

## SCHEDULE 2

### Amendments to enactments etc.: Scotland

#### **Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010**

7.—(1) Schedule 2(1) to the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (Royal Air Force Attributable Benefits Scheme) is amended as follows.

(2) In Part A, in rule A.1 (interpretation) after the definition of “relevant disabling condition” insert—

““relevant gender change case” means a case where—

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

(3) In Part C—

(a) in rule C.2 (conditions relating to the deceased) for paragraphs (a) and (b) substitute—

“(a) the deceased person was in service on or after 31st March 1973 and at the time of the deceased person’s death—

- (i) was a man married to a woman who he leaves a widow; or
- (ii) was a woman married to a woman in a relevant gender change case whom she leaves a widow;

(b) the deceased person was in service on or after 6th April 1978 and at the time of the deceased person’s death—

- (i) was a man married to a woman whom he married after discharge and whom he leaves a widow; or
- (ii) was a woman married to a woman in a relevant gender change case whom she married after discharge and whom she leaves a widow;”.

(b) in the heading to rule C.4 (persons regarded as living together) and in paragraph (1) of that rule, for “husband and wife” substitute “a married couple”;

(c) in rule C.12 (level of compensation for post service marriages and civil partnerships), for “husband and wife” substitute “a married couple”, and

(d) in rule C.19 (restoration of long term compensation to surviving adult dependant)—

(i) in paragraph (2), for “widow or widower” in both places it occurs substitute “spouse”, and

(ii) for paragraph (7), substitute—

“(7) Where no long term compensation has been payable to a surviving spouse by virtue of the operation of paragraph (1)(b) to (e) because of that surviving spouse having lived with another person as if they were a married couple, the long term compensation will be restored where the Defence Council is satisfied that the surviving spouse has ceased to live with that other person as if they were a married couple.”.

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(1) Schedule 2 was amended by the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 and the Air Force Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2012.

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

(4) In Part D of Schedule 2 to the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (benefits payable in respect of eligible children) for rule D.1(3) (entitlement to a child's compensation) substitute—

“(3) This Part will only apply when—

- (a) the deceased person was in service on or after 31st March 1973 and at the time of the deceased person's death—
  - (i) was a man married to a woman whom he leaves a widow; or
  - (ii) was a woman married to a woman in a relevant gender change case whom she leaves a widow;
- (b) the deceased person was a woman who was in service on or after 1st October 1987, and at the time of her death was married to a man whom she leaves a widower;
- (c) the deceased person was in service on or after 1st October 1987 and at the time of the deceased person's death was either—
  - (i) married to a person of the same sex (except in a case where sub-paragraph (a)(ii) applies to the deceased person); or
  - (ii) was in a civil partnership with a person,

whom the deceased person leaves as a surviving spouse or surviving civil partner;

- (d) the deceased person was an eligible partner and was in service on or after 5th December 2005.”.