

**NATIONAL HEALTH SERVICE SUPERANNUATION SCHEME (Scotland)
01/2015**

WHO SHOULD READ: Chief Executives of Health Boards, HR and payroll managers, Direction Bodies, GP practices, Practitioner Services Division, Dental payments, pension administration staff and members of the NHSSS(S)

ACTION: To read and circulate to all interested parties

SUBJECT: Implementation of the Marriage and Civil Partnership (Scotland) Act 2014 (“the 2014 Act”)

The purpose of this circular is to advise NHS employees, employers and representatives about the implementation of the above Act which:

- introduces same sex marriage in Scotland
- allows civil partners in a civil partnership registered in Scotland, to a marriage in Scotland and
- amends the Gender Recognition Act 2004

The provisions of the 2014 Act came into force on 16 December 2014. As a result, taking into account the minimum notice period of 15 days, the first same sex marriage ceremonies took place in Scotland on 31 December 2014. Also from 16 December, civil partners who registered their partnership in Scotland can change their relationship into a marriage.

The Government policy is that public service pension schemes provide the same survivor benefits for married same sex couples as those provided for civil partners. These changes became effective from 16 December 2014 when the first marriages took place where the 15 day notice period was exempted or where a civil partnership can be changed into a same sex marriage.

Service from 6 April 1988 automatically counts for widowers’ and surviving civil partner pensions and the pension scheme regulations will be amended to show that rights for surviving spouses of same sex marriages will accrue on the same basis. Subject to a qualifying period of two years pensionable employment after 6 April 1988, pensioners and deferred members will acquire survivor pension rights in respect of service undertaken on or after 6 April 1988.

From 31 December 2014, the entitlement to survivor benefits on the death of a member is shown in the next table.

NHS 95 section	Survivor benefit when marriage took place in active service (and post active service if different) and member dies in retirement	Additional features
Female who survives her male spouse	50% of member's pension for service from 25 March 1972 1/3 rd of member's pension for service prior to 25 March 1972 If married after the member left the scheme, 50% of member's pension based on service since 6 April 1978	Pension ceases on remarriage/co-habitation where last day of service was pre 1 April 2008, otherwise payable for life
Male who survives his female spouse, surviving civil partner and survivor of a marriage between a same sex couple	50% of member's pension for service from 6 April 1988	Pension ceases on remarriage/co-habitation where last date of service was pre 1 April 2008, otherwise payable for life

Other changes to survivor benefits include a time limited opportunity for active members to purchase at full cost, increased survivor pension cover for any service before April 1988 in respect of a widower, the surviving male spouse of a person of the same sex civil partnership or marriage and male survivor in respect of nominated partners.

There will be a period from 16 December 2014 to 31 December 2015 during which members can make an election following a same sex marriage to purchase pre April 1988 service. Elections to purchase this service can be made by writing to SPPA.

Also, from December 2014, it is possible for:

1	Same sex couples to submit their notice of intention to marry to the district registrar	They must give at least 14 clear days' notice (the same as opposite sex couples) In practice this means that the notice must be lodged a minimum of 15 days before the date of the wedding
2	Same sex couples in a civil partnership registered in Scotland to apply to change their civil partnership into marriage	If couples want to change their civil partnership into a marriage through an administrative procedure they can do so from 16 December 2014 If couples want a ceremony, they must submit notice of intention to marry
3	Same sex couples to submit their	They must give 14 clear days' notice



	notice of intention to enter into a civil partnership through having a religious belief ceremony	
4	Transgender people in a marriage solemnised in Scotland to apply for gender recognition without the need for divorce	They will be able to apply directly to the Gender Recognition Panel from 16 December 2014

The pension scheme regulations will be amended to reflect these provisions in due course. However, if you have any enquiries about this circular, or require further information, please contact: Sharon.liptrott@scotland.gsi.gov.uk

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