
 S T A T U T O R Y I N S T R U M E N T S

2000 No. 1048**PENSIONS****FAMILY LAW**
**The Pensions on Divorce etc. (Provision of Information)
Regulations 2000**

<i>Made</i> - - - - -	<i>13th April 2000</i>
<i>Laid before Parliament</i>	<i>19th April 2000</i>
<i>Coming into force</i> - -	<i>1st December 2000</i>

The Secretary of State for Social Security, in exercise of the powers conferred upon him by sections 168(1) and (4), 181(1)(a) and 182(2) and (3) of the Pension Schemes Act 1993(b) and sections 23(1)(a), (b)(i), (c)(i) and (2), 34(1)(b)(ii), 45(1) and 83(4) and (6) of the Welfare Reform and Pensions Act 1999 and of all other powers enabling him in that behalf, after consulting such persons as he considered appropriate(c), hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pensions on Divorce etc. (Provision of Information) Regulations 2000 and shall come into force on 1st December 2000.

(2) In these Regulations—

“the 1993 Act” means the Pension Schemes Act 1993;

“the 1995 Act” means the Pensions Act 1995;

“the 1999 Act” means the Welfare Reform and Pensions Act 1999;

“the Charging Regulations” means the Pensions on Divorce etc. (Charging) Regulations 2000(d);

“the Implementation and Discharge of Liability Regulations” means the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000(e);

“the Valuation Regulations” means the Pension Sharing (Valuation) Regulations 2000(f);

“active member” has the meaning given by section 124(1) of the 1995 Act(g);

“day” means any day other than—

(a) Christmas Day or Good Friday; or

(b) a bank holiday, that is to say, a day which is, or is to be observed as, a bank holiday or a holiday under Schedule 1 to the Banking and Financial Dealings Act 1971(h);

(a) Section 181(1) is cited because of the meaning there given to “prescribed” and “regulations”.

(b) 1993 c. 48. A new section 168 was substituted by section 155(1) of the Pensions Act 1995 (c. 26). Section 168 applies to these Regulations by virtue of section 45(2) of the Welfare Reform and Pensions Act 1999 (c. 30).

(c) See section 83(11) of the Welfare Reform and Pensions Act 1999.

(d) S.I. 2000/1049.

(e) S.I. 2000/1053.

(f) S.I. 2000/1052.

(g) Section 124(1) is amended by the Welfare Reform and Pensions Act 1999.

(h) 1971 c. 80.

“deferred member” has the meaning given by section 124(1) of the 1995 Act;

“implementation period” has the meaning given by section 34(1) of the 1999 Act;

“member” means a person who has rights to future benefits, or has rights to benefits payable, under a pension arrangement;

“money purchase benefits” has the meaning given by section 181(1) of the 1993 Act(a);

“normal benefit age” has the meaning given by section 101B of the 1993 Act(b);

“notice of discharge of liability” means a notice issued to the member and his former spouse by the person responsible for a pension arrangement when that person has discharged his liability in respect of a pension credit in accordance with Schedule 5 to the 1999 Act;

“notice of implementation” means a notice issued by the person responsible for a pension arrangement to the member and his former spouse at the beginning of the implementation period notifying them of the day on which the implementation period for the pension credit begins;

“occupational pension scheme” has the meaning given by section 1 of the 1993 Act;

“the party with pension rights” and “the other party” have the meanings given by section 25D(3) of the Matrimonial Causes Act 1997(c);

“pension arrangement” has the meaning given in section 46(1) of the 1999 Act;

“pension credit” means a credit under section 29(1)(b) of the 1999 Act;

“pension credit benefit” means the benefits payable under a pension arrangement or a qualifying arrangement to or in respect of a person by virtue of rights under the arrangement in question which are attributable (directly or indirectly) to a pension credit;

“pension credit rights” means rights to future benefits under a pension arrangement or a qualifying arrangement which are attributable (directly or indirectly) to a pension credit;

“pension sharing order or provision” means an order or provision which is mentioned in section 28(1) of the 1999 Act;

“pensionable service” has the meaning given by section 124(1) of the 1995 Act;

“person responsible for a pension arrangement” has the meaning given by section 46(2) of the 1999 Act;

“personal pension scheme” has the meaning given by section 1 of the 1993 Act(d);

“qualifying arrangement” has the meaning given by paragraph 6 of Schedule 5 to the 1999 Act;

“relevant date” has the meaning given by section 10(3) of the Family Law (Scotland) Act 1985(e);

“retirement annuity contract” means a contract or scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988(f);

“salary related occupational pension scheme” has the meaning given by regulation 1A of the Occupational Pension Schemes (Transfer Values) Regulations 1996(g);

“the Regulatory Authority” means the Occupational Pensions Regulatory Authority;

“transfer day” has the meaning given by section 29(8) of the 1999 Act;

“transferee” has the meaning given by section 29(8) of the 1999 Act;

“transferor” has the meaning given by section 29(8) of the 1999 Act.

