

2005 No. 2877

CIVIL PARTNERSHIP

**The Civil Partnership (Pensions, Social Security and
Child Support) (Consequential, etc. Provisions) Order
2005**

<i>Made</i> - - - - -	<i>13th October 2005</i>
<i>Laid before Parliament</i>	<i>20th October 2005</i>
<i>Coming into force</i> -	<i>5th December 2005</i>

The Secretary of State for Work and Pensions, in exercise of the powers conferred upon him by sections 254(3) and (4)(a), 258 and 259 of the Civil Partnership Act 2004(b), makes the following Order:

Citation and commencement

1. This Order may be cited as the Civil Partnership (Pensions, Social Security and Child Support) (Consequential, etc. Provisions) Order 2005 and shall come into force on 5th December 2005.

Amendments of legislation

2.—(1) Schedule 1, which contains amendments of subordinate legislation relating to pension sharing on divorce, shall have effect.

(2) Schedule 2, which contains amendments of subordinate legislation relating to occupational and personal pension schemes, shall have effect.

(3) Schedule 3, which contains amendments of subordinate legislation relating to social security, shall have effect.

(4) Schedule 4, which contains amendments of subordinate legislation relating to child support, shall have effect.

(5) Schedule 5, which contains transitory provisions relating to child support, shall have effect.

Transitional provision relating to housing benefit and council tax benefit

3.—(1) Paragraph (2) applies in the case of a claimant who is a member of a couple who live together as if they were civil partners on or after 5th December 2005, in respect of whom there is an award of housing benefit or council tax benefit on 5th December 2005.

(2) In such a case, subject to paragraphs (3) and (4)–

(a) Subsec. (3) of s. 254 applies in accordance with subsec. (2); and subsec. (4) applies s. 175(3), (5) and (6) of the Social Security Contributions and Benefits Act 1992 (c. 4), disregarding the exceptions in subsec. (3) and (5), to the exercise of the power under s. 259 of the Civil Partnership Act 2004 (c. 33).

(b) 2004 c. 33.

- (a) the provisions of regulation 8(2)(a) and (10)(b) of the Decisions and Appeals Regulations shall not apply; and
- (b) a superseding decision made in consequence of the amendments made by paragraph 15, 16, 21 or 22 of Schedule 3 to this Order shall take effect—
 - (i) from the date that the claimant reports to the relevant authority that the couple live together as if they were civil partners; or
 - (ii) from the date on which the relevant authority otherwise becomes aware that the couple are living together as if they were civil partners; or
 - (iii) where there exists an award of a relevant benefit on 5th December 2005, from the date the superseding decision is made in relation to the relevant benefit that is consequential on the amendments made by paragraph 13, 26 or 35 of Schedule 3 to this Order,
 whichever is the earliest date.

(3) The relevant authority may, where the provisions of paragraph (2)(b)(i) or (ii) apply, determine such earlier effective date for the superseding decision as it considers appropriate if it is satisfied that the claimant could reasonably have been expected to report that he is a member of a couple who live together as if they were civil partners earlier than the date which would otherwise apply under that paragraph.

(4) The provisions of regulation 8(2) and (10) of the Decisions and Appeals Regulations shall apply in a case falling within paragraph (1) where the application of those provisions is advantageous to the claimant.

(5) In this article—

“couple” has the same meaning as in regulation 2(1) of the Housing Benefit (General) Regulations 1987(c);

“the Decisions and Appeals Regulations” means the Housing Benefit and Council Tax Benefit (Decisions and Appeals) Regulations 2001(d);

“relevant authority” has the same meaning as in regulation 2(1) of the Housing Benefit (General) Regulations 1987;

“relevant benefit” means income support, income-based jobseeker’s allowance or a guarantee credit awarded under section 2(1) of the State Pension Credit Act 2002(e).

Signed by authority of the Secretary of State for Work and Pensions.

Philip A Hunt

Parliamentary Under Secretary of State,
Department for Work and Pensions

13th October 2005

[Schedules 1 – 4 contain various amendments to social security, pensions and child support legislation. (See list in Explanatory Note).]

[Paragraph 6 of Schedule 2 revoked by Schedule to S.I. 2006/759.]

[Schedule 3, para. 3 revoked by Sch. to S.I. 2005/3360 as from 10.4.06.]

(a) Para. (2) was amended by S.I. 2003/325.

(b) Para. (10) was inserted by S.I. 2003/1050.

(c) S.I. 1987/1971.

(d) S.I. 2001/1002.

(e) 2002 c. 16.

