



Statutory Document No. 20/06

THE SOCIAL SECURITY ACT 2000

THE SOCIAL SECURITY LEGISLATION (APPLICATION) (NO. 2) ORDER 2006

Approved by Tynwald

22nd February 2006

Coming into operation in accordance with Article 1

In exercise of the powers conferred on the Department of Health and Social Security by section 1 of the Social Security Act 2000(a), and of all other enabling powers, the following Order is hereby made:-

Citation and commencement

1. (1) This Order may be cited as the Social Security Legislation (Application) (No. 2) Order 2006 and shall, subject to section 2(1) of the Social Security Act 2000, come into force as provided for in paragraph (2).

(2) This Article and Articles 2 and 3 shall come into force forthwith and each provision of the applied legislation, as modified, shall come into force or be deemed to have come into force on the same day as that provision came into force in Great Britain.

Interpretation

2. (1) In this Order “the applied legislation” means –

- (a) The Civil Partnership (Miscellaneous and Consequential Provisions) Order 2005(b);
- (b) The Social Security (Inherited SERPS) (Amendments relating to Civil Partnership) Regulations 2005(c);
- (c) The Social Security (Retirement Pensions and Graduated Retirement Benefit) (Widowers and Civil Partnership) Regulations 2005(d).

(a) 2000 c.5; (b) S.I. 2005/3029; (c) S.I. 2005/3030; (d) S.I. 2005/3078.

(2) Unless the context otherwise requires -

- (a) any reference in any of the applied legislation to any provision in an instrument of a legislative character which is not itself a provision of any of the applied legislation shall be construed as if the provision so referred to had been in force in the Island from the date on which that instrument of a legislative character had effect in Great Britain;
- (b) reference in any legislation applied by this Order to any provision of any such legislation or of any other legislation applied to the Island by an order under section 1 of the Social Security Act 2000 or section 1 of the Pension Schemes Act 1995**(b)** (Acts of Tynwald) shall be construed as a reference to that legislation as it has effect in the Island.

Application to the Island of the applied legislation

3. The applied legislation, as modified and shown in the Schedules to this Order, shall apply to the Island as part of the law of the Island.

(a) 1995 c.11.

SCHEDULE 1

This Schedule sets out the text of the Civil Partnership (Miscellaneous and Consequential Provisions) Order 2005 (S.I. 2005/3029) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type

STATUTORY INSTRUMENTS

2005 No. 3029

CIVIL PARTNERSHIP

The Civil Partnership (Miscellaneous and Consequential Provisions) Order 2005

Citation and commencement

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) *omitted*;
- (c) paragraph 2 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,

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

(3) – (6) *Omitted*.

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

2. *Omitted*.

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. *Omitted*.

SCHEDULE 1

Article 3

Amendments of Acts

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

 “(ac) for extending section 36 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 (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. *Omitted.*
4. *Omitted.*
5. *Omitted.*

SCHEDULE 2

Article 4

Amendments of Secondary Legislation

Omitted.

SCHEDULE 2

This Schedule sets out the text of the Social Security (Inherited SERPS) (Amendments relating to Civil Partnership) Regulations 2005 (S.I. 2005/3030) with such exceptions, adaptations and modifications made where necessary.

STATUTORY INSTRUMENTS

2005 No. 3030

CIVIL PARTNERSHIP

The Social Security (Inherited SERPS) (Amendments relating to Civil Partnership) Regulations 2005

Citation and commencement

1. These Regulations may be cited as the Social Security (Inherited SERPS) (Amendments relating to Civil Partnership) Regulations 2005 and shall come into force on 5th December 2005.

Amendment of the Social Security (Inherited SERPS) Regulations 2001

2. (1) The Social Security (Inherited SERPS) Regulations 2001 shall be amended as follows.

(2) In regulation 2 (modification of Part II of the Contributions and Benefits Act) -

(a) in paragraph (1) -

(i) after "becomes widowed" insert "or a surviving civil partner";

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

(iii) after "spouse" insert "or civil partner";

(b) in paragraph (2), for "widow or widower" substitute "widow, widower or surviving civil partner";

(c) in paragraph (3)(f), after "spouse" insert "or civil partner"; and

(d) in paragraph (4), after "widowed person's" insert "or surviving civil partner's".

(3) In the Schedule -

(a) in the heading, after "widowed person's" insert "or surviving civil partner's"; and

(b) in column 1 (description of person), for "widow or widower" (in each place) substitute "widow, widower or surviving civil partner".

SCHEDULE 3

This Schedule sets out the text of the Social Security (Retirement Pensions and Graduated Retirement Benefit) (Widowers and Civil Partnership) Regulations 2005 (S.I. 2005/3078) with such exceptions, adaptations and modifications made where necessary.

