

**FIRST SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3881 of 6th October, 2011



I ASSENT,

ADRIAN JOHNS,

GOVERNOR.

5th October, 2011.



GIBRALTAR

No. 29 of 2011

AN ACT to amend social security legislation so as to make benefits and pensions paid on the death of a spouse gender neutral.

ENACTED by the Legislature of Gibraltar.

Title and commencement.

1. This Act may be cited as the Social Security (Survivor's Benefits Miscellaneous Amendments) Act 2011 and is deemed to have come into operation on the 1st July 2009.

Amendment of the Social Security (Closed Long-Term Benefits and Scheme) Act 1996.

2.(1) The Social Security (Closed Long-Term Benefits and Scheme) Act 1996 is amended in accordance with this section.

(2) In section 5 for paragraph (b) of subsection 1 substitute—

“(b) survivor's benefit, which shall include survivor's bereavement allowance, widowed parent's allowance, and survivor's pension;”.

(3) Delete section 5(1)(c).

(4) For the heading “WIDOW'S BENEFIT” which appears before the section heading to section 8 substitute “SURVIVOR'S BENEFIT”.

(5) For sections 8 and 9 substitute—

“Survivor's benefit.

8.(1) Subject to the provisions of this Act, a surviving spouse shall be entitled to survivor's benefit if the deceased spouse satisfied the relevant contribution conditions and—

(a) in the case of a survivor's bereavement allowance, if at the deceased spouse's death either the deceased spouse was not entitled to an old age pension or the surviving spouse was under pensionable age;

(b) in the case of a widowed parent's allowance, if the surviving spouse has a family which includes a child who, or children one of whom, either was at the

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deceased spouse's death a child of the family or who is a son or daughter of theirs;

- (c) in the case of a survivor's pension, if (subject to section 9) at the deceased spouse's death the deceased spouse and the surviving spouse had been married to each other for not less than one year and the surviving spouse was over the age of forty but under pensionable age.

(2) The period for which survivor's benefit is payable to a surviving spouse shall be—

- (a) in the case of a survivor's bereavement allowance, the three months next following the deceased spouse's death;
- (b) in the case of a widowed parent's allowance, any period during which the surviving spouse has a child referred to in subsection (1)(b) above and for which the surviving spouse is not entitled to a survivor's bereavement allowance; and
- (c) in the case of a survivor's pension, any period during which the surviving spouse is under pensionable age and for which he or she is not entitled to a survivor's bereavement allowance or widowed parent's allowance.

(3) Survivor's benefit shall not be payable for any period after the beneficiary's death or remarriage or for any period during which he or she is cohabiting with another person as his or her spouse.

(4) In this section the expression "deceased spouse", in relation to a surviving spouse who has been married more than once, refers only to that person's last spouse.

Survivor's pension in special cases.

9.(1) Where a surviving spouse, in relation to whom the conditions for a survivor's pension contained in paragraph (c) of section 8(1) above are not satisfied, ceases to be entitled to a widowed parent's allowance at a time when—

- (a) over the age of forty but under pensionable age; and
- (b) one year has elapsed since the date of the marriage in respect of which the allowance is payable,

he or she shall for any subsequent period have the same right (if any) to a survivor's pension in respect of that marriage as if such conditions were satisfied.

(2) Where a widow, in relation to whom neither the condition for a survivor's pension nor the alternative conditions contained in subsection (1) above are satisfied, ceases to be entitled to a survivor's bereavement allowance or a widowed parent's allowance at a time when she is pregnant by her late husband, she shall, for the remainder of the period of that pregnancy, have the same right (if any) to a survivor's pension in respect of her marriage to the husband as if the said conditions were satisfied.

(3) Regulations may provide that, where a surviving spouse, in relation to whom neither the conditions for a survivor's pension nor the alternative conditions contained in subsection (1) are satisfied, would but for the regulations cease to be entitled to survivor's benefit at a time when such person is by reason of any infirmity incapable of self-support and is under pensionable age, he or she shall, for any subsequent period during which he or she is incapable of self-support by reason of that infirmity, have the same right (if any) to a survivor's pension in respect of the marriage in respect of which he or she was entitled to a survivor's benefit as if the said conditions were satisfied.

