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## SCHEDULES

### SCHEDULE 12

Section 84.

#### CONSEQUENTIAL AMENDMENTS

#### PART I

##### AMENDMENTS CONSEQUENTIAL ON PARTS III AND IV

###### *Supreme Court Act 1981 (c.54)*

1 In paragraph 3 of Schedule 1 to the Supreme Court Act 1981, after paragraph (f) there is inserted—

“(fa) all proceedings relating to a debit or credit under section 29(1) or 49(1) of the Welfare Reform and Pensions Act 1999;”.

###### *Matrimonial and Family Proceedings Act 1984 (c.42)*

2 The Matrimonial and Family Proceedings Act 1984 is amended as follows.

3 In section 17, for subsection (1) there is substituted—

“(1) Subject to section 20 below, on an application by a party to a marriage for an order for financial relief under this section, the court may—

(a) make any one or more of the orders which it could make under Part II of the 1973 Act if a decree of divorce, a decree of nullity of marriage or a decree of judicial separation in respect of the marriage had been granted in England and Wales, that is to say—

(i) any order mentioned in section 23(1) of the 1973 Act (financial provision orders); and

(ii) any order mentioned in section 24(1) of that Act (property adjustment orders); and

(b) if the marriage has been dissolved or annulled, make one or more orders each of which would, within the meaning of that Part of that Act, be a pension sharing order in relation to the marriage.”

4 In section 21—

(a) the word “made”, in both places, is omitted,

(b) after paragraph (b) there is inserted—

“(ba) section 24B(3) to (5) (provisions about pension sharing orders in relation to divorce and nullity);

(bb) section 24C (duty to stay pension sharing orders);

(bc) section 24D (apportionment of pension sharing charges);”,  
and

(c) at the end there is inserted—

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“(1) section 40A (appeals relating to pension sharing orders which have taken effect).”

*Family Law (Scotland) Act 1985 (c.37)*

5 The Family Law (Scotland) Act 1985 has effect subject to the following amendments.

6 In section 8, after subsection (3) there is inserted—

“(4) The court shall not, in the same proceedings, make both a pension sharing order and an order under section 12A(2) or (3) of this Act in relation to the same pension arrangement.

(5) Where, as regards a pension arrangement, the parties to a marriage have in effect a qualifying agreement which contains a term relating to pension sharing, the court shall not—

- (a) make an order under section 12A(2) or (3) of this Act; or
- (b) make a pension sharing order,

relating to the arrangement unless it also sets aside the agreement or term under section 16(1)(b) of this Act.

(6) The court shall not make a pension sharing order in relation to the rights of a person under a pension arrangement if there is in force an order under section 12A(2) or (3) of this Act which relates to benefits or future benefits to which he is entitled under the pension arrangement.

(7) In subsection (5) above—

- (a) “term relating to pension sharing” shall be construed in accordance with section 16(2A) of this Act; and
- (b) “qualifying agreement” has the same meaning as in section 28(3) of the Welfare Reform and Pensions Act 1999.”

7 After section 8 there is inserted—

**“8A Pension sharing orders: apportionment of charges.**

If a pension sharing order relates to rights under a pension arrangement, the court may include in the order provision about the apportionment between the parties of any charge under section 41 of the Welfare Reform and Pensions Act 1999 (charges in respect of pension sharing costs) or under corresponding Northern Ireland legislation.”

8 (1) Section 10 is amended as follows.

(2) In subsection (5)(b), for “scheme” there is substituted “ arrangement ”.

(3) For subsection (8) there is substituted—

“(8) The Secretary of State may by regulations make provision about calculation and verification in relation to the valuation for the purposes of this Act of benefits under a pension arrangement or relevant state scheme rights.”

(4) After that subsection there is inserted—

“(8A) Regulations under subsection (8) above may include—

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- (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person; and
- (b) provision by reference to regulations under section 30 or 49(4) of the Welfare Reform and Pensions Act 1999.”

(5) In subsection (9), after “subsection (8) above” there is inserted “ may make different provision for different purposes and ”.

(6) Subsections (10) and (11) cease to have effect.

#### Commencement Information

- II** Sch. 12 para. 8 wholly in force at 15.4.2000; Sch. 12 para. 8 not in force at Royal Assent see s. 89(1); Sch. 12 para. 8(1)(2)(5)(6) in force at 1.12.2000 by S.I. 2000/1047, art. 2(2)(d), Sch. Pt. IV; Sch. 12 para. 8(3)(4) in force at 15.4.2000 by S.S.I. 2000/111, art. 2

- 9 (1) Section 12A is amended as follows.
- (2) In subsection (1)(a), for “scheme” there is substituted “ arrangement ”.
- (3) In subsection (2), for “trustees or managers of the pension scheme” there is substituted “ person responsible for the pension arrangement ”.
- (4) In subsection (3), in paragraphs (a) and (c) for “trustees or managers of the pension scheme” there is substituted “ person responsible for the pension arrangement ” and in paragraph (a) for “have” there is substituted “ has ”.
- (5) In subsection (4)—
- (a) for “trustees or managers” there is substituted “ person responsible for the pension arrangement ”, and
  - (b) for “trustees’ or managers’ liability” there is substituted “ liability of the person responsible for the pension arrangement ”.
- (6) In subsection (5), for “trustees or managers” there is substituted “ person responsible for the pension arrangement ”.
- (7) In subsection (6)—
- (a) for “trustees or managers of”, wherever occurring, there is substituted “ person responsible for ”,
  - (b) for “scheme”, wherever occurring, there is substituted “ arrangement ”, and
  - (c) in paragraph (b), for “have” there is substituted “ has ”.
- (8) In subsection (7)—
- (a) for “trustees or managers” where first occurring there is substituted “ person responsible for the pension arrangement ”,
  - (b) for “trustees or managers of” there is substituted “ person responsible for ”, and
  - (c) for “scheme” there is substituted “ arrangement ”.
- (9) For subsection (10) there is substituted—
- “(10) The definition of “benefits under a pension scheme” in section 27 of this Act does not apply to this section.”
- 10 In section 13(2)(b), after “property” there is inserted “ , or a pension sharing order, ”.

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- 11 (1) Section 16 is amended as follows.
- (2) In subsection (2), for paragraph (b) there is substituted—
- “(b) under subsection (1)(b) above, if the agreement does not contain a term relating to pension sharing, on granting decree of divorce or within such time as the court may specify on granting decree of divorce; or
- (c) under subsection (1)(b) above, if the agreement contains a term relating to pension sharing—
- (i) where the order sets aside the agreement or sets aside or varies the term relating to pension sharing, on granting decree of divorce; and
- (ii) where the order sets aside or varies any other term of the agreement, on granting decree of divorce or within such time thereafter as the court may specify on granting decree of divorce.”
- (3) After that subsection there is inserted—
- “(2A) In subsection (2) above, a term relating to pension sharing is a term corresponding to provision which may be made in a pension sharing order and satisfying the requirements set out in section 28(1)(f) or 48(1)(f) of the Welfare Reform and Pensions Act 1999.”
- 12 In section 27(1), the following definitions are inserted at the appropriate places—
- ““benefits under a pension arrangement” includes any benefits by way of pension, including relevant state scheme rights, whether under a pension arrangement or not;”
- ““pension arrangement” means—
- (a) any occupational pension scheme within the meaning of the <sup>M1</sup>Pension Schemes Act 1993;
- (b) a personal pension scheme within the meaning of that Act;
- (c) a retirement annuity contract;
- (d) an annuity or insurance policy purchased or transferred for the purpose of giving effect to rights under an occupational pension scheme or a personal pension scheme;
- (e) an annuity purchased or entered into for the purpose of discharging liability in respect of a pension credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation;”
- ““person responsible for a pension arrangement” means—
- (a) in the case of an occupational pension scheme or a personal pension scheme, the trustees or managers of the scheme;
- (b) in the case of a retirement annuity contract or an annuity falling within paragraph (d) or (e) of the definition of “pension arrangement” above, the provider of the annuity;
- (c) in the case of an insurance policy falling within paragraph (d) of the definition of that expression, the insurer;”
- ““relevant state scheme rights” means—

