

PENSIONS ACT 2008

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 6: Pension compensation sharing and attachment on divorce etc: England and Wales

327. *Schedule 6* makes various amendments to family legislation in respect of England and Wales to enable the courts to make pension compensation sharing orders and attachment orders in respect of pension compensation paid by the Pension Protection Fund.
328. *Part 1* amends MCA 1973.
329. *New section 24E* (Pension compensation sharing orders in connection with divorce proceedings) sets out the circumstances in which a pension compensation sharing order may be made. The circumstances mirror those set out in relation to the making of a pension sharing order in section 24B of the MCA 1973. The effect of this provision is that pension sharing will not be available in relation to rights which have already been shared between parties. Nor will it be available in relation to rights which are the subject of attachment (whether in favour of one of the parties or in favour of a third party).
330. *New section 24F* (Pension compensation orders: duty to stay) provides powers to the Lord Chancellor to specify in regulations when the implementation of a sharing order is delayed. This mirrors the existing provision made in relation to pension sharing orders made by section 24C and will allow time for any appeals arising from the order to be heard.
331. *New section 24G* (Pension compensation sharing orders: apportionment of charges) mirrors the existing provision made in relation to pension sharing orders by section 24D and provides that a court order may provide for the apportionment of any charge made by the Board of the Pension Protection Fund under section 117 (charges in respect of compensation sharing costs).
332. *Paragraphs 4 to 6* of the Schedule make consequential amendments to other provisions in the MCA 1973 following from the other amendments in the Schedule, such as adding cross-references to the new sections.
333. *Paragraph 7* makes provision in the MCA 1973 allowing for the making of attachment orders by inserting new sections 25F and 25G. These ensure that the court may make attachment orders in respect of Pension Protection Fund compensation in a similar way to the making of attachment orders in respect of pensions under the current provisions of sections 25B and 25D of the MCA1973.
334. An attachment order is an alternative to a pension sharing order that will be available to the court on divorce etc. where one of the parties has rights to pension compensation. It is a less drastic alternative in that it does not involve the complications of dividing the rights. An attachment order simply requires the Board to subtract a specified amount from each payment it makes to one party and send it instead to the other party.

*These notes refer to the Pensions Act 2008 (c.30)
which received Royal Assent on 26 November 2008*

335. *New section 25G* (Attachment of pension compensation: supplementary) mirrors section 25D and allows the Lord Chancellor, through regulations, to specify in relation to the implementation of an attachment order under section 25F the manner in which the Pension Protection Fund discharges its liability, the manner in which payment is calculated and is made, and the information to be provided in relation to payments.
336. *Paragraph 8* makes consequential amendments to section 31 (variation, discharge etc of certain orders for financial relief) of the MCA 1973 to reflect the amendments made to that Act by this Schedule, such as inserting necessary cross-references to the new sections and references to compensation sharing orders.
337. *Paragraph 9* inserts a new section 40B (appeals relating to pension compensation sharing orders which have taken effect) into the MCA 1973. This new section allows the court to make such further orders as required to put the parties, including the Board of the Pensions Protection Fund, in the appropriate position following a successful appeal.
338. *Part 2* of the Schedule makes amendments to the Matrimonial and Family Proceedings Act 1984 so that the provisions of that Act relating to the making of financial provision after overseas settlements on divorce, such as the making of interim orders and orders relating to financial provision and property adjustment also apply to, and enable the making of, orders in relation to Pension Protection Fund compensation under the various provisions inserted into the MCA1973 by this Schedule.
339. *Part 3* amends the civil partnership legislation. The amendments correspond with those made to the matrimonial legislation by Part 1.