

SCHEDULE 1

PENSION SHARING ON DIVORCE OR NULLITY OF MARRIAGE OR DISSOLUTION OR NULLITY OF CIVIL PARTNERSHIP

Discharge of liability in respect of a pension credit

1.—(1) Where the Scottish Ministers discharge their liability in respect of a pension credit in accordance with sub-paragraph (2) of paragraph 1 of schedule 5 of the 1999 Act the appropriate rights must be invested under paragraph 2 to provide for the purchase from an insurance company of an annuity which complies with the requirements of sub-paragraph (5) below.

(2) Where sub-paragraph (1) applies, the person entitled to the pension credit may elect, by giving written notice to the Scottish Ministers, the authorised fund or funds in which the appropriate rights are to be invested.

(3) The Scottish Ministers must notify in writing the person who has made an election under sub-paragraph (2) of the Scottish Ministers acceptance of that election.

(4) Once an election has been made under sub-paragraph (2) it must not be varied or cancelled after liability in respect of the pension credit has been discharged by the Scottish Ministers.

(5) An annuity complies with the requirements of this paragraph if—

- (a) it provides a pension which commences not earlier than normal benefit age and is payable to the pension credit member for life;
- (b) subject to paragraph (6), any dependant's pension which is payable under it is payable only on the death of the pension credit member after that member has attained normal benefit age and is payable to the dependant for life; and
- (c) it is not capable in whole or in part of surrender, assignment or commutation.

(6) In the case of a person who is a child to whom—

- (a) Part H of the 2011 Regulations (dependent child allowance) applies;
- (b) regulation 2.E.9 or 3.E.9 of the 2013 Regulations (meaning of dependent child) applies; or
- (c) regulation 121 of the 2015 Regulations (eligible child) applies,

a pension referred to in paragraph (5)(b) ceases to be payable when that person ceases to be a dependent child within the meaning of whichever of the Regulations in sub-paragraph (6)(a), (b) or (c) applies.

(7) Sub-paragraph (5) does not apply where, in accordance with paragraph 4(6), a pension credit member elects to be provided with alternative benefits referred to in paragraph 4(7).