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STATUTORY INSTRUMENTS

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**2005 No. 887**

**PARLIAMENT**

**The Parliamentary Pension (Amendment) Regulations 2005**

<i>Made</i>	- - - -	<i>22nd March 2005</i>
<i>Laid before Parliament</i>		<i>23rd March 2005</i>
<i>Coming into force</i>	- -	<i>14th April 2005</i>

The Leader of the House of Commons in exercise of the powers conferred on him by section 2(1) and (4) of the Parliamentary and other Pensions Act 1987(1), with the consent of the Minister for the Civil Service(2), and after consultation with the Trustees of the Parliamentary Contributory Pension Fund and with such persons as appeared to him to represent persons likely to be affected by the Regulations, hereby makes the following Regulations:

**Title, commencement and interpretation**

1.—(1) These Regulations may be cited as the Parliamentary Pensions (Amendment) Regulations 2005 and shall come into force on 14th April 2005.

(2) In these Regulations, the “Principal Regulations” means the Parliamentary Pensions (Consolidation and Amendment) Regulations 1993(3).

(3) Subject to paragraphs (4) and (5), these Regulations shall have effect from 3rd November 2004, but regulations 3 and 4 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 Regulations (as amended by these Regulations) 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, regulation K2A of the Principal Regulations (as inserted by regulation 10) shall have effect with the omission of the words “(or would not have been so prevented apart from being of the same sex)”.

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(1) 1987 c. 45.

(2) See the Transfer of Functions (Treasury and Minister for the Civil Service) Order 1995 (S.I.1995/269), article 3 and the Schedule.

(3) S.I. 1993/3253, amended by S.I. 1995/2867, S.I. 1996/2406, S.I. 1999/2100, S.I. 2001/835, S.I. 2001/2649, S.I. 2002/1807, S.I. 2002/1887 and S.I. 2004/2416.

(4) 2004 c. 33.

## **Interpretation**

2. In paragraph (1) of regulation A2 of the Principal Regulations 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 regulation K2A;”.

## **Contributions by participating Members**

3. Regulation D1 of the Principal Regulations shall be amended as follows—

(1) In sub-paragraph (3)(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 (3)(b) before the full stop there shall be inserted—

“; or

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

(i) is 10 per cent; or

(ii) where a participating Member opts to contribute to the Fund at a reduced rate, is 6 per cent”.

(3) There shall be substituted for paragraph (3A)—

“(3A) Where a person who is a Member of the House of Commons on 15th July 2002 opts to contribute to the Fund 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.”

## **Contributions by participating office holders**

4. Regulation D2 of the Principal Regulations shall be amended as follows—

(1) In sub-paragraph (3)(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 (3)(b) before the full stop there shall be inserted—

”; or

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

(i) is 10 per cent; or

(ii) where a participating office holder opts to contribute to the Fund at a reduced rate, is 6 per cent”.

(3) There shall be substituted for paragraph (3A)—

“(3A) Where a person who is an office holder on 15th July 2002 opts to contribute to the Fund 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 retirement for Members**

5. Regulation H1 of the Principal Regulations shall be amended as follows—

(1) In paragraph (1) after the words “Where a person” there shall be inserted the words “who was a participant at any time before 4th November 2004 and”.

(2) In sub-paragraph (1)(c) there shall be substituted for the words “age of fifty years” the words “minimum pension age”.

(3) In sub-paragraph (1)(d) after the words “as a participating Member which” there shall be inserted the words “, excluding service on or after the cut-off date”.

(4) In paragraph (1) after the words “abated in accordance with Schedule 4” there shall be inserted—

“except that the part of the pension accrued in respect of service on and after the cut-off date shall be abated as if the participant had a qualifying period of 15 years”.

(5) In paragraph (2) after the word “service” there shall be inserted the words “before the cut-off date”.

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

“(4) Where a person is a participant at anytime on or after 4th November 2004 and who—

(a) has ceased to be a Member of the House of Commons;

(b) is not the holder of a qualifying office;

(c) has attained the minimum pension age; and

(d) in the case of a person who was a participant at any time before 4th November 2004, does not meet condition (d) of paragraph (1) above,

applies in writing to the Trustees for an immediate pension under this regulation then, if the Trustees are satisfied that he does not intend to stand for re-election to that House, he shall be entitled to receive a pension under regulation F1 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 Part G (Commutation)) be an amount calculated in accordance with regulation F2 and abated by the relevant percentage under Schedule 4 that would have applied if the participant had a qualifying period of 15 years.”

### **Early retirement for office holders who have been Members**

6. Regulation H2 shall be amended as follows—

(1) The first paragraph shall be numbered (1).

