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STATUTORY INSTRUMENTS

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**2019 No. 1514**

**The Marriage (Same-sex Couples) and Civil Partnership  
(Opposite-sex Couples) (Northern Ireland) Regulations 2019**

**PART 6**

**Amendments: Pensions and Social Security: Primary Legislation**

**Civil Pensions Act (Northern Ireland) 1925**

**53.**—(1) The Civil Pensions Act (Northern Ireland) 1925(1) is amended as follows.

(2) In section 1(2) (persons to whom pension may be granted), for “widow” substitute “surviving spouse or civil partner”.

(3) In section 2(1) and (2) (limit on amount of pensions), for “widow” substitute “surviving spouse or civil partner”.

**Judicial Pensions Act (Northern Ireland) 1951**

**54.**—(1) The Judicial Pensions Act (Northern Ireland) 1951(2) is amended as follows.

(2) In section 7(3) (widows’, widowers’ and surviving civil partners’ pensions), after subsection (1) insert—

“(1A) A surviving civil partner’s pension may not be granted in respect of a person’s service if—

- (a) the person retired from relevant service before 13th January 2020, and
- (b) power to grant the pension relies on the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019.”.

**County Courts Act (Northern Ireland) 1959**

**55.**—(1) The County Courts Act (Northern Ireland) 1959(4) is amended as follows.

(2) In section 123(5) (widows’, widowers’ and surviving civil partners’ pensions), after subsection (1) insert—

“(1A) A surviving civil partner’s pension may not be granted in respect of a person’s service if—

- (a) the person retired from relevant service before 13th January 2020, and
- (b) power to grant the pension relies on the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019.”.

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(1) 1925 c.2 (N.I.) (15 & 16 Geo. 5).

(2) 1951 c.20 (N.I.).

(3) Section 7 was substituted by S.I. 1991/2631 (N.I. 24) and amended by S.I. 2005/3325.

(4) 1959 c.25 (N.I.).

(5) Section 123 was substituted by S.I. 1991/2631 (N.I. 24) and amended by S.I. 2005/3325.

(3) In section 124(4)(6) (no children’s pension for daughters who are married or for children who are civil partners), omit “female” in both places it occurs.

(4) The amendment made by paragraph (3) applies only where the death of the deceased occurs on or after 13th January 2020.

(5) In Schedule 2B(7) (surviving civil partners’ pensions: transitional provision), in paragraph 1, in the definition of “relevant date”, after “2005” insert “, but means 12th January 2020 in relation to a civil partnership formed between two people not of the same sex”.

### **District Judges (Magistrates’ Courts) Pensions Act (Northern Ireland) 1960**

**56.**—(1) The District Judges (Magistrates’ Courts) Pensions Act (Northern Ireland) 1960(8) is amended as follows.

(2) In the section 4A inserted by the Personal Pension Option (No. 1) Regulations (Northern Ireland) 1989(9), after “widow’s” insert “, widower’s”.

(3) In section 5(10) (widows’, widowers’ and surviving civil partners’ pensions), after subsection (1) insert—

“(1A) A surviving civil partner’s pension may not be granted in respect of a person’s service if—

- (a) the person retired from relevant service before 13th January 2020, and
- (b) power to grant the pension relies on the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019.”.

(4) In section 6(4)(11) (no children’s pension for daughters who are married or for children who are civil partners), omit “female” in both places it occurs.

(5) The amendment made by paragraph (4) applies only where the death of the deceased occurs on or after 13th January 2020.

(6) In section 12(12) (power to make rules for part-surrender of pension in return for pension for wife or dependants)—

- (a) in subsections (1) and (2), for “wife”, in each place it occurs, substitute “spouse or civil partner”,
- (b) in subsection (3), after “widow’s” insert “, widower’s, surviving civil partner’s”, and
- (c) after subsection (3) insert—

“(3A) Rules under this section, or section 13, may make different provision for different purposes.”.

(7) In section 13 (further power to make rules for part-surrender of pension in return for pension for wife)—

- (a) in subsection (1)—
  - (i) after “married” insert “or formed a civil partnership”,
  - (ii) after “marriage” insert “or of the formation of the civil partnership”, and
  - (iii) for “wife” substitute “spouse or civil partner”, and

(6) Section 124(4) was amended by [S.I. 2005/3325](#).

(7) Schedule 2B was inserted by article 32 of [S.I. 2005/3325](#).

(8) [1960 c.2 \(N.I.\)](#), formerly the Resident Magistrates’ Pensions Act (Northern Ireland) 1960, but renamed by [S.R. \(N.I.\) 2008/154](#).

(9) [S.R. \(N.I.\) 1989/100](#). The inserted section 4A was amended by [S.I. 2005/3325](#).

(10) Section 5 was substituted by [S.I. 1991/2631 \(N.I. 24\)](#) and amended by [S.I. 2005/3325](#).

(11) Sections 6(4) was amended by [S.I. 2005/3325](#).

(12) Sections 12 and 13 were amended by [S.I. 1991/2631 \(N.I. 24\)](#).

