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STATUTORY INSTRUMENTS

2005 No. 1924

PENSIONS

The European Parliament (United Kingdom Representatives) Pensions (Amendment) Order 2005

<i>Made</i>	- - - -	<i>14 July 2005</i>
<i>Laid before Parliament</i>		<i>26 July 2005</i>
<i>Coming into force</i>	- -	<i>18 August 2005</i>

The Leader of the House of Commons in exercise of the powers conferred by section 4 (1) and (3) of the European Parliament (Pay and Pensions) Act 1979(1), and now vested in him(2) hereby makes the following Order:

Title, commencement and interpretation

1.—(1) This Order may be cited as the European Parliament (United Kingdom Representatives) Pensions (Amendment) Order 2005 and shall come into force on 18 August 2005.

(2) In this Order, “the Principal Order” means the European Parliamentary (United Kingdom Representatives) Pensions (Consolidation and Amendment) Order 1994(3).

(3) Subject to paragraphs (4) and (5), this Order shall have effect from 3rd November 2004, but article 3 shall have effect from 1st April 2004.

(4) In relation to any time before section 1 of the Civil Partnership Act 2004(4) comes into force in relation to England and Wales, the Principal Order (as amended by this Order) shall have effect with the omission of references to civil partner, surviving civil partner, civil partnership and forming a civil partnership.

(5) From the date of the coming into force of section 1 of the Civil Partnership Act 2004 in relation to England and Wales, article 12A of the Principal Order (as inserted by article 8) shall have

(1) 1979 c. 50; (Section 3 of the European Communities (Amendment) Act 1986 (c. 58) substituted references to the European Parliament for references in Acts to the Assembly of the European Communities).

(2) See the Transfer of Functions (European Parliamentary Pay and Pensions) Order 1995 (S.I. 1995/2995), article 2 and the Transfer of Functions (European Parliamentary Pay and Pensions) Order 2003 (S.I. 2003/2922), article 2.

(3) S.I. 1994/1662, amended by S.I. 1996/1493, S.I. 1997/1291 and S.I. 2003/1416.

(4) 2004 c. 33.

effect with the omission of the words “(or would not have been so prevented apart from being of the same sex)”.

Interpretation

2. Paragraph (1) of article 2 of the Principal Order shall be amended as follows—

(1) After the definition of “added year” there shall be inserted—

““adult survivor” means a widow, widower or surviving civil partner or, in relation to a person who was a participant at any time on or after 3rd November 2004, that person’s surviving adult dependant, as defined in article 12A;”.

(2) After the definition of “the Managers” there shall be inserted—

““minimum pension age” means—

- (a) before 6th April 2010, fifty; and
- (b) on and after 6th April 2010, fifty-five.”

Contributions from salary

3. Article 5 of the Principal Order shall be amended as follows—

(1) In sub-paragraph (2)(b) after the words “15th July 2002” there shall be inserted the words “and ending before 1st April 2004”.

(2) At the end of sub-paragraph (2)(b) before the full stop there shall be inserted –
“; and

(c) in relation to a period beginning on or after 1st April 2004,

- (i) is 10 per cent; or
- (ii) where a participant opts to contribute at a reduced rate, is 6 per cent”.

(3) There shall be substituted for paragraph (2A) –

“(2A) Where a person who is a Representative on 15th July 2002 opts to contribute on or after 5th July 2001 at the rate of 9 per cent, the appropriate percentage —

- (a) in relation to a payment of salary made in respect of a period beginning on or after 1st April 1992 and ending before 5th July 2001, is 6 per cent;
- (b) in relation to a period beginning on or after 5th July 2001 and ending before 1st April 2004, is 9 per cent; and
- (c) in relation to a period beginning on or after 1st April 2004, is 10 per cent.”