Note: Modifications subject to which the legislation is applied to the Island are in *bold italic* type

STATUTORY INSTRUMENTS

2005 No. 3078

Social Security (Retirement Pensions and Graduated Retirement Benefit) (Widowers and Civil Partnership) Regulations 2005

Citation and commencement

1. (1) These Regulations may be cited as the Social Security (Retirement Pensions and Graduated Retirement Benefit) (Widowers and Civil Partnership) Regulations 2005 and shall come into force –

- (a) for the purposes of regulation 3(10), in so far as it applies in relation to paragraphs 17 and 19 of Schedule 1 to the 2005 Regulations, on 6th April 2006;
- (b) for the purposes of regulation 4, on 6th April 2006 immediately after regulation 4 of the Social Security (Claims and Payments) Amendment Regulations 2005 and regulation 3 of the Social Security (Shared Additional Pension) (Miscellaneous Amendments) Regulations 2005 have come into force; and
- (c) for all other purposes, on 5th December 2005.

(2) In these Regulations “the 2005 Regulations” means the Social Security (Graduated Retirement Benefit) Regulations 2005.

Amendment of the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978

2. (1) The Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 shall be amended in accordance with the following paragraphs.

(2) *Omitted.*

(3) In paragraph (2) of regulation 3 (continuation in force of sections 35, 36 and 116(1) of the 1965 Act) –

- (a) omit “and” at the end of sub-paragraph (b); and
- (b) at the end of sub-paragraph (c), add –

“; and

- (d) to extend section 36 of the 1965 Act (increase of women’s retirement pension by reference to her late husband’s graduated retirement benefit) to civil partners and surviving civil partners”.

(4) In Schedule 1 (sections 35 and 36 of the National Insurance Act 1965 as continued in force by these Regulations) in section 36 (inherited graduated retirement benefit) –

- (a) in subsection (1) –
 - (i) in paragraph (b), after “time of her death” insert –
“; or
 - (c) where a person, having paid graduated contributions as an insured person, dies on or after 5th December 2005 leaving a surviving civil partner, and they have both attained pensionable age at the time of his or her death,”; and
- (ii) in the full-out words –
 - (aa) for “widow or widower” substitute “widow, widower or surviving civil partner”; and
 - (bb) after “former spouse” insert “or civil partner”;
- (b) in subsection (2), after “spouse’s” (in each place) insert “or civil partner’s”;
- (c) in subsection (3), after “marriage” insert “or civil partnership”; and
- (d) in subsection (4) –
 - (i) after “marries” insert “, or as the case may be, a civil partner he or she forms a civil partnership with,”;
 - (ii) after “married” insert “or who has formed a civil partnership more than once or who has been both married and a civil partner”; and
 - (iii) after “spouses” insert “or civil partners”.

(5) *Omitted.*

Amendment of the 2005 Regulations

3. (1) Schedule 1 to the 2005 Regulations shall be amended in accordance with the following paragraphs.

(2) In paragraph 7 (increase or lump sum where pensioner’s deceased spouse has deferred entitlement) –

- (a) in the heading preceding it, after “spouse” insert “or civil partner”;
- (b) in head (a) of sub-paragraph (1), for “widow or widower” substitute “widow, widower or surviving civil partner”; and
- (c) in head (b) of sub-paragraph (1) –
 - (i) after “married to” insert “or in a civil partnership with”; and
 - (ii) after “marriage” insert “or civil partnership”.

(3) In paragraph 8 (increase where pensioner’s deceased spouse has deferred entitlement) –

- (a) in the heading preceding it, after “spouse” insert “or civil partner”; and

- (b) in sub-paragraph (1) –
 - (i) for “widow or widower” substitute “widow, widower or surviving civil partner”;
 - (ii) after “married to” insert “or in a civil partnership with”; and
 - (iii) after “marriage” insert “or civil partnership”.

(4) In paragraph 9 (entitlement to lump sum where pensioner’s deceased spouse has deferred entitlement) –

- (a) in the heading preceding it, after “spouse” insert “or civil partner”; and
- (b) in sub-paragraph (2), after “widowed person’s” insert “or surviving civil partner’s”.

(5) In paragraph 10 (calculation of the widowed person’s lump sum) –

- (a) in the heading preceding it, after “widowed person’s” insert “or surviving civil partner’s”;
- (b) in sub-paragraph (1), after “widowed person’s” insert “or surviving civil partner’s”; and
- (c) in sub-paragraph (2), in the definition of “S” after “marriage” insert “or civil partnership”.