(b) in subsection (3)—

- (i) for “wives”, in both places it occurs, substitute “spouses and civil partners”, and
- (ii) after “marriage” insert “or of the formation of the civil partnership”.

(8) In Part 2 of Schedule 2(13) (surviving civil partners’ pensions: transitional provision), in paragraph 5, in the definition of “relevant date”, after “2005” insert “, but means 12th January 2020 in relation to a civil partnership formed between two people not of the same sex”.

#### **Lands Tribunal and Compensation Act (Northern Ireland) 1964**

**57.**—(1) The Lands Tribunal and Compensation Act (Northern Ireland) 1964(14) is amended as follows.

(2) In section 2A(15) (election to opt out of relevant pension scheme)—

- (a) in subsection (2), in the definition of “judicial pension scheme”—
  - (i) after “widow’s” insert “, widower’s, surviving civil partner’s”, and
  - (ii) after “widow” insert “, or widower or surviving civil partner,”, and
- (b) in subsection (9)(b), after “widow’s” insert “, or widower’s or surviving civil partner’s,”.

#### **Superannuation (Amendment) Act (Northern Ireland) 1966**

**58.** In paragraph 9(3) of Schedule 1 to the Superannuation (Amendment) Act (Northern Ireland) 1966(16) (power in relation to children adopted after end of marriage or relevant service), after “marriage”, in each place it occurs, substitute “or civil partnership”.

#### **Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969**

**59.**—(1) The Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969(17) is amended as follows.

(2) In section 1(5) (meaning of “derivative benefit” in section 1(3)), after “widow’s” insert “, widower’s, surviving civil partner’s”.

#### **Social Security (Northern Ireland) Act 1975**

**60.** In Schedule 10 to the Social Security (Northern Ireland) Act 1975(18) (superannuation allowances for Social Security Commissioners)—

- (a) in paragraph 7(8)(b) (interpretation), for “widow’s” substitute “surviving spouse’s, surviving civil partner’s”, and
- (b) in paragraph 7B(3)(b) (persons who may appeal), for “widow or widower,” substitute “surviving spouse or surviving civil partner,”.

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(13) Part 2 of Schedule 2 was inserted by article 45 of [S.I. 2005/3325](#).

(14) [1964 c.29 \(N.I.\)](#).

(15) Section 2A was inserted by [S.R. \(N.I.\) 1989/124](#).

(16) [1966 c.27 \(N.I.\)](#).

(17) [1969 c.7 \(N.I.\)](#).

(18) [1975 c.15](#). In Schedule 10, paragraph 7B was inserted by paragraph 7(4) of the Judicial Retirement and Pensions Act [1993 \(c.8\)](#).

**Social Security Pensions (Northern Ireland) Order 1975**

**61.**—(1) In the Social Security Pensions (Northern Ireland) Order 1975(**19**), Article 69 is amended as follows.

(2) In paragraph (5ZB)(a), after “widow’s pension” insert “other than one within sub-paragraph (b)”.

(3) In paragraph (5ZB)(b), after “widower’s pension,” insert “or in the case of a widow’s pension to which entitlement relies on the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019,”.

(4) In paragraph (5ZC)—

(a) in sub-paragraph (b), after “this paragraph” insert “, but this is subject to sub-paragraph (c)”, and

(b) after sub-paragraph (b) insert—

“(c) applies to a widow’s or widower’s or surviving civil partner’s pension, where the pension is one to which entitlement relies on the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019, only in respect of amounts payable on or after 13th January 2020;”.

**Pneumoconiosis, etc., (Workers’ Compensation) (Northern Ireland) Order 1979**

**62.** For Article 5(2A) and (2B) of the Pneumoconiosis, etc., (Workers’ Compensation) (Northern Ireland) Order 1979(**20**) substitute—

“(2A) For the purposes of paragraph (1)(c), two persons are in a qualifying relationship if they are living together as if spouses of each other.”.

**Social Security (Northern Ireland) Order 1989**

**63.** In paragraph 2 of Schedule 5 to the Social Security (Northern Ireland) Order 1989(**21**) (the principle of equal treatment)—

(a) in sub-paragraph (5), after “marital” insert “, civil partnership”, and

(b) in sub-paragraph (9)—

(i) in paragraphs (a) and (b), for “an unmarried” substitute “a relevant”, and

(ii) in paragraph (b), for the words after “some other person” substitute “, without being married to or civil partners of each other, live together as if spouses of each other”.

**Child Support (Northern Ireland) Order 1991**

**64.**—(1) The Child Support (Northern Ireland) Order 1991(**22**) is amended as follows.

(2) In Article 27(2)(**23**) (cases of disputed parentage in which assessment may be made), in paragraph (b) of Case A1, for “was married to” substitute “is a man who was married to, or the civil partner of,”.

(19) S.I. 1975/1503 (N.I. 15). In Article 69, paragraphs (5ZB) and (5ZC) were inserted by section 110 of the Pensions (No. 2) Act (Northern Ireland) 2008 (c.13 (N.I.)).

