
DRAFT STATUTORY INSTRUMENTS

2014 No.

**The Marriage and Civil Partnership (Scotland) Act
2014 and Civil Partnership Act 2004 (Consequential
Provisions and Modifications) Order 2014**

PART 4

STATE PENSIONS

Category B retirement pension for married person

8.—(1) Section 48A of the 1992 Act⁽¹⁾ (Category B retirement pension for married person) does not confer a right to a Category B retirement pension on a person by reason of the person being married to a person of the same sex who was born before 6th April 1950.

(2) But that does not prevent section 48A from conferring a right to such a pension on a woman by reason of her marriage to another woman (“the spouse”) if—

- (a) the spouse is a woman by virtue of a full gender recognition certificate having been issued under the 2004 Act; and
- (b) the marriage subsisted before the time when that certificate was issued.

Category B retirement pension for widows and widowers

9.—(1) Section 48B of the 1992 Act⁽²⁾ (Category B retirement pension for widows and widowers) does not confer a right to a Category B retirement pension on a woman who attained pensionable age before 6th April 2010 by reason of her marriage to another woman.

(2) But that does not prevent section 48B from conferring a right to such a pension on a woman by reason of her marriage to another woman (“the spouse”) if—

- (a) the spouse was, at the time of her death, a woman by virtue of a full gender recognition certificate having been issued under the 2004 Act; and
- (b) the marriage subsisted before the time when that certificate was issued.

Category B retirement pension for widowers

10.—(1) Section 51(1ZA) of the 1992 Act⁽³⁾ (category B retirement pension for widowers) does not confer a right to a Category B retirement pension on a person if the person attains pensionable age on or after 6th April 2010.

(1) Section 48A was inserted by the Pensions Act 1995 (c.26) (“the 1995 Act”), Schedule 4, paragraph 3(1) and was amended by the Civil Partnership Act 2004 (c.33), Schedule 24(3), paragraph 25; the Pensions Act 2007 (c.22) (“the 2007 Act”), Schedule 1(1), paragraph 2(3) and Schedule 2(3), paragraph 7; and the 2013 Act, Schedule 4(5), paragraph 11.

(2) Section 48B was inserted by the 1995 Act, Schedule 4, paragraph 3(1); and was amended by Civil Partnership Act 2004, Schedule 24(3), paragraph 26; the 2007 Act, Schedule 1(1), paragraph 3 and Schedule 2(3), paragraph 8; and the 2013 Act, Schedule 4(5), paragraph 12.

(3) Section 51(1ZA) was inserted by the 2013 Act, Schedule 4(5), paragraph 13.

(2) Section 51(1ZA) of the 1992 Act does not confer a right to a Category B retirement pension on a woman by reason of her marriage to another woman (“the spouse”) if—

- (a) the spouse was, at the time of her death, a woman by virtue of a full gender recognition certificate having been issued under the 2004 Act; and
- (b) the marriage subsisted before the time when that certificate was issued.

Adult dependency increases

11.—(1) In a case where a full gender recognition certificate is issued to a person under the 2004 Act—

- (a) section 83 of the 1992 Act⁽⁴⁾ (pension increase (wife)) does not cease to apply by virtue of the change of gender; and
- (b) in the continued application of section 83 in such a case, references to a pension payable to a man, or references to his wife, are to be construed accordingly.

(2) In a case where a full gender recognition certificate is issued to a person under the 2004 Act—

- (a) section 84 of the 1992 Act⁽⁵⁾ (pension increase (husband)) does not cease to apply by virtue of the change of gender; and
- (b) in the continued application of section 84 in such a case, references to a pension payable to a woman, or references to her husband, are to be construed accordingly.

Converted or changed civil partnerships

12.—(1) This article applies where a civil partnership is converted into a marriage under section 9 of the 2013 Act, or is changed into a marriage in accordance with provision made under the 1977 Act, section 10 of the 2014 Act or Part 5 of this Order.

(2) For the purposes of section 48A of, and paragraph 5A(1)(b) of Schedule 3⁽⁶⁾ to, the 1992 Act—

- (a) the civil partnership is to be treated as having subsisted during the period that begins with the day when it was formed and ends with the day before the conversion day; and
- (b) the marriage is to be treated as subsisting only from the conversion day.

(3) In this article “conversion day” means the day when the civil partnership is converted into a marriage or changed into a marriage.

⁽⁴⁾ Section 83 was repealed by the 2007 Act, Schedule 7(2), paragraph 1 but is subject to savings specified in section 4 of that Act.
⁽⁵⁾ Section 84 was repealed by the 2007 Act, Schedule 7(2), paragraph 1 but is subject to savings specified in section 4 of that Act.
⁽⁶⁾ Paragraph 5A of Schedule 3 was inserted by the 2007 Act, section 1(3) and amended by the 2013 Act, Schedule 4(5), paragraphs 11 and 12.