraph 11 of Schedule 1 shall come into operation, for the purposes only of making regulations under section 24A(5)(a) of the Pension Schemes Act(**5**) (requirements for interim arrangements),

(**1**) 2004 c. 33
(**2**) *See* section 255(6) of the Civil Partnership Act 2004 for the requirement to consult
(**3**) 1993 c. 49; section 17(1) was substituted by Article 261(1) of the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I. 1))
(**4**) Section 24(5) was amended by Article 139(6) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) and paragraph 3(4) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c. 4 (N.I.))
(**5**) Section 24A was inserted by Article 140 of the Pensions (Northern Ireland) Order 1995

on 10th November 2005.

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

(4) In this Order "the Pension Schemes Act" means the Pension Schemes (Northern Ireland) Act 1993(**6**).

Amendment of legislation

2.—(1) Schedule 1, which contains amendments of provisions of the Pension Schemes Act which relate to contracted-out occupational and appropriate personal pension schemes, extending those provisions to surviving civil partners, shall have effect.

(2) Schedule 2, which contains amendments of provisions of Regulations which relate to contracted-out occupational and appropriate personal pension schemes, extending those provisions to surviving civil partners, shall have effect.

Sealed with the Official Seal of the Department for Social Development on 29th September 2005.

John O'Neill
A senior officer of the
Department for Social Development

(**6**) 1993 c. 49

SCHEDULE 1

Article 2(1)

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

1. The Pension Schemes Act is amended in accordance with paragraphs 2 to 24.

2. In section 4(2) (meaning of "contracted-out employment", "guaranteed minimum pension" and "minimum payment"), in the definition of "guaranteed minimum pension", for "widow's or widower's" there shall be substituted "widow's, widower's or surviving civil partner's".

3. In section 8A(1) and (2)(b)(**7**) (the statutory standard) for "widows or widowers" there shall be substituted "widows, widowers or surviving civil partners".

4. In section 8B(4)(**8**) (reference scheme) for "widows or widowers", in each place where it occurs, there shall be substituted "widows, widowers or surviving civil partners".

5. In section 13 (minimum pensions for widows and widowers)—

(a) in subsection (1) for "widow or widower", in each place where it occurs, there shall be substituted "widow, widower or surviving civil partner";

(b) in subsection (2), after paragraph (b) there shall be added the following paragraph—

"(c) if the earner is a person who has a guaranteed minimum under that section, the weekly rate of the surviving civil partner's pension will not be less than the surviving civil partner's guaranteed minimum.";

(c) in subsection (4) after "widower's" there shall be inserted "or surviving civil partner's";

(d) in subsection (4A)(**9**)—

(i) at the beginning there shall be inserted "Subject to subsection (4B)";

(ii) for "widow or widower's" there shall be substituted "widow's, widower's or surviving civil partner's";

(iii) for "widow or widower", in each place where it occurs (other than paragraph (c)(i) and (ii)), there shall be substituted "widow, widower or surviving civil partner";

(iv) for paragraph (c)(i) and (ii) there shall be substituted the following sub-paragraphs—

"(i) comprises a period during which the widow, widower or surviving civil partner and—

(a) a person of the opposite sex are living together as husband and wife, or

(b) a person of the same sex are living together as if they were civil partners, nor

(ii) falls after the time of any—

(a) marriage, or

(b) formation of a civil partnership,

by the widow or widower or surviving civil partner which takes place after the earner's death.";

(e) after subsection (4A), there shall be inserted the following subsection—

(**7**) Section 8A was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995

(**8**) Section 8B was inserted by Article 133(5) of the Pensions (Northern Ireland) Order 1995 and amended by regulation 2 of S.R. 1997 No. 162

(**9**) Subsection (4A) was inserted by paragraph 1 of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

"(4B) Sub-paragraphs (i)(b) and (ii)(b) of subsection (4A)(c) do not apply where the earner dies before 5th December 2005.";

(f) in subsection (6)(**10**) for "widower's pension to be payable to him" there shall be substituted "widower's or surviving civil partner's pension to be payable";

(g) in subsection (7)(**11**) for "widowers or widows" there shall be substituted "widows, widowers or surviving civil partners", and

(h) after subsection (8)(**12**) there shall be added the following subsection—

"(9) For the purposes of subsection (4A), 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.".

6. In section 15(5)(a)(i) and (ii) (discharge of liability where guaranteed minimum pensions secured by insurance policies or annuity contracts) for "widow or widower" there shall be substituted "widow, widower or surviving civil partner".

7. In section 16(6) (transfer of accrued rights) for "widow or widower" there shall be substituted "widow, widower or surviving civil partner".

8. In section 17(2) (commutation, surrender and forfeiture) for "widow's or widower's" there shall be substituted "widow's, widower's or surviving civil partner's".

9. In section 19(3)(b) (securing of benefits)(**13**) for "widow or widower" there shall be substituted "widow, widower or surviving civil partner".

10. In section 24 (ways of giving effect to protected rights)—

(a) in subsection (3)(b)(**14**) for "widow or widower" there shall be substituted "widow, widower or surviving civil partner";

(b) in subsection (4B)(**15**) for "a married person" there shall be substituted "married or a civil partner";

(c) in subsection (8)(**16**) in the definition of "the termination date"—

(i) for "widow or widower" there shall be substituted "widow, widower or surviving civil partner", and

(ii) for "widow or widower's" there shall be substituted "widow's, widower's or surviving civil partner's".