“trustees or managers” has the meaning given by section 46(1) of the 1999 Act.

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- (a) Section 181 was amended by the Pensions Act 1995, the Industrial Tribunals Act 1996 (c. 17), and is amended by the Welfare Reform and Pensions Act 1999.
- (b) Section 101B is inserted by section 37 of the Welfare Reform and Pensions Act 1999.
- (c) 1973 c. 18. Section 250 was inserted by section 166 of the Pensions Act 1995 and is amended by paragraph 3 of Schedule 4 to the Welfare Reform and Pensions Act 1999.
- (d) The definition of “personal pension scheme” was amended by paragraph 3(1)(a) of Schedule 2 to the Welfare Reform and Pensions Act 1999.
- (e) 1985 c. 37. Section 10 was amended by section 167(2) of the Pensions Act 1995 and is amended by paragraph 8 of Schedule 12 to the Welfare Reform and Pensions Act 1999.
- (f) 1988 c. 1.
- (g) S.I. 1996/1847. Regulation 1A was inserted by paragraph 12(3) of Schedule 1 to S.I. 1997/786.

Basic information about pensions and divorce

2.—(1) The requirements imposed on a person responsible for a pension arrangement for the purposes of section 23(1)(a) of the 1999 Act (supply of pension information in connection with divorce etc.) are that he shall furnish—

- (a) on request from a member, the information referred to in paragraphs (2) and (3)(b) to (f);
- (b) on request from the spouse of a member, the information referred to in paragraph (3); or
- (c) pursuant to an order of the court, the information referred to in paragraph (2), (3) or (4),

to the member, the spouse of the member, or, as the case may be, to the court.

(2) The information in this paragraph is a valuation of pension rights or benefits accrued under that member's pension arrangement.

(3) The information in this paragraph is—

- (a) a statement that on request from the member, or pursuant to an order of the court, a valuation of pension rights or benefits accrued under that member's pension arrangement, will be provided to the member, or, as the case may be, to the court;
- (b) a statement summarising the way in which the valuation referred to in paragraph (2) and sub-paragraph (a) is calculated;
- (c) the pension benefits which are included in a valuation referred to in paragraph (2) and sub-paragraph (a);
- (d) whether the person responsible for the pension arrangement offers membership to a person entitled to a pension credit, and if so, the types of benefits available to pension credit members under that arrangement;
- (e) whether the person responsible for the pension arrangements intends to discharge his liability for a pension credit other than by offering membership to a person entitled to a pension credit; and
- (f) the schedule of charges which the person responsible for the pension arrangement will levy in accordance with regulation 2(2) of the Charging Regulations (general requirements as to charges).

(4) The information in this paragraph is any other information relevant to any power with respect to the matters specified in section 23(1)(a) of the 1999 Act and which is not specified in Schedule 1 or 2 to the Occupational Pension Schemes (Disclosure of Information) Regulations 1996(a) (basic information about the scheme and information to be made available to individuals), or in Schedule 1 or 2 to the Personal Pension Schemes (Disclosure of Information) Regulations 1987(b) (basic information about the scheme and information to be made available to individuals), in a case where either of those Regulations applies.

(5) Where the member's request for, or the court order for the provision of, information includes a request for, or an order for the provision of, a valuation under paragraph (2), the person responsible for the pension arrangement shall furnish all the information requested, or ordered, to the member—

- (a) within 3 months beginning with the date the person responsible for the pension arrangement receives that request or order for the provision of the information;
- (b) within 6 weeks beginning with the date the person responsible for the pension arrangement receives the request, or order, for the provision of the information, if the member has notified that person on the date of the request or order that the information is needed in connection with proceedings commenced under any of the provisions referred to in section 23(1)(a) of the 1999 Act; or
- (c) within such shorter period specified by the court in an order requiring the person responsible for the pension arrangement to provide a valuation in accordance with paragraph (2).

(a) S.I. 1996/1655. Paragraph 12A was added to Schedule 1 and paragraph 6A was added to Schedule 2 by paragraph 10(7) and (8) respectively of Schedule 1 to S.I. 1997/786.

(b) S.I. 1987/1110; relevant amending instruments are S.I. 1988/474, 1992/1531, 1993/519, 1994/1062, 1996/776, 1996/1435 and 1997/786.

