

2014 No. 3061

MARRIAGE

CIVIL PARTNERSHIP

DEVOLUTION, SCOTLAND

**The Marriage (Same Sex Couples) Act 2013 and Marriage and
Civil Partnership (Scotland) Act 2014 (Consequential
Provisions) Order 2014**

Made - - - - - *17th November 2014*

Laid before Parliament *18th November 2014*

Coming into force in accordance with article 1(2) and (3)

This Order is made in exercise of the powers conferred by section 17(2) and (3) of the Marriage (Same Sex Couples) Act 2013(a), by section 259(1) and (4) of the Civil Partnership Act 2004(b) and by sections 104, 112(1) and 113(2) to (5) of the Scotland Act 1998(c).

In accordance with section 18(11)(a) of the Marriage (Same Sex Couples) Act 2013, the Secretary of State has obtained the consent of the Scottish Ministers to the making of article 5 and Schedule 4 to this Order.

The Secretary of State, in exercise of those powers, makes the following Order:

Citation, commencement, interpretation and extent

1.—(1) This Order may be cited as the Marriage (Same Sex Couples) Act 2013 and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Provisions) Order 2014.

(2) Subject to paragraph (3), this Order comes into force on 10th December 2014.

(3) The provisions mentioned in paragraphs (6) and (7) so far as they extend to Scotland, come into force on 16th December 2014.

(4) In this Order—

(a) “the 2013 Act” means the Marriage (Same Sex Couples) Act 2013, and

(b) “the 2014 Act” means the Marriage and Civil Partnership (Scotland) Act 2014(d).

(a) 2013 c. 30.
(b) 2004 c. 33.
(c) 1998 c. 46.
(d) 2014 asp 5.

- (5) Subject to paragraphs (6) and (7), this Order extends to England and Wales only.
- (6) The following provisions extend also to Scotland—
- (a) paragraphs 2, 4 and 5 of Schedule 1 and article 2 so far as it applies to those paragraphs, and
 - (b) this article, article 5 and Schedule 4.
- (7) Article 3 and Schedule 2 extend to Scotland only.

Amendments to enactments etc.

2. Schedule 1 (which amends enactments etc. in consequence of the 2013 Act, the 2014 Act and the Civil Partnership Act 2004) has effect.

Amendments to enactments etc.: Scotland

3. Schedule 2 (which amends enactments etc. in consequence of the 2014 Act and the Civil Partnership Act 2004) has effect.

Amendments to enactments etc. concerning the Church of England

4. Schedule 3 (which amends enactments etc. concerning the Church of England in consequence of the 2013 Act) has effect.

Consequential provisions relating to certified copies of entries of consular marriages

5. Schedule 4 (which makes consequential provision concerning legislation on consular marriages) has effect.

17th November 2014

Nick Boles
Minister of State for Skills and Equalities
Department for Business Innovation & Skills

SCHEDULE 1

Article 2

Consequential amendments to subordinate legislation

PART 1

Enactments: general

Marriage (Authorised Persons) Regulations 1952

1. In regulation 2 of the Marriage (Authorised Persons) Regulations 1952(a) (interpretation), in the definition of “trustees or governing body”—

- (a) for “70” substitute “70 or 70A”, and
- (b) for “that section” substitute “those sections”.

(a) S.I. 1952/1869; regulation 2 was amended by S.I. 2014/107. The functions of the Admiralty under these Regulations were transferred to the Secretary of State by virtue of section 3(2) of the Defence (Transfer of Functions) Act 1964 (c. 15).

Service Departments Registers Order 1959

- 2.—(1) The Service Departments Registers Order 1959(a) is amended as follows.
- (2) Article 1(b) (application of order) is renumbered as article 1(1).
- (3) In article 1(1)(a), for “solemnised” substitute “entered into”.
- (4) After article 1(1) insert—
- “(2) In this Order, “marriages” includes marriages which result from—
- (a) the conversion of a civil partnership under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section; and
- (b) the changing of a civil partnership formed under Part 3 of the Civil Partnership Act 2004 into a marriage under—
- (i) the Marriage (Scotland) Act 1977(c);
- (ii) the Marriage and Civil Partnership (Scotland) Act 2014; or
- (iii) any relevant order.
- (3) For the purposes of paragraph (2) “relevant order” means any order made under section 104 of the Scotland Act 1998 in consequence of the Marriage and Civil Partnership (Scotland) Act 2014 which provides for the change of a civil partnership in a country or territory outside the United Kingdom by—
- (a) a member of Her Majesty’s forces (within the meaning of the Armed Forces Act 2006(d)) serving in the country or territory in which it is proposed they change their civil partnership;
- (b) a civilian subject to service discipline within the meaning of the Armed Forces Act 2006 who is employed in that country or territory;
- (c) a child of a person falling within paragraph (a) or (b) and whose home is with that person in that country or territory (including a person who is or has been treated as the child of a person (“P”) in relation to a marriage or civil partnership to which P is or was a party).”.
- (5) In article 3(e) (qualified informants)—
- (a) in paragraph (2)(b), omit “or”,
- (b) after paragraph (2)(c) insert—
- “(d) a person who has solemnised a marriage to which this Order applies under the Overseas Marriage (Armed Forces) Order 2014(f),
- (e) a person who has carried out a conversion of a civil partnership into a marriage under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section, or
- (f) a person who has carried out a change of a civil partnership into a marriage,”
- (c) in paragraph (4)(c)(i), omit “or”,
- (d) for paragraph (4)(c)(ii) substitute—
- “(ii) where the marriage is solemnised, the priest or other person conducting the ceremony;”,
- (e) after paragraph (4)(c)(ii) insert—

(a) S.I. 1959/406.

(b) Article 1 was amended by S.I.1988/1295 and S.I. 2005/3186.

(c) 1977 c. 15.

(d) 2006 c. 52.

(e) Article 3 was amended by S.I. 2005/3186 and S.I. 2007/908.

(f) S.I. 2014/1108.

“(iii) the person who has carried out a conversion of a civil partnership under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section; or

(iv) the person who has carried out a change of a civil partnership into a marriage;”, and

(f) after paragraph (6) insert—

“(7) For the purposes of this article a reference to a change of a civil partnership into a marriage is to be read in accordance with article 1(2)(b) and (3).”.

Registration of Births, Deaths and Marriages Regulations 1968

3. In regulation 11 of the Registration of Births, Deaths and Marriages Regulations 1968(a) (statistical returns), after “marriages” insert “(including marriages resulting from the conversion of a civil partnership under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section)”.

Social Security (Credits) Regulations 1975

4.—(1) The Social Security (Credits) Regulations 1975(b) are amended as follows.

(2) In regulation 8C(2)(c) (credits on termination of bereavement benefits) for “a person of the opposite sex as husband and wife” substitute “another person as a married couple”.

(3) In paragraph 3 of the Schedule(d) (persons who may qualify as carers for a child under the age of 12)—

(a) omit sub-paragraphs (a) and (b), and

(b) after “consisting of” insert “two people who are not married to or civil partners of each other but are living together as a married couple.”.