Early abated pensions

4. Article 9 shall be omitted.

Early retirement

5. Article 10 of the Principal Order shall be amended as follows—

(1) There shall be substituted for paragraph (1) –

“(1) Where a person who —

- (a) ceases to be a Representative;

- (b) has attained the minimum pension age;
- (c) has actual reckonable service excluding service on or after 20th July 2009 of not less than fifteen years (hereinafter referred to in respect of a person as “his qualifying period”); and
- (d) has actual reckonable service as a participant that includes service on or after 2nd April 1991 and before 4th November 2004,

applies in writing to the Managers for an immediate pension under this article, then, if the Managers are satisfied that he does not intend to stand for re-election to the European Parliament, he shall be entitled to receive a pension under article 7 as if he had attained the age of sixty-five years on the date of his application or, if later, such other date as may be there specified; but the annual amount of the pension to which he is so entitled both before and after he attains the age of sixty-five years, shall (subject to article 8) be an amount calculated in accordance with article 7 and abated in accordance with Schedule 4 except that the part of the pension accrued in respect of service on and after 20th July 2009 shall be abated as if the participant had a qualifying period of 15 years.”.

(2) In paragraph (2) after the words “another Parliament” there shall be inserted the words “before 20th July 2009”.

(3) After paragraph (3) there shall be inserted—

“(4) Where a person who—

- (a) ceases to be a Representative;
- (b) has attained the minimum pension age; and
- (c) does not meet condition (c) of paragraph (1) above,

applies in writing to the Managers for an immediate pension under this article, then, if the Managers are satisfied that he does not intend to stand for re-election to the European Parliament, he shall be entitled to receive a pension under article 7 as if he had attained the age of sixty-five years on the date of his application or, if later, such other date as may be there specified; but the annual amount of the pension to which he is so entitled both before and after he attains the age of sixty-five years, shall (subject to article 8) be an amount calculated in accordance with article 7 and abated by the relevant percentage under Schedule 4 that would have applied if the participant had a qualifying period of 15 years.”

Surviving civil partners

6. After article 11 of the Principal Order a new article shall be inserted—

“Surviving civil partners

11A.—(1) Subject to paragraphs (2) and (3), where a person who was a participant dies leaving a surviving civil partner, this Order shall apply in relation to the surviving civil partner as it would have applied in relation to a widow or widower of the person.

(2) Subject to paragraph (3), where a pension is paid to a surviving civil partner of a person who ceased to be a participant before 3rd November 2004, that pension shall be calculated by reference only to service on and after 6th April 1988.

(3) This Order in so far as it relates to guaranteed minimum pensions shall apply to a surviving civil partner as it would have applied to a widower.”

Widows', widowers' and surviving civil partners' pensions

7. Article 12 of the Principal Order shall be amended as follows—

(1) In the heading there shall be substituted for the words “Widows' and widowers” the words “Widows', widowers' and surviving civil partners”.

(2) For paragraph (4) there shall be substituted—

“(3A) Subject to paragraphs (4) and (5), a pension payable under this article shall continue for life.

(4) Subject to paragraph (5), a pension payable under this article to a widow, widower or surviving civil partner of a person who ceased to be a participant before 3rd November 2004 shall cease on the date the widow, widower or surviving civil partner marries or forms a civil partnership, provided that the Treasury shall at any time restore the pension if at such time the Managers direct that they are satisfied that the subsequent marriage or civil partnership has been terminated or that there are exceptional reasons for the payment of the pension notwithstanding the subsistence of that marriage or civil partnership.”

(3) In paragraph (5) after the words “this article” there shall be inserted the words “in respect of a person who ceased to be a participant before 3rd November 2004”.

Pensions for surviving adult dependants

8. After article 12 of the Principal Order a new article shall be inserted –

“Pensions for surviving adult dependants

12A.—(1) For the purposes of this Order, surviving adult dependant means, in relation to a person who has died, a person who—

- (a) made and signed with the deceased person a declaration in a form prescribed by the Managers and the declaration was not subsequently cancelled by either partner by a signed revocation in such form as the Managers prescribed or otherwise accepted ; and
- (b) satisfies the Managers that at the time of the deceased person’s death –
 - (i) the person and the deceased person were cohabiting as partners in an enduring long-term relationship and neither the person nor the deceased person was cohabiting with a third person as partners in an enduring long-term relationship;
 - (ii) the person and the deceased person were not prevented from marrying (or would not have been so prevented apart from being of the same sex) or forming a civil partnership; and
 - (iii) either the person was financially dependent on the deceased person or they were financially interdependent.