(20) S.I. 1979/925 (N.I. 9). Article 5(2A) and (2B) were inserted by section 53 of the Welfare Reform Act (Northern Ireland) 2007 (c.2 (N.I.)).

(21) S.I. 1989/1342 (N.I. 13).

(22) S.I. 1991/2628 (N.I. 23).

(23) In Article 27(2), Case A1 was inserted by section 15 of the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c.4 (N.I.)).

(3) In Article 32L(5)(24) (disposition is reviewable unless made for valuable consideration other than marriage), after “marriage” insert “or formation of a civil partnership”.

(4) In Part 1 of Schedule 1 (as substituted by the Child Support, Pensions and Social Security Act (Northern Ireland) 2000(25)), for paragraph 10C(5) and (6) substitute—

“(5) In sub-paragraph (4)(a) “couple” means—

- (a) two people who are married to, or civil partners of, each other and are members of the same household, or
- (b) two people who are not married to, or civil partners of, each other but are living together as if spouses of each other.”.

(5) In Part 1 of Schedule 1 (as it has effect otherwise than by virtue of the substitution by that Act of 2000), in paragraph 6—

(a) in sub-paragraph (5)(b)(26), for sub-paragraphs (i) to (iii) substitute—

- “(i) is living together in the same household with another adult who is the absent parent’s spouse or civil partner, or
- (ii) is living together in the same household with another adult as if spouses of each other,”, and

(b) omit paragraph (5A).

### **Social Security Contributions and Benefits Act 1992**

**65.** In section 171ZL(4B) of the Social Security Contributions and Benefits Act 1992(27) (statutory adoption pay: meaning of “member of a couple”)—

- (a) in paragraph (a), after “Wales” insert “or Northern Ireland”, and
- (b) omit paragraph (b).

### **Social Security Contributions and Benefits (Northern Ireland) Act 1992**

**66.**—(1) The Social Security Contributions and Benefits (Northern Ireland) Act 1992(28) is amended as follows.

(2) In section 37(4)(29) (widowed mother’s allowance for persons widowed before 9th April 2001: events on which allowance ends), for paragraphs (b) and (c) substitute—

“or

- (b) for any period during which she, and a person who is neither her spouse nor her civil partner, are living together as if spouses of each other.”.

(3) In section 38(3)(30) (widow’s pension for person’s widowed before 9th April 2001: events on which pension ends), for paragraphs (c) and (d) substitute—

“or

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(24) Article 32L was inserted by section 16 of the Child Maintenance Act (Northern Ireland) 2008 (c.10 (N.I.)).

(25) 2000 c.4 (N.I.). See section 1(3) and Schedule 1. The substituted paragraph 10C(5) and (6) were subsequently further substituted by paragraph 12 of Schedule 4 to the Civil Partnership Act 2004.

(26) Paragraph 6(5)(b) was substituted, and paragraph 6(5A) was inserted, by paragraph 10 of Schedule 24 to the Civil Partnership Act 2004.

(27) 1992 c.4. Section 171ZL was inserted by section 4 of the Employment Act 2002 (c.22) and subsection (4B) was inserted by S.I. 2006/2012 and amended by S.I. 2011/1740.

(28) 1992 c.7.

(29) Section 37(4)(c) was inserted by paragraph 72 of Schedule 24, and “or” at the end of section 37(4)(a) was omitted by Schedule 30, to the Civil Partnership Act 2004.

(30) Section 38(3)(d) was inserted by paragraph 73 of Schedule 24, and “or” at the end of section 38(3)(b) was omitted by Schedule 30, to the Civil Partnership Act 2004.

- (c) for any period during which she, and a person who is neither her spouse nor her civil partner, are living together as if spouses of each other.”.
- (4) In section 39A(5)(**31**) (widowed parent’s allowance for persons whose spouse or civil partner dies on or after 9th April 2001 but before 6th April 2017: events on which allowance ends), for subparagraphs (b) and (c) substitute—
- “or
- (b) for any period during which—
- (i) the surviving spouse or civil partner, and
- (ii) a person who is neither the spouse, nor the civil partner, of the surviving spouse or civil partner,
- are living together as if spouses of each other.”.
- (5) In section 48(**32**), after subsection (4) insert—
- “(5) For the purposes of this section, a civil partnership is not to be treated as having terminated—
- (a) by reason of its having been—
- (i) converted into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013;
- (ii) changed into a marriage under the Marriage (Scotland) Act 1977;
- (iii) changed into a marriage in accordance with provision made under section 10 of the Marriage and Civil Partnership (Scotland) Act 2014; or
- (iv) changed into a marriage under Part 5 of the Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014; or
- (b) by reason of a marriage which has been treated in Northern Ireland as a civil partnership ceasing to be so treated with effect from 13 January 2020.”.
- (6) In section 48A(**33**) (category B retirement pension for married person or civil partner)—
- (a) after subsection (2) insert—
- “(2A) And subsection (1) does not confer a right to a Category B retirement pension on a woman whose wife was born before 6 April 1950.”,
- (b) after subsection (6) insert—
- “(6A) For the purposes of subsection (5)(b), a person is not to be treated as having ceased to be in a civil partnership—
- (a) by reason of its having been—
- (i) converted into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013;
- (ii) changed into a marriage under the Marriage (Scotland) Act 1977;
- (iii) changed into a marriage in accordance with provision made under section 10 of the Marriage and Civil Partnership (Scotland) Act 2014; or

(31) Section 39A(5)(c) was inserted by paragraph 74 of Schedule 24, and “or” at the end of section 39A(5)(a) was omitted by Schedule 30, to the Civil Partnership Act 2004.