Social Security (Widow’s Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations 1979

5. In regulation 7(10) of the Social Security (Widow’s Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations 1979(e) (modifications for widowed mother’s allowance, widow’s pension and category A and B retirement pensions)—

(a) after “former spouse” in each place it occurs insert “or former civil partner”,

(b) after “said spouse” insert “or civil partner”,

(c) after “former spouse’s” insert “or former civil partner’s”, and

(d) after “whichever is the earlier” insert “(or, in the case of a civil partnership, the year 1975/76)”.

Registration of Marriages Regulations 1986

6. In regulation 11(2) of the Registration of Marriages Regulations 1986(f) (manner of registration)—

(a) in sub-paragraph (ea)—

(i) after “two parties” insert “of the same sex”, and

(a) S.I. 1968/2049.

(b) S.I. 1975/556.

(c) Regulation 8C was inserted by S.I. 2000/1483 and paragraph (2) was amended by S.I. 2005/2877. There are other amendments to regulation 8C not relevant to this Order.

(d) The Schedule was inserted by S.I. 2011/709.

(e) S.I. 1979/643; regulation 7 was amended by S.I. 1981/1627 and by S.I. 2009/2206.

(f) S.I. 1986/1442; regulation 11(2)(ea) was inserted by S.I. 2005/3177. There are other amendments to regulation 11 not relevant to this Order.

- (ii) omit “, if the parties specifically request and”, and
- (b) after sub-paragraph (ea) insert—
 - “(eb) if the marriage is between a man and a woman who have previously been through a form of civil partnership with each other (not being a civil partnership which is known to be void) and neither of them has since formed a civil partnership with, or married, a third party, then notwithstanding sub-paragraphs (ca) and (da), if the parties specifically request and—
 - (i) if the previous civil partnership has been terminated by final order of dissolution, he shall enter the words, “Previously formed a civil partnership at...on...Civil partnership dissolved on...”, inserting particulars of the place and date of previous civil partnership and the date of dissolution, or
 - (ii) if the previous civil partnership was annulled, he shall enter the words, “Previously formed a civil partnership at...on...Civil partnership annulled on...”, inserting the particulars of the place and date of the previous civil partnership and the date of its annulment;”.

Registration of Births and Deaths Regulations 1987

7. In regulation 9(7)(b) of the Registration of Births and Deaths Regulations 1987^(a) (entry of particulars on registration), after “child” insert “(and where the marriage results from the conversion of a civil partnership under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section, the name to be entered is that used for the conversion, if different)”.

Standards Committees (Wales) Regulations 2001

8.—(1) In the Standards Committees (Wales) Regulations 2001^(b), in regulation 2 (interpretation), in the definition of “lay panel member”, after “spouse” insert “or civil partner”.

(2) In the Welsh text, in the Standards Committees (Wales) Regulations 2001, in regulation 2 (dehongli), in the definition of “aelod panel lleyg” (“*lay panel member*”), after “briod” insert “neu’n bartner sifil”.

Special Guardianship (Wales) Regulations 2005

9.—(1) In each of paragraph 3(c) and paragraph 4(e) of the Schedule to the Special Guardianship (Wales) Regulations 2005^(c) (reports - matters prescribed for the purposes of section 14A(8)(b) of the Children Act 1989), after “civil partnership” in the second place it occurs insert “(or in relation to a marriage resulting from the conversion of a civil partnership under section 9 of the Marriage (Same Sex Couples) Act 2013 and regulations made under that section, the date and place of the civil partnership which was originally entered into by the couple)”.

(2) In the Welsh text, in each of paragraph 3(c) and paragraph 4(d) of the Schedule to the Special Guardianship (Wales) Regulations 2005 (adroddiadau – materion a ragnodwyd at ddibenion adran 14A(8)(b) o Ddeddf Plant 1989), after “bartneriaeth sifil” insert “(neu o ran priodas sy’n deillio o drosiartneriaeth sifil o dan adran 9 o Ddeddf Priodas (Cyplau o’r Un Rhyw) 2013 a rheoliadau a wnaed o dan yr adran honno, ddyddiad a lle’r bartneriaeth sifil yr ymrwymwyd iddi’n wreiddiol gan y cwpl)”.

(a) S.I. 1987/2088; regulation 9(7) was substituted by S.I. 2014/107. There are other amendments to regulation 9 not relevant to this Order.

(b) S.I. 2001/2283 (W. 172); to which there are amendments not relevant to this Order.

(c) S.I. 2005/1513 (W. 117).

Civil Partnership (Registration Provisions) Regulations 2005

10.—(1) Regulation 9 of the Civil Partnership (Registration Provisions) Regulations 2005(a) (contents of civil partnership document) is amended as follows.

(2) In paragraph (2)(i), for the closing words substitute—

“it shall enter across both columns of space 6, “Previously married at...on...Marriage dissolved on...”, inserting the particulars of the place and date of the previous marriage and the date of dissolution, however, in the case of a previous marriage between a man and a woman, it shall only enter this if the parties expressly request, and if they do not, shall enter “Previous marriage dissolved” for each person;”.

(3) In paragraph (2)(k), for the closing words substitute—

“it shall enter across both columns of space 6, “Previously married at...on...Marriage annulled on...”, inserting the particulars of the place and date of the previous marriage and the date of annulment, however, in the case of a previous marriage between a man and a woman, it shall only enter this if the parties expressly request, and if they do not, shall enter “Previous marriage annulled” for each person;”.

PART 2

Enactments etc.: public service pension schemes

Public service pension schemes: general

11.—(1) The public service pension schemes referred to in the second column of the table at sub-paragraph (2) are amended in accordance with columns 3 and 4 of that table.

(2) The table referred to in sub-paragraph (1) is as set out below.

<i>Entry</i>	<i>Pension Scheme</i>	<i>First set of amendments</i>	<i>Second set of amendments</i>
1	The Firefighters’ Pension Scheme set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992 as it has effect in England (b) .	In paragraph 1 of Part 3 of Schedule 1 (marriage of a same sex couple), for “In” at the beginning of sub-paragraph (1) substitute “Subject to paragraph 3, in”.	After paragraph 2 (living together as a same sex couple) insert the provision made by sub-paragraph (3) with the number “1” substituted by the number “3” and with the words “these Regulations” substituted by “this Scheme”.
2	The Firefighters’ Pension (Wales) Scheme set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992 as it has effect in	In paragraph 1 of Part 3 of Schedule 1 (marriage of a same sex couple), for “In” at the beginning of sub-paragraph (1) substitute “Subject to paragraph 3, in”.	After paragraph 2 (living together as a same sex couple) insert the provision made by sub-paragraph (3) with the number “1” substituted by the number “3” and with the words

(a) S.I. 2005/3176.

(b) The Scheme is in Schedule 2 to S.I. 1992/129. Paragraphs 1 and 2 were inserted into Part 3 of Schedule 1 to the Scheme by S.I. 2014/560. There are other amendments to Schedule 1 to the Scheme not relevant to this Order. The name of the Scheme was changed to the Firefighters’ Pension Scheme by S.I. 2004/2306. By virtue of S.I. 2006/3432, subject to certain savings, the Scheme has no effect in relation to any person who takes up employment with an English fire and rescue authority on or after 6th April 2006.

