

2001 No. 2649

PARLIAMENT

**The Parliamentary Pensions (Amendment)
(Pension Sharing) Regulations 2001**

Made - - - - - 19th July 2001

Laid before Parliament 20th July 2001

Coming into force - - 21st August 2001

The Leader of the House of Commons, in exercise of the powers conferred upon him by section 2(1) and (4) of the Parliamentary and other Pensions Act 1987(a), with the consent of the Minister for the Civil Service(b) and after consultation with the Trustees of the Parliamentary Contributory Pension Fund and with such persons as appeared to him to represent persons likely to be affected by the Regulations, hereby makes the following Regulations:

Title, commencement and interpretation

1.—(1) These Regulations may be cited as the Parliamentary Pensions (Amendment) (Pension Sharing) Regulations 2001 and shall come into force on 21st August 2001 but shall have effect from 1st December 2000.

(2) In these Regulations—

- (a) “the principal Regulations” means the Parliamentary Pension (Consolidation and Amendment) Regulations 1993(c);
- (b) “the 1995 Regulations” means the Parliamentary Pensions (Amendment) Regulations 1995(d);
- (c) “the AVC Regulations” means the Parliamentary Pensions (Additional Voluntary Contributions Scheme) Regulations 1993(e).

Amendments to the principal Regulations, the 1995 Regulations and to the AVC Regulations

2.—(1) The amendments to the principal Regulations set out in Schedule 1 to these Regulations shall have effect.

(a) 1987 c. 45.

(b) See the Transfer of Functions (Treasury and Minister for the Civil Service) Order (S.I. 1995/269), Article 3 and the Schedule.

(c) S.I. 1993/3253 was amended by S.I. 1996/2406, S.I. 1999/2100 and S.I. 2001/835 which contain amendments not relevant to these Regulations. S.I. 1993/3253 was also amended by S.I. 1995/2867 which does contain amendments relevant to these Regulations: see regulation 5 and the Schedule to those Regulations.

(d) S.I. 1995/2867.

(e) S.I. 1993/3252 was amended by S.I. 1999/780 which contains amendments not relevant to these Regulations.

(2) The amendments to the 1995 Regulations set out in Schedule 2 to these Regulations shall have effect.

(3) The amendments to the AVC Regulations set out in Schedule 3 to these Regulations shall have effect.

19th July 2001

Robin Cook
Leader of the House of Commons

I consent on behalf of the Minister for the Civil Service

19th July 2001

Macdonald of Tradeston

AMENDMENTS TO THE PRINCIPAL REGULATIONS

1. In the “Arrangement of Regulations” after Part R there shall be added:

“PART S
Pension Sharing
 S1 Pension Sharing on Divorce or Nullity: transfers out of pension credits”.
2. In the “Arrangement of Schedules” after “14. Refunds” there shall be added:

“**Schedule relating to Pension sharing on divorce or nullity**
 15. Transfers out of pension credits”.
3. In regulation A(2)—
 - (a) after the definition of “the Taxes Act 1988” there shall be inserted:

““the Welfare Act 1999” means the Welfare Reform and Pensions Act 1999(a) or corresponding Northern Ireland legislation and references to legislation under that Act also refer to corresponding Northern Ireland legislation;”;
 - (b) immediately before the definition of “actual period of reckonable service as a participating Member,” there shall be inserted:

““accrued pension rights” and any equivalent expression mean such rights after taking into account any reduction applied in accordance with section 31 of the Welfare Act 1999;”;
 - (c) after the definition of “the multiple” there shall be inserted:

““negative deferred pension” means the amount by which the pension debit member’s pension or deferred pension to which he would otherwise be entitled under these Regulations were it not for section 31 of the Welfare Act 1999 is reduced under that section;”;
 - (d) after the definition of “pension” there shall be inserted:

““pension credit” means a credit under section 29(1)(b) of the Welfare Act 1999;
 “pension debit” means a debit under section 29(1)(a) of the Welfare Act 1999;
 “pension debit member” means a person whose benefits or future benefits under these Regulations have been reduced in accordance with section 31 of the Welfare Act 1999.”.
4. In regulation F2—
 - (a) in paragraph (1) there shall be substituted for “paragraph (5)” the words “paragraphs (5) and (6)”;
 - (b) after paragraph (5) there shall be added:

“(6) If the pension payable to a person entitled to a pension under regulation F1 is subject to a pension debit, the amount of pension to which such person would be entitled under these Regulations if no pension debit applied to that pension shall be reduced in accordance with section 31 of the Welfare Act 1999.”.
5. In regulation F4 after paragraph (6) there shall be added:

