

Explanatory Memorandum to Tynwald Members

Issued by the Treasury

To the Hon Clare Christian, President of Tynwald and the Hon Council and Keys in Tynwald assembled

1. Title of measure

Social Security (Marriage and Civil Partnership (Amendment) Act 2016) Order 2016

2. Changes in policy

There is no change in policy.

3. Effects of the measure

Marriage and Civil Partnership (Amendment) Act 2016 (extension of marriage to same sex couples) - Category B pension

3.1 The Marriage and Civil Partnership (Amendment) Act 2016 provides that, as a result of the extension of marriage to same sex couples under that Act, marriage has the same effect in law in relation to such a couple as it does in relation to an opposite sex couple.

3.2 This Order makes provision in relation to the Social Security Contributions and Benefits Act 1992 (as it has effect in the Island) in accordance with that effect.

3.3 The provision made corresponds to Part 5 (state pensions) of Schedule 4 to the Marriage (Same Sex Couples) Act 2013 (of Parliament) (effect of extension of marriage: further provision).

3.4 Its main effect is to provide that, broadly, entitlement to Category B retirement pension (state pension based on a current or deceased spouse's or civil partner's National Insurance record) arises for same sex married persons on the same terms and subject to the same conditions as for opposite sex married persons and civil partners. It makes similar provision in relation to graduated retirement benefit (earnings-related pension accrued between 1961 and 1975). Specific provision is made in relation to persons who have changed their legal gender.

4. Reasons for the measures

The changes are made to give further effect to the extension of marriage to same sex couples under the Act in relation to certain state pension matters.

5. Legal Powers or Legal Advice obtained

This Order is made by the Treasury in exercising its legal powers under section 1 of the Social Security Act 2000. Legal advice from the Attorney General's Chambers was sought in drafting the Order.

6. Resource Implications

This Order will not require the provision of any additional financial or personnel resources.

7. Tynwald Procedure

This Order requires the approval of Tynwald (see section 2(1) of the Social Security Act 2000).

8. Change in fees

Not applicable.