



# Welfare Reform and Pensions Act 1999

## 1999 CHAPTER 30

### PART IV

#### PENSION SHARING

#### CHAPTER I

##### SHARING OF RIGHTS UNDER PENSION ARRANGEMENTS

##### *Pension sharing mechanism*

#### 27 Scope of mechanism.

- (1) Pension sharing is available under this Chapter in relation to a person's shareable rights under any pension arrangement other than an excepted public service pension scheme.
- (2) For the purposes of this Chapter, a person's shareable rights under a pension arrangement are any rights of his under the arrangement, other than rights of a description specified by regulations made by the Secretary of State.
- (3) For the purposes of subsection (1), a public service pension scheme is excepted if it is specified by order made by such Minister of the Crown or government department as may be designated by the Treasury as having responsibility for the scheme.

#### Commencement Information

- II** S. 27 wholly in force at 1.12.2000; s. 27 in force for certain purposes at Royal Assent see s. 89(1); s. 27 in force at 1.12.2000 insofar as not already in force by [S.I. 2000/1047](#), art. 2(2)(d), [Sch. Pt. IV](#)

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Welfare Reform and Pensions Act 1999, Cross Heading: Pension sharing mechanism. (See end of Document for details)*

## 28 Activation of pension sharing.

- (1) Section 29 applies on the taking effect of any of the following relating to a person's shareable rights under a pension arrangement—
- (a) a pension sharing order under the <sup>M1</sup>Matrimonial Causes Act 1973,
  - [<sup>F1</sup>(aa) a pension sharing order under Schedule 5 to the Civil Partnership Act 2004,]
  - (b) provision which corresponds to the provision which may be made by such an order and which—
    - (i) is contained in a qualifying agreement between the parties to a marriage, and
    - (ii) takes effect on the dissolution of the marriage under the <sup>M2</sup>Family Law Act 1996,
  - (c) provision which corresponds to the provision which may be made by such an order and which—
    - (i) is contained in a qualifying agreement between the parties to a marriage or former marriage, and
    - (ii) takes effect after the dissolution of the marriage under the <sup>M3</sup>Family Law Act 1996,
  - (d) an order under Part III of the <sup>M4</sup>Matrimonial and Family Proceedings Act 1984 (financial relief in England and Wales in relation to overseas divorce etc.) corresponding to such an order as is mentioned in paragraph (a),
  - [<sup>F2</sup>(da) an order under Schedule 7 to the 2004 Act (financial relief in England and Wales after overseas dissolution etc. of a civil partnership) corresponding to such an order as is mentioned in paragraph (aa),]
  - (e) a pension sharing order under the <sup>M5</sup>Family Law (Scotland) Act 1985,
  - (f) provision which corresponds to the provision which may be made by such an order and which—
    - (i) is contained in a qualifying agreement between the parties to a marriage [<sup>F3</sup>or between persons who are civil partners of each other,]
    - (ii) is in such form as the Secretary of State may prescribe by regulations, and
    - (iii) takes effect on the grant, in relation to the marriage, of decree of divorce under the <sup>M6</sup>Divorce (Scotland) Act 1976 or of declarator of nullity [<sup>F4</sup>or (as the case may be) on the grant, in relation to the civil partnership, of decree of dissolution or of declarator of nullity],
  - (g) an order under Part IV of the <sup>M7</sup>Matrimonial and Family Proceedings Act 1984 (financial relief in Scotland in relation to overseas divorce etc.) [<sup>F5</sup>or under Schedule 11 to the 2004 Act (financial provision in Scotland after overseas proceedings)] corresponding to such an order as is mentioned in paragraph (e),
  - (h) a pension sharing order under [<sup>F6</sup>the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I. 15)), ]
  - (i) an order under Part IV of the <sup>M8</sup>Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (financial relief in Northern Ireland in relation to overseas divorce etc.) corresponding to such an order as is mentioned in paragraph (h).
  - [<sup>F7</sup>(j) a pension sharing order under Schedule 15 to the 2004 Act, and
  - (k) an order under Schedule 17 to the 2004 Act (financial relief in Northern Ireland after overseas dissolution etc. of a civil partnership) corresponding to such an order as is mentioned in paragraph (j).]