(4) Where a surviving spouse is entitled to a survivor's pension by virtue of subsection (3) above but ceases to be so entitled at a time when—

- (a) over the age of forty but under pensionable age; and
- (b) one year has elapsed since the date of the marriage in respect of which the pension is payable,

he or she shall, for any subsequent period, have the same right (if any) to a survivor's pension in respect of that marriage as if he or she had attained the age of forty and one year had elapsed before the deceased spouse's death.

(5) Where a surviving spouse has been married more than once, regulations may relax, for the purpose of his or her right to a survivor's pension in respect of that person's last marriage, the condition as to the duration of that marriage contained in section 8(1)(c) above (or in a case to which instead of that condition, the alternative condition contained in paragraph (b) of subsection (1) or (4) of this section applies, the alternative condition).”.

(6) Delete section 10 and the heading “WIDOWER'S PENSION” which appears before the section.

(7) In section 13—

- (a) in subsection (1)(b) for “widower's pension” substitute “survivor's benefit”;
- (b) in subsection (2)—
 - (i) for “widower's pension under section 10(1)” substitute “survivor's pension under section 8(1)”;
 - (ii) for “widower's pension entitlement” substitute “survivor's pension entitlement”;

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- (c) in subsection (6) for “widower’s pension” substitute “survivor’s benefit”.
- (8) In section 14–
 - (a) in subsection (1)(b) for “widow’s benefit” substitute “survivor’s benefit”;
 - (b) in subsection (2)–
 - (i) for “widow’s pension under section 8(1)” substitute “survivor’s pension under section 8(1)”;
 - (ii) for “widow’s pension entitlement” substitute “survivor’s pension entitlement”;
 - (c) in subsection (6) for “widow’s benefit” substitute “survivor’s benefit”.
- (9) In section 15–
 - (a) in subsection (1) for “, a widower’s pension, a widow’s allowance or a widowed mother’s allowance” substitute “, a survivor’s bereavement allowance or a widowed parent’s allowance”;
 - (b) in subsection (5) for “widowed mother’s allowance” substitute “widowed parent’s allowance”.
- (10) In section 18 for subsection (4) substitute–
 - “(4) Nothing in the foregoing provisions of this section relating to the making of claims shall affect any right of a surviving spouse to an old age pension by virtue of the insurance of their deceased spouse in respect of whose death he or she was immediately before attaining pensionable age entitled to survivor’s benefit.”.
- (11) In Schedule 1 in the tables in Parts I, II and III-

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- (a) for the text in the first column of the rows numbered "1" substitute—
 - "1. Survivor's Benefit:
 - (a) Survivor's bereavement Allowance.
 - (b) Widowed Parent's Allowance.
 - (c) Survivor's Pension.";
 - (b) delete the rows numbered "1A";
 - (c) in the paragraphs following each table for "Widowed Mother's" substitute "Widowed Parent's".
- (12) In Schedule 2—
- (a) For the heading "WIDOWS BENEFIT OR WIDOWER'S PENSION" substitute "SURVIVOR'S BENEFIT";
 - (b) in paragraph 1(1) for "widow's benefit or widower's pension" substitute "survivor's benefit";
 - (c) in Part II for "(a) Widow's benefit or widower's pension" substitute "(a) Survivor's benefit".

Amendment of the Social Security (Open Long-Term Benefits Scheme) Act 1997.

3.(1) The Social Security (Open Long-Term Benefits Scheme) Act 1997 is amended in accordance with this section.

- (2) In section 11 for paragraph (b) of subsection 1 substitute—
 - "(b) survivor's benefit, which shall include survivor's bereavement allowance, widowed parent's allowance, and survivor's pension;"

- (3) Delete section 11(1)(c).
- (4) For the heading "WIDOW'S BENEFIT" which appears before the section heading to section 14 substitute "SURVIVOR'S BENEFIT".
- (5) For sections 14 and 15 substitute—

"Survivor's benefit.