(32) Section 48 was amended by paragraph 78 of Schedule 24 to the Civil Partnership Act 2004 and by paragraph 48 of Schedule 12 to the Pensions Act (Northern Ireland) 2015 (c.5 (N.I.)).

(33) Section 48A was substituted by S.I. 1995/3213 (N.I. 22) and was further substituted by paragraph 52 of Schedule 12 to the Pensions Act (Northern Ireland) 2015 (c.5 (N.I.)).

- (iv) changed into a marriage under Part 5 of the Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014; or
- (b) by reason of a marriage which has been treated in Northern Ireland as a civil partnership ceasing to be so treated with effect from 13 January 2020.”, and
- (c) after subsection (7) insert—
  - “(8) Section 51ZA contains special rules for cases involving changes in gender.”.
- (7) In section 48AA(34) (category B retirement pension for former spouse or civil partner)—
  - (a) after subsection (2) insert—
    - “(2A) And subsection (1) does not confer a right to a Category B retirement pension on a woman whose former wife was born before 6 April 1950.”, and
  - (b) after subsection (8) insert—
    - “(9) Section 51ZA contains special rules for cases involving changes in gender.”.
- (8) In section 48B(35) (category B retirement pension for surviving spouse or civil partner)—
  - (a) after subsection (1ZA) insert—
    - “(1ZAA) And subsection (1) does not confer a right to a Category B retirement pension on a woman who attained pensionable age before 6 April 2010 if the spouse was a woman.”, and
  - (b) after subsection (10) insert—
    - “(11) Section 51ZA contains special rules for cases involving changes in gender.”.
- (9) In section 51(36) (category B retirement pension for widower or civil partner)—
  - (a) in subsection (1), for “man” substitute “person”,
  - (b) in subsection (1), for “wife”, in both places it occurs, substitute “spouse”,
  - (c) in subsection (2), after “on” insert—
    - “—
    - (a) a woman whose husband has died, or
    - (b)”,
    - and
  - (d) in subsection (7), before the “or” at the end of paragraph (a) insert—
    - “(aa) a surviving party to a marriage of a same sex couple”, and
  - (e) after subsection (11) insert—
    - “(12) Section 51ZA contains special rules for cases involving changes in gender.”.
- (10) After section 51 insert—

**“Special provision for married person whose spouse changed gender**

**51ZA.**—(1) Section 48A(2A) does not prevent a woman from being entitled to a Category B retirement pension under section 48 in a case where—

- (a) her spouse is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and

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(34) Section 48AA was substituted by paragraph 52 of Schedule 12 to the Pensions Act (Northern Ireland) 2015 (c.5 (N.I.)).

(35) Section 48B was substituted by S.I. 1995/3213 (N.I. 22) and subsections (1) to (1B) were further substituted by paragraph 53 of Schedule 12 to the Pensions Act (Northern Ireland) 2015 (c.5 (N.I.)).

(36) Section 51 was substituted by paragraph 56 of Schedule 12 to the Pensions Act (Northern Ireland) 2015 (c.5 (N.I.)).

- (b) the marriage subsisted before the time when that certificate was issued.
- (2) Section 48AA(2A) does not prevent a woman from being entitled to a Category B retirement pension under section 48AA in a case where—
- (a) her former spouse was, at the time the marriage was dissolved, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) the marriage subsisted before the time when that certificate was issued.
- (3) Section 48B(1ZAA) does not prevent a woman being entitled to a Category B retirement pension under section 48B in a case where—
- (a) her dead spouse was, at the time of death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) the marriage subsisted before the time when that certificate was issued,
- and in such a case the reference in section 48B(1ZB)(a)(ii) to the spouse having attained pensionable age before 6 April 2010 is to be read as a reference to the spouse having been born before 6 April 1945.
- (4) Section 51(1) does not confer a right to a Category B retirement pension on a woman if—
- (a) her dead spouse was, at the time of death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) the marriage subsisted before the time when that certificate was issued.”.
- (11) In section 62(37) (regulations in connection with graduated retirement benefit)—
- (a) in subsection (1), after paragraph (ac) insert—
- “(ad) for extending section 36 of that Act (increase of woman’s retirement pension by reference to her late husband’s graduated retirement benefit) to—
- (i) men and their late husbands, and
- (ii) women and their late wives,
- and for that section (except subsection (5)) so to apply as it applies to women and their late husbands;
- (ae) for extending section 36 of that Act (increase of woman’s retirement pension by reference to her late husband’s graduated retirement benefit) to—
- (i) men and their late husbands, and
- (ii) women and their late wives,
- who attained pensionable age before 6th April 2010 and for that section (except subsection (5)) so to apply as it applies to men and their late wives;”, and
- (b) after subsection (2) insert—
- “(3) In relevant gender change cases, women and their late wives are to be treated for the purposes of sections 35 and 36 of the National Insurance Act (Northern Ireland) 1966 in the same way as women and their late husbands.