(6) Where—

- (a) the member's request for, or the court order for the provision of, information does not include a request or an order for a valuation under paragraph (2); or
- (b) the member's spouse requests the information specified in paragraph (3),

the person responsible for the pension arrangement shall furnish that information to the member, his spouse, or the court, as the case may be, within one month beginning with the date that person responsible for the pension arrangement receives the request for, or the court order for the provision of, the information.

(7) At the same time as furnishing the information referred to in paragraph (1), the person responsible for a pension arrangement may furnish the information specified in regulation 4(2) (provision of information in response to a notification that a pension sharing order or provision may be made).

Information about pensions and divorce: valuation of pension benefits

3.—(1) Where an application for financial relief under any of the provisions referred to in section 23(1)(a)(i) or (iii) of the 1999 Act (supply of pension information in connection with domestic and overseas divorce etc. in England and Wales and corresponding Northern Ireland powers) has been made or is in contemplation, the valuation of benefits under a pension arrangement shall be calculated and verified for the purposes of regulation 2 of these Regulations in accordance with—

- (a) paragraph (3), if the person with pension rights is a deferred member of an occupational pension scheme;
- (b) paragraph (4), if the person with pension rights is an active member of an occupational pension scheme;
- (c) paragraphs (5) and (6), if—
 - (i) the person with pension rights is a member of a personal pension scheme; or
 - (ii) those pension rights are contained in a retirement annuity contract; or
- (d) paragraphs (7) to (9), if—
 - (i) the pension of the person with pension rights is in payment;
 - (ii) the rights of the person with pension rights are contained in an annuity contract other than a retirement annuity contract; or
 - (iii) the rights of the person with pension rights are contained in a deferred annuity contract other than a retirement annuity contract.

(2) Where an application for financial provision under any of the provisions referred to in section 23(1)(a)(ii) of the 1999 Act (corresponding Scottish powers) has been made, or is in contemplation, the valuation of benefits under a pension arrangement shall be calculated and verified for the purposes of regulation 2 of these Regulations in accordance with regulation 3 of the Divorce etc. (Pensions) (Scotland) Regulations 2000(a) (valuation).

(3) Where the person with pension rights is a deferred member of an occupational pension scheme, the value of the benefits which he has under that scheme shall be taken to be—

- (a) in the case of an occupational pension scheme other than a salary related scheme, the cash equivalent to which he acquired a right under section 94(1)(a) of the 1993 Act(b) (right to cash equivalent) on the termination of his pensionable service, calculated on the assumption that he has made an application under section 95 of that Act(c) (ways of taking right to cash equivalent) on the date on which the request for the valuation was received; or
- (b) in the case of a salary related occupational pension scheme, the guaranteed cash equivalent to which he would have acquired a right under section 94(1)(aa) of the 1993 Act(d) if he had made an application under section 95(1) of that Act, calculated on the assumption that he has made such an application on the date on which the request for the valuation was received.

(a) S.S.I. 2000/112.

(b) Section 94(1)(a) was amended by section 154 of the Pensions Act 1995.

(c) Section 95 was amended by paragraph 3 of Schedule 6 to the Pensions Act 1995.

(d) Section 94(1)(aa) was inserted by section 154(2) of the Pensions Act 1995.

(4) Where the person with pension rights is an active member of an occupational pension scheme, the valuation of the benefits which he has accrued under that scheme shall be calculated and verified—

- (a) on the assumption that the member had made a request for an estimate of the cash equivalent that would be available to him were his pensionable service to terminate on the date on which the request for the valuation was received; and
- (b) in accordance with regulation 11 of and Schedule 1 to the Occupational Pension Schemes (Transfer Values) Regulations 1996(a) (disclosure).

(5) Where the person with pension rights is a member of a personal pension scheme, or those rights are contained in a retirement annuity contract, the value of the benefits which he has under that scheme or contract shall be taken to be the cash equivalent to which he would have acquired a right under section 94(1)(b) of the 1993 Act, if he had made an application under section 95(1) of that Act on the date on which the request for the valuation was received.

(6) In relation to a personal pension scheme which is comprised in a retirement annuity contract made before 4th January 1988, paragraph (5) shall apply as if such a scheme were not excluded from the scope of Chapter IV of Part IV of the 1993 Act by section 93(1)(b) of that Act (scope of Chapter IV).

(7) Except in a case to which, or to the extent to which, paragraph (9) applies, the cash equivalent of benefits in respect of a person referred to in paragraph (1)(d) shall be calculated and verified in such manner as may be approved in a particular case by—

- (a) a Fellow of the Institute of Actuaries;
- (b) a Fellow of the Faculty of Actuaries(b); or
- (c) a person with other actuarial qualifications who is approved by the Secretary of State, at the request of the person responsible for the pension arrangement in question, as being a proper person to act for the purposes of this regulation in connection with that arrangement.

