



MARRIAGE AND CIVIL PARTNERSHIP (AMENDMENT) ACT 2016 (CONTRARY PROVISIONS) ORDER 2016

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Statutory Document No. 2016/0224



Marriage and Civil Partnership (Amendment) Act 2016

**MARRIAGE AND CIVIL PARTNERSHIP
(AMENDMENT) ACT 2016 (CONTRARY PROVISIONS)
ORDER 2016**

*Approved by Tynwald: 20 July 2016
Coming into Operation in accordance with article 2*

The Council of Ministers makes the following Order under paragraph 9(4)(b) in Part 4 of Schedule 2 to the Marriage and Civil Partnership (Amendment) Act 2016.

1 Title

This Order is the Marriage and Civil Partnership (Amendment) Act 2016 (Contrary Provisions) Order 2016.

2 Commencement

If approved by Tynwald, this Order comes into operation on 22 July 2016¹.

3 Contrary provision to section 26(1) and (2) of, and paragraphs 1 to 3 of Schedule 1 to, the Marriage and Civil Partnership (Amendment) Act 2016

Schedule 1 (which disapplies section 26(1) and (2) of, and paragraphs 1 to 3 of Schedule 1 to, the Marriage and Civil Partnership (Amendment) Act 2016 in specified cases) has effect.

4 Consequential amendments as a result of contrary provision made by Schedule 1

Schedule 2 (which amends social security and pension schemes legislation in consequence of the provision made by Schedule 1) has effect.

¹ Under paragraph 9(5) in Part 4 of Schedule 2 to the Marriage and Civil Partnership (Amendment) Act 2016 an order made under paragraph 9(4) in that Part has effect only if it is approved by Tynwald.

MADE 19TH JULY 2016

W GREENHOW
Chief Secretary

SCHEDULE 1

[Article 3]

CONTRARY PROVISION TO SECTION 26(1) AND (2) OF, AND PARAGRAPHS 1 TO 3 OF SCHEDULE 1 TO, THE MARRIAGE AND CIVIL PARTNERSHIP (AMENDMENT) ACT 2016

PART 1 – SOCIAL SECURITY

Section 26(1) and (2) of, and paragraphs 1 to 3 of Schedule 1 to, the Marriage and Civil Partnership (Amendment) Act 2016 do not apply to section 59(5ZB)(a) and (b) and (5ZC)(a)² of the Social Security Pensions Act 1975³ as it has effect in the Island⁴.

PART 2 – PENSION SCHEMES

Section 26(1) and (2) of, and paragraphs 1 to 3 of Schedule 1 to, the Marriage and Civil Partnership (Amendment) Act 2016 do not apply to regulations 55(1)⁵ and 69B(3)(c) and (d)⁶ of the Occupational Pension Schemes (Contracting-out) Regulations 1996⁷ as they have effect in the Island⁸.

² Section 59(5ZB) and (5ZC) inserted by section 137 of the Pensions Act 2008 (see SD 851/09).

³ 1975 c.60.

⁴ See GC 137/77.

⁵ Regulation 55(1) amended by S.I. 2005/2050 (see SD 744/05).

⁶ Regulation 69B inserted by regulation S.I. 2009/846 (see SD 750/09).

⁷ S.I. 1996/1172.

⁸ See SD 651/97.

SCHEDULE 2

[Article 4]

CONSEQUENTIAL AMENDMENTS AS A RESULT OF CONTRARY PROVISION
MADE BY SCHEDULE 1

PART 1 – SOCIAL SECURITY

1 Social Security Pensions Act 1975 (of Parliament)

- (1) The Social Security Pensions Act 1975⁹ as it has effect in the Island¹⁰ is amended as follows.
- (2) In section 59 (increase of official pensions)—
- (a) in subsection (5ZB)¹¹—
- (i) in paragraph (a) for “widow’s pension” substitute **“a pension payable to a woman in respect of the services of her deceased male spouse”**, and
- (ii) in paragraph (b)—
- (aa) for a “widower’s” substitute **“any other surviving spouse’s”**, and
- (bb) “for wife’s” substitute **“spouse’s”**,
- (b) in subsection (5ZC)¹²—
- (i) for paragraph (a) substitute—
- “(a) does not apply to—**
- (i) a pension payable to a woman in respect of the services of her deceased male spouse; or
- (ii) a pension payable to a man in respect of the services of his deceased female spouse,
- in respect of any service of the deceased spouse if that deceased spouse’s pension in respect of that service became payable before 24 July 1990;”**, and
- (ii) in paragraph (b), before “surviving civil partner’s” insert **“a pension due to a surviving spouse who was married to someone of the same sex and a”**, and
- (c) in subsection (7), omit the definition of “widower’s pension”¹³.