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- (a) entitlement, or prospective entitlement, to a Category A retirement pension by virtue of section 44(3)(b) of the <sup>M2</sup>Social Security Contributions and Benefits Act 1992 or under corresponding Northern Ireland legislation; and
- (b) entitlement, or prospective entitlement, to a pension under section 55A of the <sup>M3</sup>Social Security Contributions and Benefits Act 1992 (shared additional pension) or under corresponding Northern Ireland legislation;”

““retirement annuity contract” means a contract or scheme approved under Chapter III of Part XIV of the <sup>M4</sup>Income and Corporation Taxes Act 1988;”

““trustees or managers” in relation to an occupational pension scheme or a personal pension scheme means—

- (a) in the case of a scheme established under a trust, the trustees of the scheme; and
- (b) in any other case, the managers of the scheme;”.

#### Marginal Citations

- M1** 1993 c. 48.
- M2** 1992 c. 4.
- M3** 1992 c. 4.
- M4** 1988 c. 1.

#### *Income and Corporation Taxes Act 1988 (c.1)*

- 13 In section 659D(2) of the Income and Corporation Taxes Act 1988, for “24(1)” there is substituted “ 28(1) ”.

#### *Social Security Contributions and Benefits Act 1992 (c.4)*

- 14 The Contributions and Benefits Act has effect subject to the following amendments.

- 15 (1) Section 20 is amended as follows.

- (2) In subsection (1), after paragraph (f) there is inserted—

“(fa) shared additional pensions;”.

- (3) In subsection (2), in the definition of “long-term benefit”, after paragraph (d) there is inserted—

“(e) a shared additional pension;”.

- 16 In section 21(1), after “41 below” there is inserted “ or a shared additional pension under section 55A below ”.

- 17 In section 39(1), (2) and (3), for “45A” there is substituted “ 45B ”.

- 18 In section 43, at the end there is inserted—

“(6) For the purposes of this section, a pension under section 55A below is not a retirement pension.”

- 19 In section 48A(4), for “45A” there is substituted “ 45B ”.

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- 20 In section 48B(2) and (3), for “45A” there is substituted “ 45B ”.
- 21 In section 48C(4), for “45A” there is substituted “ 45B ”.
- 22 In section 54(1), at the end there is inserted “ or to a shared additional pension ”.

*Social Security Administration Act 1992 (c.5)*

- 23 The Administration Act is amended as follows.
- 24 In section 150(1)—
- (a) after paragraph (c) there is inserted—
- “(ca) which are shared additional pensions;”, and
- (b) after paragraph (d) there is inserted—
- “(da) which are the increases in the rates of shared additional pensions under section 55C of that Act;”.
- 25 (1) Section 155A is amended as follows.
- (2) In subsection (1)(a)(i), after “retirement pension” there is inserted “ or shared additional pension ”.
- (3) In subsection (2), after “retirement pension” there is inserted “ , a shared additional pension ”.
- 26 In section 163(2)—
- (a) after paragraph (a) there is inserted—
- “(aa) any administrative expenses of the Secretary of State in supplying information about benefits under Part II of that Act in accordance with regulations under section 23 of the Welfare Reform and Pensions Act 1999;”, and
- (b) in paragraph (b), for “that Act” there is substituted “ the Contributions and Benefits Act ”.
- 27 In section 165(5)(b), after “section 163(2)(a)” there is inserted “ or (aa) ”.

*Pension Schemes Act 1993 (c.48)*

- 28 The Pension Schemes Act 1993 has effect subject to the following amendments.
- 29 In section 50(1)—
- (a) in paragraph (a), at the end there is inserted—
- “(iii) of safeguarded rights under the scheme;”
- (b) in paragraph (b), after “protected” there is inserted “ , or safeguarded, ”.
- 30 (1) Section 52 is amended as follows.
- (2) In subsection (2A), at the end there is inserted—
- “(c) any persons who have safeguarded rights under the scheme or are entitled to any benefit giving effect to safeguarded rights under it.”
- (3) In subsection (3)(b), after “protected”, in both places, there is inserted “ , or safeguarded, ”.
- 31 (1) Section 83 is amended as follows.
- (2) In subsection (1), before “benefits”, in both places, there is inserted “ relevant ”.

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- (3) After that subsection there is inserted—
- “(1A) The following are relevant benefits for the purposes of subsection (1)—
- (a) any benefits payable otherwise than by virtue of rights which are attributable (directly or indirectly) to a pension credit, and
  - (b) in the case of a salary related occupational pension scheme, any benefits payable by virtue of such rights, to the extent that the rights involve the member being credited by the scheme with notional pensionable service.”
- (4) At the end there is inserted—
- “(4) For the purposes of this section, an occupational pension scheme is salary related if—
- (a) it is not a money purchase scheme, and
  - (b) it does not fall within a prescribed class.”
- 32 In section 85, after “73(2)(b)” there is inserted “ or 101D(2)(b) ”.
- 33 In section 93, after subsection (1) there is inserted—
- “(1ZA) In subsection (1), references to accrued rights to benefit do not include rights which are attributable (directly or indirectly) to a pension credit.”
- 34 In section 93A, after subsection (1) there is inserted—
- “(1A) In subsection (1), the reference to benefits which have accrued does not include benefits which are attributable (directly or indirectly) to a pension credit.”
- 35 In section 94, after subsection (1A) there is inserted—
- “(1B) In subsection (1), references to benefits which have accrued do not include benefits which are attributable (directly or indirectly) to a pension credit.”
- 36 In section 96, there is inserted at the end—
- “(4) Where a member of an occupational pension scheme or a personal pension scheme—
- (a) is entitled to give a notice under section 101F(1) to the trustees or managers of the scheme, or
  - (b) would be entitled to do so, but for section 101G(1),
- he may not, if the scheme so provides, make an application to them under section 95 unless he also gives them a notice under section 101F(1).”
- 37 (1) Section 98 is amended as follows.
- (2) In subsection (5)—
- (a) after “part of the” there is inserted “ relevant ”, and
  - (b) for “any of the benefits mentioned in that section” there is substituted “ benefits ”.
- (3) In subsection (8), after “this section” there is inserted—
- ““relevant benefits” means any benefits not attributable (directly or indirectly) to a pension credit; and”.