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- (2) For the purposes of subsection (1)(b) and (c), a qualifying agreement is one which—
- (a) has been entered into in such circumstances as the Lord Chancellor may prescribe by regulations, and
  - (b) satisfies such requirements as the Lord Chancellor may so prescribe.
- (3) For the purposes of subsection (1)(f), a qualifying agreement is one which—
- (a) has been entered into in such circumstances as the Secretary of State may prescribe by regulations, and
  - (b) is registered in the Books of Council and Session.
- (4) Subsection (1)(b) does not apply if—
- (a) the pension arrangement to which the provision relates is the subject of a pension sharing order under the <sup>M9</sup>Matrimonial Causes Act 1973 in relation to the marriage, or
  - (b) there is in force a requirement imposed by virtue of section 25B or 25C of that Act (powers to include in financial provision orders requirements relating to benefits under pension arrangements) which relates to benefits or future benefits to which the party who is the transferor is entitled under the pension arrangement to which the provision relates.
- (5) Subsection (1)(c) does not apply if—
- (a) the marriage was dissolved by an order under section 3 of the <sup>M10</sup>Family Law Act 1996 (divorce not preceded by separation) and the satisfaction of the requirements of section 9(2) of that Act (settlement of future financial arrangements) was a precondition to the making of the order,
  - (b) the pension arrangement to which the provision relates—
    - (i) is the subject of a pension sharing order under the <sup>M11</sup>Matrimonial Causes Act 1973 in relation to the marriage, or
    - (ii) has already been the subject of pension sharing between the parties, or
  - (c) there is in force a requirement imposed by virtue of section 25B or 25C of that Act which relates to benefits or future benefits to which the party who is the transferor is entitled under the pension arrangement to which the provision relates.
- (6) Subsection (1)(f) does not apply if there is in force an order under section 12A(2) or (3) of the <sup>M12</sup>Family Law (Scotland) Act 1985 which relates to benefits or future benefits to which the party who is the transferor is entitled under the pension arrangement to which the provision relates.
- (7) For the purposes of this section, an order or provision falling within subsection (1)(e), (f) or (g) shall be deemed never to have taken effect if the person responsible for the arrangement to which the order or provision relates does not receive before the end of the period of 2 months beginning with the relevant date—
- (a) copies of the relevant <sup>F8</sup>... documents, and
  - (b) such information relating to the transferor and transferee as the Secretary of State may prescribe by regulations under section 34(1)(b)(ii).
- (8) The relevant date for the purposes of subsection (7) is—
- (a) in the case of an order or provision falling within subsection (1)(e) or (f), the date of the extract of the decree or declarator responsible for the divorce<sup>F9</sup>, dissolution] or annulment to which the order or provision relates, and

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- (b) in the case of an order falling within subsection (1)(g), the date of disposal of the application under section 28 of the <sup>M13</sup>Matrimonial and Family Proceedings Act 1984 [<sup>F10</sup>or, where the order is under Schedule 11 to the 2004 Act, the date of disposal of the application under paragraph 2 of that Schedule].
- (9) The reference in subsection (7)(a) to the relevant <sup>F11</sup>... documents is—
- (a) in the case of an order falling within subsection (1)(e) or (g), to copies of the order and the order, decree or declarator responsible for the divorce [<sup>F12</sup>, dissolution] or annulment to which it relates, and
- (b) in the case of provision falling within subsection (1)(f), to—
- (i) copies of the provision and the order, decree or declarator responsible for the divorce [<sup>F13</sup>, dissolution] or annulment to which it relates, and
- (ii) documentary evidence that the agreement containing the provision is one to which subsection (3)(a) applies.
- (10) The sheriff may, on the application of any person having an interest, make an order—
- (a) extending the period of 2 months referred to in subsection (7), and
- (b) if that period has already expired, providing that, if the person responsible for the arrangement receives the documents and information concerned before the end of the period specified in the order, subsection (7) is to be treated as never having applied.
- (11) In subsections (4)(b), (5)(c) and (6), the reference to the party who is the transferor is to the party to whose rights the provision relates.

#### Textual Amendments

- F1** S. 28(1)(aa) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), **Sch. 27 para. 159(2)**; S.I. 2005/3175, art. 2(2)
- F2** S. 28(1)(da) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), **Sch. 27 para. 159(3)**; S.I. 2005/3175, art. 2(2)
- F3** Words in s. 28(1)(f)(i) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), **Sch. 27 para. 159(4)(a)**; S.I. 2005/3175, art. 2(2)
- F4** Words in s. 28(1)(f)(iii) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), **Sch. 27 para. 159(4)(b)**; S.I. 2005/3175, art. 2(2)
- F5** Words in s. 28(1)(g) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), **Sch. 27 para. 159(5)**; S.I. 2005/3175, art. 2(2)
- F6** Words in s. 28(1)(h) substituted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), **Sch. 27 para. 159(6)**; S.I. 2005/3175, art. 2(2)
- F7** S. 28(1)(j)(k) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), **Sch. 27 para. 159(7)**; S.I. 2005/3175, art. 2(2)
- F8** Word in s. 28(7)(a) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), Sch. 27 para. 159(8), **Sch. 30**; S.I. 2005/3175, art. 2(2)(6)
- F9** Word in s. 28(8)(a) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), **Sch. 27 para. 159(9)(a)**; S.I. 2005/3175, art. 2(2)
- F10** Words in s. 28(8)(b) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), **Sch. 27 para. 159(9)(b)**; S.I. 2005/3175, art. 2(2)
- F11** Word in s. 28(9) repealed (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), Sch. 27 para. 159(10)(a), **Sch. 30**; S.I. 2005/3175, art. 2(2)(6)
- F12** Word in s. 28(9)(a) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), **Sch. 27 para. 159(10)(b)**; S.I. 2005/3175, art. 2(2)

