

SCOTTISH PARLIAMENTARY PENSIONS ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part P Pension Sharing

Provision of information, charging and apportionment of capital value

376. Prior to a pension sharing order, the managers or trustees give information on the notional capital value of a member's pension to enable the parties to a divorce or dissolution to consider a pension sharing order. As the requirements on trustees to supply information to members and their spouses or civil partners are set out in the Pensions on Divorce etc. (Provision of Information) Regulations 2000¹, they are not repeated in Part P. Similarly, the rules on the calculation of the capital value of the pension rights are prescribed in the Divorce etc. (Pensions) (Scotland) Regulations 2000² and not repeated in Part P. These Regulations already provide for the calculation of either the value of the pension in payment or the value of the benefits accrued to date where the pension is not yet in payment.
377. Also relevant to but not requiring specific coverage in Part P are the Regulations allowing the trustees to charge for the provision of information and for the implementation of pension sharing. The Pension Sharing on Divorce etc. (Charging) Regulations³ are made under section 41 of the 1999 Act. They specify that the charges are those reasonably incurred by the trustees directly related to an individual case and in accordance with a schedule of charges provided in advance. Charges are payable by the scheme member who is most closely involved with the request and can be recovered by reducing benefits.
378. Once the parties are in receipt of information on the capital values, they or the court will decide if a pension sharing order is appropriate. Any order will specify the proportion of the value that is to be used to create a pension benefit for the former spouse or partner.

¹ S.I. 2000/1048

² S.S.I. 2000/112

³ S.I. 2000/1049