(8) Except in a case to which paragraph (9) applies, cash equivalents are to be calculated and verified by adopting methods and making assumptions which—

- (a) if not determined by the person responsible for the pension arrangement in question, are notified to him by an actuary referred to in paragraph (7); and
- (b) are certified by the actuary to the person responsible for the pension arrangement in question as being consistent with “Retirement Benefit Schemes—Transfer Values (GN11)” published by the Institute of Actuaries and the Faculty of Actuaries and current at the date on which the request for the valuation is received(c).

(9) Where the cash equivalent, or any portion of it represents rights to money purchase benefits under the pension arrangement in question of the person with pension rights, and those rights do not fall, either wholly or in part, to be valued in a manner which involves making estimates of the value of benefits, then that cash equivalent, or that portion of it, shall be calculated and verified in such manner as may be approved in a particular case by the person responsible for the pension arrangement in question, and by adopting methods consistent with the requirements of Chapter IV of Part IV of the 1993 Act (protection for early leavers—transfer values).

(a) S.I. 1996/1847.

(b) The Institute of Actuaries is at Staple Inn Hall, High Holborn, London WC1V 7QJ. The Faculty of Actuaries is at Maclaurin House, 18 Dublin Street, Edinburgh EH1 3PP.

(c) The publication “Retirement Benefit Schemes—Transfer Values (GN11)” may be obtained from the Institute of Actuaries, Staple Inn Hall, High Holborn, London WC1V 7QJ, and from the Faculty of Actuaries, Maclaurin House, 18 Dublin Street, Edinburgh EH1 3PP. The publication is also available on the following internet web-site: <http://www.actuaries.org.uk>.

(10) Where paragraph (3), (4) or (9) has effect by reference to provisions of Chapter IV of Part IV of the 1993 Act, section 93(1)(a)(i) of that Act(a) (scope of Chapter IV) shall apply to those provisions as if the words “at least one year” had been omitted from section 93(1)(a)(i).

Provision of information in response to a notification that a pension sharing order or provision may be made

4.—(1) A person responsible for a pension arrangement shall furnish the information specified in paragraph (2) to the member or to the court, as the case may be—

- (a) within 21 days beginning with the date that the person responsible for the pension arrangement received the notification that a pension sharing order or provision may be made; or
- (b) if the court has specified a date which is outside the 21 days referred to in subparagraph (a), by that date.

(2) The information referred to in paragraph (1) is—

- (a) the full name of the pension arrangement and address to which any order or provision referred to in section 28(1) of the 1999 Act (activation of pension sharing) should be sent;
- (b) in the case of an occupational pension scheme, whether the scheme is winding up, and, if so,—
 - (i) the date on which the winding up commenced; and
 - (ii) the name and address of the trustees who are dealing with the winding up;
- (c) in the case of an occupational pension scheme, whether a cash equivalent of the member’s pension rights, if calculated on the date the notification referred to in paragraph (1)(a) was received by the trustees or managers of that scheme, would be reduced in accordance with the provisions of regulation 8(4), (6) or (12) of the Occupational Pension Schemes (Transfer Values) Regulations 1996(b) (further provisions as to reductions of cash equivalents);
- (d) whether the person responsible for the pension arrangement is aware that the member’s rights under the pension arrangement are subject to any, and if so, to specify which, of the following—
 - (i) any order or provision specified in section 28(1) of the 1999 Act;
 - (ii) an order under section 23 of the Matrimonial Causes Act 1973(c) (financial provision orders in connection with divorce etc.), so far as it includes provision made by virtue of section 25B or 25C of that Act(d) (powers to include provisions about pensions);
 - (iii) an order under section 12A(2) or (3) of the Family Law (Scotland) Act 1985(e) (powers in relation to pensions lump sums when making a capital sum order) which relates to benefits or future benefits to which the member is entitled under the pension arrangement;
 - (iv) an order under Article 25 of the Matrimonial Causes (Northern Ireland) Order 1978(f), so far as it includes provision made by virtue of Article 27B or 27C of that Order (Northern Ireland powers corresponding to those mentioned in paragraph (2)(d)(ii));
 - (v) a forfeiture order;
 - (vi) a bankruptcy order;
 - (vii) an award of sequestration on a member’s estate or the making of the appointment on his estate of a judicial factor under section 41 of the Solicitors (Scotland) Act 1980(g) (appointment of judicial factor);

(a) Section 93(1)(a) was substituted by section 152(2) of the Pensions Act 1995.