Wales(a).			“these Regulations” substituted by “this Scheme”.
3	The Local Government Pension Scheme Regulations 1997(b).	In regulation 42B (marriage of a same sex couple), for “In” at the beginning of paragraph (1) substitute “Subject to regulation 42D, in”.	After regulation 42C (living together as a same sex couple) insert the provision made by sub-paragraph (3) with the number “1” substituted by the number “42D”.
4	The Teachers’ Pension Regulations 2010(c).	In regulation 2A (marriage of a same sex couple), for “In” at the beginning of paragraph (1) substitute “Subject to regulation 2C, in”.	After regulation 2B (living together as a same sex couple) insert the provision made by sub-paragraph (4) with the number “1” substituted by the number “2C”.
5	The Royal Mail Statutory Pension Scheme(d).	In rule 2A (marriage of a same sex couple), for “In” at the beginning of paragraph (1) substitute “Subject to Rule 2C, in”.	After Rule 2B (living together as a same sex couple) insert the provision made by sub-paragraph (4) with the number “1” substituted by the number “2C” and with the words “these Regulations” in both places they occur substituted by “this Scheme”.

(3) The provision referred to in the fourth column of the table at sub-paragraph (2) in relation to entries 1 to 3 of the table is—

“Continuation of marriage where Scheme member acquires new legal gender

1. Where—

- (a) a deceased Scheme member was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004(e), and
- (b) at the time of the member’s death, she was married to a woman and that marriage subsisted before the time when the certificate was issued,

the Scheme member’s widow is to be treated for the purposes of these Regulations as if the certificate had not been issued.”

(4) The provision referred to in the fourth column of the table at sub-paragraph (2) in relation to entries 4 and 5 of the table is—

(a) The Scheme is in Schedule 2 to S.I. 1992/129. Paragraphs 1 and 2 were inserted into Part 3 of Schedule 1 to the Scheme by S.I. 2014/560. There are other amendments to Schedule 1 to the Scheme not relevant to this Order. The name of the Scheme was changed to the Firefighters’ Pension (Wales) Scheme by S.I. 2004/2918 (W. 257). By virtue of S.I. 2007/1072 (W. 110), subject to certain savings, the Scheme has no effect in relation to any person who takes up employment with a Welsh fire and rescue authority on or after 6th April 2006.

(b) S.I. 1997/1612; these Regulations were revoked with savings by S.I. 2008/238 and continue to have effect in respect of deferred and pensioner members of the scheme constituted by them. Regulations 42B and 42C were inserted by S.I. 2014/560.

(c) S.I. 2010/990. Regulations 2A and 2B were inserted by S.I. 2014/560.

(d) The scheme rules are in Schedule 1 to S.I. 2012/687. Rules 2A and 2B were inserted by S.I. 2014/560.

(e) 2004 c. 7.

“Continuation of marriage where Scheme member acquires new legal gender

1.—(1) Where—

- (a) a deceased Scheme member 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 the member’s death, she was married to a woman and that marriage subsisted before the time when the certificate was issued,

the Scheme member’s widow is to be treated for the purpose of these Regulations as if the certificate had not been issued.

(2) Where—

- (a) a deceased Scheme member was a man by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) at the time of the member’s death, he was married to a man and that marriage subsisted before the time when the certificate was issued,

the Scheme member’s widower is to be treated for the purpose of these Regulations as if the certificate had not been issued.”.

12.—(1) In each of the enactments set out at sub-paragraph (4), any reference to a “widow” includes a woman who is the surviving spouse of a woman to whom sub-paragraph (3) applies.

(2) In each of the enactments set out at sub-paragraph (4)(c) to (g), any reference to a “husband” includes a woman to whom sub-paragraph (3) applies.

(3) This sub-paragraph applies to a deceased woman who—

- (a) 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 was married to a woman and that marriage subsisted before the time when the certificate was issued.

(4) The enactments referred to in sub-paragraphs (1) and (2) are—

- (a) the War Pensions (Coastguards) Scheme 1944(**a**),
- (b) the British Transport Reorganisation (Pensions of Employees) (No. 2) Order 1962(**b**),
- (c) the Harbour Reorganisation (Compensation to Employees) Regulations 1967(**c**),
- (d) the British Transport (Compensation to Employees) Regulations 1970(**d**),
- (e) the London Transport (Compensation to Employees) Regulations 1970(**e**),
- (f) the Transport Holding Company (Compensation to Employees) Regulations 1972(**f**), and
- (g) the Vehicle and Driving Licences (Compensation to Officers) Regulations 1977(**g**).

Police Pensions Regulations 1987

13.—(1) The Police Pensions Regulations 1987(**h**) are amended as follows.

(2) In regulation J1 (policeman with a guaranteed minimum for the purposes of the Social Security Pensions Act 1975) after paragraph (4B)(i) insert—

“(4C) Where—

-
- (a) S.I. 1944/500; to which there are amendments not relevant to this Order.
 - (b) S.I. 1962/2715.
 - (c) S.I. 1967/1889.
 - (d) S.I. 1970/187.
 - (e) S.I. 1970/2019.
 - (f) S.I. 1972/632.
 - (g) S.I. 1977/1316; to which there are amendments not relevant to this Order.
 - (h) S.I. 1987/257.
 - (i) Paragraph (4B) was inserted in relation to England and Wales by S.I. 2006/740 and amended by S.I. 2014/79.

- (a) the regular policeman who has died 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 regular policeman was married to a woman and that marriage subsisted before the time when the certificate was issued,

the widow of the regular policeman is to be treated for the purposes of this Regulation as if the certificate had not been issued.”.

(3) In Schedule C (widows’ awards)—

- (a) in paragraph 1 of Part 1 (widow’s ordinary pension), after sub-paragraph (2B)(a) insert—
 - “(2BA) Where—
 - (a) a female police officer who has died 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 female police officer was married to a woman and that marriage subsisted before the time when the certificate was issued,

the widow of the female police officer is to be treated for the purposes of this Part as if the certificate had not been issued.”.

- (b) in paragraph 1 of Part III (widow’s accrued pension), after sub-paragraph (1B)(b) insert—
 - “(1BA) Where—
 - (a) a female police officer who has died 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 female police officer was married to a woman and the marriage subsisted before the time when the certificate was issued,

the widow of the female police officer is to be treated for the purposes of this Part as if the certificate had not been issued.”.

- (c) In Part IV (widow’s pension in case of post-retirement marriage) after paragraph 5(c) insert—
 - “**5A.** Where—
 - (a) a female police officer who has died 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 female police officer was married to a woman and that marriage subsisted before the time when the certificate was issued,

the widow of the female police officer is to be treated for the purposes of this Part as if the certificate had not been issued.”.

- (d) In Part V (widow’s requisite benefit pension), after paragraph 1A(d) insert—
 - “**1B.** Where—
 - (a) a female police officer who has died was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and

(a) Paragraph 1(2B) was inserted in relation to England and Wales by S.I. 2006/740 and amended by S.I. 2014/79.
 (b) Paragraph 1(1B) was inserted in relation to England and Wales by S.I. 2006/740 and amended by S.I. 2014/79.
 (c) Paragraph 5 was inserted in relation to England and Wales by S.I. 2006/740 and amended by S.I. 2014/79.
 (d) Paragraph 1A was inserted in relation to England and Wales by S.I. 2006/740 and amended by S.I. 2014/79.