(2) In the first paragraph after the words “is entitled to receive a pension under” there shall be inserted the words “paragraph (1) of”.

(3) In the first paragraph after the words “abated in accordance with Schedule 4” there shall be inserted—

“except that the part of the pension accrued in respect of service on and after the cut-off date shall be abated as if the participant had a qualifying period of 15 years”.

(4) After the first paragraph there shall be inserted—

“(2) A person who is entitled to receive a pension under paragraph (4) of regulation H1 who is or has been a participating office holder shall (subject to Part G (Commutation)) be entitled also to receive a pension under regulation F3 calculated in accordance with regulation F4 and abated by the relevant percentage under Schedule 4 that would have applied if the participant had a qualifying period of 15 years and payable from the same date as the pension payable under regulation H1.”

### **Cut-off date and minimum pension age**

7. After regulation H2 of the Principal Regulations there shall be inserted—

#### **“H3 Cut-off date and minimum pension age**

In this Part:

“cut-off date” means the later of 1st April 2009 and the day after the second General Election to occur after the General Election held on 7th June 2001; and

“minimum pension age” means—

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

### **Equal treatment**

8. Regulation K1 shall be amended as follows—

- (1) The first paragraph shall be numbered (1).
- (2) After the first paragraph there shall be inserted—

“(2) Subject to paragraphs (3) and (4), where a person who was a participant dies leaving a surviving civil partner, these Regulations shall apply in relation to the surviving civil partner as they would have applied in relation to a widow or widower of the person, except in so far as they relate to pensions payable to widows in accordance with regulation K2(6).

(3) Subject to paragraph (4), 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.

(4) These Regulations in so far as they relate to guaranteed minimum pensions shall apply to a surviving civil partner as they would have applied to a widower.”

### **Pensions for widows, widowers and surviving civil partners**

9. Regulation K2 of the Principal Regulations shall be amended as follows—

(1) In the heading of regulation K2 there shall be substituted for the words “Widows and Widowers” the words “widows, widowers and surviving civil partners”.

(2) For paragraph (3) there shall be substituted—

“(2A) Subject to paragraphs (3), (4) and (6), a pension payable under this regulation shall continue for life.

(3) Subject to paragraph (4) and (6), a pension payable under this regulation to a widow or 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 or widower or surviving civil partner marries or forms a civil partnership, provided that the Trustees may, if they think fit, at any time direct that the pension shall be restored if 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 (4) after the words “this regulation” there shall be inserted the words “in respect of a person who ceased to be a participant before 3rd November 2004”.

(4) In paragraph (6) after the words “widow of a person” there shall be inserted the words “who ceased to be a participant before 3rd November 2004”.

### **Pensions for surviving adult dependants**

10. After regulation K2 of the Principal Regulations a new regulation shall be inserted—

#### **“K2A Pensions for surviving adult dependants**

(1) For the purposes of these Regulations, 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 Trustees and the declaration was not subsequently cancelled by either partner by a signed revocation in such form as the Trustees prescribed or otherwise accepted ; and
- (b) satisfies the Trustees 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 regulation.

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

### **Pensions for children**

11. Regulation K3 of the Principal Regulations 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”.

### **Death in service of participating Member**

**12.** Regulation K4 of the Principal Regulations shall be amended as follows—

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

“(1) Where a person who was a participant at any time on or after 3rd November 2004 has died and, at the time of his death, he was a participating Member, paragraph (2) below and regulation K5 (so far as applicable) shall apply if his adult survivor is entitled to receive a pension under regulation K2 or regulation K2A, or if a children’s pension is payable under regulation K3 for the benefit of any relevant child or children of his.”

(2) In paragraph (2) there shall be substituted for the words “widow under regulation K2” the words “adult survivor under regulation K2 or regulation K2A”.

### **Enhancement of initial adult survivors' pensions**

**13.** Regulation K5 of the Principal Regulations shall be amended as follows—

(1) In the heading of regulations K5 there shall be substituted for the words “widows' and widowers' pensions” the words “adult survivors' pensions”.

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

(3) In paragraph (2) after the words “under regulation K2” there shall be inserted the words “or regulation K2A”.

(4) In sub-paragraph (3)(a) after the words “under regulation K2” there shall be inserted the words “or regulation K2A”.

(5) In paragraph (3) after the words “under regulation K2” there shall be inserted the words “or regulation K2A”.

(6) In paragraph (5) there shall be substituted for the words “widow is entitled to receive a pension under regulation K2” the words “adult survivor is entitled to receive a pension under regulation K2 or regulation K2A”.

(7) In sub-paragraph (6)(a) there shall be substituted for the words “widow by way of pension under regulation K2” the words “adult survivor by way of pension under regulation K2 or regulation K2A”.