14.(1) Subject to the provisions of this Act, a surviving spouse shall be entitled to survivor's benefit if the deceased spouse satisfied the relevant contribution conditions and—

- (a) in the case of a survivor's bereavement allowance, if at the deceased spouse's death either the deceased spouse was not entitled to an old age pension or the surviving spouse was under pensionable age;
 - (b) in the case of a widowed parent's allowance, if the surviving spouse has a family which includes a child who, or children one of whom, either was at the deceased spouse's death a child of the family or who is a son or daughter of theirs;
 - (c) in the case of a survivor's pension, if (subject to section 15) at the deceased spouse's death the deceased spouse and the surviving spouse had been married to each other for not less than one year and the surviving spouse was over the age of forty but under pensionable age.
- (2) The period for which survivor's benefit is payable to a surviving spouse shall be—
- (a) in the case of a survivor's bereavement allowance, the three months next following the deceased spouse's death;

- (b) in the case of a widowed parent's allowance, any period during which the surviving spouse has a child referred to in subsection (1)(b) above and for which the surviving spouse is not entitled to survivor's bereavement allowance; and
- (c) in the case of a survivor's pension, any period during which the surviving spouse is under pensionable age and for which he or she is not entitled to survivor's bereavement allowance or widowed parent's allowance.

(3) Survivor's benefit shall not be payable for any period after the beneficiary's death or remarriage or for any period during which he or she is cohabiting with another person as his or her spouse.

(4) In this section the expression "deceased spouse", in relation to a surviving spouse who has been married more than once, refers only to that person's last spouse.

Survivor's pension in special cases.

15.(1) Where a surviving spouse, in relation to whom the conditions for a survivor's pension contained in paragraph (c) of section 14(1) above are not satisfied, ceases to be entitled to a widowed parent's allowance at a time when—

- (a) over the age of forty but under pensionable age; and
- (b) one year has elapsed since the date of the marriage in respect of which the allowance is payable,

he or she shall for any subsequent period have the same right (if any) to a survivor's pension in respect of that marriage as if such conditions were satisfied.

(2) Where a widow, in relation to whom neither the condition for a survivor's pension nor the alternative conditions contained in subsection (1) above are satisfied, ceases to be entitled to a

survivor's bereavement allowance or a widowed parent's allowance at a time when she is pregnant by her late husband, she shall, for the remainder of the period of that pregnancy, have the same right (if any) to a survivor's pension in respect of her marriage to the husband as if the said conditions were satisfied.

(3) Regulations may provide that, where a surviving spouse, in relation to whom neither the conditions for a survivor's pension nor the alternative conditions contained in subsection (1) are satisfied, would but for the regulations cease to be entitled to survivor's benefit at a time when such person is by reason of any infirmity incapable of self-support and is under pensionable age, he or she shall, for any subsequent period during which he or she is incapable of self-support by reason of that infirmity, have the same right (if any) to a survivor's pension in respect of the marriage in respect of which he or she was entitled to a survivor's benefit as if the said conditions were satisfied.

(4) Where a surviving spouse is entitled to a survivor's pension by virtue of subsection (3) above but ceases to be so entitled at a time when—

- (a) over the age of forty but under pensionable age; and
- (b) one year has elapsed since the date of the marriage in respect of which the pension is payable,

he or she shall, for any subsequent period, have the same right (if any) to a survivor's pension in respect of that marriage as if he or she had attained the age of forty and one year had elapsed before the deceased spouse's death.

(5) Where a surviving spouse has been married more than once, regulations may relax, for the purpose of his or her right to a survivor's pension in respect of that person's last marriage, the condition as to the duration of that marriage contained in section 14(1)(c) above (or in a case to which instead of that condition, the alternative condition contained in paragraph (b) of subsection (1) or (4) of this section applies, the alternative condition).”