(b) S.I. 1996/1847.

(c) 1973 c. 18.

(d) Sections 25B and 25C were inserted by section 166 of the Pensions Act 1995, and are amended by paragraphs 1 and 2 respectively of Schedule 4 to the Welfare Reform and Pensions Act 1999.

(e) Section 12A is amended by paragraph 9 of Schedule 12 to the Welfare Reform and Pensions Act 1999.

(f) S.I. 1978/1045 (N.I. 15). Articles 27B and 27C were inserted by article 162 of S.I. 1995/3213 (N.I. 22), and were amended by paragraphs 1 and 2 of Schedule 4 to S.I. 1999/3147 (N.I. 11).

(g) 1980 c. 46.

- (e) whether the member's rights under the pension arrangement include rights specified in regulation 2 of the Valuation Regulations (rights under a pension arrangement which are not shareable);
- (f) if the person responsible for the pension arrangement has not at an earlier stage provided the following information, whether that person requires the charges specified in regulation 3 (charges recoverable in respect of the provision of basic information), 5 (charges in respect of pension sharing activity), or 6 (additional amounts recoverable in respect of pension sharing activity) of the Charging Regulations to be paid before the commencement of the implementation period, and if so,—
 - (i) whether that person requires those charges to be paid in full; or
 - (ii) the proportion of those charges which he requires to be paid;
- (g) whether the person responsible for the pension arrangement may levy additional charges specified in regulation 6 of the Charging Regulations, and if so, the scale of the additional charges which are likely to be made;
- (h) whether the member is a trustee of the pension arrangement;
- (i) whether the person responsible for the pension arrangement may request information about the member's state of health from the member if a pension sharing order or provision were to be made;
- (j) whether the person responsible for the pension arrangement will enable the transferee to nominate a person to receive the pension credit benefit, including any lump sum which may be payable if the transferee should die before liability in respect of the pension credit has been discharged; and
- (k) whether the person responsible for the pension arrangement requires information additional to that specified in regulation 5 (information required by the person responsible for the pension arrangement before the implementation period may begin) in order to implement the pension sharing order or provision.

Information required by the person responsible for the pension arrangement before the implementation period may begin

5. The information prescribed for the purposes of section 34(1)(b) of the 1999 Act (information relating to the transferor and the transferee which the person responsible for the pension arrangement must receive) is—

- (a) in relation to the transferor—
 - (i) all names by which the transferor has been known;
 - (ii) date of birth;
 - (iii) address;
 - (iv) National Insurance number;
 - (v) the name of the pension arrangement to which the pension sharing order or provision relates; and
 - (vi) the transferor's membership or policy number in that pension arrangement;
- (b) in relation to the transferee—
 - (i) all names by which the transferee has been known;
 - (ii) date of birth;
 - (iii) address;
 - (iv) National Insurance number; and
 - (v) if the transferee is a member of the pension arrangement from which the pension credit is derived, his membership or policy number in that pension arrangement;
- (c) where the transferee has given his consent in accordance with paragraph 1(3)(c), 3(3)(c) or 4(2)(c) of Schedule 5 to the 1999 Act (mode of discharge of liability for a pension credit) to the payment of the pension credit to the person responsible for a qualifying arrangement—
 - (i) the full name of that qualifying arrangement;
 - (ii) its address;
 - (iii) if known, the transferee's membership number or policy number in that arrangement; and
 - (iv) the name or title, business address, business telephone number, and, where

- available, the business facsimile number and electronic mail address of a person who may be contacted in respect of the discharge of liability for the pension credit;
- (d) where the rights from which the pension credit is derived are held in an occupational pension scheme which is being wound up, whether the transferee has given an indication whether he wishes to transfer his pension credit rights which may have been reduced in accordance with the provisions of regulation 16(1) of the Implementation and Discharge of Liability Regulations (adjustments to the amount of the pension credit—occupational pension schemes which are underfunded on the valuation day) to a qualifying arrangement; and
 - (e) any information requested by the person responsible for the pension arrangement in accordance with regulation 4(2)(i) or (k).

Provision of information after the death of the person entitled to the pension credit before liability in respect of the pension credit has been discharged

6.—(1) Where the person entitled to the pension credit dies before the person responsible for the pension arrangement has discharged his liability in respect of the pension credit, the person responsible for the pension arrangement shall, within 21 days of the date of receipt of the notification of the death of the person entitled to the pension credit, notify in writing—

- (a) the person whom the person entitled to the pension credit nominated pursuant to regulation 4(2)(j) to receive pension credit benefit; and
- (b) any other person whom the person responsible for the pension arrangement considers should be notified,

of the matters specified in paragraph (2).