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- 38 (1) Section 100 is amended as follows.
- (2) In subsection (1), for “subsection (2)” there is substituted “ subsections (2) and (2A) ”.
- (3) After subsection (2) there is inserted—
- “(2A) If the making of the application depended on the giving of a notice under section 101F(1), the application may only be withdrawn if the notice is also withdrawn.”
- 39 (1) Section 129 is amended as follows.
- (2) In subsection (1), after “Part IV,” there is inserted “ Chapters I and II of Part IVA, ”.
- (3) In subsection (2), for “does” there is substituted “ and Chapter II of Part IVA do ”.
- 40 (1) Section 178 is amended as follows.
- (2) In paragraph (a)—
- (a) the words “or of” are omitted, and
- (b) at the end there is inserted “ , section 25D of the <sup>M5</sup>Matrimonial Causes Act 1973, section 12A of the <sup>M6</sup>Family Law (Scotland) Act 1985 or Part III or IV of the Welfare Reform and Pensions Act 1999. ”
- (3) In paragraph (b), after “Part IV,” there is inserted “ Chapter I of Part IVA, ”.

#### Marginal Citations

**M5** 1973 c. 18.

**M6** 1985 c. 37.

- 41 In section 181(1)—
- (a) after the definition of “occupational pension scheme” there is inserted—
- ““pension credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation;”, and
- (b) after the definition of “rights” there is inserted—
- ““safeguarded rights” has the meaning given in section 68A;”.
- 42 In section 183(3), for “and 97(1)” there is substituted “ , 97(1) and 101I ”.

#### *Pensions Act 1995 (c.26)*

- 43 The Pensions Act 1995 has effect subject to the following amendments.
- 44 In section 3(2)(a)—
- (a) in sub-paragraph (ii), after “values),” there is inserted “ Chapter II of Part IVA (pension credit benefit transfer values), ”, and
- (b) after that sub-paragraph there is inserted “or
- (iii) the following provisions of the Welfare Reform and Pensions Act 1999: section 33 (time for discharge of pension credit liability) and section 45 (information),”.



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- 45 (1) Section 16 is amended as follows.
- (2) In subsections (1)(a) and (6)(a), before “members” there is inserted “qualifying”.
- (3) In subsection (8)—
- (a) after “a”, in the second place, there is inserted “qualifying”, and
- (b) for “a member of the scheme”, in the second place, there is substituted “such a member”.
- 46 In section 17(4)(a), before “members” there is inserted “qualifying”.
- 47 (1) Section 18 is amended as follows.
- (2) In subsections (1)(a) and (6)(a), before “members” there is inserted “qualifying”.
- (3) In subsection (7)—
- (a) after “a”, in the second place, there is inserted “qualifying”, and
- (b) for “a member of the scheme”, in the second place, there is substituted “such a member”.
- 48 In section 20(5), after “a”, in the second place, there is inserted “qualifying”.
- 49 In section 21(7)—
- (a) after “section” there is inserted—
- “(a) “qualifying member”, in relation to a trust scheme, means a person who is an active, deferred or pensioner member of the scheme, and
- (b)”,
- and
- (b) before “members” there is inserted “qualifying”.
- 50 (1) Section 38 is amended as follows.
- (2) In subsection (1), for the words from “that the scheme” to the end there is substituted—
- “(a) that the scheme is not for the time being to be wound up but that no new members are to be admitted to it, or
- (b) that the scheme is not for the time being to be wound up but that no new members, except pension credit members, are to be admitted to it.”
- (3) In subsection (2), the words from “but” to the end are omitted.
- (4) After that subsection there is inserted—
- “(2A) Subsection (2) does not authorise the trustees to determine—
- (a) where there are accrued rights or pension credit rights to any benefit, that the benefit is not to be increased, or
- (b) where the power conferred by that subsection is exercisable by virtue of a determination under subsection (1)(b), that members of the scheme may not acquire pension credit rights under it.”
- 51 In section 51(6), after “a pension” there is inserted “which is attributable (directly or indirectly) to a pension credit or”.
- 52 In section 53, after subsection (3) there is inserted—

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“(3A) In subsections (1) and (2), the references to a person’s pension do not include any pension which is attributable (directly or indirectly) to a pension credit.”

53 (1) Section 67 is amended as follows.

(2) In subsection (2), for “or accrued right,” there is substituted “ accrued right or pension credit right ”.

(3) In subsection (4)(a), for “or accrued rights,” there is substituted “ accrued rights or pension credit rights ”.

(4) For subsection (5) there is substituted—

“(5) Subsection (2) does not apply to the exercise of a power—

(a) for a purpose connected with debits under section 29(1)(a) of the Welfare Reform and Pensions Act 1999, or

(b) in a prescribed manner.”

54 In section 68(2), for “and” at the end of paragraph (d) there is substituted—

“(da) to enable the scheme to accommodate persons with pension credits or pension credit rights, and”.

F155 .....

#### Textual Amendments

F1 Sch. 12 para. 55 repealed (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 13](#); S.I. 2005/695, art. 2(7), [Sch. 1](#)

56 In section 74(3)(b), at the end there is inserted “ or pension credit rights ”.

57 (1) Section 91 is amended as follows.

(2) In subsection (1), for the words from “, or has” to “occupational pension scheme” there is substituted “ to a pension under an occupational pension scheme or has a right to a future pension under such a scheme ”.

(3) In subsection (2), for the words from “, or” to “scheme” there is substituted “ to a pension under an occupational pension scheme, or right to a future pension under such a scheme, ”.

(4) In subsection (5)—

(a) for the words from “, or has” to “scheme” there is substituted “ to a pension under an occupational pension scheme, or has a right to a future pension under such a scheme ”,

(b) in paragraph (d), for “accrued right, to pension” there is substituted “ right, ”, and

(c) in paragraph (e), for “accrued right, to pension” there is substituted “ right ”.

58 (1) Section 92 is amended as follows.

(2) In subsection (1), for the words from “, or” to “scheme” there is substituted “ to a pension under an occupational pension scheme or a right to a future pension under such a scheme ”.

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- (3) In subsection (4), for the words from “person entitled” to “accrued” there is substituted “pensioner, or prospective pensioner”.
- 59 (1) Section 93 is amended as follows.
- (2) In subsection (1), for the words from “, or” to “scheme” there is substituted “to a pension under an occupational pension scheme or right to a future pension under such a scheme”.
- (3) In subsection (2)—
- (a) for “accrued right to a pension” there is substituted “right”, and
- (b) for “accrued right to a pension under the scheme” there is substituted “right”.
- (4) In subsection (4), for “accrued right to a pension” there is substituted “right”.
- F260 .....

**Textual Amendments**

**F2** Sch. 12 para. 60 repealed (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 13](#); [S.I. 2005/1108](#), art. 2(2), [Sch.](#)

- 61 (1) Section 124 is amended as follows.
- (2) In subsection (1), in the definition of “member”, for “or pensioner” there is substituted “, pensioner or pension credit”.
- (3) In that subsection, after the definition of “payment schedule” there is inserted—
- ““pension credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999, or under corresponding Northern Ireland legislation,
- “pension credit member”, in relation to an occupational pension scheme, means a person who has rights under the scheme which are attributable (directly or indirectly) to a pension credit,
- “pension credit rights”, in relation to an occupational pension scheme, means rights to future benefits under the scheme which are attributable (directly or indirectly) to a pension credit.”
- (4) After subsection (2) there is inserted—
- “(2A) In subsection (2)(a), the reference to rights which have accrued to or in respect of the member does not include any rights which are pension credit rights.”
- 62 (1) Section 166 is amended as follows.
- (2) In subsection (4), for “scheme” there is substituted “arrangement”.
- (3) In subsection (5)(d), for “scheme” there is substituted “arrangement”.
- 63 In section 167(4)—
- (a) for “scheme”, where first occurring, there is substituted “arrangement”, and

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- (b) for the words from “(“pension scheme”” to the end of the subsection there is substituted “(“pension arrangement” having the meaning given in subsection (1) of section 27 of that Act, as it has effect for the purposes of subsection (5) of the said section 10). ”

*Family Law Act 1996 (c.27)*

64 The Family Law Act 1996 has effect subject to the following amendments.

65 (1) Schedule 2 is amended as follows.