- (6) Delete section 16 and the heading “WIDOWER’S PENSION” which appears before the section.
- (7) In section 19–
- (a) in subsection (1)(b) for “widower’s pension” substitute “survivor’s benefit”;
 - (b) in subsection (2)–
 - (i) for “widower’s pension under section 16(1)” substitute “survivor’s pension under section 14(1)”;
 - (ii) for “widower’s pension entitlement” substitute “survivor’s pension entitlement”;
 - (c) in subsection (6) for “widower’s pension” substitute “survivor’s benefit”.
- (8) In section 20–
- (a) in subsection (1)(b) for “widow’s benefit” substitute “survivor’s benefit”;
 - (b) in subsection (2)–
 - (i) for “widow’s pension under section 14(1)” substitute “survivor’s pension under section 14(1)”;
 - (ii) for “widow’s pension entitlement” substitute “survivor’s pension entitlement”;
 - (c) in subsection (6) for “widow’s benefit” substitute “survivor’s benefit”.
- (9) In section 21–

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- (a) in subsection (1) for “, a widower’s pension, a widow’s allowance or a widowed mother’s allowance” substitute “, a survivor’s bereavement allowance or a widowed parent’s allowance”;
 - (b) in subsection (4) for “widowed mother’s allowance” substitute “widowed parent’s allowance”.
- (10) In section 24 for subsection (3) substitute—
- “(3) Nothing in the foregoing provisions of this section relating to the making of claims shall affect any right of a surviving spouse to an old age pension by virtue of the insurance of their deceased spouse in respect of whose death he or she was immediately before attaining pensionable age entitled to survivor’s benefit.”.
- (11) In Schedule 2 in the tables in Part I, II and III—
- (a) for the text in the first column of the rows numbered “1” substitute—
 - “1. Survivor’s Benefit:
 - (a) Survivor’s Bereavement Allowance.
 - (b) Widowed Parent’s Allowance.
 - (c) Survivor’s Pension.”;
 - (b) delete the rows numbered “1A”;
 - (c) in the paragraphs following each table for “Widowed Mother’s” substitute “Widowed Parent’s”;
- (12) In Schedule 3—
- (a) For the heading “WIDOW’S BENEFIT OR WIDOWER’S PENSION” substitute “SURVIVOR’S BENEFIT”;

- (b) in paragraph 1(1) for “widow’s benefit or widower’s pension” substitute “survivor’s benefit”;
- (c) in Part II for “(a) Widow’s benefit or widower’s pension” substitute “(a) Survivor’s benefit”.

Amendment of the Social Security (Closed Long-Term Benefits) Regulations 1996.

4.(1) The Social Security (Closed Long-Term Benefits) Regulations 1996 are amended in accordance with this section.

- (2) Delete regulation 4(2).
- (3) In regulation 6(2)(b) for “widow’s benefit, widower’s pension” substitute “survivor’s benefit”.
- (4) For Part II substitute—

**“PART II
SURVIVOR’S BENEFIT.**

Surviving spouses incapable of self support.

8.(1) Where a surviving spouse in relation to whom neither the conditions for a survivor’s pension contained in section 8(1)(c) of the Act nor the alternative conditions contained in section 9(1) of the Act are satisfied, would, but for the provisions of this regulation, cease to be entitled to survivor’s benefit at a time when he or she is by reason of any infirmity incapable of self-support and is under pensionable age, he or she shall, for any subsequent period during which he or she is incapable of self-support by reason of that infirmity have the same right (if any) to a survivor’s pension as if the said conditions were satisfied.

(2) A surviving spouse who claims a survivor’s pension by virtue of this regulation shall from time to time as required by the Director furnish evidence by means of a certificate (in such form as

the Director may approve) that by reason of an infirmity he or she is incapable of self-support, and shall at any time submit to such medical examination as the Director may require.

Partial satisfaction of contribution conditions (1).

