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## EXPLANATORY NOTE

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

This Order amends the Pension Schemes Act 1993 (c.48) (“the 1993 Act”) and subordinate legislation, making provision for surviving civil partners to receive pensions under contracted-out occupational and appropriate personal pension schemes.

Article 1 provides for citation, commencement and extent.

Article 2 introduces Schedule 1, containing amendments of the 1993 Act, and Schedule 2, containing amendments of provisions of Regulations.

Schedule 1 amends provisions of the 1993 Act to extend to surviving civil partners existing contracting-out requirements to provide survivor benefits to widows and widowers.

Paragraphs 1 to 3, 5 to 12 and 14 to 24 extend provisions in respect of widows and widowers in the 1993 Act to surviving civil partners.

Paragraph 4 amends section 17 of the 1993 Act, to extend to surviving civil partners the provisions in relation to guaranteed minimum pensions for widows and widowers so that surviving civil partners are treated in the same way as widowers. It also extends the circumstances where pensions to survivors need not be paid. These extended circumstances are subject to a transitional provision which ensures that they do not apply to survivors of scheme members where the member dies before the civil partnership provisions come into force.

Paragraph 13 amends section 38(2) of the 1993 Act to extend its scope to allow appropriate schemes to alter their rules to make provision for survivor benefits for civil partners.

Paragraph 24 amends section 170(1)(c) of the 1993 Act in relation to questions which may be determined by the Secretary of State. Section 170 was amended by the Social Security Act 1998 but those amendments have not yet been brought into force (except for the purpose of making regulations). Accordingly it is the version of section 170(1)(c) prior to those amendments that has been amended.

Schedule 2 amends Regulations relating to contracting-out by extending to surviving civil partners existing provisions relating to widows and widowers. Where existing provisions apply only to widowers, they are extended to apply to surviving civil partners. Each Part of Schedule 2 amends a separate set of Regulations:

Part 1 amends the Personal and Occupational Pension Schemes (Abatement of Benefit) Regulations 1987 (S.I. 1987/1113);

Part 2 amends the Contracting-out (Protection of Pensions) Regulations 1991 (S.I. 1991/166);

Part 3 amends the Occupational Pension Schemes (Discharge of Protected Rights on Winding Up) Regulations 1996 (S.I. 1996/775);

Part 4 amends the Occupational Pension Schemes (Contracting-out) Regulations 1996 (S.I. 1996/1172).

Paragraph 11 substitutes a new regulation 26, to extend the circumstances in which, in relation to the reference scheme, widows’, widowers’ and civil partners’ pensions need not be paid. These extended circumstances are subject to a transitional provision which ensures that they do not apply to survivors of scheme members where the member dies before the civil partnership provisions come into force.

Paragraph 12 amends regulation 37(4) and (5) to provide for age-related payments not to be made if the member was not married or had not formed a civil partnership at the time of his or her death.

**Draft Legislation:** This is a draft item of legislation. This draft has since been made as a UK Statutory Instrument: *The Civil Partnership (Contracted-out Occupational and Appropriate Personal Pension Schemes) (Surviving Civil Partners) Order 2005 No. 2050*

Paragraph 19 amends regulation 58 to extend the circumstances in which a guaranteed minimum pension payable to a widower or surviving civil partner need not be paid. These extended circumstances are subject to a transitional provision which ensures that they do not apply to survivors of scheme members where the member dies before the civil partnership provisions come into force.

Part 5 amends the Protected Rights (Transfer Payment) Regulations 1996 (S.I. 1996/1461);

Part 6 amends the Contracting-out (Transfer and Transfer Payment) Regulations 1996 (S.I. 1996/1462);

Part 7 amends the Personal and Occupational Pension Schemes (Protected Rights) Regulations 1996 (S.I. 1996/1537).

Paragraph 28 amends regulation 5 to extend the circumstances in which a pension or annuity payable to a widow, widower or surviving civil partner need not be paid. These extended circumstances are subject to a transitional provision which ensures that they do not apply to survivors of scheme members where the member dies before the civil partnership provisions come into force.

Paragraph 31 amends regulation 12 to extend the circumstances in which a pension or annuity need not be paid to the widow, widower or surviving civil partner when the member dies before effect is given to his protected rights. These extended circumstances are subject to a transitional provision which ensures that they do not apply to survivors of scheme members where the member dies before the civil partnership provisions come into force.

Part 8 amends the Occupational Pension Schemes (Modification of Schemes) Regulations 1996 (S.I. 1996/2517);

Part 9 amends the Personal Pension Schemes (Appropriate Schemes) Regulations 1997 (S.I. 1997/470).

Part 10 amends the Occupational Pension Schemes (Discharge of Liability) Regulations 1997 (S.I. 1997/784).

Paragraph 43 amends regulation 11 to extend the circumstances in which a pension need not be provided for widows', widowers' and surviving civil partners. These extended circumstances are subject to a transitional provision which ensures that they do not apply to survivors of scheme members where the member dies before the civil partnership provisions come into force.

An assessment of the impact on business, charities or the voluntary sector of the provisions in this Order is included in the Regulatory Impact Assessment that accompanied the Civil Partnership Act 2004. A copy of that assessment has been placed in the libraries of both Houses of Parliament. Copies may be obtained from the DTI website at <http://www.dti.gov.uk/access/ria/index.htm#equality>.