



# Welfare Reform and Pensions Act 1999

## 1999 CHAPTER 30

### PART III

#### PENSIONS ON DIVORCE ETC.

##### *Pension sharing orders*

#### **19 Orders in England and Wales**

Schedule 3 (which amends the Matrimonial Causes Act 1973 for the purpose of enabling the court to make pension sharing orders in connection with proceedings in England and Wales for divorce or nullity of marriage, and for supplementary purposes) shall have effect.

#### **20 Orders in Scotland**

- (1) The Family Law (Scotland) Act 1985 shall be amended as follows.
- (2) In section 8(1) (orders for financial provision), after paragraph (b) there shall be inserted—
  - “(baa) a pension sharing order.”
- (3) In section 27 (interpretation), in subsection (1), there shall be inserted at the appropriate place—
  - ““pension sharing order” is an order which—
    - (a) provides that one party's—
      - (i) shareable rights under a specified pension arrangement, or
      - (ii) shareable state scheme rights,
    - (b) specifies the percentage value, or the amount, to be transferred;”.
- (4) In that section, after subsection (1) there shall be inserted—
  - “(1A) In subsection (1), in the definition of “pension sharing order”—

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- (a) the reference to shareable rights under a pension arrangement is to rights in relation to which pension sharing is available under Chapter I of Part IV of the Welfare Reform and Pensions Act 1999, or under corresponding Northern Ireland legislation, and
- (b) the reference to shareable state scheme rights is to rights in relation to which pension sharing is available under Chapter II of Part IV of the Welfare Reform and Pensions Act 1999, or under corresponding Northern Ireland legislation.”

*Sections 25B to 25D of the Matrimonial Causes Act 1973*

## **21 Amendments**

Schedule 4 (which amends the sections about pensions inserted in the Matrimonial Causes Act 1973 by section 166 of the Pensions Act 1995) shall have effect.

## **22 Extension to overseas divorces etc**

- (1) Part III of the Matrimonial and Family Proceedings Act 1984 (financial relief in England and Wales after overseas divorce etc.) shall be amended as follows.
- (2) In section 18 (matters to which the court is to have regard in exercising its powers to make orders for financial relief), after subsection (3) there shall be inserted—
  - “(3A) The matters to which the court is to have regard under subsection (3) above—
    - (a) so far as relating to paragraph (a) of section 25(2) of the 1973 Act, include any benefits under a pension arrangement which a party to the marriage has or is likely to have (whether or not in the foreseeable future), and
    - (b) so far as relating to paragraph (h) of that provision, include any benefits under a pension arrangement which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring.”
- (3) In that section, at the end there shall be added—
  - “(7) In this section—
    - (a) “pension arrangement” has the meaning given by section 25D(3) of the 1973 Act, and
    - (b) references to benefits under a pension arrangement include any benefits by way of pension, whether under a pension arrangement or not.”
- (4) In section 21 (application of provisions of Part II of the Matrimonial Causes Act 1973), the existing provision shall become subsection (1) and, in that subsection, after paragraph (b) there shall be inserted—
  - “(bd) section 25B(3) to (7B) (power, by financial provision order, to attach payments under a pension arrangement, or to require the exercise of a right of commutation under such an arrangement);
  - (be) section 25C (extension of lump sum powers in relation to death benefits under a pension arrangement);”.
- (5) In that section, after subsection (1) there shall be inserted—

- “(2) Subsection (1)(bd) and (be) above shall not apply where the court has jurisdiction to entertain an application for an order for financial relief by reason only of the situation in England or Wales of a dwelling-house which was a matrimonial home of the parties.
- (3) Section 25D(1) of the 1973 Act (effect of transfers on orders relating to rights under a pension arrangement) shall apply in relation to an order made under section 17 above by virtue of subsection (1)(bd) or (be) above as it applies in relation to an order made under section 23 of that Act by virtue of section 25B or 25C of the 1973 Act.
- (4) The Lord Chancellor may by regulations make for the purposes of this Part of this Act provision corresponding to any provision which may be made by him under subsections (2) to (2B) of section 25D of the 1973 Act.
- (5) Power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