“(7) If the pension payable to a person entitled to a pension under regulation F3 is subject to a pension debit, the amount of pension to which such person would be entitled under these Regulations if no pension debit applied to that pension shall be reduced in accordance with section 31 of the Welfare Act 1999.”.
6. In regulation F7—
 - (a) at the beginning there shall be added: “Except to the extent that regulation F2(6) or F4(7) applies;”;
 - (b) before “provision” there shall be inserted “other”.
7. In regulation G1 there shall be added after paragraph (6):

“(7) Paragraph (5) shall not apply where regulation F2(6) or F4(7) applies to a pension. In such case the maximum commutable sum shall not exceed the greater of:

 - (a) 2.25 x the initial annual pension payable under regulation F2 or F4 as the case may be, or
 - (b) an amount determined under regulation G1(5) as if there had been no pension debit, less 2.25 x the negative deferred pension.

(8) Where Regulation F2(6) or F4(7) applies to a pension, “pension” in this regulation shall mean the reduced pension in accordance with section 31 of the Welfare Act 1999.”.

(a) 1999 c. 30.

8. In regulation N1(1)—
 - (a) for “and” the first time that word appears there shall be substituted “,”;
 - (b) after “(6)” there shall be inserted “and regulation N7”.
9. In regulation N2 at the beginning there shall be added “Subject to regulation N7,”.
10. In regulations N3(1) and N4(1) at the beginning there shall be added “Subject to regulation N7,”.
11. After regulation N6 there shall be added:

“Pension debits

N7. Where the person who has paid contributions is a pension debit member, regulations N1, N2, N3 and N4 shall apply after taking into account, as appropriate, any order or provision specified in section 28 of the Welfare Act 1999 to which that person is subject.”.
12. In regulations P1(1), P2(1)(c), P3(1) after the words “guaranteed minimum pension” there shall be inserted the words “subject to any reduction applied in accordance with section 31 of the Welfare Act 1999,”.
13. In regulation P6—
 - (a) in paragraph (1) at the beginning there shall be added “Subject to paragraph (5),”;
 - (b) after paragraph (4) there shall be added:

“(5) The Trustees shall not receive any sums payable by way of transfer value arising directly or indirectly from a pension credit awarded to any person described in paragraph (1) under any other scheme or arrangement.”.
14. In regulation R1(1) at the end there shall be inserted “except to the extent permitted by section 44 of the Welfare Act 1999”.
15. After Part R there shall be added the following new part:

“PART S

PENSION SHARING

Pension sharing on divorce or nullity: transfers out of pension credits

S1. Schedule 15 has effect with respect to transfers out of pension credits.”.

16. In Schedule 2—
 - (a) after paragraph 3(4) there shall be added:

“(5) For the purposes of this paragraph, references to “pension” in sub-paragraphs (1), (2) and (3) and to “total retirement benefit” in sub-paragraph (4) shall be calculated without taking account of any reduction which must be applied to those benefits in accordance with section 31 of the Welfare Act 1999.”.
 - (b) after paragraph 4(4) there shall be added:

“(5) For the purposes of this paragraph “pension” shall be calculated without taking into account any reduction which must be applied to that pension in accordance with section 31 of the Welfare Act 1999.”.
17. In Schedule 14—
 - (a) at the beginning there shall be added “(1)”;
 - (b) at the end there shall be added:

“(2) Sub-paragraph (1) shall apply after taking into account, as appropriate, any order or provision specified in section 28 of the Welfare Act 1999 to which that person is subject.”.
18. After Schedule 14 there shall be inserted the following Schedule:

Pension sharing on divorce or nullity: transfers out of pension credits

1. In this Schedule, unless the context otherwise requires—
 - “ex-spouse” means a person entitled to a pension credit giving rise to a liability upon the Trustees within the meaning of section 29(1)(b) of the Welfare Act 1999;
 - “implementation period” means the four month period specified in section 34(1) of the Welfare Act 1999(a) subject to any regulations made by the Secretary of State under section 34(4) or section 41(2)(a) of that Act or any extension granted by the Occupational Pensions Regulatory Authority in accordance with section 33(4) of that Act;
 - “pension sharing order” means any provision or order specified in section 28 of the Welfare Act 1999 giving rise to a liability upon the Trustees in respect of a pension credit;
 - “qualifying arrangement” means an arrangement specified in paragraph 6 of Schedule 5 to the Welfare Act 1999 which is not disqualified by virtue of paragraph 7 of that Schedule.