*Status: Point in time view as at 05/12/2005.*

*Changes to legislation: There are currently no known outstanding effects for the Welfare Reform and Pensions Act 1999, Cross Heading: Pension sharing mechanism. (See end of Document for details)*

**F13** Word in s. 28(9)(b)(i) inserted (5.12.2005) by Civil Partnership Act 2004 (c. 33), s. 263(10)(b), **Sch. 27 para. 159(10)(b)**; S.I. 2005/3175, art. 2(2)

#### **Commencement Information**

**I2** S. 28 wholly in force at 1.12.2000; s. 28 in force for certain purposes at Royal Assent see s. 89(1); s. 28 in force at 1.12.2000 insofar as not already in force by S.I. 2000/1047, art. 2(2)(d), **Sch. Pt. IV**

#### **Marginal Citations**

**M1** 1973 c. 18.  
**M2** 1996 c. 27.  
**M3** 1996 c. 27.  
**M4** 1984 c. 42.  
**M5** 1985 c. 37.  
**M6** 1976 c. 39.  
**M7** 1984 c. 42.  
**M8** S.I. 1989/677 (N.I. 4).  
**M9** 1973 c. 18.  
**M10** 1996 c. 27.  
**M11** 1973 c. 18.  
**M12** 1985 c. 37.  
**M13** 1984 c. 42.

## **29 Creation of pension debits and credits.**

- (1) On the application of this section—
  - (a) the transferor’s shareable rights under the relevant arrangement become subject to a debit of the appropriate amount, and
  - (b) the transferee becomes entitled to a credit of that amount as against the person responsible for that arrangement.
- (2) Where the relevant order or provision specifies a percentage value to be transferred, the appropriate amount for the purposes of subsection (1) is the specified percentage of the cash equivalent of the relevant benefits on the valuation day.
- (3) Where the relevant order or provision specifies an amount to be transferred, the appropriate amount for the purposes of subsection (1) is the lesser of—
  - (a) the specified amount, and
  - (b) the cash equivalent of the relevant benefits on the valuation day.
- (4) Where the relevant arrangement is an occupational pension scheme and the transferor is in pensionable service under the scheme on the transfer day, the relevant benefits for the purposes of subsections (2) and (3) are the benefits or future benefits to which he would be entitled under the scheme by virtue of his shareable rights under it had his pensionable service terminated immediately before that day.
- (5) Otherwise, the relevant benefits for the purposes of subsections (2) and (3) are the benefits or future benefits to which, immediately before the transfer day, the transferor is entitled under the terms of the relevant arrangement by virtue of his shareable rights under it.
- (6) The Secretary of State may by regulations provide for any description of benefit to be disregarded for the purposes of subsection (4) or (5).

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- (7) For the purposes of this section, the valuation day is such day within the implementation period for the credit under subsection (1)(b) as the person responsible for the relevant arrangement may specify by notice in writing to the transferor and transferee.
- (8) In this section—
- “relevant arrangement” means the arrangement to which the relevant order or provision relates;
  - “relevant order or provision” means the order or provision by virtue of which this section applies;
  - “transfer day” means the day on which the relevant order or provision takes effect;
  - “transferor” means the person to whose rights the relevant order or provision relates;
  - “transferee” means the person for whose benefit the relevant order or provision is made.

**Modifications etc. (not altering text)**

- C1** S. 29(1)(b) extended (1.12.2000) by [S.I. 1999/3147](#), arts. 32, 39(6), 40(5), [Sch. 5 para. 4\(5\)](#); [S.R. 2000/133](#), art. 2(3)(d), [Sch. Pt. IV](#)

**Commencement Information**

- I3** S. 29 wholly in force at 1.12.2000; s. 29 in force for certain purposes at Royal Assent see s. 89(1); s. 29 in force at 1.12.2000 insofar as not already in force by [S.I. 2000/1047](#), art. 2(2)(d), [Sch. Pt. IV](#)

**30 Cash equivalents.**

- (1) The Secretary of State may by regulations make provision about the calculation and verification of cash equivalents for the purposes of section 29.
- (2) The power conferred by subsection (1) includes power to provide for calculation or verification—
- (a) in such manner as may, in the particular case, be approved by a person prescribed by the regulations, or
  - (b) in accordance with guidance from time to time prepared by a person so prescribed.

**Commencement Information**

- I4** S. 30 wholly in force at 1.12.2000; s. 30 in force for certain purposes at Royal Assent see s. 89(1); s. 30 in force at 1.12.2000 insofar as not already in force by [S.I. 2000/1047](#), art. 2(2)(d), [Sch. Pt. IV](#)

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