(2) The matters specified in this paragraph are—

- (a) how the person responsible for the pension arrangement intends to discharge his liability in respect of the pension credit;
- (b) whether the person responsible for the pension arrangement intends to recover charges from the person nominated to receive pension credit benefits, in accordance with regulations 2 to 9 of the Charging Regulations, and if so, a copy of the schedule of charges issued to the parties to pension sharing in accordance with regulation 2(2)(b) of the Charging Regulations (general requirements as to charges); and
- (c) a list of any further information which the person responsible for the pension arrangement requires in order to discharge his liability in respect of the pension credit.

Provision of information after receiving a pension sharing order or provision

7.—(1) A person responsible for a pension arrangement who is in receipt of a pension sharing order or provision relating to that arrangement shall provide in writing to the transferor and transferee, or, where regulation 6(1) applies, to the person other than the person entitled to the pension credit referred to in regulation 6 of the Implementation and Discharge of Liability Regulations (discharge of liability in respect of a pension credit following the death of the person entitled to the pension credit), as the case may be,—

- (a) a notice in accordance with the provisions of regulation 7(1) of the Charging Regulations (charges in respect of pension sharing activity—postponement of implementation period);
- (b) a list of information relating to the transferor or the transferee, or, where regulation 6(1) applies, the person other than the person entitled to the pension credit referred to in regulation 6 of the Implementation and Discharge of Liability Regulations, as the case may be, which—
 - (i) has been requested in accordance with regulation 4(2)(i) and (k), or, where appropriate, 6(2)(c), or should have been provided in accordance with regulation 5;
 - (ii) the person responsible for the pension arrangement considers he needs in order to begin to implement the pension sharing order or provision; and
 - (iii) remains outstanding;
- (c) a notice of implementation; or
- (d) a statement by the person responsible for the pension arrangement explaining why he is unable to implement the pension sharing order or agreement.

(2) The information specified in paragraph (1) shall be furnished in accordance with that paragraph within 21 days beginning with—

- (a) in the case of sub-paragraph (a), (b) or (d) of that paragraph, the day on which the person responsible for the pension arrangement receives the pension sharing order or provision; or
- (b) in the case of sub-paragraph (c) of that paragraph, the later of the days specified in section 34(1)(a) and (b) of the 1999 Act (implementation period).

Provision of information after the implementation of a pension sharing order or provision

8.—(1) The person responsible for the pension arrangement shall issue a notice of discharge of liability to the transferor and the transferee, or, as the case may be, the person entitled to the pension credit by virtue of regulation 6 of the Implementation and Discharge of Liability Regulations no later than the end of the period of 21 days beginning with the day on which the discharge of liability in respect of the pension credit is completed.

(2) In the case of a transferor whose pension is not in payment, the notice of discharge of liability shall include the following details—

- (a) the value of the transferor's accrued rights as determined by reference to the cash equivalent value of those rights calculated and verified in accordance with regulation 3 of the Valuation Regulations (calculation and verification of cash equivalents for the purposes of the creation of pension debits and credits);
- (b) the value of the pension debit;
- (c) any amount deducted from the value of the pension rights in accordance with regulation 9(2)(c) of the Charging Regulations (charges in respect of pension sharing activity—method of recovery);
- (d) the value of the transferor's rights after the amounts referred to in sub-paragraphs (b) and (c) have been deducted; and
- (e) the transfer day.

(3) In the case of a transferor whose pension is in payment, the notice of discharge of liability shall include the following details—

- (a) the value of the transferor's benefits under the pension arrangement as determined by reference to the cash equivalent value of those rights calculated and verified in accordance with regulation 3 of the Valuation Regulations;
- (b) the value of the pension debit;
- (c) the amount of the pension which was in payment before liability in respect of the pension credit was discharged;
- (d) the amount of pension which is payable following the deduction of the pension debit from the transferor's pension benefits;
- (e) the transfer day;
- (f) if the person responsible for the pension arrangement intends to recover charges, the amount of any unpaid charges—
 - (i) not prohibited by regulation 2 of the Charging Regulations (general requirements as to charges); and
 - (ii) specified in regulations 3 and 6 of those Regulations;
- (g) how the person responsible for the pension arrangement will recover the charges referred to in sub-paragraph (f), including—
 - (i) whether the method of recovery specified in regulation 9(2)(d) of the Charging Regulations will be used;
 - (ii) the date when payment of those charges in whole or in part is required; and
 - (iii) the sum which will be payable by the transferor, or which will be deducted from his pension benefits, on that date.