- (b) at the time of her death the female police officer was married to a woman and that marriage subsisted before the time when the certificate was issued,

the widow of the female police officer is to be treated for the purpose of this Part as if the certificate had not been issued.”.

National Health Service Pension Scheme Regulations 1995

14. In regulation A4 of the National Health Service Pension Scheme Regulations 1995(a) (civil partnerships and marriage of same sex couples), after paragraph (5) insert—

“(6) Where—

- (a) a deceased member of this Section of the scheme 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 the member’s death, she was married to a woman and that marriage subsisted before the time when the certificate was issued,

the member’s widow is to be treated for the purposes of Parts G and K of these Regulations as if the certificate had not been issued.”.

Armed Forces Pension Scheme Order 2005

15. In rule E.1 of Part E of Schedule 1 to the Armed Forces Pension Scheme Order 2005(b) (surviving spouses’ and civil partners’ pensions), after paragraph (4) insert—

“(5) Where a deceased active, deferred or pensioner member was—

- (a) a man or 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 the deceased member’s death, the deceased member was married, and that marriage subsisted before the time when the certificate was issued,

the surviving spouse of the deceased member is to be treated for the purpose of these Rules as if the certificate had not been issued.”.

Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010

16.—(1) Part E of Schedule 1 to the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010(c) (death benefits) is amended as follows.

(2) For rule E.1(3)(c) (surviving spouse or civil partner’s pensions) substitute—

“(c) the member was—

- (i) a man and was married to a woman whom he leaves a widow; or
- (ii) a woman who falls within rule E.1(15) and was married to a woman whom she leaves a widow.”.

(3) In rule E.1(5)(c)(ii) (surviving spouse or civil partner’s pensions), at the beginning insert “(except for a member who falls within rule E.1(15))”.

(a) S.I. 1995/300. Regulation A4 was inserted by S.I. 2014/78.

(b) S.I. 2005/438. Part E of Schedule 1 was amended by S.I. 2014/107 and S.I. 2014/560. There are other amendments to S.I. 2005/438 which are not relevant to this Order.

(c) Order in Council made pursuant to section 3 of the Naval and Marine Pay and Pensions Act 1865 (28 and 29 Vict c. 73). This Order in Council and its amending orders are not statutory instruments. Schedule 1 was substituted in its entirety by the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 and subsequently amended by the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2012 and by S.I. 2014/107 and S.I. 2014/560. Copies can be obtained from www.gov.uk/government/publications/armed-forces-pension-scheme-1975-regulations. Hard copies are available from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

- (4) After rule E.1(14) (surviving spouse or civil partner's pensions) insert—
- “(15) A deceased woman falls within this rule if—
- (a) she 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 she was married to a woman and that marriage subsisted before the time when the certificate was issued.”.

(5) For rule E.6(1)(d) (widows' pensions: service ended before 31st March 1973) substitute—

“(d) the member was—

 - (i) a man and was married to a woman whom he leaves a widow; or
 - (ii) a woman who falls within rule E.6(8) and was married to a woman whom she leaves a widow.”.

(6) After rule E.6(7) (widows' pensions: service ended before 31st March 1973) insert—

“(8) A deceased woman falls within this rule if—

 - (a) she 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 she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.

17.—(1) Schedule 2(a) to the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (Naval and Marines 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, 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 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 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;”.

(4) In Part D, in rule D.1(3) (entitlement to a child's compensation)—

(a) for sub-paragraph (a) substitute—

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

(a) Schedule 2 to the Order was amended by the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 and the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2012 and by S.I. 2014/107 and S.I. 2014/560.

- (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;”, and
- (b) for sub-paragraph (c) substitute—
- “(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;”.

Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010

18.—(1) Part E of Schedule 1 to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010(a) (death benefits) is amended as follows.

- (2) For rule E.1(3)(c) (surviving spouse or civil partner’s pensions) substitute—
- “(c) the member was—
- (i) a man and was married to a woman whom he leaves a widow; or
 - (ii) a woman who falls within rule E.1(15) and was married to a woman whom she leaves a widow.”.

(3) In rule E.1(5)(c)(ii) (surviving spouse or civil partner’s pensions), at the beginning insert “(except for a member who falls within rule E.1(15))”.

(4) After rule E.1(14) (surviving spouse or civil partner’s pensions) insert—

“(15) A deceased woman falls within this rule if —

 - (a) she 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 she was married to a woman and that marriage subsisted before the time when the certificate was issued.”.

(5) For rule E.6(1)(d) (widows’ pensions: service ended before 31st March 1973) substitute—

“(d) the member was—

 - (i) a man and was married to a woman whom he leaves a widow; or
 - (ii) a woman who falls within rule E.6(8) and was married to a woman whom she leaves a widow.”.

(6) After rule E.6(7) (widows’ pensions: service ended before 31st March 1973) insert—

“(8) A deceased woman falls within this rule if—

 - (a) she 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 she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.

(a) Royal Warrant made under section 2 of the Pensions and Yeomanry Pay Act 1884 (47 and 48 Vict c. 55) and prerogative powers. This Warrant and the warrants which amend it are not statutory instruments. Schedule 1 was substituted in its entirety by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Warrant 2010 and was subsequently amended by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme (Amendment) Warrant 2012 and by S.I. 2014/107 and S.I. 2014/560. Copies can be obtained from www.gov.uk/government/publications/armed-forces-pension-scheme-1975-regulations. Hard copies are available from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

19.—(1) Schedule 2(a) to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010 (Army 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, 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 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 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;”.

(4) In Part D, in rule D.1(3) (entitlement to a child’s compensation)—

(a) for sub-paragraph (a) 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 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;”, and

(b) for sub-paragraph (c) substitute—

“(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;”.

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

20.—(1) Part E of Schedule 1 to the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010(b) (death benefits) is amended as follows.

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- (a) Schedule 2 was amended by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Warrant 2010 and by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Warrant 2012 and by S.I. 2014/107 and S.I. 2014/560.
 - (b) Queen’s Order made under section 2(1) of the Air Force (Constitution) Act 1917 (7 and 8 Geo 5 c. 51). This Order and its amending orders are not statutory instruments. Schedule 1 was substituted by the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 and subsequently amended by the Air Force Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2012 and by S.I. 2014/107

(2) For rule E.1(3)(c) (surviving spouse or civil partner's pensions) substitute—

“(c) the member was—

- (i) a man and was married to a woman whom he leaves a widow; or
- (ii) a woman who falls within rule E.1(15) and was married to a woman whom she leaves a widow.”.

(3) In rule E.1(5)(c)(ii) (surviving spouse or civil partner's pensions), at the beginning insert “(except for a member who falls within rule E.1(15))”.

(4) After rule E.1(14) (surviving spouse or civil partner's pensions) insert—

“(15) A deceased woman falls within this rule if—

- (a) she 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 she was married to a woman and that marriage subsisted before the time when the certificate was issued.”.

(5) For rule E.6(1)(d) (widows' pensions: service ended before 31st March 1973) substitute—

“(d) the member was—

- (i) a man and was married to a woman whom he leaves a widow; or
- (ii) a woman who falls within rule E.6(8) and was married to a woman whom she leaves a widow.”.