⁹ 1975 c.60.

¹⁰ The Social Security Pensions Act 1975 was applied to the Island by the Social Security Legislation (Application) (Pensions) Order 1977 (GC 137/77) subject to the exceptions, adaptations and modifications provided for in article 3 of, and the Schedule to, that Order.

¹¹ Subsection (5ZB) inserted by section 137 of the Pensions Act 2008 (see SD 851/09).

¹² Subsection (5ZC) inserted by section 137 of the Pensions Act 2008 (see SD851/09).

PART 2 – PENSION SCHEMES

2 Occupational Pension Schemes (Contracting-out) Regulations 1996

- (1) Schedule 1¹⁴ to the Pension Schemes Legislation (Application) (No. 4) Order 1997¹⁵ is amended as follows.
- (2) In the entry relating to regulation 55 (scheme rules about guaranteed minimum pensions) in paragraph (1) –
 - (a) in sub-paragraph (b), for the words from “widow” to “appointed day” substitute **63** widow of the earner under the scheme in respect of the earner’s service before the principal appointed day, in a case where the earner is a man, **62**, and
 - (b) in sub-paragraph (c), for the words from “widower” to “appointed day” substitute **63** widower or surviving civil partner of the earner under the scheme in respect of the earner’s service before the principal appointed day, or to any widow of the earner under the scheme in respect of that service in a case where the earner is a woman, **62**.
- (3) In the entry relating to regulation 69B¹⁶ (conversion of guaranteed minimum pensions into other benefits: survivors’ benefits) in paragraph (3) –
 - (a) in sub-paragraph (c), for “widows” substitute **64** widows whose spouse was a man **62**, and
 - (b) in sub-paragraph (d), for “widowers” substitute **64** widowers, widows whose spouse was a woman **62**.

¹³ Definition inserted by section 5 of the Pensions (Miscellaneous Provisions) Act 1990 (GC 291/92).

¹⁴ Schedule 1 sets out the Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172) as they have effect in the Island.

¹⁵ SD 651/97.

¹⁶ Regulation 69B inserted by regulation 2 of S.I. 2009/846 (see SD 750/09).

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

The Marriage and Civil Partnership (Amendment) Act 2016 (“the Act”) 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 (section 26(1)). The Act also ensures that Manx legislation (whenever passed or made) is interpreted in this way (section 26(2)). Schedule 1 to the Act makes further provision about interpretation of references to marriages in existing and new Manx legislation, in accordance with the principle that marriage in law has the same effect in relation to same sex couples as to opposite sex couples. Section 27A of the Civil Partnership Act 2011 (as inserted by paragraph 5 of Schedule 3 to the Act) provides for how Isle of Man civil partnerships are to be converted into marriage.

However, there are some circumstances in which the effect which would be obtained by the application of the provisions of the Act referred to (“the relevant provisions”) needs to be clarified or where it is not to apply. Section 26(4) of the Act therefore brings into effect Schedule 2 to the Act, which provides separately for the effect of the extension of marriage in particular cases and contains a power (Part 4) to make provision that is contrary to the relevant provisions, including specifying cases in which the relevant provisions do not apply (paragraph 9(4)(b) in Part 4 of Schedule 2).

This Order specifies that section 26(1) and (2) of, and paragraphs 1 to 3 of Schedule 1 to, the Act do not apply to certain provisions of the Social Security Pensions Act 1975 and the Occupational Pension Schemes (Contracting-out) Regulations 1996 as that legislation has effect in the Island (article 3 and Schedule 1) and makes consequential amendments to that legislation (article 4 and Schedule 2).