

## STATUTORY INSTRUMENTS

### 2000 No. 1051

## The Pensions on Divorce etc. (Pension Sharing) (Scotland) Regulations 2000

### Citation, commencement and interpretation

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

(2) In these Regulations—

“the 1985 Act” means the Family Law (Scotland) Act 1985 <sup>M1</sup>;

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

[<sup>F1</sup> “excess amount” has the meaning given by section 47(4) of the 1999 Act; ]

[<sup>F2</sup> “shareable old state scheme rights” has the meaning given by section 47(2) of the 1999 Act; ]

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

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

“transferee” and “transferor” have, in regulations 2 and 3, the meaning given by section 29(8), and, in regulations 4 and 5, the meaning given by section 49(6) [<sup>F3</sup> or 49A(5)] of the 1999 Act.

#### Textual Amendments

**F1** Words in reg. 1(2) inserted (6.4.2016) by [The State Pension Regulations 2015 \(S.I. 2015/173\)](#), reg. 1(2), [Sch. para. 2\(2\)\(a\)](#) (with reg. 1(3))

**F2** Words in reg. 1(2) inserted (6.4.2016) by [The State Pension Regulations 2015 \(S.I. 2015/173\)](#), reg. 1(2), [Sch. para. 2\(2\)\(b\)](#) (with reg. 1(3))

**F3** Words in reg. 1(2) inserted (6.4.2016) by [The State Pension Regulations 2015 \(S.I. 2015/173\)](#), reg. 1(2), [Sch. para. 2\(2\)\(c\)](#) (with reg. 1(3))

#### Marginal Citations

**M1** 1985 c. 37.

### *Sharing of Rights under Pension Arrangements*

#### Prescribed form of provision corresponding to provision in a pension sharing order under the 1985 Act.

2. For the purposes of section 28(1)(f)(ii) of the 1999 Act, the provision which corresponds to the provision which may be made by a pension sharing order under the 1985 Act shall be in a form which contains in an annex to, and which is separable from, the qualifying agreement referred to in section 28(1)(f)(i) of the 1999 Act, the following information—

- (a) in relation to the party who is 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 and address of the pension arrangement to which the pension sharing provision relates, and
  - (vi) the transferor’s membership number or policy number in that pension arrangement;
- (b) in relation to the party who is 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 a pension credit is derived, his membership number in that pension arrangement;
- (c) details of—
  - (i) the amount to be transferred to the transferee, or
  - (ii) the specified percentage of the cash equivalent of the relevant benefits on the valuation day to be transferred to the transferee;
- (d) 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 a 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;
- (e) details of the provision about the apportionment (if any) made by the transferor and the transferee of liability for any charges levied by the person responsible for the pension arrangement in relation to pension sharing under Chapter I of Part IV of the 1999 Act, and
- (f) confirmation by the transferor that he has intimated to the pension arrangement his intention with respect to pension sharing and that the pension arrangement has acknowledged receipt of the intimation.

**Circumstances in which an agreement is to be entered into, in order to be considered a “qualifying agreement” under section 28(1)(f) of the 1999 Act.**

3. A qualifying agreement is, for the purposes of section 28(1)(f) of the 1999 Act, one which the transferor and transferee have entered into in order to determine the financial settlement on divorce<sup>F4</sup> or dissolution of a civil partnership] and in respect of which the transferor has intimated to the person responsible for a pension arrangement prior to the making of the agreement the intention to have the transferor’s pension rights under the pension arrangement shared with the transferee.

#### Textual Amendments

- F4** Words in [reg. 3](#) inserted (6.4.2007) by [Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/814\)](#), regs. 1, **10(2)**

### *Sharing of State Scheme Rights*

#### **Prescribed form of provision corresponding to provision in a pension sharing order under the 1985 Act.**

4. For the purposes of section 48(1)(f)(ii) of the 1999 Act, the provision which corresponds to the provision which may be made by a pension sharing order under the 1985 Act shall be in a form which contains in an annex to, and which is separable from, the qualifying agreement referred to in section 48(1)(f)(i) of the 1999 Act, the following information—

(a) in relation to the party who is the transferor—

- (i) full name;
- (ii) date of birth;
- (iii) address;
- (iv) national insurance number, and
- (v) [<sup>F5</sup>where section 49 of the 1999 Act applies,] details of the specified amount or, as appropriate, the specified percentage of the cash equivalent on the transfer day of the transferor's [<sup>F6</sup>relevant[<sup>F6</sup>shareable old]] state scheme rights immediately before that day; [<sup>F7</sup>or]

[<sup>F8</sup>(vi) where section 49A of the 1999 Act applies, details of the specified percentage of the excess amount of the transferor's state pension under section 4 of the Pensions Act 2014 as at the transfer day;]

(b) in relation to the party who is the transferee—

- (i) full name by which the transferee is or will be known;
- (ii) date of birth;
- (iii) address, and
- (iv) national insurance number, and

[<sup>F9</sup>(c) a statement by the transferor and the transferee that they have received confirmation from the Secretary of State that shareable state scheme rights are held in the name of the transferor and that on the—

- (i) grant of decree of divorce;
- (ii) declarator of nullity of marriage;
- (iii) dissolution of civil partnership; or
- (iv) declarator of nullity of civil partnership,

a pension sharing agreement will be implemented.]

#### Textual Amendments

- F5** Words in [reg. 4\(a\)\(v\)](#) inserted (6.4.2016) by [The State Pension Regulations 2015 \(S.I. 2015/173\)](#), [reg. 1\(2\)](#), [Sch. para. 2\(3\)\(a\)](#) (with [reg. 1\(3\)](#))

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**Changes to legislation:** There are currently no known outstanding effects for the *The Pensions on Divorce etc. (Pension Sharing) (Scotland) Regulations 2000*. (See end of Document for details)

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- F6** Words in reg. 4(a)(v) substituted (6.4.2016) by [The State Pension Regulations 2015 \(S.I. 2015/173\)](#), reg. 1(2), **Sch. para. 2(3)(b)** (with reg. 1(3))
- F7** Word in reg. 4(a)(v) inserted (6.4.2016) by [The State Pension Regulations 2015 \(S.I. 2015/173\)](#), reg. 1(2), **Sch. para. 2(3)(c)** (with reg. 1(3))
- F8** Reg. 4(a)(vi) inserted (6.4.2016) by [The State Pension Regulations 2015 \(S.I. 2015/173\)](#), reg. 1(2), **Sch. para. 2(4)** (with reg. 1(3))
- F9** Reg. 4(c) substituted (6.4.2007) by [Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/814\)](#), regs. 1, **10(3)**

**Circumstances in which an agreement is to be entered into, in order to be considered a “qualifying agreement” under section 48(1)(f) of the 1999 Act.**

5. A qualifying agreement is, for the purposes of section 48(1)(f) of the 1999 Act, one which the transferor and transferee have entered into in order to determine the financial settlement on divorce<sup>F10</sup> or dissolution of a civil partnership] and in respect of which they have received confirmation from the Secretary of State that shareable state scheme rights are held in the name of the transferor.

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**Textual Amendments**

- F10** Words in reg. 5 inserted (6.4.2007) by [Occupational and Personal Pension Schemes \(Miscellaneous Amendments\) Regulations 2007 \(S.I. 2007/814\)](#), regs. 1, **10(4)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Pensions on Divorce etc. (Pension Sharing) (Scotland) Regulations 2000.