11. In section 24A(1), (2) and (5)(b)(ii)(**17**) (requirements for interim arrangements) for "widow or widower" there shall be substituted "widow, widower or surviving civil partner".

12. In section 25 (the pension and annuity requirements), in subsections (1)(b) in each place where it occurs, (3)(b) and (4)(**18**), for "widow or widower" there shall be substituted "widow, widower or surviving civil partner".

(**10**) Subsection (6) was amended by paragraph 1(3) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(**11**) Subsection (7) was amended by paragraph 22 of Schedule 3 to the Pensions (Northern Ireland) Order 1995 and by paragraph 42 of Schedule 1 to the Social Security Contributions (Transfer of Functions, etc.) (Northern Ireland) Order 1999 (S.I. 1999/671)

(**12**) Subsection (8) is added by Article 261(2) of the Pensions (Northern Ireland) Order 2005

(**13**) *See* paragraph 24 of Schedule 3 to the Pensions (Northern Ireland) Order 1995

(**14**) Subsection (3)(b) was amended by Article 139(4) of the Pensions (Northern Ireland) Order 1995

(**15**) Subsections (4A) and (4B) were inserted by paragraph 3(3) of Schedule 5 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000

(**16**) Subsection (8) was added by Article 139(7) of the Pensions (Northern Ireland) Order 1995

(**17**) Section 24A was inserted by Article 140 of the Pensions (Northern Ireland) Order 1995

(**18**) Subsection (1)(b) was amended by paragraph 28 of Schedule 3 to the Pensions (Northern Ireland) Order 1995; subsection (3)(b) was amended by Article 141(3) of that Order and article 130(2) of the Financial Services and Markets Act 2000

13. In section 33(4)(**19**) (alteration of rules of contracted-out schemes) after "widower" there shall be inserted "or surviving civil partner".

14. In section 34(2) (alteration of rules of appropriate schemes)—

(a) after "apply" there shall be inserted "(a)", and

(b) after "prescribed description" there shall be inserted—

"; or

(b) where the rules of the relevant scheme are altered to make provision for pensions for surviving civil partners".

15. In section 43(**20**) (further provisions concerning entitlement to guaranteed minimum pensions for the purposes of section 42)—

(a) in subsection (1) after "widower" there shall be inserted "or surviving civil partner";

(b) in subsection (3)—

(i) for "widow or widower", in each place where it occurs, there shall be substituted "widow, widower or surviving civil partner", and

(ii) for "widow's or widower's" there shall be substituted "widow's, widower's or surviving civil partner's".

16. In section 44(2)(c)(**21**) (reduced benefits where minimum payments or minimum contributions paid) for "widow or widower" there shall be substituted "widow, widower or surviving civil partner".

17. In section 56(5)(**22**) (effect of payment of premium on rights) for "widow or widower" there shall be substituted "widow, widower or surviving civil partner".

18. In section 83 (general protection principle)—

(a) in subsection (2)(c) for "widow or widower, the widow's or, as the case may be, the widower's" there shall be substituted "widow, widower or surviving civil partner, the widow's, widower's or surviving civil partner's (as the case may be)";

(b) in subsection (3) for "widow or widower" there shall be substituted "widow, widower or surviving civil partner";

(c) in subsections (3)(a) and (4)(d) for "widow's or widower's" there shall be substituted "widow's, widower's or surviving civil partner's".

19. In section 84(1)(b) (the relevant sum) for "widow or widower" there shall be substituted "widow, widower or surviving civil partner".

20. In section 85(1)(a) and (b) and (2)(b) (the appropriate addition) for "widow's or widower's" there shall be substituted "widow's, widower's or surviving civil partner's".

21. In section 86(2)(a) and (b) (the later earnings addition) for "widow's or widower's" there shall be substituted "widow's, widower's or surviving civil partner's".

(Consequential Amendments and Repeals) Order 2001 (S.I. 2001/3649); subsection (4) was amended by Article 141(4) of the Pensions (Northern Ireland) Order 1995 and article 130(3) of the Financial Services and Markets Act 2000 (Consequential Amendments and Repeals) Order 2001

(**19**) Section 33 was substituted by paragraph 32 of Schedule 3 to the Pensions (Northern Ireland) Order 1995

(**20**) Subsection (1) was amended by section 18 of the State Pension Credit Act (Northern Ireland) 2002 (c. 14 (N.I.)) and by paragraph 55 of Schedule 1 to the Social Security (Incapacity for Work) (Northern Ireland) Order 1994 (S.I. 1994/1898 (N.I. 12)); subsection (3) was amended by article 20 of the Financial Services and Markets Act 2000 (Consequential Amendments) Order 2002 (S.I. 2002/1555)

(**21**) Section 44 ceased to have effect for minimum payments or minimum contributions paid from 6th April 1997 in consequence of Article 137(3) of the Pensions (Northern Ireland) Order 1995; subsection (2)(c) was amended by Article 137(2) of the Pensions (Northern Ireland) Order 1995

(**22**) Subsection (5) was amended by paragraph 46(c) of Schedule 3 to the Pensions (Northern Ireland) Order 1995