- (2) In paragraph 2, for “section 21” there is substituted “ sections 21 and 21A ”.
- (3) In the section set out in that paragraph, for the sidenote there is substituted “ Financial provision orders, property adjustment orders and pension sharing orders. ”
- (4) In that section, in paragraphs (c) and (d) of subsection (2), there is inserted at the end “ , other than one in the form of a pension arrangement (within the meaning of section 25D below) ”.
- (5) In that section, after subsection (2) there is inserted—

“(3) For the purposes of this Act, a pension sharing order is an order which—

- (a) provides that one party’s—
- (i) shareable rights under a specified pension arrangement, or
- (ii) shareable state scheme rights,
- be subject to pension sharing for the benefit of the other party, and
- (b) specifies the percentage value to be transferred.”

(6) In that section, subsections (3), (4) and (5) become (4), (5) and (6).

(7) In that section, after subsection (6) (new numbering) there is inserted—

“(7) In subsection (3)—

- (a) the reference to shareable rights under a pension arrangement is to rights in relation to which pension sharing is available under Chapter I of Part IV of the Welfare Reform and Pensions Act 1999, or under corresponding Northern Ireland legislation, and
- (b) the reference to shareable state scheme rights is to rights in relation to which pension sharing is available under Chapter II of Part IV of the Welfare Reform and Pensions Act 1999, or under corresponding Northern Ireland legislation.”

(8) In that section, subsection (6) becomes subsection (8).

(9) After paragraph 6 there is inserted—

*“ Pension sharing orders: divorce and nullity*

6A For section 24B substitute—

**“Pension sharing orders: divorce.**

24B (1) On an application made under this section, the court may at the appropriate time make one or more pension sharing orders.

*Status: Point in time view as at 06/04/2005.*

*Changes to legislation: Welfare Reform and Pensions Act 1999, SCHEDULE 12 is up to date with all changes known to be in force on or before 07 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) The “appropriate time” is any time—
  - (a) after a statement of marital breakdown has been received by the court and before any application for a divorce order or for a separation order is made to the court by reference to that statement;
  - (b) when an application for a divorce order has been made under section 3 of the 1996 Act and has not been withdrawn;
  - (c) when an application for a divorce order has been made under section 4 of the 1996 Act and has not been withdrawn;
  - (d) after a divorce order has been made.
- (3) The court shall exercise its powers under this section, so far as is practicable, by making on one occasion all such provision as can be made by way of one or more pension sharing orders in relation to the marriage as it thinks fit.
- (4) This section is to be read subject to any restrictions imposed by this Act and to section 19 of the 1996 Act.

**Restrictions affecting section 24B.**

- 24B(A) No pension sharing order may be made under section 24B above so as to take effect before the making of a divorce order in relation to the marriage.
- (2) The court may not make a pension sharing order under section 24B above at any time while the period for reflection and consideration is interrupted under section 7(8) of the 1996 Act.
- (3) No pension sharing order may be made under section 24B above by virtue of a statement of marital breakdown if, by virtue of section 5(3) or 7(9) of the 1996 Act (lapse of divorce process), it has ceased to be possible—
  - (a) for an application to be made by reference to that statement, or
  - (b) for an order to be made on such an application.
- (4) No pension sharing order may be made under section 24B above after a divorce order has been made, except—
  - (a) in response to an application made before the divorce order was made, or
  - (b) on a subsequent application made with the leave of the court.
- (5) A pension sharing order under section 24B above may not be made in relation to a pension arrangement which—
  - (a) is the subject of a pension sharing order in relation to the marriage, or
  - (b) has been the subject of pension sharing between the parties to the marriage.
- (6) A pension sharing order under section 24B above may not be made in relation to shareable state scheme rights if—
  - (a) such rights are the subject of a pension sharing order in relation to the marriage, or
  - (b) such rights have been the subject of pension sharing between the parties to the marriage.
- (7) A pension sharing order under section 24B above may not be made in relation to the rights of a person under a pension arrangement if there is in

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force a requirement imposed by virtue of section 25B or 25C below which relates to benefits or future benefits to which he is entitled under the pension arrangement.

- (8) In this section, “period for reflection and consideration” means the period fixed by section 7 of the 1996 Act.

**Pension sharing orders: nullity of marriage.**

24B(1) On or after granting a decree of nullity of marriage (whether before or after the decree is made absolute), the court may, on an application made under this section, make one or more pension sharing orders in relation to the marriage.

- (2) The court shall exercise its powers under this section, so far as is practicable, by making on one occasion all such provision as can be made by way of one or more pension sharing orders in relation to the marriage as it thinks fit.
- (3) Where a pension sharing order is made under this section on or after the granting of a decree of nullity of marriage, the order is not to take effect unless the decree has been made absolute.
- (4) This section is to be read subject to any restrictions imposed by this Act.

**Restrictions affecting section 24BB.**

24B(1) A pension sharing order under section 24BB above may not be made in relation to a pension arrangement which—

- (a) is the subject of a pension sharing order in relation to the marriage, or  
(b) has been the subject of pension sharing between the parties to the marriage.

(2) A pension sharing order under section 24BB above may not be made in relation to shareable state scheme rights if—

- (a) such rights are the subject of a pension sharing order in relation to the marriage, or  
(b) such rights have been the subject of pension sharing between the parties to the marriage.

(3) A pension sharing order under section 24BB above may not be made in relation to the rights of a person under a pension arrangement if there is in force a requirement imposed by virtue of section 25B or 25C below which relates to benefits or future benefits to which he is entitled under the pension arrangement. ””

66 (1) Schedule 8 is amended as follows.

(2) In paragraph 9—

- (a) in sub-paragraph (2)—  
(i) for “or 24A” there is substituted “, 24A or 24B ”, and  
(ii) for “to 24A” there is substituted “ to 24BB ”, and  
(b) in sub-paragraph (3), after paragraph (a) there is inserted—  
“(aa) for “or 24B” substitute “, 24B or 24BB”,.”