(8) In paragraph (6) after the words “under regulation K2” there shall be inserted the words “or regulation K2A”.

(9) In paragraph (8) there shall be substituted for the words “paragraphs (3), (4), (7) and (8) of regulation K2 (duration of widow’s pension, and restrictions on payment)” the words “paragraphs (2A), (3) (4), (7) and (8) of regulation K2 or paragraph (2) of regulation K2A”.

### **Reduced pension for younger adult survivors**

**14.** After regulation K6 of the Principal Regulations a new regulation shall be inserted—

#### **“K7 Reductions in adult survivors' pensions**

(1) Subject to paragraph (3), where on the death of a participant a pension is payable under regulation K2 or K2A 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 (2) of Regulation K2 or paragraph (3) of Regulation K2A shall be reduced by the appropriate amount.

(2) The appropriate amount is the lesser of—

- (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 regulation 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 regulation K2A.”

### **Gratuity on death in service**

15. In sub-paragraph (3)(a) of regulation L1 of the Principal Regulations there shall be inserted after the words “wife or husband” wherever they occur the words “or civil partner”.

### **Gratuity on death after retirement**

16. In paragraph (1) of regulation L2 of the Principal Regulations after the words “under regulation K2” there shall be inserted the words “or regulation K2A”.

### **Guarantees for adult survivors**

17. Regulation M2 of the Principal Regulations shall be amended as follows—

(1) In the heading of regulations M2 there shall be substituted for the words “widows and widowers” the words “adult survivors”.

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

(3) In sub-paragraph (2)(a) there shall be substituted for the words “widow or widower by way of pension under regulation K2” the words “adult survivor by way of pension under regulation K2 or regulation K2A”.

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

(5) In 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**

18. Regulation M3 of the Principal Regulations shall be amended as follows—

(1) In the heading of regulation M3 there shall be substituted for the words “no spouse survive” the words “no adult survivor”.

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

### **Guarantees where no survivors**

19. In paragraph (1) of regulation M4 of the Principal Regulations there shall be substituted for the words “his spouse” the words “an adult survivor”.

### **Status of adult survivor**

20. Regulation M5 of the Principal Regulations shall be amended as follows—

(1) There shall be substituted for the heading of regulation M5 the heading “Status of adult survivor”.

(2) At the start of paragraph (1) there shall be inserted the words “Subject to paragraph (3),”.

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

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

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

(5) At the start of paragraph (2) there shall be inserted the words “Subject to paragraph (3),”.

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

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

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

(8) After paragraph (2) there shall be inserted—

“(3) This regulation 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**

21. In regulation M6 of the Principal Regulations there shall be substituted for the words “widow or widower” the words “adult survivor”.

### **Deceased pensioner office holder**

22. In paragraph (1) of regulation M7 of the Principal Regulations there shall be substituted for the words “his or her widow or widower and any relevant child or children as they apply in relation to a deceased pensioner Member and his or her widow or widower”—

“his adult survivor and any relevant child or children as they apply in relation to a deceased pensioner Member and his adult survivor”.

### **Refund after death**

23. In regulation N2 of the Principal Regulations there shall be substituted for paragraph (a)—

“(a) without leaving an adult survivor or relevant child who is, or may become, entitled in respect of that person to receive a pension under regulations K2, K2A or K3; and”

### **Percentage abatement of pension entitlement**

24. There shall be substituted for the table in Schedule 4 to the Principal Regulations the following—



*Qualifying period (years)*

<b>Age pension brought into payment</b>	<b>20 or more</b>	<b>19</b>	<b>18</b>	<b>17</b>	<b>16</b>	<b>15</b>
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
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

22nd March 2005

*Peter Hain*  
Leader of the House of Commons

I consent

22nd March 2005

*David Miliband*  
for the Minister for the Civil Service

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

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

These Regulations make various amendments to the Parliamentary Pensions (Consolidation and Amendment) Regulations 1993<sup>(5)</sup> (the “Principal Regulations”).

Regulations 2, 8 to 13 and 15 to 23 introduce provisions for surviving civil partners and surviving partners who were neither married nor a civil partner and amend the Principal Regulations to make pensions to adult survivors payable for life.

Regulations 3 and 4 increase 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.

Regulations 5 to 7 and 24 amend the early retirement provisions.

Regulation 14 introduces provisions that reduce the adult survivor’s pension where the adult survivor is more than 12 years younger than the participant.

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<sup>(5)</sup> S.I. 1993/3253, amended by S.I. 1995/2867, S.I. 1996/2406, S.I. 1999/2100, S.I. 2001/2649, S.I. 2002/1807, S.I. 2002/1887 and S.I. 2004/2416.