SCHEDULE 5

Article 2(5)

Transitory provisions relating to child support

Transitory provisions

1. In this Schedule—

“the Act” means the Civil Partnership Act 2004(a);

“the 2000 Act” means the Child Support, Pensions and Social Security Act 2000(b);

“the 1991 Act” means the Child Support Act 1991(c) before its amendment by the 2000 Act;

“maintenance assessment” has the same meaning as it has in the 1991 Act by virtue of section 54 of that Act as read with any regulations in force under that section;

“an old scheme case” means any type of case which is not one in relation to which 3rd March 2003 is the day appointed for the coming into force of Part I and section 85 (so far as it relates to Part 1 of Schedule 9) of, and Schedules 1, 2, 3 and Part 1 of Schedule 9 to, the 2000 Act in so far as they are not already in force in relation to that type of case.

2.—(1) This paragraph applies to an old scheme case, until the day on which Part I and section 85 (so far as it relates to Part 1 of Schedule 9) of, and Schedules 1, 2, 3 and Part 1 of Schedule 9 to, the 2000 Act in so far as they are not already in force in relation to that type of case come into force in relation to that type of case.

(2) Where this paragraph applies, paragraph 49(7) to (11) of Schedule 5 to the Act (duration of continuing orders in favour of children, and age limit on making certain orders in their favour) shall apply as if—

- (a) in sub-paragraph (7)(a), (9), (10) and (11), for “maintenance calculation” there were substituted “maintenance assessment” (in each place);
- (b) in sub-paragraph (7)(a), (7)(b)(ii) and (8)(b), for “current calculation” there were substituted “current assessment”;
- (c) in sub-paragraph (8)(b), for—
 - (i) “maintenance calculations” there were substituted “maintenance assessments”;
 - (ii) “those calculations” there were substituted “those assessments”;
- (d) in sub-paragraph (9)—
 - (i) in paragraph (a), after “ceases to have effect” there were inserted “or is cancelled”;
 - (ii) in paragraph (b), after “ceased to have effect” there were inserted “or was cancelled”;
 - (iii) after “ceased to have effect” the second time it occurs, there were inserted “, or as the case may be, the date with effect from which it was cancelled”;
- (e) after sub-paragraph (10), there were inserted—

“(10A) Where the maintenance assessment was cancelled, the relevant date is the later of—

 - (a) the date on which the person who cancelled it did so; and
 - (b) the date from which the cancellation first had effect.”.

(a) 2004 c. 33.

(b) 2000 c. 19. 3rd March 2003 is the day appointed by the Child Support, Pensions and Social Security Act 2000 (Commencement No. 12) Order 2003 (S.I. 2003/192 (c. 11)), as amended by the Child Support, Pensions and Social Security Act 2000 (Commencement No. 13) Order 2003 (S.I. 2003/346 (c. 21)).

(c) 1991 c. 34.

(3) Where this paragraph applies, paragraph 62(1) to (5) of Schedule 5 to the Act (power to direct when variation etc. is to take effect) shall apply as if in—

- (a) sub-paragraph (1)(c), (2)(a), (2)(c) and (5), for “maintenance calculation” there were substituted “maintenance assessment”;
- (b) sub-paragraph (1), for “the calculation” there were substituted “the assessment” (in each place).

(4) Where this paragraph applies, paragraph 27(7) to (11) of Schedule 6 to the Act (age limit on making orders for financial provision for children and duration of such orders) shall apply as if—

- (a) in sub-paragraph (7)(a), (9), (10) and (11), for “maintenance calculation” there were substituted “maintenance assessment” (in each place);
- (b) in sub-paragraph (7)(a), (7)(b)(ii) and (8)(b), for “current calculation” there were substituted “current assessment”;
- (c) in sub-paragraph (8)(b), for—
 - (i) “maintenance calculations” there were substituted “maintenance assessments”;
 - (ii) “those calculations” there were substituted “those assessments”;
- (d) in sub-paragraph (9)—
 - (i) in paragraph (a), after “ceases to have effect” there were inserted “or is cancelled”;
 - (ii) in paragraph (b), after “ceased to have effect” there were inserted “or was cancelled”;
 - (iii) after “ceased to have effect” the second time it occurs, there were inserted “, or as the case may be, the date with effect from which it was cancelled”;
- (e) after sub-paragraph (10), there were inserted—
 - “(10A) Where the maintenance assessment was cancelled, the relevant date is the later of—
 - (a) the date on which the person who cancelled it did so; and
 - (b) the date from which the cancellation first had effect.”.