(6) After rule E.6(7) (widows' pensions: service ended before 31st March 1973) insert—

“(8) A deceased woman falls within this rule if—

- (a) she 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 she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.

21.—(1) Schedule 2(a) 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, 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 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;

and S.I. 2014/560. Copies can be obtained from www.gov.uk/government/publications/armed-forces-pension-scheme-1975-regulations. Hard copies are available from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

(a) 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 and by S.I. 2014/107 and S.I. 2014/560.

- (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 woman in a relevant gender change case whom she married after discharge and whom she leaves a widow;”.
- (4) In Part D, in rule D.1(3) (entitlement to a child's compensation)—
 - (a) for sub-paragraph (a) 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 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;”, and
 - (b) for sub-paragraph (c) substitute—
 - “(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;”.

Reserve Forces Non Regular Permanent Staff (Pension and Attributable Benefits Schemes) Regulations 2011

22.—(1) The Reserve Forces Non Regular Permanent Staff (Pension and Attributable Benefits Schemes) Regulations 2011(a) are amended as follows.

- (2) In Schedule 1, in Part D (death benefits)—
 - (a) for rule D.3(4)(b) substitute—
 - “(b) the member was—
 - (i) a man and was married to a woman whom he leaves a widow; or
 - (ii) a woman married to a woman in a relevant gender change case whom she leaves a widow.”, and
 - (b) after rule D.3(7) insert—
 - “(8) In this rule, “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 Schedule 2, in Part C (death benefits), for rules C.2(4) and (5) substitute—
 - “(4) Condition B is that the deceased person—
 - (a) was—
 - (i) a man; or
 - (ii) a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004;

(a) These regulations are not statutory instruments. Copies can be found at www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations. Hard copies can be obtained from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB. These regulations were amended by S.I. 2014/107.

- (b) was in service on or after 31st March 1973;
 - (c) was married to a woman and that marriage—
 - (i) took place before the deceased person ceased service; and
 - (ii) in the case of a deceased person falling within sub-paragraph (a)(ii), subsisted before the time when the certificate was issued; and
 - (d) died leaving her a widow.
- (5) Condition C is that the deceased person—
- (a) was—
 - (i) a man; or
 - (ii) a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004;
 - (b) was in service on or after 6th April 1978;
 - (c) married a woman—
 - (i) after leaving service; and
 - (ii) in the case of a deceased person falling within sub-paragraph (a)(ii), the marriage subsisted before the time when the certificate was issued; and
 - (d) died leaving her a widow.”.

SCHEDULE 2

Article 3

Amendments to enactments etc.: Scotland

Armed Forces Pension Scheme Order 2005

1.—(1) Part E of Schedule 1 to the Armed Forces Pension Scheme Order 2005(a) (death benefits) is amended as follows.

(2) In rule E.1 (surviving spouses’ and civil partners’ pensions), after paragraph (4) insert—

“(5) Where a deceased active, deferred or pensioner member was—

- (a) a man or 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 the deceased member’s death, the deceased member was married and that marriage subsisted before the time when the certificate was issued,

the surviving spouse of the deceased member is to be treated for the purpose of these Rules as if the certificate had not been issued.”.

(3) In each of rules E.3(6)(a), E.4(3)(a) and E.5(3)(a), before “civil partner” insert “person who was married to someone of the same sex or a”.

Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010

2.—(1) Part E of Schedule 1 to the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010(b) (death benefits) is amended as follows.

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- (a) S.I. 2005/438. There are amendments to S.I. 2005/438 which are not relevant to this Order.
 - (b) Order in Council made pursuant to section 3 of the Naval and Marine Pay and Pensions Act 1865 (28 and 29 Vict c. 73). This Order in Council and its amending orders are not statutory instruments. Schedule 1 was substituted in its entirety by the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 and subsequently amended by the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2012. Copies can be obtained from www.gov.uk/government/publications/armed-forces-pension-scheme-1975-regulations. Hard copies are available from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

- (2) In rule E.1—
- (a) for paragraph (3)(c) (surviving spouse or civil partner’s pensions) substitute—
- “(c) the member was—
- (i) a man and was married to a woman whom he leaves a widow; or
- (ii) a woman who falls within rule E.1(15) and was married to a woman whom she leaves a widow.”,
- (b) for paragraph (5)(c) (surviving spouse or civil partner’s pensions) substitute—
- “(c) the member—
- (i) was a woman and was married to a man whom she leaves a widower;
- (ii) (except for a member who falls within rule E.1(15)) was married to a person of the same sex and leaves that person as a surviving spouse; or
- (iii) leaves a surviving civil partner.”,
- (c) in paragraph (13) (surviving spouse or civil partner’s pensions) for sub-paragraph (c) substitute—
- “(c) had that person been the member’s surviving spouse or the member’s surviving civil partner, one of conditions A to C would be met.”, and
- (d) after paragraph (14) (surviving spouse or civil partner’s pensions) insert—
- “(15) A deceased woman falls within this rule if—
- (a) she 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 she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.
- (3) In rule E.6 (widows’ pensions: service ended before 31st March 1973), for paragraph (1)(d) substitute—
- “(d) the member was—
- (i) a man and was married to a woman whom he leaves a widow; or
- (ii) a woman who falls within rule E.6(8) and was married to a woman whom she leaves a widow.”.
- (4) After rule E.6(7) (widows’ pensions: service ended before 31st March 1973), insert—
- “(8) A deceased woman falls within this rule if—
- (a) she 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 she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.
- (5) In rule E.9 (suspension of pension on marriage etc.), for paragraph (3) substitute—
- “(3) This paragraph applies while the surviving spouse or civil partner and another person are living together as if they are a married couple.”.
- (6) In rule E.30(4) (death attributable to service), for “widow’s pension” in each place it occurs substitute “surviving spouse’s or civil partner’s pension”.
- 3.—(1) Schedule 2(a) to the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010 (Naval and Marines Attributable Benefits Scheme) is amended as follows.**

(a) Schedule 2 was amended by the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 and subsequently amended by the Naval and Marine Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2012.

(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 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 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.”.

(4) In Part D of Schedule 2 to the Naval and Marine Pensions (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.”.

Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010

4.—(1) Part E of Schedule 1 to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010(a) (death benefits) is amended as follows.

(2) In rule E.1—

- (a) for paragraph (3)(c) (surviving spouse or civil partner’s pensions) substitute—
 - “(c) the member was—
 - (i) a man and was married to a woman whom he leaves a widow; or
 - (ii) a woman who falls within rule E.1(15) and was married to a woman whom she leaves a widow.”,
- (b) for paragraph (5)(c) (surviving spouse or civil partner’s pensions) substitute—
 - “(c) the member—
 - (i) was a woman and was married to a man whom she leaves a widower;
 - (ii) (except for a member who falls within rule E.1(15)) was married to a person of the same sex and leaves that person as a surviving spouse; or
 - (iii) leaves a surviving civil partner.”,
- (c) in paragraph (13) (surviving spouse or civil partner’s pensions) for sub-paragraph (c) substitute—
 - “(c) had that person been the member’s surviving spouse or the member’s surviving civil partner, one of conditions A to C would be met,”, and
- (d) after paragraph (14) (surviving spouse or civil partner’s pensions) insert—
 - “(15) A deceased woman falls within this rule if—
 - (a) she 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 she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.