(2) A surviving adult dependant of a person who—

- (a) was a participant at any time on or after 3rd November 2004;
- (b) was at the person’s death either –
 - (i) a participant; or
 - (ii) a pensioner; or
 - (iii) a deferred pensioner; and
- (c) did not leave a widow or widower or surviving civil partner

shall be entitled to receive a pension for life under this article.

(3) The annual amount of a pension payable under this article to a surviving adult dependant shall be five-eighths of the basic or prospective pension or pensions of the deceased person.”

Children’s pensions

9. Article 14 of the Principal Order shall be amended as follows–

(1) In sub-paragraph (2)(b) there shall be substituted for the words “widow or widower” the words “adult survivor”.

(2) In paragraph (5) there shall be substituted for the words “wife or husband” the words “adult survivor”.

Enhancement of initial adult survivors' and children’s pensions

10. Article 15 of the Principal Order shall be amended as follows–

(1) In the heading of article 15 there shall be substituted for the words “widows', widowers” the words “adult survivors”.

(2) In paragraph (1) there shall be substituted for the words “widow of a man” the words “adult survivor of a person”.

(3) In paragraph (1) after the words “under article 12” there shall be inserted the words “or article 12A”.

(4) In paragraph (2) there shall be inserted after the words “under article 12” wherever they occur the words “or article 12A”.

(5) In paragraph (4) there shall be substituted for the words “widow is entitled to receive a pension under article 12” the words “adult survivor is entitled to receive a pension under article 12 or article 12A”.

(6) In paragraph (5) there shall be substituted for the words “widow under article 12” the words “adult survivor under article 12 or article 12A”.

(7) In sub-paragraph (6)(a) there shall be substituted for the words “widow by way of pension under article 12” the words “adult survivor by way of pension under article 12 or article 12A”.

(8) In paragraph (6) after the words “under article 12” there shall be inserted the words “or article 12A”.

(9) In paragraph (8) there shall be substituted for the words “paragraphs (4), (5), and (8) of article 12 (duration of widow’s pension, and restrictions on payment)” the words “paragraphs (3A), (4), (5), and (8) of article 12 or paragraph (2) of article 12A”.

Reduced pension for younger adult survivors

11. After article 15 of the Principal Order a new article shall be inserted–

“Reductions in adult survivors' pensions

15A.—(1) Subject to paragraph (3), where on the death of a participant a pension is payable under article 12 or article 12A to a person (“the beneficiary”) who is more than 12 years younger than the participant, the amount of the pension calculated in accordance with paragraph (3) of article 12 or paragraph (3) of article 12A shall be reduced by the appropriate amount.

(2) The appropriate amount is the lesser of–

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(a) 50 per cent of the pension so calculated, and
 (b) 2.5 per cent of the pension so calculated multiplied by N,
 where N is the number of whole years or part years in excess of 12 by which the beneficiary is younger than the participant.

(3) This article shall not apply to the pension of an adult survivor of a person if –
 (a) the person was a participant at any time before 3rd November 2004; and
 (b) before 1st May 2006 the person and the adult survivor married or formed a civil partnership or made a declaration in accordance with sub-paragraph (1)(a) of article 12A.”

Gratuity on the death of a serving participant

12. In sub-paragraph (3)(a) of article 16 of the Principal Order there shall be inserted after the words “wife or husband” wherever they occur the words “or civil partner”.

Repayment of contributions after the death of the contributor

13. In paragraph (a) of article 26 of the Principal Order there shall be substituted for the words “a widow, widower” the words “an adult survivor”.

Percentage abatement of pension entitlement

14. There shall be substituted for the table in Schedule 4 to the Principal Order the following—

Age pension brought into payment	Qualifying period (years)					
	20 or more	19	18	17	16	15
65	0.0	0.0	0.0	0.0	0.0	0.0
64	0.0	0.0	0.0	0.0	0.0	6.0
63	0.0	0.0	0.0	0.0	6.0	11.5
62	0.0	0.0	0.0	6.0	11.5	16.4
61	0.0	0.0	6.0	11.5	16.4	21.0
60	0.0	6.0	11.5	16.4	21.0	25.2
59	6.0	11.5	16.4	21.0	25.2	29.1
58	11.5	16.4	21.0	25.2	29.1	32.7
57	16.4	21.0	25.2	29.1	32.7	36.1
56	21.0	25.2	29.1	32.7	36.1	39.2
55	25.2	29.1	32.7	36.1	39.2	42.1
54	29.1	32.7	36.1	39.2	42.1	44.8
53	32.7	36.1	39.2	42.1	44.8	47.2