(5) Where this paragraph applies, paragraph 33(1) to (3) of Schedule 6 to the Act (power to specify when order as varied is to take effect) shall apply as if in—

- (a) sub-paragraph (1)(c), (2)(a) and (2)(c), for “maintenance calculation” there were substituted “maintenance assessment”;
- (b) sub-paragraph (1), for “the calculation” there were substituted “the assessment” (in each place).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes amendments to various provisions of subordinate legislation, and contains a transitional provision relating to housing benefit and council tax benefit and a transitory provision for child support in relation to cases for which the provisions of the Child Support, Pensions and Social Security Act 2000 (c. 19) are not yet in force. The amendments are consequential upon the Civil Partnership Act 2004 (“the Act”). The Act, the substantive provisions of which come into force on the same date as this Order, enables same-sex couples to form a civil partnership by registering as civil partners of each other. Certain overseas relationships registered abroad may be treated as the formation of a civil partnership.

This Order provides that, in matters of pension sharing on divorce, occupational and personal pension schemes, social security, and child support, civil partners will be afforded the same rights and responsibilities as spouses. The Order also provides that, in certain cases, same sex couples living together as if they were civil partners (but who have not formed a civil partnership) are to be treated in the same way as unmarried couples who are living together as if they were husband and wife.

In a substantial number of cases the amendments to social security subordinate legislation insert a new definition of “couple” to provide for four different categories of couple: married couples who are members of the same household; unmarried couples who are living together as husband and wife; same-sex couples who have formed a civil partnership and are members of the same household; and same-sex couples who are living together as if they were civil partners, and amend the definition of “partner” to mean the other member of a couple so defined. The amendments also provide for inclusion of surviving civil partners where there is a reference to widows or widowers, and extend the definition of “war widower’s pension” to include war pensions paid to surviving civil partners.

Article 3 makes transitional provision for a claimant who is a member of a couple who live together as if they were civil partners on or after 5th December 2005 and is in receipt of an award of housing benefit or council tax benefit.

Schedule 1 makes consequential amendments to subordinate legislation relating to pension sharing on divorce. The Regulations amended are:

The Pensions on Divorce etc. (Provision of Information) Regulations 2000 (S.I. 2000/1048)

The Pensions on Divorce etc. (Charging) Regulations 2000 (S.I. 2000/1049)

The Pension Sharing (Valuation) Regulations 2000 (S.I. 2000/1052)

The Pension Sharing (Implementation and Discharge of Liability) Regulations 2000 (S.I. 2000/1053)

The Pension Sharing (Pension Credit Benefit) Regulations 2000 (S.I. 2000/1054)

The Pension Sharing (Safeguarded Rights) Regulations 2000 (S.I. 2000/1055)

The Sharing of State Scheme Rights (Provision of Information and Valuation) (No. 2) Regulations 2000 (S.I. 2000/2914)

Schedule 2 makes consequential amendments to subordinate legislation relating to occupational and personal pension schemes. The Regulations amended are:

The Personal Pension Schemes (Disclosure of Information) Regulations 1987 (S.I. 1987/1110)

The Occupational Pension Schemes (Preservation of Benefit) Regulations 1991 (S.I. 1991/167)

The Occupational Pension Schemes (Revaluation) Regulations 1991 (S.I. 1991/168)

The Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996 (S.I. 1996/1270)

The Occupational Pension Schemes (Disclosure of Information) Regulations 1996 (S.I. 1996/1655)

The Occupational Pension Schemes (Modification of Schemes) Regulations 1996 (S.I. 1996/2517)

The Occupational Pension Schemes (Assignment, Forfeiture, Bankruptcy etc.) Regulations 1997 (S.I. 1997/785)

The Stakeholder Pension Schemes Regulations 2000 (S.I. 2000/1403)

The Occupational and Personal Pension Schemes (Bankruptcy) (No. 2) Regulations 2002 (S.I. 2002/836)

Schedule 3 makes consequential amendments to subordinate legislation relating to social security. The subordinate legislation amended is:

The Social Security (Benefit) (Married Women and Widows Special Provisions) Regulations 1974 (SI 1974/2010)

The Social Security (Employed Earners' Employments for Industrial Injuries Purposes) Regulations 1975 (S.I. 1975/467)

The Social Security (Hospital In-Patients) Regulations 1975 (S.I. 1975/555)

The Social Security (Credits) Regulations 1975 (S.I. 1975/556)

The Social Security Benefit (Persons Abroad) Regulations 1975 (S.I. 1975/563)

The Social Security (Invalid Care Allowance) Regulations 1976 (S.I. 1976/409)

The Social Security Benefit (Dependency) Regulations 1977 (S.I. 1977/343)

The Social Security Benefit (Persons Residing Together) Regulations 1977 (S.I. 1977/956)

The Social Security (Overlapping Benefits) Regulations 1979 (S.I. 1979/597)