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(37) In section 62(1), paragraph (aa) was inserted by, and paragraphs (a) and (b) were amended by, [S.I. 1995/3213 \(N.I. 22\)](#), paragraph (ab) was inserted by paragraph 87 of Schedule 24 to the Civil Partnership Act 2004, paragraph (ac) was inserted by [S.R. \(N.I.\) 2005/471](#), paragraph (c) was inserted by, and paragraph (a) was amended by, [S.I. 2005/255 \(N.I. 1\)](#), and paragraph (c) was amended by [S.R. \(N.I.\) 2005/434](#).

- (4) For that purpose “relevant gender change case”, in relation to a woman (“the pensioner”) and her late wife, means a case where—
- (a) the late wife was, at the time of her death, a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
  - (b) the marriage of the pensioner and her late wife subsisted before the time when the certificate was issued.”.
- (12) In section 77(9)(**38**) (guardian’s allowance: more than one person entitled)—
- (a) for “a husband and wife are residing together” substitute “a man and woman are married to, or civil partners of, each other and are residing together,” and
  - (b) for “the wife” substitute “the woman”.
- (13) Omit section 121(1A)(**39**).
- (14) In section 133(**40**) (interpretation of Part 7)—
- (a) in subsection (1), for the definition of “couple” substitute—
    - ““couple” means—
    - (a) two people who are married to, or civil partners of, each other and are members of the same household, or
    - (b) two people who are not married to, or civil partners of, each other but are living together as if spouses of each other otherwise than in prescribed circumstances;”, and
  - (b) omit subsection (1A).
- (15) In section 141A(**41**) (entitlement to child benefit after death of child or qualifying young person)—
- (a) in subsection (2)(b), for “an unmarried couple or a cohabiting same-sex couple” substitute “a cohabiting couple”,
  - (b) in subsection (5)—
    - (i) in the definition of “civil partnership” omit “of the same sex”,
    - (ii) for the definition of “cohabiting same-sex couple” substitute—
      - ““cohabiting couple” means two people who are not married to, or civil partners of, each other but are living together as if spouses of each other;”, and
    - (iii) omit the definition of “unmarried couple”, and
  - (c) omit subsection (6).
- (16) In section 167ZL(**42**) (statutory adoption pay: entitlement)—
- (a) in subsection (4)(b) (no election for statutory adoption pay where child being adopted by couple and other member of couple has made election)—
    - (i) for “married couple or civil partnership and his spouse or civil partner” substitute “couple and the other member of the couple”, and

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(38) Section 77(9) was amended by paragraph 30 of Schedule 1 to the Child Benefit Act 2005 (c.6).

(39) Section 121(1A) was inserted by paragraph 95 of Schedule 24 to the Civil Partnership Act 2004.

(40) In section 133, the definition of “couple” in subsection (1), and subsection (1A), were inserted by paragraph 99 of Schedule 24 to the Civil Partnership Act 2004.

(41) Section 141A was inserted by section 55 of the Tax Credits Act 2002 (c.21), and relevant amendments were made by paragraph 101 of Schedule 24 to the Civil Partnership Act 2004.

(42) Section 167ZL was inserted by S.I. 2002/2836 (N.I. 2), and subsection (4)(b) was amended by paragraph 103 of Schedule 24 to the Civil Partnership Act 2004.

- (ii) for “his spouse or civil partner”, in the second place it occurs, substitute “that other member of the couple”, and
- (b) after subsection (4) insert—
- “(4A) In subsection (4)(b) “couple” has the same meaning as in the Adoption (Northern Ireland) Order 1987 (see Article 2(6) to (8) of that Order).”**(43)**.
- (17) In Schedule 3**(44)** (contribution conditions for entitlement to benefit), in paragraphs 5(1)(c) and 5A(1)(b), for “51” substitute “51ZA”.
- (18) In Schedule 5 (cases where entitlement to retirement pension is deferred)—
- (a) in paragraph 5(2)**(45)**—
- (i) in paragraph (a), for “a widow, an” substitute—
- “a woman—
- (i) whose deceased spouse was a man, or
- (ii) who falls within paragraph 7(3) below,
- an”,
- (ii) in paragraph (b), for “widower” substitute “man whose deceased spouse was a woman”, and
- (iii) in paragraph (c), for “is a surviving civil partner, an” substitute—
- “is—
- (i) a woman who does not fall within paragraph 7(3) below and whose deceased spouse was a woman,
- (ii) a man whose deceased spouse was a man, or
- (iii) a surviving civil partner,
- an”,
- (b) in paragraph 5A(1), for “widow” substitute—
- “woman—
- (a) whose deceased spouse was a man, or
- (b) who falls within paragraph 7(3) below.”,
- (c) in paragraph 5A(2) and (3), for “husband”, in each place it occurs, substitute “spouse”,
- (d) in paragraph 6(1), for “widower” substitute “man whose deceased spouse was a woman”,
- (e) in paragraph 6A(1)**(46)**, for “is a surviving civil partner” substitute—
- “is—
- (a) a woman who does not fall within paragraph 7(3) below and whose deceased spouse was a woman,
- (b) a man whose deceased spouse was a man, or
- (c) a surviving civil partner.”,