Discharge of liability of pension credit

- 2.—(1) Following the making of a pension sharing order the Trustees shall, within the implementation period, pay the amount of the ex-spouse’s pension credit, as calculated in accordance with paragraph 3, to the person responsible for a qualifying arrangement with a view to acquiring rights under that arrangement for the ex-spouse if:
 - (a) the person responsible for that arrangement is able and willing to accept payment of the credit, and
 - (b) sub-paragraph (2) or (3) applies.
- (2) The ex-spouse has consented to the Trustees making such payment to that qualifying arrangement.
- (3) Where the ex-spouse has not given consent for the purposes of sub-paragraph (2), the qualifying arrangement is one which the Trustees have determined at their discretion.
- (4) For the avoidance of doubt the Trustees must, before making a payment under sub-paragraph (3), attempt to make a payment under sub-paragraph (2).

Amount of pension credit: calculation of cash equivalent

3. For the purposes of paragraph 2, the amount of pension credit shall be such sum as shall satisfy the requirements prescribed for the time being under section 30 of the Welfare Act 1999(b).

Death of ex-spouse before liability in respect of pension credit is discharged

- 4.—(1) If the ex-spouse dies before the Trustees have discharged their liability in respect of an ex-spouse’s pension credit, the Trustees shall discharge their liability in accordance with this paragraph.
 - (2) The ex-spouse may nominate in writing in such form as the Trustees may require one or more persons to receive his pension credit in accordance with the provisions of this paragraph.
 - (3) If the Trustees receive a nomination in accordance with sub-paragraph (2) they may, if they think fit, pay to the person or persons nominated by the ex-spouse a lump sum the aggregate of which is equal to 25% of the amount of pension credit calculated in accordance with paragraph 3.
 - (4) If the Trustees do not make any payment to a person or persons nominated by the ex-spouse in accordance with sub-paragraph (3), they shall pay to the deceased ex-spouse’s personal representatives a lump sum which is equal to 25% of the amount of pension credit calculated in accordance with paragraph 3.
 - (5) With the balance of the pension credit remaining after making a payment under sub-paragraph (3) or (4) the Trustees may, if they think fit, enter into an annuity contract or take out a policy of insurance on behalf of a dependant or dependants of the ex-spouse as defined in sub-paragraph (8), provided that such contract or policy satisfies the requirements of regulation 6(3) of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000(c).
 - (6) A pension paid to one or more dependants in consequence of an annuity contract or policy of insurance shall not exceed:
 - (a) in the case of a single dependant, two thirds of the amount of pension which could have been paid to the ex-spouse had the whole of the pension credit, calculated in accordance with paragraph 3,

(a) See S.I. 2000/1049, regulation 7.

(b) See S.I. 2000/1052, regulations 3, 4 and 5.

(c) S.I. 2000/1053 as amended by S.I. 2000/2691, regulation 11.

been used to enter into an annuity contract or to take out a policy of insurance on behalf of the ex-spouse and assuming, if the ex-spouse died before reaching the age of 50, that the ex-spouse had reached the age of 50 immediately before death;

- (b) where a pension is paid to two or more dependants, the total amount of such pension which could have been paid to the ex-spouse calculated in accordance with paragraph (a).

(7) The balance of any pension credit held by the Trustees after applying the provisions of this paragraph shall be retained by the Fund.

(8) In this paragraph “dependants” means any widow or widower of the ex-spouse or any child of the ex-spouse as defined in regulation K3 (5).

Charging

5. The Trustees may recover charges incurred in connection with any of the activities prescribed for the time being under section 41 of the Welfare Act 1999 and in accordance with, and to the extent prescribed (a).”.

SCHEDULE 2

REGULATION 2(2)

AMENDMENTS TO THE 1995 REGULATIONS

1. In the Schedule to the 1995 Regulations, paragraph 4—
 - (a) in sub-paragraph (1) there shall be added at the beginning “Subject to sub-paragraph (6)”;
 - (b) after sub-paragraph (5) there shall be added:
“(6) Sub-paragraph (1) shall apply after taking into account, as appropriate, any order or provision specified in section 28 of the Welfare Act 1999 to which that person is subject.”.