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- (3) In paragraph 10, in sub-paragraph (2), for “24A” there is substituted “ 24BB ”.
- (4) For paragraph 11 there is substituted—
- “11 In each of sections 25B(3) and 25C(1) and (3), for “section 23” substitute “section 22A or 23”.
- 11A In section 25D—
- (a) in each of subsections (1)(a) and (2)(a) and (ab), for “section 23” substitute “section 22A or 23”, and
- (b) in subsection (3), in the definition of “shareable state scheme rights”, for “section 21A(1)” substitute “section 21(3)”.”
- (5) In paragraph 16, in sub-paragraph (2), at the end there is inserted—
- “(f) after paragraph (f) there is inserted—
- (“ a pension sharing order under section 24B which is made at a time when no divorce order has been made, and no separation order is in force, in relation to the marriage; ”
- (g) in paragraph (g), for “24B” substitute “24BB”.”
- (6) In that paragraph, after sub-paragraph (3) there is inserted—
- “(3A) In subsection (4A), after “paragraph” insert “(de), (ea), (fa) or”.”
- (7) In that paragraph, in sub-paragraph (4), for the words from “subsection (4)” to the end of the first of the inserted subsections there is substituted “subsection (4A) insert — ”, the second of the inserted subsections is renumbered “(4AA)” and after that subsection there is inserted—
- “(4AB) No variation of a pension sharing order under section 24B above shall be made so as to take effect before the making of a divorce order in relation to the marriage.”
- (8) In that paragraph, after sub-paragraph (4) there is inserted—
- “(4A) In subsection (4B), after “order” insert “under section 24BB above”.”
- (9) In that paragraph, after sub-paragraph (7) there is inserted—
- “(8) After subsection (7F) insert—
- (“ Section 24B(3) above applies where the court makes a pension sharing order under subsection (7B) above as it applies where the court makes such an order under section 24B above. ”
- (9) In subsection (7G)—
- (a) for “Subsections (3) to (5) of section 24B” substitute “Section 24BA(5) to (7)”, and
- (b) for “that section” substitute “section 24B above”.”
- (10) After that paragraph there is inserted—
- “16A After section 31A insert—

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**“Discharge of pension sharing orders on making of separation order.**

31B Where, after the making of a pension sharing order under section 24B above in relation to a marriage, a separation order is made in relation to the marriage, the pension sharing order is discharged. ””

(11) In paragraph 19, in sub-paragraph (3)—

- (a) after “24A” there is inserted “, 24B”, and
- (b) after “property adjustment order,” there is inserted “ any pension sharing order, ”.

(12) In paragraph 21—

- (a) after “24,” in the first place, there is inserted “ 24B, ”, and
- (b) for “24,” in the second place, there is substituted “ 24BB, ”.

(13) After paragraph 25 there is inserted—

“25A In section 52(2)(aa), for “section 21A” substitute “section 21”.”

(14) In paragraph 32, in sub-paragraph (2), for the words from “the words” to the end there is substituted “paragraph (a) substitute—

- (“ make one or more orders each of which would, within the meaning of Part II of the 1973 Act, be a financial provision order in favour of a party to the marriage or a child of the family or a property adjustment order in relation to the marriage; ””

(15) In that paragraph, in sub-paragraph (3), for “21(a)” there is substituted “ 21(1)(a) ”.

(16) In that paragraph, after sub-paragraph (3) there is inserted—

“(3A) For section 21(1)(ba) substitute—

- (“ sections 24BA(5) to (7) (provisions about pension sharing orders in relation to divorce);
- (baa) section 24BC(1) to (3) (provisions about pension sharing orders in relation to nullity); ”.

(3B) In section 21(3), for “section 23” substitute “section 22A or 23”.”

(17) At the end of Part I insert—

*“ The Welfare Reform and Pensions Act 1999*

43A In section 24 of the Welfare Reform and Pensions Act 1999 (charges by pension arrangements in relation to earmarking orders), for “section 23” substitute “section 22A or 23”.”



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## PART II

### OTHER CONSEQUENTIAL AMENDMENTS

#### *Bankruptcy (Scotland) Act 1985 (c.66)*

67 The Bankruptcy (Scotland) Act 1985 has effect subject to the following amendments.

#### Commencement Information

**I2** Sch. 12 para. 67 wholly in force at 6.4.2002; Sch. 12 para. 67 not in force at Royal Assent see s. 89(1); Sch. 12 para. 67 in force at 26.3.2002 for certain purposes and at 6.4.2002 otherwise by S.I. 2002/818, art. 2 (with art. 3 which omitted S.I. 2002/153, art. 2(h)(k))

68 In section 35(1), in paragraph (a) for “under the said section 8(2) for the transfer of property by him” substitute “ a court has, under the said section 8(2), made an order for the transfer of property by him or made a pension sharing order ”.

#### Commencement Information

**I3** Sch. 12 para. 68 wholly in force at 6.4.2002; Sch. 12 para. 68 not in force at Royal Assent see s. 89(1); Sch. 12 para. 68 in force at 26.3.2002 for certain purposes and 6.4.2002 otherwise by S.I. 2002/818, art. 2 (with art. 3 which omitted S.I. 2002/153, art. 2(h)(k))

69 After section 36C there is inserted—

#### “36D Recovery of excessive contributions in pension-sharing cases.

- (1) For the purposes of section 34 of this Act, a pension-sharing transaction shall be taken—
  - (a) to be a transaction, entered into by the transferor with the transferee, by which the appropriate amount is transferred by the transferor to the transferee; and
  - (b) to be capable of being an alienation challengeable under that section only so far as it is a transfer of so much of the appropriate amount as is recoverable.
- (2) For the purposes of section 35 of this Act, a pension-sharing transaction shall be taken—
  - (a) to be a pension sharing order made by the court under section 8(2) of the Family Law (Scotland) Act 1985; and
  - (b) to be an order capable of being recalled under that section only so far as it is a payment or transfer of so much of the appropriate amount as is recoverable.
- (3) For the purposes of section 36 of this Act, a pension-sharing transaction shall be taken—
  - (a) to be something (namely a transfer of the appropriate amount to the transferee) done by the transferor; and

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- (b) to be capable of being an unfair preference given to the transferee only so far as it is a transfer of so much of the appropriate amount as is recoverable.
- (4) Where—
- (a) an alienation is challenged under section 34;
  - (b) an application is made under section 35 for the recall of an order made in divorce proceedings; or
  - (c) a transaction is challenged under section 36,
- if any question arises as to whether, or the extent to which, the appropriate amount in the case of a pension-sharing transaction is recoverable, the question shall be determined in accordance with subsections (5) to (9).
- (5) The court shall first determine the extent (if any) to which the transferor’s rights under the shared arrangement at the time of the transaction appear to have been (whether directly or indirectly) the fruits of contributions (“personal contributions”)—
- (a) which the transferor has at any time made on his own behalf, or
  - (b) which have at any time been made on the transferor’s behalf,
- to the shared arrangement or any other pension arrangement.
- (6) Where it appears that those rights were to any extent the fruits of personal contributions, the court shall then determine the extent (if any) to which those rights appear to have been the fruits of personal contributions whose making has unfairly prejudiced the transferor’s creditors (“the unfair contributions”).
- (7) If it appears to the court that the extent to which those rights were the fruits of the unfair contributions is such that the transfer of the appropriate amount could have been made out of rights under the shared arrangement which were not the fruits of the unfair contributions, then the appropriate amount is not recoverable.
- (8) If it appears to the court that the transfer could not have been wholly so made, then the appropriate amount is recoverable to the extent to which it appears to the court that the transfer could not have been so made.
- (9) In making the determination mentioned in subsection (6) the court shall consider in particular—
- (a) whether any of the personal contributions were made for the purpose of putting assets beyond the reach of the transferor’s creditors or any of them; and
  - (b) whether the total amount of any personal contributions represented, at the time the pension sharing arrangement was made, by rights under pension arrangements is an amount which is excessive in view of the transferor’s circumstances when those contributions were made.
- (10) In this section and sections 36E and 36F—
- “appropriate amount”, in relation to a pension-sharing transaction, means the appropriate amount in relation to that transaction for the purposes of section 29(1) of the Welfare Reform and Pensions Act 1999 (creation of pension credits and debits);

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“pension-sharing transaction” means an order or provision falling within section 28(1) of the Welfare Reform and Pensions Act 1999 (orders and agreements which activate pension-sharing);

“shared arrangement”, in relation to a pension-sharing transaction, means the pension arrangement to which the transaction relates;

“transferee”, in relation to a pension-sharing transaction, means the person for whose benefit the transaction is made;

“transferor”, in relation to a pension-sharing transaction, means the person to whose rights the transaction relates.