(6) In paragraph 17 (choice between increase and lump sum where person’s deceased spouse had deferred entitlement to graduated retirement benefit) –

- (a) in the heading preceding it, after “spouse” insert “or civil partner”;
- (b) in head (a) of sub-paragraph (1) –
 - (i) for “widow or widower” substitute “widow, widower or surviving civil partner”; and
- (c) in head (b) of sub-paragraph (1) –
 - (i) after “married to” substitute “or in a civil partnership with”; and
 - (ii) after “marriage” insert “or civil partnership”.

(7) In paragraph 18 (increase where person’s deceased spouse has deferred entitlement to graduated retirement benefit) –

- (a) in the heading preceding it, after “spouse” insert “or civil partner”;
- (b) in sub-paragraph (1) –
 - (i) for “widow or widower” substitute (in each place) “widow, widower or surviving civil partner”;
 - (ii) after “married to” insert “or in a civil partnership with”; and
 - (iii) after “marriage” insert “or civil partnership”.

(8) In paragraph 19 (entitlement to lump sum where person’s deceased spouse has deferred entitlement to graduated retirement pension) –

- (a) in the heading preceding it, after “spouse” insert “or civil partner”; and
- (b) in sub-paragraph (2), after “widowed person’s” insert “or surviving civil partner’s”.

(9) In paragraph 20 (calculation of widowed person's lump sum) –

- (a) in the heading preceding it and in sub-paragraph (1), after “widowed person’s” insert “or surviving civil partner’s”; and
- (b) in sub-paragraph (2), in the definition of “S” after “other party to the marriage” insert “or civil partnership”.

(10) After paragraph 20 insert –

“Transitional provision relating to widower’s entitlement to increase of graduated retirement benefit or lump sum

20ZA. In the case of a widower who attains pensionable age before 6th April 2010, paragraphs 17 to 19 shall not apply unless he was over pensionable age when his wife died.

Transitional provision relating to civil partner’s entitlement to increase of graduated retirement benefit or lump sum

20ZB. In the case of a civil partner who attains pensionable age before 6th April 2010, paragraphs 17 to 19 shall not apply unless he or she was over pensionable age when his or her civil partner died.”

Amendment of the Social Security (Claims and Payments) Regulations 1987

4. In regulation 30 of the Social Security (Claims and Payments) Regulations 1987 (payments on death) –

- (a) in paragraph (5) (posthumous claims) for “(5F)” substitute “(5G)”; and
- (b) for paragraphs (5A) to (5F)(c) substitute –

“(5A) Subject to paragraphs (5B) to (5G), a claim may be made in accordance with paragraph (5) on behalf of the deceased for a Category A or Category B retirement pension or graduated retirement benefit provided that the deceased was not married or in a civil partnership on the date of his death.

(5B) But, subject to paragraphs (5C) to (5G), a claim may be made in accordance with paragraph (5) on behalf of the deceased for a Category A or Category B retirement pension or graduated retirement benefit where the deceased was a married woman or a civil partner on the date of death if the deceased’s widower or surviving civil partner was under pensionable age on that date and due to attain pensionable age before 6th April 2010.

(5C) Where a claim is made for a shared additional pension under paragraph (5) or for a retirement pension or graduated retirement benefit under paragraphs (5) and (5A) or (5B), in determining the benefit to which the deceased would have been entitled if he had claimed within the prescribed time, the prescribed time shall be the period of three months ending on the date of his death and beginning with any day on which, apart from satisfying the condition of making a claim, he would have been entitled to the pension or benefit.

(5D) Paragraph (5E) applies where, throughout the period of 12 months ending with the day before the death of the deceased person, his entitlement to a Category A or a Category B retirement pension, shared additional pension or graduated retirement benefit was deferred in accordance with, as the case may be –

- (a) section 55 of the Contributions and Benefits Act (pension increase or lump sum where entitlement to retirement pension is deferred);
- (b) section 55C of that Act (pension increase or lump sum where entitlement to shared additional pension is deferred); or

- (c) section 35(4A) of the National Insurance Act 1965 (deferral of graduated retirement benefit).

(5E) Where a person claims under paragraph (5) or under paragraphs (5) and (5A) or (5B) the deceased shall be treated as having made an election in accordance with, as the case may be –

- (a) paragraph A1(1)(a) of Schedule 5 to the Contributions and Benefits Act (electing to have an increase of pension), where paragraph (5D)(a) applies;
- (b) paragraph 1(1)(a) of Schedule 5A to that Act (electing to have an increase of a shared additional pension) where paragraph (5D)(b) applies; or
- (c) paragraph 12(1)(a) of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005 (electing to have an increase of benefit), where paragraph (5D)(c) applies.