9.(1) Where a person would be entitled to a survivor's benefit at any of the rates specified in Part II of Schedule 1 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the yearly average of contributions paid or credited, that person shall nevertheless be entitled to such benefit in accordance with sub-regulation (2), if the yearly average of contributions paid or credited is not less than thirteen.

(2) Where the full monthly rate of survivor's benefit (excluding any increases for children) is at one of the rates set out at the head of column (2) or (3) of Part I of Schedule 1 to these regulations, then the benefit shall be payable at the reduced rate specified in the appropriate column of that Part of that Schedule which corresponds with the yearly average of contributions paid or credited as shown in column (1) of that Part of that Schedule.

Partial satisfaction of contribution conditions (II).

10.(1) Where a person would be entitled to a survivor's benefit at one of the rates specified in Part III of Schedule 1 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the number of contributions paid since the 1st day of January, 1968, that person shall nevertheless be entitled to such benefit in accordance with sub-regulation (2), if not less than twenty-six contributions have been paid since the 1st day of January, 1968.

(2) Where the full monthly rate of survivor's benefit (excluding any increases for children) is at one of the rates set out at the head of column (2) or (3) of Part II of Schedule 1 to these regulations, then the benefit shall be payable at the reduced rate specified in the appropriate column of that Part of that Schedule which corresponds with the number of contributions paid since the

1st day of January, 1968, as shown in column (I) of that Part of that Schedule.

Partial Satisfaction of contribution conditions (III).

11.(1) Where a person would be entitled to a survivor's benefit at one of the rates specified in Part III of Schedule 1 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the yearly average of contributions paid or credited that person shall nevertheless be entitled to such benefit in accordance with sub-regulation (2), if the yearly average of contributions paid or credited is not less than thirteen.

(2) Where the full monthly rate of a survivor's benefit (excluding any increases for children) is at one of the rates set out at the head of column (2) or (3) of Part III of Schedule 1 to these regulations, then the benefit shall be payable at the reduced rate specified in the appropriate column of that Part of that Schedule which corresponds with the yearly average of contributions paid or credited as shown in column (I) of that Part of that Schedule.

Partial satisfaction of contribution conditions (IV).

12.(1) Where a person would be entitled to a survivor's benefit at one of the rates specified in Part III of Schedule 1 to the Act but for the fact that the relevant contribution conditions are not satisfied both as respects the yearly average of contributions paid or credited and as respects the number of contributions paid since the 1st day of January, 1968, that person shall nevertheless be entitled to such benefit in accordance with sub-regulation (2) if the yearly average of contributions paid or credited is not less than thirteen and not less than twenty-six contributions have been paid since the 1st day of January, 1968.

(2) Where the full monthly rate of a survivor's benefit (excluding any increases for children) is at one of the rates set out at the head of columns (2) to (7) of Part IV of Schedule 1 to these regulations, and the yearly average of contributions paid or credited corresponds with any of the numbers shown in column (1) of that

Part of that Schedule, and the number of contributions paid since the 1st day of January, 1968, corresponds with any of the numbers shown at the head of columns (2) to (7) of that Part of that Schedule, then the benefit shall be payable at the reduced rate which is applicable both to the number of contributions shown in column (1) and the number of contributions shown at the head of whichever of columns (2) to (7) is appropriate.

Partial satisfaction of contribution conditions (V).

13.(1) Where a person would be entitled to a survivor's benefit at one of the rates specified in Part I of Schedule 1 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the yearly average of contributions paid or credited, that person shall nevertheless be entitled to such benefit in accordance with sub-regulation (2) if the yearly average of contributions paid or credited is not less than thirteen.