The Social Security (Widow's Benefit and Retirement Pensions) Regulations 1979 (S.I. 1979/642)

The Social Security (Widow's Benefit, Retirement Pensions and Other Benefits) (Transitional) Regulations 1979 (S.I. 1979/643)

The Pneumoconiosis, Byssinosis and Miscellaneous Diseases Benefits Scheme 1983 (S.I. 1983/136)

The Income Support (General) Regulations 1987 (S.I. 1987/1967)

The Social Security (Claims and Payments) Regulations 1987 (S.I. 1987/1968)

The Housing Benefit (General) Regulations 1987 (S.I. 1987/1971) and those Regulations as modified for persons who have attained the qualifying age for state pension credit by the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (S.I. 2003/325)

The Housing Benefit (Supply of Information) Regulations 1988 (S.I. 1988/662)

The Social Security (Payments on account, Overpayments and Recovery) Regulations 1988 (S.I. 1988/664)

The Social Security (Attendance Allowance) Regulations 1991 (S.I. 1991/2740)

The Social Security (Disability Living Allowance) Regulations 1991 (S.I. 1991/2890)

The Council Tax Benefit (General) Regulations 1992 (S.I. 1992/1814) and those Regulations as modified for persons who have attained the qualifying age for state pension credit by the Housing Benefit and Council Tax Benefit (State Pension Credit) Regulations 2003 (S.I. 2003/325)

The Social Security (Incapacity Benefit – Increases for Dependants) Regulations 1994 (S.I. 1994/2945)

The Social Security (Incapacity Benefit) Regulations 1994 (S.I. 1994/2946)

The Social Security (Incapacity for Work) (General) Regulations 1995 (S.I. 1995/311)

The Jobseeker's Allowance Regulations 1996 (S.I. 1996/207)

The Social Security Benefits (Maintenance Payments and Consequential Amendments) Regulations 1996 (S.I. 1996/940)

The Social Security (Child Maintenance Bonus) Regulations 1996 (S.I. 1996/3195)
The Rent Officers (Housing Benefit Functions) Order 1997 (S.I. 1997/1984)
The Rent Officers (Housing Benefit Functions) (Scotland) Order 1997 (S.I. 1997/1995)
The Social Security (Claims and Information) Regulations 1999 (S.I. 1999/3108)
The Social Fund Winter Fuel Payment Regulations 2000 (S.I. 2000/729)
The Social Security (Breach of Community Order) Regulations 2001 (S.I. 2001/1395)
The Social Security (Loss of Benefit) Regulations 2001 (S.I. 2001/4022)
The State Pension Credit Regulations 2002 (S.I. 2002/1792)
The Tax Credit (Appeals) (No. 2) Regulations 2002 (S.I. 2002/3196)
The Social Security (Jobcentre Plus Interviews for Partners) Regulations 2003 (S.I. 2003/1886)
The Social Security (Working Neighbourhoods) Regulations 2004 (S.I. 2004/959)

Schedule 4 makes consequential amendments to subordinate legislation relating to child support. The Regulations amended are:

The Child Support (Information, Evidence and Disclosure) Regulations 1992 (S.I. 1992/1812)
The Child Support (Maintenance Assessments and Special Cases) Regulations 1992 (S.I. 1992/1815)
The Child Support (Collection and Enforcement) Regulations 1992 (S.I. 1992/1989)
The Child Support (Maintenance Arrangements and Jurisdiction) Regulations 1992 (S.I. 1992/2645)
The Child Support (Collection and Enforcement of Other Forms of Maintenance) Regulations 1992 (S.I. 1992/2643)
The Child Support Departure Direction and Consequential Amendments Regulations 1996 (S.I. 1996/2907)
The Child Support (Maintenance Calculations and Special Cases) Regulations 2000 (S.I. 2001/155)
The Child Support (Variations) Regulations 2000 (S.I. 2001/156)

Schedule 5 makes transitory provision in relation to those child support cases for which the Child Support, Pensions and Social Security Act 2000 (“the 2000 Act”) has not been commenced (“an old scheme case”) until such time as that Act is commenced for those cases in so far as it is not already in force. It provides that specified paragraphs in Schedules 5 and 6 to the Civil Partnership Act 2004 relating to financial relief in the High Court and a county court in the case of Schedule 5 and in the magistrates’ courts in the case of Schedule 6 shall apply to an old scheme case as if the prescribed substitutions and insertions were made.

A regulatory impact assessment has not been prepared for this Order as it has no impact on the costs of business, charities, voluntary bodies or any public bodies distinct from that of the Act itself. A full regulatory impact assessment for civil partnership was published alongside the Act and can be viewed at <http://www.dti.gov.uk/access/ria/index.htm#equality>.