SCHEDULE 3

REGULATION 2(3)

AMENDMENTS TO THE AVC REGULATIONS

1. In regulation 2—
 - (a) after the definition of “the Taxes Act 1988” there shall be inserted:
““the Welfare Act 1999” means the Welfare Reform and Pensions Act 1999^(b) or corresponding Northern Ireland legislation and references to legislation under that Act also refer to corresponding Northern Ireland legislation;”;
 - (b) after the definition of “maximum pension” there shall be inserted:
““pension debit” means a debit under section 29(1)(a) of the Welfare Act 1999;”.
2. In regulation 7—
 - (a) in paragraph (1) after “subject to” there shall be inserted “paragraph (5) and to”;
 - (b) after paragraph (4) there shall be added:
“(5) If the benefits payable to a contributor under this regulation are subject to a pension debit, the benefits which would be payable under this regulation if no pension debit applied to those benefits shall be reduced to the extent required by section 31 of the Welfare Act 1999.”.
3. In regulation 10 after “contributions paid by the contributor” at the end there shall be inserted “,after taking into account any reduction applied in accordance with section 31 of the Welfare Act 1999”.
4. In regulation 16 after the words “shall be void” there shall be inserted: “except to the extent permitted by section 44 of the Welfare Act 1999”.
5. After regulation 16 there shall be inserted:
“Pension sharing on divorce or nullity: transfers out of pension credits
17. Schedule 3 has effect with respect to transfers out of pension credits.”.
6. In Schedule 2—
 - (a) after paragraph 2(4) there shall be added:
“(5) For the purposes of this paragraph, references to “pension” in sub-paragraphs (1), (2) and (3)

(a) See S.I. 2000/1049.

(b) 1999 c. 30.

and to “total retirement benefit” in sub-paragraph (4) shall be calculated without taking account of any reduction which must be applied to those benefits in accordance with section 31 of the Welfare Act 1999.”.

(b) after paragraph 3(3) there shall be added:

“(4) For the purposes of this paragraph “pension” shall be calculated without taking into account any reduction which must be applied to that pension in accordance with section 31 of the Welfare Act 1999.”.

7. After Schedule 2 there shall be added:

“

SCHEDULE 3

REGULATION 17

Pension sharing on divorce or nullity: transfers out of pension credits

1. In this Schedule, unless the context otherwise requires—

“ex-spouse” means a person entitled to a pension credit giving rise to a liability upon the Trustees within the meaning of section 29(1)(b) of the Welfare Act 1999;

“implementation period” means the four month period specified in section 34(1) of the Welfare Act 1999 subject to any regulations made by the Secretary of State under section 34(4) or section 41(2)(a) of that Act^(a) or any extension granted by the Occupational Pensions Regulatory Authority in accordance with section 33(4) of that Act;

“pension sharing order” means any provision or order specified in section 28 of the Welfare Act 1999 giving rise to a liability upon the Trustees in respect of a pension credit;

“qualifying arrangement” means an arrangement specified in paragraph 6 of Schedule 5 to the Welfare Act 1999 which is not disqualified by virtue of paragraph 7 of that Schedule.

Discharge of liability of pension credit

2.—(1) Following the making of a pension sharing order the Trustees shall, within the implementation period, pay the amount of the ex-spouse’s pension credit, as calculated in accordance with paragraph 3, to the person responsible for a qualifying arrangement with a view to acquiring rights under that arrangement for the ex-spouse if:

(a) the person responsible for that arrangement is able and willing to accept payment of the credit, and

(b) sub-paragraph (2) or (3) applies.

(2) The ex-spouse has consented to the Trustees making such payment to that qualifying arrangement.

(3) Where the ex-spouse has not given consent for the purposes of sub-paragraph (2), the qualifying arrangement is one which the Trustees have determined at their discretion.

(4) For the avoidance of doubt the Trustees must, before making a payment under sub-paragraph (3), attempt to make a payment under sub-paragraph (2).

Amount of pension credit: calculation of cash equivalent

3. For the purposes of paragraph 2, the amount of pension credit shall be such sum as shall satisfy the requirements prescribed for the time being under section 30 of the Welfare Act 1999^(b).

Death of ex-spouse before liability in respect of pension credit is discharged

4.—(1) If the ex-spouse dies before the Trustees have discharged their liability in respect of an ex-spouse’s pension credit, the Trustees shall discharge their liability in accordance with this paragraph.

(2) The ex-spouse may nominate in writing in such form as the Trustees may require one or more persons to receive his pension credit in accordance with the provisions of this paragraph.

(3) If the Trustees receive a nomination in accordance with sub-paragraph (2) they may, if they think fit, pay to the person or persons nominated by the ex-spouse a lump sum the aggregate of which is equal to 25% of the amount of pension credit calculated in accordance with paragraph 3.