(2) Where the full monthly rate of a survivor's benefit (excluding any increases for children) is at one of the rates set out at the head of column (2) or (3) of Parts V and VI of Schedule 1 to these regulations, then the benefit or pension shall be payable as follows -

- (a) where the person would be entitled to survivor's benefit before the 1st day of January 1989, at the reduced rate specified in the appropriate column of Part V of Schedule 1 which corresponds with the yearly average of contributions paid or credited as shown in column(1) of that Part of that Schedule; and
- (b) where the person would be entitled to survivor's benefit on or after the 1st day of January 1989, at the reduced rate specified in the appropriate column of Part VI of Schedule 1 which corresponds with the yearly average of contributions paid or credited as shown in column (1) of that Part of that Schedule.”.

(5) In regulation 20(1)(b) for “widow’s benefit” substitute “survivor’s benefit.”

(6) In Schedule 1 for the heading before “PART 1” substitute “REDUCED RATES OF SURVIVOR’S BENEFIT”.

Amendment of the Social Security (Open Long-Term Benefits) Regulations 1997.

5.(1) The Social Security (Open Long-Term Benefits) Regulations 1997 is amended in accordance with this section.

(2) Delete regulation 4(2).

(3) In regulation 6(2)(b) for “widow’s benefit, widower’s pension” substitute “survivor’s benefit”.

(4) For Part II substitute—

**“PART II
SURVIVOR’S BENEFIT.**

Surviving spouses incapable of self support.

8.(1) Where a surviving spouse in relation to whom neither the conditions for a survivor’s pension contained in section 14(1)(c) of the Act nor the alternative conditions contained in section 15(1) of the Act are satisfied, would, but for the provisions of this regulation, cease to be entitled to survivor’s benefit at a time when he or she is by reason of any infirmity incapable of self-support and is under pensionable age, he or she shall, for any subsequent period during which he or she is incapable of self-support by reason of that infirmity have the same right (if any) to a survivor’s pension as if the said conditions were satisfied.

(2) A surviving spouse who claims a survivor’s pension by virtue of this regulation shall from time to time as required by the Director furnish evidence by means of a certificate (in such form as the Director may approve) that by reason of an infirmity he or she is

incapable of self-support, and shall at any time submit to such medical examination as the Director may require.

Partial satisfaction of contribution conditions (I).

9.(1) Where a person would be entitled to a survivor's benefit at any of the rates specified in Part II of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the yearly average of contributions paid or credited, that person shall nevertheless be entitled to such benefit in accordance with paragraph (2) below, if the yearly average of contributions paid or credited is not less than thirteen.

(2) Where the full monthly rate of survivor's benefit (excluding any increases for children) is at one of the rates set out at the head of column (2) or (3) of Part I of Schedule 1 to these regulations, then the benefit shall be payable at the reduced rate specified in the appropriate column of that Part of that Schedule which corresponds with the yearly average of contributions paid or credited as shown in column (1) of that Part of that Schedule.

Partial satisfaction of contribution conditions (II).

10.(1) Where a person would be entitled to a survivor's benefit at one of the rates specified in Part III of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the number of contributions paid since the 1st day of January, 1968, that person shall nevertheless be entitled to such benefit in accordance with paragraph (2) below, if not less than twenty-six contributions have been paid since the 1st day of January, 1968.

(2) Where the full monthly rate of survivor's benefit (excluding any increases for children) is at one of the rates set out at the head of column (2) or (3) of Part II of Schedule 1 to these regulations, then the benefit shall be payable at the reduced rate specified in the appropriate column of that Part of that Schedule which corresponds with the number of contributions paid since the 1st day of January, 1968, as shown in column (1) of that Part of that Schedule.

Partial Satisfaction of contribution conditions (III).

11.(1) Where a person would be entitled to a survivor's benefit at one of the rates specified in Part III of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the yearly average of contributions paid or credited that person shall nevertheless be entitled to such benefit in accordance with paragraph (2) below, if the yearly average of contributions paid or credited is not less than thirteen.

(2) Where the full monthly rate of a survivor's benefit (excluding any increases for children) is at one of the rates set out at the head of column (2) or (3) of Part III of Schedule 1 to these regulations, then the benefit shall be payable at the reduced rate specified in the appropriate column of that Part of that Schedule which corresponds with the yearly average of contributions paid or credited as shown in column (1) of that Part of that Schedule.