### **36E Recovery orders.**

- (1) In this section and section 36F of this Act, “recovery order” means—
  - (a) a decree granted under section 34(4) of this Act;
  - (b) an order made under section 35(2) of this Act;
  - (c) a decree granted under section 36(5) of this Act,in any proceedings to which section 36D of this Act applies.
- (2) Without prejudice to the generality of section 34(4), 35(2) or 36(5) a recovery order may include provision—
  - (a) requiring the person responsible for a pension arrangement in which the transferee has acquired rights derived directly or indirectly from the pension-sharing transaction to pay an amount to the permanent trustee,
  - (b) adjusting the liabilities of the pension arrangement in respect of the transferee,
  - (c) adjusting any liabilities of the pension arrangement in respect of any other person that derive, directly or indirectly, from rights of the transferee under the arrangement,
  - (d) for the recovery by the person responsible for the pension arrangement (whether by deduction from any amount which that person is ordered to pay or otherwise) of costs incurred by that person in complying in the debtor’s case with any requirement under section 36F(1) or in giving effect to the order.
- (3) In subsection (2), references to adjusting the liabilities of a pension arrangement in respect of a person include (in particular) reducing the amount of any benefit or future benefit to which that person is entitled under the arrangement.
- (4) The maximum amount which the person responsible for an arrangement may be required to pay by a recovery order is the smallest of—
  - (a) so much of the appropriate amount as, in accordance with section 36D of this Act, is recoverable,
  - (b) so much (if any) of the amount of the unfair contributions (within the meaning given by section 36D(6)) as is not recoverable by way of an order under section 36A of this Act containing provision such as is mentioned in section 36B(1)(a), and

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- (c) the value of the debtor's rights under the arrangement acquired by the transferee as a consequence of the transfer of the appropriate amount.
- (5) A recovery order which requires the person responsible for an arrangement to pay an amount ("the restoration amount") to the permanent trustee must provide for the liabilities of the arrangement to be correspondingly reduced.
- (6) For the purposes of subsection (5), liabilities are correspondingly reduced if the difference between—
  - (a) the amount of the liabilities immediately before the reduction, and
  - (b) the amount of the liabilities immediately after the reduction,
 is equal to the restoration amount.
- (7) A recovery order in respect of an arrangement—
  - (a) shall be binding on the person responsible for the arrangement, and
  - (b) overrides provisions of the arrangement to the extent that they conflict with the provisions of the order.

### **36F Recovery orders: supplementary.**

- (1) The person responsible for a pension arrangement under which the transferee has, at any time, acquired rights by virtue of the transfer of the appropriate amount shall, on the permanent trustee making a written request, provide the trustee with such information about the arrangement and the rights under it of the transferor and transferee as the permanent trustee may reasonably require for, or in connection with, the making of an application for a recovery order.
- (2) Nothing in—
  - (a) any provision of section 159 of the <sup>M7</sup>Pension Schemes Act 1993 or section 91 of the <sup>M8</sup>Pensions Act 1995 (which prevent assignation and the making of orders which restrain a person from receiving anything which he is prevented from assigning),
  - (b) any provision of any enactment (whether passed or made before or after the passing of the Welfare Reform and Pensions Act 1999) corresponding to any of the provisions mentioned in paragraph (a), or
  - (c) any provision of the arrangement in question corresponding to any of those provisions,
 applies to a court exercising its power to make a recovery order.
- (3) Regulations may, for the purposes of the recovery provisions, make provision about the calculation and verification of—
  - (a) any such value as is mentioned in section 36E(4)(c);
  - (b) any such amounts as are mentioned in section 36E(6)(a) and (b).
- (4) The power conferred by subsection (3) includes power to provide for calculation or verification—
  - (a) in such manner as may, in the particular case, be approved by a prescribed person; or
  - (b) in accordance with guidance—
    - (i) from time to time prepared by a prescribed person, and

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- (ii) approved by the Secretary of State.
- (5) References in the recovery provisions to the person responsible for a pension arrangement are to—
- (a) the trustees, managers or provider of the arrangement, or
  - (b) the person having functions in relation to the arrangement corresponding to those of a trustee, manager or provider.
- (6) In this section—
- “prescribed” means prescribed by regulations;
  - “the recovery provisions” means this section and sections 34, 35, 36 and 36E of this Act;
  - “regulations” means regulations made by the Secretary of State.
- (7) Regulations under the recovery provisions may—
- (a) make different provision for different cases;
  - (b) contain such incidental, supplemental and transitional provisions as appear to the Secretary of State necessary or expedient.
- (8) Regulations under the recovery provisions shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

**Commencement Information**

**I4** Sch. 12 para. 69 wholly in force at 6.4.2002; Sch. 12 para. 69 not in force at Royal Assent see s. 89(1); Sch. 12 para. 69 in force at 26.3.2002 for certain purposes and 6.4.2002 otherwise by S.I. 2002/818, art. 2 (with art. 3 which omitted S.I. 2002/153, art. 2(h)(k))

**Marginal Citations**

**M7** 1993 c. 48.  
**M8** 1995 c. 26.

*Insolvency Act 1986 (c.45)*

70 The Insolvency Act 1986 is amended as follows.

**Commencement Information**

**I5** Sch. 12 para. 70 wholly in force at 6.4.2002; Sch. 12 para. 70 not in force at Royal Assent see s. 89(1); Sch. 12 para. 70 in force at 26.3.2002 for certain purposes and 6.4.2002 otherwise by S.I. 2002/818, art. 2 (with art. 3 which omitted S.I. 2002/153, art. 2(h)(k))

71 After section 342C there is inserted—

**“342D Recovery of excessive contributions in pension-sharing cases.**

- (1) For the purposes of sections 339, 341 and 342, a pension-sharing transaction shall be taken—

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- (a) to be a transaction, entered into by the transferor with the transferee, by which the appropriate amount is transferred by the transferor to the transferee; and
  - (b) to be capable of being a transaction entered into at an undervalue only so far as it is a transfer of so much of the appropriate amount as is recoverable.
- (2) For the purposes of sections 340 to 342, a pension-sharing transaction shall be taken—
  - (a) to be something (namely a transfer of the appropriate amount to the transferee) done by the transferor; and
  - (b) to be capable of being a preference given to the transferee only so far as it is a transfer of so much of the appropriate amount as is recoverable.
- (3) If on an application under section 339 or 340 any question arises as to whether, or the extent to which, the appropriate amount in the case of a pension-sharing transaction is recoverable, the question shall be determined in accordance with subsections (4) to (8).
- (4) The court shall first determine the extent (if any) to which the transferor’s rights under the shared arrangement at the time of the transaction appear to have been (whether directly or indirectly) the fruits of contributions (“personal contributions”)—
  - (a) which the transferor has at any time made on his own behalf, or
  - (b) which have at any time been made on the transferor’s behalf,
 to the shared arrangement or any other pension arrangement.
- (5) Where it appears that those rights were to any extent the fruits of personal contributions, the court shall then determine the extent (if any) to which those rights appear to have been the fruits of personal contributions whose making has unfairly prejudiced the transferor’s creditors (“the unfair contributions”).
- (6) If it appears to the court that the extent to which those rights were the fruits of the unfair contributions is such that the transfer of the appropriate amount could have been made out of rights under the shared arrangement which were not the fruits of the unfair contributions, then the appropriate amount is not recoverable.
- (7) If it appears to the court that the transfer could not have been wholly so made, then the appropriate amount is recoverable to the extent to which it appears to the court that the transfer could not have been so made.
- (8) In making the determination mentioned in subsection (5) the court shall consider in particular—
  - (a) whether any of the personal contributions were made for the purpose of putting assets beyond the reach of the transferor’s creditors or any of them, and
  - (b) whether the total amount of any personal contributions represented, at the time the pension-sharing transaction was made, by rights under pension arrangements is an amount which is excessive in view of the transferor’s circumstances when those contributions were made.