**(43)** S.I. 1987/2203 (N.I. 22). Article 2(6) to (8) are inserted by these Regulations.

**(44)** Paragraph 5A was inserted by the Pensions Act (Northern Ireland) 2008 (c.1 (N.I.)) and paragraphs 5(1) and 5A(1)(b) were substituted by the Pensions Act (Northern Ireland) 2015 (c.5 (N.I.)).

**(45)** Paragraphs 5 to 6 were substituted by S.I. 1995/3213 (N.I. 22) and are prospectively repealed by the Pensions Act (Northern Ireland) 2012 (c.3 (N.I.)).

**(46)** Paragraph 6A was inserted by S.R. (N.I.) 2005/434, and would have been repealed by section 3(5) of the Pensions Act (Northern Ireland) 2012 (c.3 (N.I.)) but section 3(5) was itself repealed, before fully coming into force, by paragraph 82 of Schedule 12 to the Pensions Act (Northern Ireland) 2015 (c.5 (N.I.)).

- (f) in paragraph 6A(2)(c), after “deceased” insert “spouse or”, and
- (g) in paragraph 7, after sub-paragraph (2) insert—
  - “(3) For the purposes of paragraphs 5, 5A and 6A above, a woman falls within this sub-paragraph if—
    - (a) she was married to another woman who, at the time of her death, was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
    - (b) that marriage subsisted before the time when that certificate was issued.”.
- (19) In Schedule 7(47) (industrial injuries benefits)—
  - (a) in paragraph 4(3)(a), for sub-paragraphs (ii) and (iii) substitute—
    - “or
    - (ii) two people who are not married to, or civil partners of, each other but are living together as if spouses of each other, and”, and
  - (b) in paragraph 15(3), for the words after “beneficiary is” substitute “neither married, nor a party to a civil partnership, but is living together with another person as if they were spouses of each other.”.
- (20) In Schedule 10 (priority as between different persons otherwise entitled to child benefit in respect of same child)—
  - (a) for paragraph 3 substitute—

**“Opposite-sex spouses or civil partners**

- 3. Subject to paragraphs 1 and 2 above, as between a man and woman who are married to, or civil partners of, each other and are residing together, the woman shall be entitled.”, and
- (b) in paragraph 4(2)(48), for “not husband and wife” substitute “do not fall within paragraph 3”.

**Social Security Administration (Northern Ireland) Act 1992**

67.—(1) In the Social Security Administration (Northern Ireland) Act 1992(49), section 110(5) and (6) (competence and compellability of spouses as witnesses) are omitted.

(2) In consequence of paragraph (1), in Schedule 5 to the Healthy Start Scheme and Day Care Food Scheme Regulations (Northern Ireland) 2006(50), in the entry for section 110 of the Social Security Administration (Northern Ireland) 1992—

- (a) in column 1, for “, (3)(a) and (5)” substitute “and (3)(a)”, and
- (b) in column 2, omit paragraph (d).

(3) The amendments made by paragraphs (1) and (2) apply only in relation to offences committed on or after 13th January 2020.

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(47) Paragraph 4(3)(a) was substituted, and paragraph 15(3) was amended, by paragraph 105 of Schedule 24 to the Civil Partnership Act 2004.

(48) Paragraph 4(2) was amended by paragraph 44 of Schedule 1 to the Child Benefit Act 2005 (c.6).

(49) 1992 c.8.

(50) S.R. (N.I.) 2006/478.

**Pension Schemes (Northern Ireland) Act 1993**

**68.**—(1) The Pension Schemes (Northern Ireland) Act 1993(**51**) is amended as follows.

(2) In section 4(2), in the definition of “guaranteed minimum pension”(**52**), after “widower’s” insert “, surviving same sex spouse’s”.

(3) In section 13(**53**) (minimum pensions for surviving spouses and civil partners)—

(a) in subsection (2)(a), after “is a man” insert “, or a woman in a relevant gender change case,”,

(b) in subsection (2), after paragraph (c) insert—

“(d) if the earner is a man who has a guaranteed minimum under that section, the weekly rate of the widower’s pension will not be less than the surviving same sex spouse’s guaranteed minimum;

(e) if the earner is a woman (other than in a relevant gender change case) who has a guaranteed minimum under that section, the weekly rate of the widow’s pension will not be less than the surviving same sex spouse’s guaranteed minimum.”,

(c) in subsection (4), after “surviving civil partner’s” insert “or surviving same sex spouse’s”,

(d) in subsection (4A)(c), for sub-paragraph (i) substitute—

“(i) comprises a period during which—

(a) the widow, widower or surviving civil partner, and

(b) another person,

are living together as if spouses of each other, nor”,

(e) in subsection (5), at the beginning insert “In the case of a woman who is the widow of a man,”,

(f) in subsection (6)—

(i) at the beginning insert “In any other case,”, and

(ii) after “widower’s” insert “, widow’s”,

(g) omit subsection (9), and

(h) after subsection (10) insert—

“(11) This section is subject to regulations under section 34A.