Partial satisfaction of contribution conditions (IV).

12.(1) Where a person would be entitled to a survivor's benefit at one of the rates specified in Part III of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied both as respects the yearly average of contributions paid or credited and as respects the number of contributions paid since the 1st day of January, 1968, that person shall nevertheless be entitled to such benefit in accordance with paragraph (2) below if the yearly average of contributions paid or credited is not less than thirteen and not less than twenty-six contributions have been paid since the 1st day of January, 1968.

(2) Where the full monthly rate of a survivor's benefit (excluding any increases for children) is at one of the rates set out at the head of columns (2) to (7) of Part IV of Schedule 1 to these regulations, and the yearly average of contributions paid or credited corresponds with any of the numbers shown in column (1) of that Part of that Schedule, and the number of contributions paid since the 1st day of January, 1968, corresponds with any of the numbers

shown at the head of columns (2) to (7) of that Part of that Schedule, then the benefit shall be payable at the reduced rate which is applicable both to the number of contributions shown in column (1) and the number of contributions shown at the head of whichever of columns (2) to (7) is appropriate.

Partial satisfaction of contribution conditions (V).

13.(1) Where a person would be entitled to a survivor's benefit at one of the rates specified in Part I of Schedule 2 to the Act but for the fact that the relevant contribution conditions are not satisfied as respects the yearly average of contributions paid or credited, that person shall nevertheless be entitled to such benefit in accordance with paragraph (2) below if the yearly average of contributions paid or credited is not less than thirteen.

(2) Where the full monthly rate of a survivor's benefit (excluding any increases for children) is at one of the rates set out at the head of column (2) or (3) of Parts V and VI of Schedule 1 to these regulations, then the benefit or pension shall be payable as follows -

- (a) where the person would be entitled to survivor's benefit before the 1st day of January 1989, at the reduced rate specified in the appropriate column of Part V of Schedule 1 which corresponds with the yearly average of contributions paid or credited as shown in column (1) of that Part of that Schedule; and
- (b) where the person would be entitled to survivor's benefit on or after the 1st day of January 1989, at the reduced rate specified in the appropriate column of Part VI of Schedule 1 which corresponds with the yearly average of contributions paid or credited as shown in column (1) of that Part of that Schedule.”.

(5) In regulation 20(1)(b) for “widow's benefit” substitute “survivor's benefit.

(6) In Schedule 1 for the heading before "PART 1" substitute "REDUCED RATES OF SURVIVOR'S BENEFIT".

Amendment of the Social Insurance (Insurability and Special Classes) (Amendment) Regulations, 1980.

6.(1) The Social Insurance (Insurability and Special Classes) (Amendment) Regulations, 1980 are amended in accordance with this section.

(2) In regulation 2(2)(b) for "widow's benefit" substitute "survivor's benefit".

Amendment of the Social Insurance (Benefits) Regulations.

7.(1) The Social Insurance (Benefits) Regulations are amended in accordance with this section.

(2) In regulation 6(4) delete "widow's benefit, widower's pension, guardian's allowance or old age pension".

Amendment of the Social Security (Closed Long-Term Benefits) (Claims and Payments) Regulations 1996.

8.(1) The Social Security (Closed Long-Term Benefits) (Claims and Payments) Regulations 1996 are amended in accordance with this section.

(2) In regulation 2 in the definition of "pension" for widow's benefit, widower's pension" substitute "survivor's benefit".

(3) In regulation 4(2) for "widowed mother's allowance" substitute "widowed parent's allowance".

(4) For regulation 6(1) substitute—

"(1) Where it appears that a person who has made a claim to old age pension by virtue of their spouse's insurance may be entitled to survivor's benefit, the claim may be treated as if it were a claim to that benefit."

(5) In regulation 7(1) for “widow’s or widower’s pension” substitute “survivor’s benefit”.

(6) In the Schedule for “Widow’s benefit” substitute “Survivor’s benefit”.