#### *Miscellaneous*

### **23 Supply of pension information in connection with divorce etc**

- (1) The Secretary of State may by regulations—
- (a) make provision imposing on the person responsible for a pension arrangement, or on the Secretary of State, requirements with respect to the supply of information relevant to any power with respect to—
    - (i) financial relief under Part II of the Matrimonial Causes Act 1973 or Part III of the Matrimonial and Family Proceedings Act 1984 (England and Wales powers in relation to domestic and overseas divorce etc.),
    - (ii) financial provision under the Family Law (Scotland) Act 1985 or Part IV of the Matrimonial and Family Proceedings Act 1984 (corresponding Scottish powers), or
    - (iii) financial relief under Part III of the Matrimonial Causes (Northern Ireland) Order 1978 or Part IV of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (corresponding Northern Ireland powers);
  - (b) make provision about calculation and verification in relation to the valuation of—
    - (i) benefits under a pension arrangement, or
    - (ii) shareable state scheme rights,for the purposes of regulations under paragraph (a)(i) or (iii);
  - (c) make provision about calculation and verification in relation to—
    - (i) the valuation of shareable rights under a pension arrangement or shareable state scheme rights for the purposes of regulations under paragraph (a)(ii), so far as relating to the making of orders for financial provision (within the meaning of the Family Law (Scotland) Act 1985), or

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- (ii) the valuation of benefits under a pension arrangement for the purposes of such regulations, so far as relating to the making of orders under section 12A of that Act;
  - (d) make provision for the purpose of enabling the person responsible for a pension arrangement to recover prescribed charges in respect of providing information in accordance with regulations under paragraph (a).
- (2) Regulations under subsection (1)(b) or (c) may include provision for calculation or verification in accordance with guidance from time to time prepared by a person prescribed by the regulations.
- (3) Regulations under subsection (1)(d) may include provision for the application in prescribed circumstances, with or without modification, of any provision made by virtue of section 41(2).
- (4) In subsection (1)—
- (a) the reference in paragraph (c)(i) to shareable rights under a pension arrangement is to rights in relation to which pension sharing is available under Chapter I of Part IV, or under corresponding Northern Ireland legislation, and
  - (b) the references to shareable state scheme rights are to rights in relation to which pension sharing is available under Chapter II of Part IV, or under corresponding Northern Ireland legislation.

## **24 Charges by pension arrangements in relation to earmarking orders**

The Secretary of State may by regulations make provision for the purpose of enabling the person responsible for a pension arrangement to recover prescribed charges in respect of complying with—

- (a) an order under section 23 of the Matrimonial Causes Act 1973 (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 (powers to include provision about pensions),
- (b) an order under section 12A(2) or (3) of the Family Law (Scotland) Act 1985 (powers in relation to pensions lump sums when making a capital sum order), 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 paragraph (a)).

### *Supplementary*

## **25 Power to make consequential amendments of Part III**

- (1) If any amendment by the Family Law Act 1996 of Part II or IV of the Matrimonial Causes Act 1973 comes into force before the day on which any provision of this Part comes into force, the Lord Chancellor may by order make such consequential amendment of that provision as he thinks fit.
- (2) No order under this section may be made unless a draft of the order has been laid before and approved by resolution of each House of Parliament.

## 26 Interpretation of Part III

(1) In this Part—

“occupational pension scheme” has the same meaning as in the Pension Schemes Act 1993;

“pension arrangement” means

- (a) an occupational pension scheme,
- (b) a personal pension scheme,
- (c) a retirement annuity contract,
- (d) an annuity or insurance policy purchased, or transferred, for the purpose of giving effect to rights under an occupational pension scheme or a personal pension scheme, and
- (e) an annuity purchased, or entered into, for the purpose of discharging liability in respect of a pension credit under section 29(1)(b) or under corresponding Northern Ireland legislation;

“personal pension scheme” has the same meaning as in the Pension Schemes Act 1993;

“prescribed” means prescribed by regulations made by the Secretary of State;

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

“trustees or managers”, in relation to an occupational pension scheme or a personal pension scheme, means—

- (a) in the case of a scheme established under a trust, the trustees of the scheme, and
- (b) in any other case, the managers of the scheme.

(2) References to the person responsible for a pension arrangement are—

- (a) in the case of an occupational pension scheme or a personal pension scheme, to the trustees or managers of the scheme,
- (b) in the case of a retirement annuity contract or an annuity falling within paragraph (d) or (e) of the definition of “pension arrangement” above, the provider of the annuity, and
- (c) in the case of an insurance policy falling within paragraph (d) of the definition of that expression, the insurer.