(12) In relation to an earner who is a woman, a reference in this section to a relevant gender change case is a reference to a case where—

(a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and

(b) the marriage of the earner and her widow (that ends with the earner’s death) subsisted before the time when the certificate was issued.”.

(4) In section 20D(**54**) (survivor benefits)—

(a) in subsection (2), after “if the earner” insert “is a man married to a woman or a woman married to a woman in a relevant gender change case, and the earner”,

(b) in subsection (3)—

(51) 1993 c.49.

(52) A relevant amendment was made by S.R. (N.I.) 2005/433.

(53) Relevant amendments were made by the Child Support, Pensions and Social Security Act (Northern Ireland) 2000 (c.4 (N.I.)), S.R. (N.I.) 2005/433 and paragraph 17 of Schedule 13 to the Pensions Act (Northern Ireland) 2015 (c.5 (N.I.)).

(54) Section 20D was inserted by section 12(3) of the Pensions Act (Northern Ireland) 2008 (c.1 (N.I.)).

- (i) after “if the earner” insert “is a married woman (other than in a relevant gender change case), a man married to a man, or a civil partner, and the earner”, and
- (ii) after “widower” insert “, widow”, and
- (c) after subsection (3) insert—
  - “(4) In relation to an earner who is a woman, a reference in this section to a relevant gender change case is a reference to a case where—
    - (a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
    - (b) the marriage of the earner and her widow (that ends with the earner’s death) subsisted before the time when the certificate was issued.
  - (5) This section is subject to regulations under section 34A.”.
- (5) For section 33(4)(55) (alteration of rules of contracted-out schemes: when beneficiary includes widower or surviving civil partner) substitute—
  - “(4) The reference in subsection (3) to a person entitled to receive benefits under a scheme includes a person who is so entitled by virtue of a qualifying relationship only in such cases as may be prescribed.
  - (5) For that purpose a person is entitled to receive benefits by virtue of a qualifying relationship if the person is so entitled by virtue of being—
    - (a) the widower of a female earner;
    - (b) the widower of a male earner;
    - (c) the widow of a female earner, except where it is a relevant gender change case; or
    - (d) the survivor of a civil partnership with an earner.
  - (6) In relation to a widow of a female earner, the reference in subsection (5)(c) to a relevant gender change case is a reference to a case where—
    - (a) the earner is a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
    - (b) the marriage of the earner and her widow (that ends with the earner’s death) subsisted before the time when the certificate was issued.
  - (7) This section is subject to regulations under section 34A.”.
- (6) Before section 35 (and after the italic heading preceding that section) insert—

**“Regulations about relevant gender change cases**

- 34A.**—(1) The Department may, by regulations, make provision for—
- (a) section 13,
  - (b) section 20D, or
  - (c) section 33,

to have its special effect in relevant gender change cases only if conditions prescribed in the regulations are met.

- (2) Regulations under subsection (1) may, in particular, prescribe conditions that relate to the provision of information by—
  - (a) one or both of the members of married same sex couples, or

(b) the survivors of such couples.

(3) The Department may by regulations make further provision about cases where (because of regulations under subsection (1))—

- (a) section 13,
- (b) section 20D, or
- (c) section 33,

does not have its special effect in relevant gender change cases.

(4) Regulations under subsection (3) may, in particular, provide for the section in question to have its ordinary effect in relevant gender change cases.

(5) Regulations under subsection (1) or (3) may, in particular, modify or disapply any enactment that concerns information relating to—

- (a) the gender or sex of a person, or
- (b) the change of gender or sex of a person,

including any enactment that concerns requests for, or disclosure of, such information.

(6) In this section, in relation to section 13, 20D or 33—

- (a) “relevant gender change case” has the same meaning as in that section;
- (b) “special effect” means the effect which the section has (if regulations under subsection (1) are ignored) in relation to relevant gender change cases, so far as that effect is different from the section’s ordinary effect;
- (c) “ordinary effect” means the effect which the section has in relation to same sex married couples in cases that are not relevant gender change cases.”.

(7) In section 43(1)(56) (provisions about guaranteed minimum pensions), after “widower” insert “, surviving same sex spouse”.

(8) In section 80 (revaluation method), as it has effect ignoring the substitution to be made by the Pension Schemes Act (Northern Ireland) 2016(57), in subsection (5)(58), after “widower” insert “, surviving same sex spouse”.