Age pension brought into payment	20 or more	19	18	17	16	15
52	36.1	39.2	42.1	44.8	47.2	49.4
51	39.2	42.1	44.8	47.2	49.4	51.4
50	42.1	44.8	47.2	49.4	51.4	53.3

Guarantees for adult survivors

15. Paragraph 1 of Schedule 6 to the Principal Order shall be amended as follows–

(1) In the heading of paragraph 1 there shall be substituted for the words “widows and widowers” the words “adult survivors”.

(2) In sub-paragraph (1) there shall be substituted for the words “a widow or widower” the words “an adult survivor”.

(3) In paragraph (a) of sub-paragraph (2) there shall be substituted for the words “widow or widower by way of pension under article 12” the words “adult survivor by way of pension under article 12 or article 12A”.

(4) At the end of sub-paragraph (2) there shall be substituted for the words “widow or widower” the words “adult survivor”.

(5) In sub-paragraph (4) there shall be substituted for the words “widow or widower” wherever they occur the words “adult survivor”.

Guarantees where children but no adult survivor

16. Paragraph 2 of Schedule 6 to the Principal Order shall be amended as follows–

(1) In the heading of paragraph 2 there shall be substituted for the words “no spouse survive” the words “no adult survivor”.

(2) In sub-paragraph (1) there shall be substituted for the words “no spouse” the words “no adult survivor”.

Guarantees where no survivors

17. In paragraph 3 of Schedule 6 to the Principal Order there shall be substituted for the words “a spouse” the words “an adult survivor”.

Status of adult survivor

18. Paragraph 4 of Schedule 6 to of the Principal Order shall be amended as follows–

(1) There shall be substituted for the heading of paragraph 4 the heading “Status of adult survivor”.

(2) At the start of sub-paragraph (1) there shall be substituted for the word “If” the words “Subject to sub-paragraph (3), if”.

(3) There shall be substituted for paragraph (a) of sub-paragraph (1)–

“(a) the adult survivor of that deceased pensioner marries or forms a civil partnership or cohabits with another person; and”.

(4) In paragraph (b) of sub-paragraph (1) there shall be substituted for the words “widow’s or widower’s” the words “adult survivor’s”.

(5) At the start of sub-paragraph (2) there shall be substituted for the word “If” the words “Subject to sub-paragraph (3), if”.

(6) There shall be substituted for paragraph (a) of sub-paragraph (2) –

“(a) the adult survivor of that deceased pensioner marries or forms a civil partnership or cohabits with another person; and”.

(7) In paragraph (b) of sub-paragraph (2) there shall be substituted for the words “widow or widower” the words “widow, widower or surviving civil partner”.

(8) After sub-paragraph (2) there shall be inserted –

“(3) This paragraph shall only apply to payments in respect of persons who ceased to be participants before 3rd November 2004.”

Early termination of child’s period of full time education

19. In paragraph 5 of Schedule 6 to the Principal Order there shall be substituted for the words “widow or widower” the words “adult survivor”.

14 July 2005

Geoffrey Hoon
Leader of the House of Commons

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes various amendments to the European Parliamentary (United Kingdom Representatives) Pensions (Consolidation and Amendment) Order 1994(5) (the “Principal Order”).

Article 3 increases the contribution rate for participants with a 1/40th accrual rate from 9 per cent to 10 per cent with effect from 1st April 2004.

Articles 4, 5 and 14 amend the early retirement provisions.

Articles 6 to 10, 12, 13 and 15 to 19 introduce provisions for surviving civil partners and surviving partners who were neither married nor a civil partner and amend the Principal Order to make pensions to adult survivors payable for life.

Article 11 introduces provisions that reduce the adult survivor’s pension where the adult survivor is more than 12 years younger than the participant.