(3) In rule E.6 (widows’ pensions: service ended before 31st March 1973), for paragraph (1)(d) substitute—

- “(d) the member was—
 - (i) a man and was married to a woman whom he leaves a widow; or
 - (ii) a woman who falls within rule E.6(8) and was married to a woman whom she leaves a widow.”.

(4) After rule E.6(7) (widows’ pensions: service ended before 31st March 1973) insert—

- “(8) A deceased woman falls within this rule if—

(a) Royal Warrant made under section 2 of the Pensions and Yeomanry Pay Act 1884 (47 and 48 Vict c. 55) and prerogative powers. This Warrant and the warrants which amend it are not statutory instruments. Schedule 1 was substituted in its entirety by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Warrant 2010 and was subsequently amended by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme (Amendment) Warrant 2012. Copies can be obtained from www.gov.uk/government/publications/armed-forces-pension-scheme-1975-regulations. Hard copies are available from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

- (a) she 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 she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.

(5) In rule E.9 (suspensions of pension on marriage etc.), for paragraph (3) substitute—

“(3) This paragraph applies while the surviving spouse or civil partner and another person are living together as if they are a married couple.”.

(6) In rule E.30(4) (death attributable to service), for “widow’s pension” in each place it occurs substitute “surviving spouse’s or civil partner’s pension”.

5.—(1) Schedule 2(a) to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 2010 (Army 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 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 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.”.

(a) Schedule 2 was amended by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Warrant 2010 and was subsequently amended by the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme (Amendment) Warrant 2012.

(4) In Part D of Schedule 2 to the Army Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Warrant 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.”.

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

6.—(1) Part E of Schedule 1 to the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) Order 2010(a) (death benefits) is amended as follows.

(2) In rule E.1—

- (a) for paragraph (3)(c) (surviving spouse or civil partner's pensions) substitute—

“(c) the member was—

- (i) a man and was married to a woman whom he leaves a widow; or
- (ii) a woman who falls within rule E.1(15) and who was married to a woman whom she leaves a widow.”,

- (b) for paragraph (5)(c) (surviving spouse or civil partner's pensions) substitute—

“(c) the member—

- (i) was a woman and was married to a man whom she leaves a widower;
- (ii) (except for a member who falls within rule E.1(15)) was married to a person of the same sex and leaves that person as a surviving spouse; or
- (iii) leaves a surviving civil partner.”,

- (c) in paragraph (13) (surviving spouse or civil partner's pensions) for sub-paragraph (c) substitute—

“(c) had that person been the member's surviving spouse or the member's surviving civil partner, one of conditions A to C would be met.”, and

(a) Queen's Order made under section 2(1) of the Air Force (Constitution) Act 1917 (7 and 8 Geo 5 c. 51). This Order and its amending orders are not statutory instruments. Schedule 1 was substituted by the Air Force (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2010 and subsequently amended by the Air Force Pensions (Armed Forces Pension Scheme 1975 and Attributable Benefits Scheme) (Amendment) Order 2012. Copies can be obtained from www.gov.uk/government/publications/armed-forces-pension-scheme-1975-regulations and in relation to England and Wales by S.I. 2014/107 and S.I. 2014/560. Hard copies are available from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

(d) after paragraph (14) (surviving spouse or civil partner's pensions) insert—

“(15) A deceased woman falls within this rule if—

- (a) she 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 she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.

(3) In rule E.6 (widows' pensions: service ended before 31st March 1973), for paragraph (1)(d) substitute—

“(d) the member was—

- (i) a man and was married to a woman whom he leaves a widow; or
- (ii) a woman who falls within rule E.6(8) and was married to a woman whom she leaves a widow.”.

(4) After rule E.6(7) (widows' pensions: service ended before 31st March 1973) insert—

“(8) A deceased woman falls within this rule if—

- (a) she 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 she was married to a woman and that marriage subsisted before the time when that certificate was issued.”.

(5) In rule E.9 (suspension of pension on marriage etc.), for paragraph (3) substitute—

“(3) This paragraph applies while the surviving spouse or civil partner and another person are living together as if they are a married couple.”.

(6) In rule E.30(4) (death attributable to service), for “widow's pension” in each place it occurs substitute “surviving spouse's or civil partner's pension”.

7.—(1) Schedule 2(a) 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

(a) 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.

- (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.”.

(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.”.

Reserve Forces Non Regular Permanent Staff (Pension and Attributable Benefits Schemes) Regulations 2011

8.—(1) The Reserve Forces Non Regular Permanent Staff (Pension and Attributable Benefits Schemes) Regulations 2011(a) are amended as follows.

(2) In Schedule 1, in Part D (death benefits)—

- (a) for rule D.3(4)(b) substitute—

“(b) the member was—

- (i) a man and was married to a woman whom he leaves a widow; or

(a) These regulations are not statutory instruments. Copies can be found at www.gov.uk/government/publications/reserve-forces-pension-scheme-regulations. Hard copies can be obtained from CDP-Remuneration, Armed Forces Pensions, Level 6 Zone M, Ministry of Defence, Main Building, London SW1A 2HB.

- (ii) a woman and was married to a woman in a relevant gender change case whom she leaves a widow.”, and
- (b) after rule D.3(7) insert—
 - “(8) In this rule, “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 Schedule 2, in Part C (death benefits), for rules C.2(4) and (5) substitute—
 - “(4) Condition B is that the deceased person—
 - (a) was—
 - (i) a man; or
 - (ii) a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004;
 - (b) was in service on or after 31st March 1973;
 - (c) was married to a woman and that marriage—
 - (i) took place before the deceased person ceased service; and
 - (ii) in the case of a deceased person falling within sub-paragraph (a)(ii), subsisted before the time when the certificate was issued; and
 - (d) died leaving her a widow.
 - (5) Condition C is that the deceased person—
 - (a) was—
 - (i) a man; or
 - (ii) a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004;
 - (b) was in service on or after 6th April 1978;
 - (c) married a woman—
 - (i) after leaving service; and
 - (ii) in the case of a deceased person falling within sub-paragraph (a)(ii), the marriage subsisted before the time when the certificate was issued; and
 - (d) died leaving her a widow.”.

Postal Services Act 2011 (Transfer of Accrued Pension Rights) Order 2012

9.—(1) The Royal Mail Statutory Pension Scheme in Schedule 1 to the Postal Services Act 2011 (Transfer of Accrued Pension Rights) Order 2012(a) is amended as follows.

(2) In Part 1, after rule 2, insert—

“Marriage of a same sex couple

2A.—(1) In this Scheme—

- (a) a reference to civil partnership is to be read as including a reference to marriage of a same sex couple,
- (b) a reference to civil partners is to be read as including a reference to a married same sex couple, and

(a) S.I. 2012/687.