(9) In section 95(3)(b) (time limit for implementing section 91 option where there is a risk of forfeiture of benefits of the member or widow), for “his widow” substitute “the member’s surviving spouse or civil partner”.

(10) In paragraph 1(1E)(b)(59) of Schedule 2 (meaning of “accrued benefit”), after “widower” insert “, surviving same sex spouse”.

### **Jobseekers (Northern Ireland) Order 1995**

**69.** In Article 2 of the Jobseekers (Northern Ireland) Order 1995(60)—

(a) in paragraph (2), for the definition of “couple” substitute—

““couple” means—

- (a) two people who are married to, or civil partners of, each other and are members of the same household, or

(56) In section 43(1) a relevant amendment is made by S.R. (N.I.) 2005/433.

(57) 2016 c.1 (N.I.). See paragraph 4 of Schedule 1.

(58) In section 80(5) a relevant amendment is made by S.R. (N.I.) 2005/434.

(59) Paragraph 1(1E) was inserted by Schedule 1 to the Pensions (No.2) Act (Northern Ireland) 2008 (c.13 (N.I.)).

(60) S.I. 1995/2705 (N.I. 15). In Article 2, the definition of “couple” in paragraph (2), and paragraph (2A), were inserted by paragraph 130 of Schedule 24 to the Civil Partnership Act 2004.

- (b) two people who are not married to, or civil partners of, each other but are living together as if spouses of each other otherwise than in prescribed circumstances;”, and
- (b) omit paragraph (2A).

#### **Social Security (Northern Ireland) Order 1998**

**70.** In Article 68 of the Social Security (Northern Ireland) Order 1998(**61**) (child benefit for lone parents)—

- (a) in paragraph (2)(b), for “as his spouse or civil partner” substitute “as if spouses of each other”, and
- (b) omit paragraph (3).

#### **State Pension Credit Act (Northern Ireland) 2002**

**71.** In section 17 of the State Pension Credit Act (Northern Ireland) 2002(**62**) (interpretation)—

- (a) in subsection (1), for the definition of “couple” substitute—
  - ““couple” means—
  - (a) two people who are married to, or civil partners of, each other and are members of the same household, or
  - (b) two people who are not married to, or civil partners of, each other but are living together as if spouses of each other otherwise than in prescribed circumstances;”, and
- (b) omit subsection (1A).

#### **Welfare Reform Act (Northern Ireland) 2007**

**72.** In paragraph 6 of Schedule 1 to the Welfare Reform Act (Northern Ireland) 2007(**63**)—

- (a) in sub-paragraph (5), for the definition of “couple” substitute—
  - ““couple” means—
  - (a) two people who are married to, or civil partners of, each other and are members of the same household, or
  - (b) two people who are not married to, or civil partners of, each other but are living together as if spouses of each other otherwise than in prescribed circumstances;”, and
- (b) omit sub-paragraph (6) (interpretation of definition of “couple”).

#### **Pensions Act (Northern Ireland) 2015**

**73.** In paragraph 4 of Schedule 6 to the Pensions Act (Northern Ireland) 2015(**64**)—

- (a) the existing text becomes sub-paragraph (1) of paragraph 4, and
- (b) after that sub-paragraph insert—

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(61) [S.I. 1998/1506 \(N.I. 10\)](#). Article 68(2) and (3) were amended by paragraph 139 of Schedule 24 to the Civil Partnership Act 2004.

(62) [2002 c.14 \(N.I.\)](#). The definition of “couple” in section 17(1), and section 17(1A), were inserted by paragraphs 150 and 151 of Schedule 24 to the Civil Partnership Act 2004.

(63) [2007 c.2 \(N.I.\)](#).

(64) [2015 c.5 \(N.I.\)](#).

“(2) For the purposes of this paragraph, a civil partnership is not to be treated as having come to an end—

- (a) by reason of its having been—
  - (i) converted into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013;
  - (ii) changed into a marriage under the Marriage (Scotland) Act 1977;
  - (iii) changed into a marriage in accordance with provision made under section 10 of the Marriage and Civil Partnership (Scotland) Act 2014; or
  - (iv) changed into a marriage under Part 5 of the Marriage and Civil Partnership (Scotland) Act 2014 and Civil Partnership Act 2004 (Consequential Provisions and Modifications) Order 2014; or
- (b) by reason of a marriage which has been treated in Northern Ireland as a civil partnership ceasing to be so treated with effect from 13 January 2020.”.

#### **Welfare Reform (Northern Ireland) Order 2015**

**74.**—(1) The Welfare Reform (Northern Ireland) Order 2015(**65**) is amended as follows.

(2) In Article 45 (meaning of “couple”)—

(a) for paragraphs (1) and (2) substitute—

“(1) In this Part “couple” means—

- (a) two people who are married to, or civil partners of, each other and are members of the same household, or
- (b) two people who are not married to, or civil partners of, each other but are living together as if spouses of each other.”, and

(b) in paragraph (3)(b)—

- (i) for “a man and a woman” substitute “two people”, and
- (ii) for “as husband and wife” substitute “as if spouses of each other”.