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(9) In this section and sections 342E and 342F—

“appropriate amount”, in relation to a pension-sharing transaction, means the appropriate amount in relation to that transaction for the purposes of section 29(1) of the Welfare Reform and Pensions Act 1999 (creation of pension credits and debits);

“pension-sharing transaction” means an order or provision falling within section 28(1) of the Welfare Reform and Pensions Act 1999 (orders and agreements which activate pension-sharing);

“shared arrangement”, in relation to a pension-sharing transaction, means the pension arrangement to which the transaction relates;

“transferee”, in relation to a pension-sharing transaction, means the person for whose benefit the transaction is made;

“transferor”, in relation to a pension-sharing transaction, means the person to whose rights the transaction relates.

### **342E Orders under section 339 or 340 in respect of pension-sharing transactions.**

(1) This section and section 342F apply if the court is making an order under section 339 or 340 in a case where—

- (a) the transaction or preference is, or is any part of, a pension-sharing transaction, and
- (b) the transferee has rights under a pension arrangement (“the destination arrangement”, which may be the shared arrangement or any other pension arrangement) that are derived, directly or indirectly, from the pension-sharing transaction.

(2) Without prejudice to the generality of section 339(2) or 340(2), or of section 342, the order may include provision—

- (a) requiring the person responsible for the destination arrangement to pay an amount to the transferor’s trustee in bankruptcy,
- (b) adjusting the liabilities of the destination arrangement in respect of the transferee,
- (c) adjusting any liabilities of the destination arrangement in respect of any other person that derive, directly or indirectly, from rights of the transferee under the destination arrangement,
- (d) for the recovery by the person responsible for the destination arrangement (whether by deduction from any amount which that person is ordered to pay or otherwise) of costs incurred by that person in complying in the transferor’s case with any requirement under section 342F(1) or in giving effect to the order,
- (e) for the recovery, from the transferor’s trustee in bankruptcy, by the person responsible for a pension arrangement, of costs incurred by that person in complying in the transferor’s case with any requirement under section 342F(2) or (3).

(3) In subsection (2), references to adjusting the liabilities of the destination arrangement in respect of a person include (in particular) reducing the amount of any benefit or future benefit to which that person is entitled under the arrangement.

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- (4) The maximum amount which the person responsible for the destination arrangement may be required to pay by the order is the smallest of—
- (a) so much of the appropriate amount as, in accordance with section 342D, is recoverable,
  - (b) so much (if any) of the amount of the unfair contributions (within the meaning given by section 342D(5)) as is not recoverable by way of an order under section 342A containing provision such as is mentioned in section 342B(1)(a), and
  - (c) the value of the transferee’s rights under the destination arrangement so far as they are derived, directly or indirectly, from the pension-sharing transaction.
- (5) If the order requires the person responsible for the destination arrangement to pay an amount (“the restoration amount”) to the transferor’s trustee in bankruptcy it must provide for the liabilities of the arrangement to be correspondingly reduced.
- (6) For the purposes of subsection (5), liabilities are correspondingly reduced if the difference between—
- (a) the amount of the liabilities immediately before the reduction, and
  - (b) the amount of the liabilities immediately after the reduction,
- is equal to the restoration amount.
- (7) The order—
- (a) shall be binding on the person responsible for the destination arrangement, and
  - (b) overrides provisions of the destination arrangement to the extent that they conflict with the provisions of the order.

**342F Orders under section 339 or 340 in pension-sharing cases: supplementary.**

- (1) On the transferor’s trustee in bankruptcy making a written request to the person responsible for the destination arrangement, that person shall provide the trustee with such information about—
- (a) the arrangement,
  - (b) the transferee’s rights under it, and
  - (c) where the destination arrangement is the shared arrangement, the transferor’s rights under it,
- as the trustee may reasonably require for, or in connection with, the making of applications under sections 339 and 340.
- (2) Where the shared arrangement is not the destination arrangement, the person responsible for the shared arrangement shall, on the transferor’s trustee in bankruptcy making a written request to that person, provide the trustee with such information about—
- (a) the arrangement, and
  - (b) the transferor’s rights under it,
- as the trustee may reasonably require for, or in connection with, the making of applications under sections 339 and 340.



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- (3) On the transferor's trustee in bankruptcy making a written request to the person responsible for any intermediate arrangement, that person shall provide the trustee with such information about—
- (a) the arrangement, and
  - (b) the transferee's rights under it,
- as the trustee may reasonably require for, or in connection with, the making of applications under sections 339 and 340.
- (4) In subsection (3) "intermediate arrangement" means a pension arrangement, other than the shared arrangement or the destination arrangement, in relation to which the following conditions are fulfilled—
- (a) there was a time when the transferee had rights under the arrangement that were derived (directly or indirectly) from the pension-sharing transaction, and
  - (b) the transferee's rights under the destination arrangement (so far as derived from the pension-sharing transaction) are to any extent derived (directly or indirectly) from the rights mentioned in paragraph (a).
- (5) Nothing in—
- (a) any provision of section 159 of the <sup>M9</sup>Pension Schemes Act 1993 or section 91 of the <sup>M10</sup>Pensions Act 1995 (which prevent assignment and the making of orders which restrain a person from receiving anything which he is prevented from assigning),
  - (b) any provision of any enactment (whether passed or made before or after the passing of the Welfare Reform and Pensions Act 1999) corresponding to any of the provisions mentioned in paragraph (a), or
  - (c) any provision of the destination arrangement corresponding to any of those provisions,
- applies to a court exercising its powers under section 339 or 340.
- (6) Regulations may, for the purposes of sections 339 to 342, sections 342D and 342E and this section, make provision about the calculation and verification of—
- (a) any such value as is mentioned in section 342E(4)(c);
  - (b) any such amounts as are mentioned in section 342E(6)(a) and (b).
- (7) The power conferred by subsection (6) includes power to provide for calculation or verification—
- (a) in such manner as may, in the particular case, be approved by a prescribed person; or
  - (b) in accordance with guidance—
    - (i) from time to time prepared by a prescribed person, and
    - (ii) approved by the Secretary of State.
- (8) In section 342E and this section, references to the person responsible for a pension arrangement are to—
- (a) the trustees, managers or provider of the arrangement, or
  - (b) the person having functions in relation to the arrangement corresponding to those of a trustee, manager or provider.