(c) a reference to a person who is in a civil partnership is to be read as including a reference to a person who is married to a person of the same sex.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a civil partnership that has ended, or a reference to a person whose civil partnership has ended) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

Living together as a same sex couple

2B.—(1) In this Scheme—

(a) a reference to persons who are not in a civil partnership but are living together as civil partners is to be read as including a reference to a same sex couple who are not married but are living together as a married couple, and

(b) a reference to a person who is living together with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

Continuation of marriage where Scheme member acquires new legal gender

2C.—(1) Where—

(a) a deceased Scheme member 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 the deceased Scheme member's death, she was married to a woman and that marriage subsisted before the time when the certificate was issued,

the Scheme member's widow is to be treated for the purpose of this Scheme as if the certificate had not been issued.

(2) Where—

(a) a deceased Scheme member was a man by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and

(b) at the time of the deceased Scheme member's death, he was married to a man and that marriage subsisted before the time when the certificate was issued,

the Scheme member's widower is to be treated for the purpose of this Scheme as if the certificate had not been issued."

Public service pension schemes: general

10.—(1) In each of the enactments set out at sub-paragraph (4), any reference to a "widow" includes a woman who is the surviving spouse of a woman to whom sub-paragraph (3) applies.

(2) In each of the enactments set out in sub-paragraph (4)(c) to (f), any reference to a "husband" includes a reference to a woman to whom sub-paragraph (3) applies.

(3) This sub-paragraph applies to a deceased woman who—

(a) 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 was married to a woman, and that marriage subsisted before the time when the certificate was issued.

- (4) The enactments referred to in sub-paragraphs (1) and (2) are—
- (a) the War Pensions (Coastguards) Scheme 1944(a),
 - (b) the British Transport Reorganisation (Pensions of Employees) (No. 2) Order 1962(b),
 - (c) the Harbour Reorganisation (Compensation to Employees) Regulations 1967(c),
 - (d) the British Transport (Compensation to Employees) Regulations 1970(d),
 - (e) the Transport Holding Company (Compensation to Employees) Regulations 1972(e), and
 - (f) the Vehicle and Driving Licences (Compensation to Officers) Regulations 1977(f).

SCHEDULE 3

Article 4

Consequential amendments to Church of England legislation

Church Property (Miscellaneous Provisions) Measure 1960

1. In the Church Property (Miscellaneous Provisions) Measure 1960(g), in section 20 (provisions as to pensions of Church Estates Commissioners), in subsection (2A), after “widower” insert “(whether or not of the same or the opposite sex to the deceased).”.

Clergy Pensions Measure 1961

2. In section 46 of the Clergy Pensions Measure 1961(h) (interpretation) after subsection (1) insert—

“(1A) In this Measure, references to a “widow”, “widower”, “spouse” or “surviving spouse” include a person who is or was married to someone of the same sex.”

Clergy Pensions (Amendment) Measure 1972

3. In section 6 of the Clergy Pensions (Amendment) Measure 1972(i) (power of the General Synod to make further provision by regulations with respect to pensions for clergy and their widows and dependants), after subsection (5) insert—

“(6) In this section “widow”, “widower” and “spouse” include a person who is or was married to someone of the same sex.”.

Deaconesses and Lay Workers (Pensions) Measure 1980

4. In section 1 of the Deaconesses and Lay Workers (Pensions) Measure 1980(j) (power of Church Commissioners to make payment for provision, etc of pension benefits for deaconesses and lay workers), in subsection (1)(a), after “widowers” insert “(whether of the same or opposite sex).”.

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- (a) S.I. 1944/500, to which there are amendments not relevant to this Order.
 - (b) S.I. 1962/2715.
 - (c) S.I. 1967/1889.
 - (d) S.I. 1970/187.
 - (e) S.I. 1972/632.
 - (f) S.I. 1977/1316, to which there are amendments not relevant to this Order.
 - (g) 1960 No. 1. Subsection (2A) was originally inserted by the Church Commissioners Measure 1964 No. 8 and was substituted by the Church of England (Miscellaneous Provisions) Measure 2005 No. 3 and amended by S.I. 2005/3325. There are other amendments to section 20 not relevant to this Order.
 - (h) 1961 No. 3. Section 46 was amended by the Deacons (Ordination of Women) Measure 1986 No. 4, the Church of England (Pensions) Measure 1988 No. 4, S.I. 1988/2256, the Pensions Measure 1997 No. 1 and the Church of England (Miscellaneous Provisions) Measure 2014 No. 1.
 - (i) 1972 No. 5. Section 6 was amended by the Church of England (Pensions) Measure 1988 No. 4, the Church of England (Miscellaneous Provisions) Measure 1995 No. 2, the Pensions Measure 1997 No. 1, S.I. 1998/1715 and S.I. 2005/3325.
 - (j) 1980 No. 1. Section 1 was amended by the Church of England (Pensions) Measure 1988 No. 4, the Pensions Measure 1997 No. 1 and S.I. 2005/3325.

Church of England Pensions Regulations 1988

5. In the Church of England Pensions Regulations 1988, in regulation 2(1)(a) (interpretation)—
- (a) after the definition of “scheme member” insert—
““spouse” and “surviving spouse” include a person who is or was married to a person of the same sex;”, and
 - (b) in the definition of “widow or widower”, in paragraph (a) after “person” insert “(whether of the same or opposite sex to the deceased)”.

Pensions Measure 1997

6. In section 1 of the Pensions Measure 1997(b) (past service and funded schemes), in subsection (1), after “widowers” insert “(whether of the same or the opposite sex to the deceased)”.

Church of England (Pensions) Measure 2003

7. In section 7 of the Church of England (Pensions) Measure 2003(c) (citation, interpretation, commencement and extent) after subsection (3) insert—
“(3A) In this Measure “widow”, “widower” and “spouse” include a person who is or was married to someone of the same sex.”.

Mission and Pastoral Measure 2011

8. In Schedule 4 to the Mission and Pastoral Measure 2011(d) (compensation of clergy), after paragraph 11(3) insert—
“(3A) For the purposes of sub-paragraph (3), it does not matter if a surviving spouse is of the same or opposite sex to the deceased.”.

SCHEDULE 4

Article 5

Consequential provisions relating to consular marriage

1.—(1) Any person is entitled to obtain, from the Registrar General for England and Wales or from the Registrar General for Scotland a certified copy of any entry in a marriage register book transmitted to that Registrar General under section 10 of the Foreign Marriage Act 1892(e) or article 6 of the Foreign Marriage Order 1970(f) as the case may be, on payment of a fee.

(2) The fee payable under sub-paragraph (1) is the same fee as is for the time being charged by that Registrar General for the provision of a certified copy of, and any necessary search for, an entry in the records in their custody of marriages performed in England and Wales or Scotland, as the case may be.

(3) A certified copy provided under sub-paragraph (1) shall be sufficient evidence of the marriage.

2.—(1) Any person is entitled to obtain, from the Registrar General for England and Wales or from the Registrar General for Scotland, a certified copy of any of the documents specified in sub-

-
- (a) S.I. 1988/2256. Regulation 2 was amended by the Pensions Measure 1997 No. 1, by S.I. 1997/1929, by S.I. 2010/1922 and the Church of England (Miscellaneous Provisions) Measure 2014 No. 1.
 - (b) 1997 No. 1. Section 1 was amended by S.I. 2005/3325.
 - (c) 2003 No. 2.
 - (d) 2011 No. 3. Schedule 4 was amended by S.I. 2012/992 and Church of England (Miscellaneous Provisions) Measure 2014 No. 1.
 - (e) 1892 c. 23. The Foreign Marriage Act 1892 was repealed in relation to England and Wales and Scotland by section 13(2) of the 2013 Act.
 - (f) S.I. 1970/1539. Article 6 was amended by S.I. 1990/598.

paragraph (3) transmitted to that Registrar General in accordance with article 7 of the Foreign Marriage Order 1970(a) on payment of a fee.