(4) In the case of a transferee—

- (a) whose pension is not in payment; and
- (b) who will become a member of the pension arrangement from which the pension credit rights were derived,

the notice of discharge of liability to the transferee shall include the following details—

- (i) the value of the pension credit;

- (ii) any amount deducted from the value of the pension credit in accordance with regulation 9(2)(b) of the Charging Regulations;
 - (iii) the value of the pension credit after the amount referred to in sub-paragraph (b)(ii) has been deducted;
 - (iv) the transfer day;
 - (v) any periodical charges the person responsible for the pension arrangement intends to make, including how and when those charges will be recovered from the transferee; and
 - (vi) information concerning membership of the pension arrangement which is relevant to the transferee as a pension credit member.
- (5) In the case of a transferee who is transferring his pension credit rights out of the pension arrangement from which those rights were derived, the notice of discharge of liability to the transferee shall include the following details—
- (a) the value of the pension credit;
 - (b) any amount deducted from the value of the pension credit in accordance with regulation 9(2)(b) of the Charging Regulations;
 - (c) the value of the pension credit after the amount referred to in sub-paragraph (b) has been deducted;
 - (d) the transfer day; and
 - (e) details of the pension arrangement, including its name, address, reference number, telephone number, and, where available, the business facsimile number and electronic mail address, to which the pension credit has been transferred.
- (6) In the case of a transferee, who has reached normal benefit age on the transfer day, and in respect of whose pension credit liability has been discharged in accordance with paragraph 1(2), 2(2), 3(2) or 4(4) of Schedule 5 to the 1999 Act (pension credits: mode of discharge—funded pension schemes, unfunded public service pension schemes, other unfunded pension schemes, or other pension arrangements), the notice of discharge of liability to the transferee shall include the following details—
- (a) the amount of pension credit benefit which is to be paid to the transferee;
 - (b) the date when the pension credit benefit is to be paid to the transferee;
 - (c) the transfer day;
 - (d) if the person responsible for the pension arrangement intends to recover charges, the amount of any unpaid charges—
 - (i) not prohibited by regulation 2 of the Charging Regulations; and
 - (ii) specified in regulations 3 and 6 of those Regulations; and
 - (e) how the person responsible for the pension arrangement will recover the charges referred to in sub-paragraph (d), including—
 - (i) whether the method of recovery specified in regulation 9(2)(e) of the Charging Regulations will be used;
 - (ii) the date when payment of those charges in whole or in part is required; and
 - (iii) the sum which will be payable by the transferee, or which will be deducted from his pension credit benefits, on that date.
- (7) In the case of a person entitled to the pension credit by virtue of regulation 6 of the Implementation and Discharge of Liability Regulations, the notice of discharge of liability shall include the following details—
- (a) the value of the pension credit rights as determined in accordance with regulation 10 of the Implementation and Discharge of Liability Regulations (calculation of the value of appropriate rights);
 - (b) any amount deducted from the value of the pension credit in accordance with regulation 9(2)(b) of the Charging Regulations;
 - (c) the value of the pension credit;
 - (d) the transfer day; and
 - (e) any periodical charges the person responsible for the pension arrangement intends to make, including how and when those charges will be recovered from the payments made to the person entitled to the pension credit by virtue of regulation 6 of the Implementation and Discharge of Liability Regulations.

Penalties

9. Where any trustee or manager of an occupational pension scheme fails, without reasonable excuse, to comply with any requirement imposed under regulation 6, 7 or 8, the Regulatory Authority may require that trustee or manager to pay within 28 days from the date of its imposition, a penalty which shall not exceed—

- (a) £200 in the case of an individual, and
- (b) £1,000 in any other case.

Provision of information after receipt of an earmarking order

10.—(1) The person responsible for the pension arrangement shall, within 21 days beginning with the day that he receives—

- (a) an order under section 23 of the Matrimonial Causes Act 1973, so far as it includes provision made by virtue of section 25B or 25C of that Act (powers to include provision about pensions);
- (b) an order under section 12A(2) or (3) of the Family Law (Scotland) Act 1985; or
- (c) an order under Article 25 of the Matrimonial Causes (Northern Ireland) Order 1978, so far as it includes provision made by virtue of Article 27B or 27C of that Order (Northern Ireland powers corresponding to those mentioned in sub-paragraph (a)),

issue to the party with pension rights and the other party a notice which includes the information specified in paragraphs (2) and (5), or (3), (4) and (5), as the case may be.

(2) Where an order referred to in paragraph (1)(a), (b) or (c) is made in respect of the pension rights or benefits of a party with pension rights whose pension is not in payment, the notice issued by the person responsible for a pension arrangement to the party with pension rights and the other party shall include a list of the circumstances in respect of any changes of which the party with pension rights or the other party must notify the person responsible for the pension arrangement.