(4) If the Trustees do not make any payment to a person or persons nominated by the ex-spouse in accordance with sub-paragraph (3), they shall pay to the deceased ex-spouse’s personal representatives a lump sum which is equal to 25% of the amount of pension credit calculated in accordance with paragraph 3.

(a) See S.I. 2000/1049, regulation 7.

(b) See S.I. 2000/1052, regulations 3, 4 and 5.

(5) With the balance of the pension credit remaining after making a payment under sub-paragraph (3) or (4) the Trustees may, if they think fit, enter into an annuity contract or take out a policy of insurance on behalf of a dependant or dependants of the ex-spouse as defined in sub-paragraph (8), provided that such contract or policy satisfies the requirements of regulation 6(3) of the Pension Sharing (Implementation and Discharge of Liability) Regulations 2000^(a).

(6) A pension paid to one or more dependants in consequence of an annuity contract or policy of insurance shall not exceed:

- (a) in the case of a single dependant, two thirds of the amount of pension which could have been paid to the ex-spouse had the whole of the pension credit, calculated in accordance with paragraph 3, been used to enter into an annuity contract or to take out a policy of insurance on behalf of the ex-spouse and assuming, if the ex-spouse died before reaching the age of 50, that the ex-spouse had reached the age of 50 immediately before death;
- (b) where a pension is paid to two or more dependants, the total amount of such pension which could have been paid to the ex-spouse calculated in accordance with paragraph (a).

(7) The balance of any pension credit held by the Trustees after applying the provisions of this paragraph shall be retained by the Parliamentary Contributory Pension Fund.

(8) In this paragraph “dependants” means any widow or widower of the ex-spouse or any child of the ex-spouse as defined in regulation K3 (5) of the principal scheme.

Charging

5. The Trustees may recover charges incurred in connection with any of the activities prescribed for the time being under section 41 of the Welfare Act 1999 and in accordance with, and to the extent prescribed (b).³.

(a) S.I. 2000/1053 as amended by S.I. 2000/2691, regulation 11.
(b) See S.I. 2000/1049.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the main pension scheme and the AVC scheme (constituted by Regulations under the Parliamentary and other Pensions Act 1987) for Members of the House of Commons and certain office holders specified in that Act. The effect of the amendments is to enable pension sharing orders and similar provisions to be implemented in respect of those schemes pursuant to the Welfare Reform and Pensions Act 1999 (the Act).

Schedules 1 and 2 of these Regulations amend the main scheme. Schedule 3 amends the AVC scheme.

Provision is made to enable each scheme to take account of pension credits and pension debits. A pension credit is the amount awarded to an ex-spouse of a member of the scheme and represents a percentage of the member's pension benefits (including future pension benefits) following a pension sharing order or equivalent. Pension debits represent the amount by which a member's pension benefits, including future benefits, are reduced following a pension sharing order or equivalent.

Ex-spouses of members of either scheme who are awarded pension credits will be entitled to a cash equivalent transfer payment equal to the pension credit. This payment must be transferred to another scheme or arrangement provided that the scheme or arrangement is able and willing to accept the transfer payment and otherwise meets the requirements of the Act. The ex-spouse may nominate a scheme or arrangement to accept the transfer. If the Trustees are not able to make a transfer payment to the scheme or arrangement of the ex-spouse's choice they may make a payment to another scheme or arrangement of their choosing.

If the ex-spouse dies before the Trustees have made such a payment, a lump sum representing 25% of the cash equivalent of the pension credit may, at the Trustees' discretion, be paid to a person nominated by the deceased or to the deceased's dependants. If no such lump sum is paid at the Trustees' discretion, a lump sum representing 25% of the cash equivalent of the pension credit must be paid to the deceased's personal representatives. In any case where a lump sum has been paid the Trustees may at their discretion use the balance to take out an insurance policy or annuity contract on behalf of any dependants. Any remaining funds must be retained by the Parliamentary Contributory Pension Fund.

Under these Regulations a member of either scheme subject to a pension debit following a pension sharing order or equivalent will have his benefits reduced under that scheme in accordance with section 31 of the Act. Benefits payable to the member's dependants are also reduced to take account of the reduced pension.

These Regulations have effect from 1st December 2000. Section 2(4) of the Parliamentary and other Pensions Act 1987 provides that regulations made under that section may have retrospective effect.

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(Pension Sharing) Regulations 2001**

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