(2) The fee payable under sub-paragraph (1) is the same fee as is for the time being charged by that Registrar General for the provision of a certified copy of, and any necessary search for, an entry in the records in their custody of marriages performed in England and Wales or Scotland, as the case may be.

(3) The documents referred to in sub-paragraph (1) are—

- (a) a certificate of a foreign marriage,
- (b) any translation of such a certificate,
- (c) any certificate produced by a consular officer regarding the accuracy of the translation.

(4) A certified copy provided by a Registrar General under sub-paragraph (1) of any entry in the register under the Foreign Marriage Act 1892 is sufficient evidence of the formation of a foreign marriage.

(5) In this paragraph a “foreign marriage” means a marriage solemnized in a foreign country.

3. Where the Registrar General for England and Wales receives a certified copy of an entry in a marriage register book kept under section 9 of the Foreign Marriage Act 1892, relating to a party shown to be from Northern Ireland, that Registrar General shall send a copy of that entry to the Registrar General for Northern Ireland.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to subordinate legislation as a consequence of the coming into force of the Marriage (Same Sex Couples) Act 2013 (c. 30) (“the 2013 Act”) in England and Wales and as a consequence of the coming into force of the Marriage and Civil Partnership (Scotland) Act 2014 (asp 5) (“the 2014 Act”) in relation to Scotland.

Some provisions of the 2013 Act are already in force and two orders making consequential amendments as a result of the 2013 Act (as well as other provision) have already been made. These orders are the Marriage (Same Sex Couples) Act 2013 (Consequential Provisions) Order 2014 (S.I. 2014/107) and the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 (S.I. 2014/560). Other statutory instruments which were required to implement the 2013 Act have also been made.

The provisions of the 2013 Act now being brought into force by a separate commencement order mainly concern the conversion of civil partnerships into marriage (“conversions”) and allow, subject to certain conditions, a couple to remain married if one or both of them changes their legal gender.

As part of the implementation of these provisions of the 2013 Act, the Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) and Marriage and Civil Partnership (Scotland) Act 2014 (Consequential Provisions) Order 2014 has been laid in each House of Parliament. This makes consequential amendments to Acts of Parliament mainly consequential on the remaining provisions of the 2013 Act coming into force, as well as making other provision.

This Order makes consequential amendments to enactments which are not Acts of Parliament.

It also makes amendments in Schedule 2 to various public service pension schemes which form part of the law of Scotland (but which are not devolved to the Scottish Government) as a consequence of the coming into force of the 2014 Act under the power contained in section 104 of

(a) Article 7 was amended by S.I. 1990/598 and revoked by S.I. 2013/2875 subject to saving provision.

the Scotland Act 1998 (c. 46). These amendments replicate amendments made in relation to England and Wales both in Schedule 1 to this Order and in S.I.s 2014/107 and 2014/560.

This Order additionally makes amendments to legislation concerning pensions payable by the Church of England as a consequence of the 2013 Act coming into force and consequential amendments as a result of changes to consular marriage legislation.

Article 2 and Schedule 1 make consequential amendments to subordinate legislation having effect in England and Wales, and in the case of paragraphs 2, 4, and 5 of Schedule 1, in Scotland.

Paragraph 1 of Schedule 1 makes an amendment to the Marriage (Authorised Persons) Regulations 1952 (S.I. 1952/1869) as a consequence of the coming into force of section 6 of the 2013 Act which makes provision about marriages of same sex couples in military chapels.

Paragraph 2 of Schedule 1 makes amendments to the Service Departments Registers Order 1959 (S.I. 1959/406) to reflect the fact that a marriage can now result from a conversion or change of a civil partnership into a marriage and also makes an amendment to this Order which follows on from provision made by the Overseas Marriages (Armed Forces) Order 2014 (S.I. 2014/1108).

Paragraphs 3, 7 and 9 of Schedule 1 make amendments to the Registration of Births, Deaths and Marriages Regulations 1968 (S.I. 1968/2049), the Registration of Births and Deaths Regulations 1987 (S.I. 1987/2088) and the Special Guardianship (Wales) Regulations 2005 (S.I. 2005/1513) as a consequence of it now being possible to convert a civil partnership into a marriage.

Paragraph 4 of Schedule 1 amends the Social Security (Credits) Regulations 1975 (S.I. 1975/556) to reflect the fact that a same sex couple may now live together as if they were a married couple.

Paragraphs 5 and 8 amend the Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations 1979 (S.I. 1979/643) and the Standards Committees (Wales) Regulations 2001 (S.I. 2001/2283) respectively to insert previously omitted references to civil partners.

Paragraph 6 amends the Registration of Marriages Regulations 1986 (S.I. 1986/1442) and paragraph 10 amends the Civil Partnership (Registration Provisions) Regulations 2005 (S.I. 2005/3176). Prior to marriage for same sex couples becoming lawful, where a couple married each other after having been in a civil partnership with each other, this would have revealed that one of the couple must have changed legal gender. Similarly if a couple were previously married before marriage of same sex couples became lawful and then entered a civil partnership, this would have revealed one of the couple had changed legal gender. SI 1986/1442 and S.I. 2005/3176 made provision to ensure that couples marrying and entering a civil partnership were not inadvertently revealed as a couple where one member had acquired a new legal gender. Now that marriage for same sex couples is lawful, these two regulations have been updated to ensure the same protections apply.

Part 2 of Schedule 1 amends various public service pension schemes enshrined in legislation to make provision for the survivor benefits available to the spouse of a member of the scheme in a case where the member has acquired a new legal gender.

Article 3 and Schedule 2 to the Order make amendments to public service pension schemes insofar as the legislation containing these is part of the law of Scotland. These amendments are made in consequence of provision made by the 2014 Act and replicate amendments made in relation to England and Wales.

Article 4 and Schedule 3 to the Order make amendments to various Measures of the Church of England and one set of regulations applying to the Church of England where these Measures and regulations concern pension schemes provided by the Church. None of the amendments affect the Church's stance as regards the ability of a member of the clergy to enter into a marriage with someone of the same sex.

Article 5 and Schedule 4 to the Order make provision consequential upon the repeal of the Foreign Marriage Act 1892 (c.23) and provide that the Registrars General for England and Wales and

Scotland will issue certified copies of consular marriages entries registered under previous legislation as well as certified copies of certificates of marriages under foreign law which were deposited with them under the previous legislation. The previous legislation still applies in Northern Ireland.

Paragraph 3 of Schedule 4 ensures that the Registrar General for England and Wales will continue to pass on to the Registrar General for Northern Ireland any consular marriage certificates which show that the couple elected Northern Ireland as the relevant part of the United Kingdom for the purposes of these marriages under the previous legislation (which still applies in relation to Northern Ireland).

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

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