Amendment of the Social Security (Closed Long-Term Benefits) (Overlapping Benefits) Regulations 1996.

9.(1) The Social Security (Closed Long-Term Benefits) (Overlapping Benefits) Regulations 1996 are amended in accordance with this section.

(2) In the Schedule in the first column of the table for “(3) Widow’s benefit” substitute “(3) Survivor’s Benefit”.

Amendment of the Social Security (Open Long-Term Benefits) (Insurability and Special Classes) Regulations 1997.

10.(1) The Social Security (Open Long-Term Benefits) (Insurability and Special Classes) Regulations 1997 are amended in accordance with this section.

(2) In regulation 6(2) for “widow’s benefit” substitute “survivor’s benefit”.

Amendment of the Social Security (Open Long-Term Benefits) (Claims and Payments) Regulations 1997.

11.(1) The Social Security (Open Long-Term Benefits) (Claims and Payments) Regulations 1997 are amended in accordance with this section.

(2) In regulation 2 in the definition of “pension” for widow’s benefit, widower’s pension” substitute “survivor’s benefit”.

(3) In regulation 4(2) for “widowed mother’s allowance” substitute “widowed parent’s allowance”.

(4) In regulation 6(1) for “widow’s benefit” substitute “survivor’s benefit”.

(5) In regulation 7(1) for “widow’s or widower’s pension” substitute “survivor’s benefit”.

(6) In the Schedule for “Widow’s benefit” substitute “Survivor’s benefit”.

Amendment of the Social Security (Open Long-Term Benefits) (Overlapping Benefits) Regulations 1997.

12.(1) The Social Security (Open Long-Term Benefits) (Overlapping Benefits) Regulations 1997 are amended in accordance with this section.

(2) In the Schedule in the first column of the table for “(3) Widow's benefit” substitute “(3) Survivor’s Benefit”.

Amendment of the Social Security (Open Long-Term Benefits) (Contributions) Regulations 1997.

13.(1) The Social Security (Open Long-Term Benefits) (Contributions) Regulations 1997 are amended in accordance with this section.

(2) For regulation 14 substitute–

“Survivors.

14. A contribution as an employed person or self-employed person shall be credited to a person for any week during the whole of which he or she is entitled to survivor’s bereavement allowance, not being a week in respect of which a contribution is payable under the Act or a week in respect of which a contribution is credited to him or her in accordance with any other provisions of these regulations.”.

Amendment of the Social Insurance (Contributions) Regulations.

14.(1) The Social Insurance (Contributions) Regulations are amended in accordance with this section.

- (2) For regulation 13 substitute—

“Survivors.

13. A contribution as an employed person or self-employed person shall be credited to a person for any week during the whole of which he or she is entitled to survivor's bereavement allowance, not being a week in respect of which a contribution is payable under the Act or a week in respect of which a contribution is credited to him or her in accordance with any other provisions of these regulations.”.

Amendment of the Social Insurance (Claims and Payments) Regulations.

15.(1) The Social Insurance (Claims and Payments) Regulations are amended in accordance with this section.

- (2) In Schedule 2 delete the paragraph numbered 2 in the second column.

Transitional provisions.

16.(1) Nothing in this Act shall entitle any person to claim any benefit to which he was not entitled to prior to the coming into force of this Act in respect of any period prior to the 1st July 2009.

- (2) Subject to subsection (1), a claim for a survivor's benefit—
- (a) made before the 1st July 2011; and
 - (b) by any person who considers he may have been entitled to that benefit to which he would not have been entitled to prior to 1st July 2009,

shall be deemed to have been made within the prescribed time for claiming such benefit.

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(3) Where a claim made in accordance with this section is determined in the claimant's favour he shall, subject to subsection (1), be entitled to benefit from the date on which he would have been entitled had he made a claim within the prescribed time for claiming the said benefit.

Passed by the Gibraltar Parliament on the 30th day of September, 2011.

M L FARRELL,
Clerk to the Parliament.

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