(5F) Paragraph (5G) applies where –

- (a) the deceased person was a widow, widower or surviving civil partner (“W”) who was married to, or in a civil partnership with, the other party of the marriage or civil partnership (“S”) when S died;
- (b) throughout the period of 12 months ending with the day before S’s death, S’s entitlement to a Category A or a Category B retirement pension or graduated retirement benefit was deferred in accordance with, as the case may be, paragraph (5D)(a) or (c); and
- (c) W made no statutory election in consequence of the deferral.

(5G) Where a person claims under paragraphs (5) and (5A) the deceased (“W”) shall be treated as having made an election in accordance with, as the case may be –

- (a) paragraph 3C(2)(a) of Schedule 5 to the Contributions and Benefits Act (electing to have an increase of pension), where paragraph (5D)(a) applies; or
- (b) paragraph 17(2)(a) of Schedule 1 to the Social Security (Graduated Retirement Benefit) Regulations 2005 (electing to have an increase in benefit), where paragraph (5D)(c) applies.”.

Made

29th December 2005



Minister for Health and Social Security

EXPLANATORY NOTE

(This note is not part of the Order)

1. Section 1 of the Social Security Act 2000 (an Act of Tynwald) enables the Department by Order to apply to the Island, as part of the law of the Island and incorporating such exceptions, adaptations and modifications as may be specified by the Order, any legislation to which that Act applies.
2. *Inter alia*, the Act applies to the Social Security Administration Act 1992, the Social Security Contributions and Benefits Act 1992, certain parts of the Welfare Reform and Pensions Act 1999 and the Pensions Act 2004 (all Acts of the United Kingdom Parliament having effect in the Isle of Man) and to any statutory instrument made (or having effect as if made) under any of those Acts.
3. This Order applies to the Island three United Kingdom Parliament Statutory Instruments which amend certain provisions of Acts and social security secondary legislation, and includes amendments to various provisions dealing with matters relating to benefits and pensions.
4. **The Civil Partnership (Miscellaneous and Consequential Provisions) Order 2005**
 - 4.1 This Order amends certain provisions of Acts relating to pensions and benefit payments, extending those provisions to cover civil partnerships.
 - 4.2 Article 3 introduces Schedule 1 to the Order.
 - 4.3 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 36 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.
 - 4.4 Paragraph 2 of Schedule 1 amends section 129 of the Pension Schemes Act 1993 (c.48) to insert a reference to civil partnership.
5. **The Social Security (Inherited SERPS) (Amendments relating to Civil Partnership) Regulations 2005**
 - 5.1 These Regulations are made under section 52(2) of the Welfare Reform and Pensions Act 1999 (c. 30) as amended by the Civil Partnership (Pensions and Benefit Payments) (Consequential, etc. Provisions) Order 2005 (SI 2005/2053). They extend the provisions of the Social Security (Inherited SERPS) Regulations 2001 (SI 2001/1085) to surviving civil partners.
 - 5.2 In particular, regulation 2 makes provision for surviving civil partners whose civil partner dies on or after 5th December 2005 to receive an increase in the rate of the additional (earnings related) pension under the State Earnings Related Pensions Scheme (SERPS) in the same way as a surviving spouse.

- 5.3 This regulation also allows for the proportion of the additional pension used in the calculation of the surviving civil partner's inheritable increments or lump sum to be increased in line with the provisions set out in those Regulations relating to the calculation of the additional pension for surviving civil partners.
6. **The Social Security (Retirement Pensions and Graduated Retirement Benefit) (Widowers and Civil Partnership) Regulations 2005**
- 6.1 These Regulations make provision relating to widowers, civil partners and surviving civil partners.
- 6.2 Regulations 2 and 3 amend, respectively, the Social Security (Graduated Retirement Benefit) (No. 2) Regulations 1978 and the Social Security (Graduated Retirement Benefit) Regulations 2005. These amendments extend to civil partners the same inheritance rights as apply to widowers in respect of a deceased person's graduated retirement benefit, including any increments or lump sum in a case where the deceased had deferred his or her entitlement.
- 6.3 Regulation 4 amends paragraphs (5A) to (5F) of regulation 30 of the Social Security (Claims and Payments) Regulations 1987 (claims for a Category A or B retirement pension, shared additional pension or graduated retirement benefit made on behalf of a person who has died where the person had deferred entitlement to the pension or benefit). The amendments extend these provisions to civil partners and they enable a claim for a Category A or B retirement pension or graduated retirement benefit to be made where a widower is under pension age at the time of his wife's death.