(3) Where an order referred to in paragraph (1)(a) or (c) is made in respect of the pension rights or benefits of a party with pension rights whose pension is in payment, the notice issued by the person responsible for a pension arrangement to the party with pension rights and the other party shall include—

- (a) the value of the pension rights or benefits of the party with pension rights;
- (b) the amount of the pension of the party with pension rights after the order has been implemented;
- (c) the first date when a payment pursuant to the order is to be made; and
- (d) a list of the circumstances, in respect of any changes of which the party with pension rights or the other party must notify the person responsible for the pension arrangement.

(4) Where an order referred to in paragraph (1)(a) or (c) is made in respect of the pension rights of a party with pension rights whose pension is in payment, the notice issued by the person responsible for a pension arrangement to the party with pension rights shall, in addition to the items specified in paragraph (3), include—

- (a) the amount of the pension of the party with pension rights which is currently in payment; and
- (b) the amount of pension which will be payable to the party with pension rights after the order has been implemented.

(5) Where an order referred to in paragraph (1)(a), (b) or (c) is made the notice issued by the person responsible for a pension arrangement to the party with pension rights and the other party shall include—

- (a) the amount of any charges which remain unpaid by—
 - (i) the party with pension rights; or
 - (ii) the other party,

in respect of the provision by the person responsible for the pension arrangement of information about pensions and divorce pursuant to regulation 3 of the Charging Regulations, and in respect of complying with an order referred to in paragraph (1)(a), (b) or (c); and

- (b) information as to the manner in which the person responsible for the pension arrangement will recover the charges referred to in sub-paragraph (a), including—
- (i) the date when payment of those charges in whole or in part is required;
 - (ii) the sum which will be payable by the party with pension rights or the other party, as the case may be; and
 - (iii) whether the sum will be deducted from payments of pension to the party with pension rights, or, as the case may be, from payments to be made to the other party pursuant to an order referred to in paragraph (1)(a), (b) or (c).

Signed by authority of the Secretary of State for Social Security

13th April 2000

Jeff Rooker
Minister of State,
Department of Social Security

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations set out the requirements imposed on a person responsible for a pension arrangement with respect to the supply of information to members and their spouses (or former spouses) in relation to pensions on divorce, separation or nullity.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 sets out what basic information persons responsible for a pension arrangement must provide to a member, his spouse or the court in relation to pensions on divorce, separation or nullity.

Regulation 3 provides for how valuations of pension benefits are to be calculated and verified for the purposes of the provision of information in respect of pensions on divorce, separation or nullity.

Regulation 4 specifies the information which a person responsible for a pension arrangement must provide to a member and his spouse in response to a notification that a pension sharing order or provision may be made, and the circumstances in which that information must be provided.

Regulation 5 sets out the information which will be required by the person responsible for the pension arrangement from the member and his former spouse before the implementation period may begin.

Regulation 6 specifies the information a person responsible for a pension arrangement must provide to the former spouse's representative, and the person who has been nominated by the former spouse to receive the pension credit benefit if the former spouse dies before liability in respect of the pension credit is discharged (the nominee).

Regulation 7 specifies the information a person responsible for a pension arrangement must provide to a member and his former spouse, or the nominee, as the case may be, when a pension sharing order or provision has been received.

Regulation 8 sets out the information which a person responsible for a pension arrangement must provide to a member and his former spouse, or the nominee, as the case may be, once a pension sharing order or provision has been implemented.

Regulation 9 sets out the maximum penalties which the Occupational Pensions Regulatory Authority may impose if the trustees or managers of an occupational pension scheme fail to comply with the requirements to furnish the information specified in regulation 6, 7 or 8 within the prescribed time limits.

Regulation 10 sets out the information which a person responsible for a pension arrangement must furnish to the party to the marriage with pension rights and the other party to the marriage after receiving an earmarking order.

An assessment of the cost to business of the provisions of the Welfare Reform and Pensions Act 1999, including these Regulations, is detailed in the Regulatory Impact Assessment for that Act. A copy of this Assessment has been placed in the libraries of both Houses of Parliament. Copies can be obtained by post from the Department of Social Security, Pensions on Divorce, 3rd Floor, The Adelphi, 1-11 John Adam Street, London WC2N 6HT.

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2000 No. 1048**PENSIONS****FAMILY LAW****The Pensions on Divorce etc. (Provision of Information)
Regulations 2000**

£3.00

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Printed and published in the UK by The Stationery Office Limited
under the authority and superintendence of Carol Tullo, Controller of
Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.
E838 4/00 502618 19585

ISBN 0-11-099125-7



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