



# Welfare Reform and Pensions Act 1999

## 1999 CHAPTER 30

### PART IV

#### PENSION SHARING

#### CHAPTER I

##### SHARING OF RIGHTS UNDER PENSION ARRANGEMENTS

##### *Treatment of pension credit rights under schemes*

### 38 Treatment in winding up.

<sup>F1</sup>(1) .....

- (2) In the case of an occupational pension scheme which is not a scheme to which [<sup>F2</sup>this section] applies, rights attributable (directly or indirectly) to a pension credit are to be accorded in a winding up the same treatment—
- (a) if they have come into payment, as the rights of a pensioner member, and
  - (b) if they have not come into payment, as the rights of a deferred member.

[<sup>F3</sup>(2A) This section applies to an occupational pension scheme other than—

- (a) a money purchase scheme, or
- (b) a prescribed scheme or a scheme of a prescribed description.]

(3) Subsection (2) overrides the provisions of a scheme to the extent that it conflicts with them, and the scheme has effect with such modifications as may be required in consequence.

(4) In subsection (2)—

- (a) “deferred member” and “pensioner member” have the same meanings as in Part I of the Pensions Act 1995,

*Status: Point in time view as at 01/07/2013.*

*Changes to legislation: Welfare Reform and Pensions Act 1999, Section 38 is up to date with all changes known to be in force on or before 07 August 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)*

- (b) “pension credit” includes a credit under Northern Ireland legislation corresponding to section 29(1)(b), and
- (c) references to rights attributable to a pension credit having come into payment are to the person to whom the rights belong having become entitled by virtue of the rights to the present payment of pension or other benefits.

#### Textual Amendments

- F1** S. 38(1) repealed (6.4.2005) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 13](#); S.I. 2005/695, art. 2(7), [Sch. 1](#)
- F2** Words in s. 38(2) substituted (4.12.2005 for specified purposes, 30.12.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 12 para. 75\(a\)](#); S.I. 2005/3331, art. 2(1)(a)(b), [Sch. Pt. 1](#)
- F3** [S. 38\(2A\)](#) inserted (4.12.2005 for specified purposes, 30.12.2005 in so far as not already in force) by [Pensions Act 2004 \(c. 35\)](#), s. 322(1), [Sch. 12 para. 75\(b\)](#); S.I. 2005/3331, art. 2(1)(a)(b), [Sch. Pt. 1](#)

#### Commencement Information

- I1** S. 38 wholly in force at 1.12.2000; s. 38 in force for certain purposes at Royal Assent see s. 89(1); s. 38 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 01/07/2013.

**Changes to legislation:**

Welfare Reform and Pensions Act 1999, Section 38 is up to date with all changes known to be in force on or before 07 August 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.