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- (9) In this section—
  - “prescribed” means prescribed by regulations;
  - “regulations” means regulations made by the Secretary of State.
- (10) Regulations under this section may—
  - (a) make different provision for different cases;
  - (b) contain such incidental, supplemental and transitional provisions as appear to the Secretary of State necessary or expedient.
- (11) Regulations under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.”

**Commencement Information**

**I6** Sch. 12 para. 71 wholly in force at 6.4.2002; Sch. 12 para. 71 not in force at Royal Assent see s. 89(2); Sch. 12 para. 71 in force at 26.3.2002 for certain purposes and 6.4.2002 otherwise by S.I. 2002/818, art. 2 (with art. 3 which omitted S.I. 2002/153, art. 2(h)(k))

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**Marginal Citations**

**M9** 1993 c. 48.  
**M10** 1995 c. 26.

72 In section 384(1) (meaning of “prescribed” in the second Group of Parts), after “Subject to the next subsection” insert “ and sections 342C(7) and 342F(9) in Chapter V of Part IX ”.

**Commencement Information**

**I7** Sch. 12 para. 72 wholly in force at 6.4.2002; Sch. 12 para. 72 not in force at Royal Assent see s. 89(1); Sch. 12 para. 72 in force at 26.3.2002 for certain purposes and 6.4.2002 otherwise by S.I. 2002/818, art. 2 (with art. 3 which omitted S.I. 2002/153, art. 2(h)(k))

*Income and Corporation Taxes Act 1988 (c.1)*

- 73 The Income and Corporation Taxes Act 1988 is amended as follows.
- 74 In section 172(3) (exceptions from tax), for “earnings threshold” substitute “ secondary threshold ”.
- F375 .....

**Textual Amendments**

**F3** Sch. 12 para. 75 repealed (with effect in accordance with s. 723(1)(a)(b) of the amending Act) by Income Tax (Earnings and Pensions) Act 2003 (c. 1), s. 723, Sch. 8 Pt. 1 (with Sch. 7)

*Social Security Contributions and Benefits Act 1992 (c.4)*

- 76 The Contributions and Benefits Act has effect subject to the following amendments.
- 77 (1) Section 122(1) (interpretation of Parts I to VI etc.) is amended as follows.

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- (2) In the definition of “current”, after “limits” insert “ and primary and secondary thresholds ”.
- (3) In the definition beginning with “lower earnings limit”—
- (a) for “and “earnings threshold”” substitute “primary threshold” and “secondary threshold” ; and
  - (b) for “the earnings” substitute “ the primary or secondary ”.
- 78 (1) Paragraph 1 of Schedule 1 (supplementary provisions relating to contributions) is amended in accordance with sub-paragraphs (2) to (5).
- (2) For “earnings threshold” (wherever occurring) substitute “ secondary threshold ”.
- (3) For “lower earnings limit” (wherever occurring) substitute “ primary threshold ”.
- (4) Omit sub-paragraphs (4) and (5).
- (5) After sub-paragraph (9) add—
- “(10) In relation to earners paid otherwise than weekly, any reference in this paragraph to—
- (a) the primary or the secondary threshold, or
  - (b) the upper earnings limit,
- shall be construed as a reference to the equivalent of that threshold or limit prescribed under section 5(4) above.”
- (6) In paragraph 6 of that Schedule—
- (a) in sub-paragraph (5), for “section 159A” substitute “ section 4A, 159A ”; and
  - (b) in sub-paragraph (6), after “relating” insert “ to relevant payments or benefits within the meaning of section 4A above or (as the case may be) ”.

*Social Security Administration Act 1992 (c.5)*

- 79 The Administration Act has effect subject to the following amendments.
- 80 After section 140E insert—

**“140EE Financing of other expenditure.**

- (1) The Secretary of State may make to a local authority such payments as he thinks fit in respect of expenses incurred by the authority in connection with the carrying out of any relevant function—
- (a) by the authority,
  - (b) by any person providing services to the authority, or
  - (c) by any person authorised by the authority to carry out that function.
- (2) In subsection (1) “relevant function” means any function conferred by virtue of section 2A, 2C or 7A above.
- (3) The following provisions, namely—
- (a) in section 140B, subsections (1), (3), (4), (5)(b), (7)(b) and (8), and
  - (b) section 140C,
- apply in relation to a payment under this section as in relation to a payment of subsidy.

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- (4) The Secretary of State may (without prejudice to the generality of his powers in relation to the amount of subsidy) take into account the fact that an amount has been paid under this section in respect of costs falling within section 140B(4A)(a) above.”
- 81 In section 170(5) (enactments conferring functions in respect of which Social Security Advisory Committee is to advise)—
- (a) in the definition of “the relevant enactments”, after paragraph (ad) insert—
- “(ae) sections 60, 72 and 79 of the Welfare Reform and Pensions Act 1999;”; and
- (b) in the definition of “the relevant Northern Ireland enactments”, after paragraph (ad) insert—
- “(ae) any provisions in Northern Ireland which correspond to sections 60, 72 and 79 of the Welfare Reform and Pensions Act 1999;”.
- 82 In section 189 (regulations and orders—general), after subsection (7) insert—
- “(7A) Without prejudice to the generality of any of the preceding provisions of this section, regulations under any of sections 2A to 2C and 7A above may provide for all or any of the provisions of the regulations to apply only in relation to any area or areas specified in the regulations.”
- 83 In section 190 (Parliamentary control of orders and regulations), in subsection (1) (instruments subject to the affirmative procedure), before the “or” at the end of paragraph (a) insert—
- “(aa) the first regulations to be made under section 2A;”.
- Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c.7)*
- 84 The Social Security Contributions and Benefits (Northern Ireland) Act 1992 has effect subject to the following amendments.
- 85 (1) Section 121(1) (interpretation of Parts I to VI etc.) is amended as follows.
- (2) In the definition of “current”, after “limits” insert “ and primary and secondary thresholds ”.
- (3) In the definition beginning with “lower earnings limit”—
- (a) for “and “earnings threshold”” substitute “primary threshold” and “secondary threshold” ; and
- (b) for “the earnings” substitute “ the primary or secondary ”.
- 86 (1) Paragraph 1 of Schedule 1 (supplementary provisions relating to contributions) is amended in accordance with sub-paragraphs (2) to (5).
- (2) For “earnings threshold” (wherever occurring) substitute “ secondary threshold ”.
- (3) For “lower earnings limit” (wherever occurring) substitute “ primary threshold ”.
- (4) Omit sub-paragraphs (4) and (5).
- (5) After sub-paragraph (9) add—
- “(10) In relation to earners paid otherwise than weekly, any reference in this paragraph to—

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- (a) the primary or the secondary threshold, or
- (b) the upper earnings limit,

shall be construed as a reference to the equivalent of that threshold or limit prescribed under section 5(4) above.”

(6) In paragraph 6 of that Schedule—

- (a) in sub-paragraph (5), for “section 155A” substitute “section 4A, 155A”; and
- (b) in sub-paragraph (6), after “relating” insert “to relevant payments or benefits within the meaning of section 4A above or (as the case may be)”.

*Social Security Act 1998 (c.14)*

87 In Schedule 2 to the Social Security Act 1998 (decisions against which no appeal lies), after paragraph 5 insert—

*“ Work-focused interviews*

5A A decision terminating or reducing the amount of a person’s benefit made in consequence of any decision made under regulations under section 2A of the Administration Act (work-focused interviews).”

**Status:**

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**Changes to legislation:**

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