

## SCHEDULE 3

Article 6

Pension sharing orders, pension attachment orders and other orders related to earnings

### Interpretation

1. In this Schedule—

“Attachment of Earnings Order” means—

- (a) an order made under section 1 of the Attachment of Earnings Act 1971(1);
- (b) an order made under Articles 73 or 99 of the Judgments Enforcement (Northern Ireland) Order 1981(2);

“Cut-Off Date” means 31 March 2012;

“Deductions from Earnings Order” means—

- (a) an order made under section 31 of the Child Support Act 1991(3); or
- (b) an order made under Article 31 of the Child Support (Northern Ireland) Order 1991(4);

“Earnings Arrestment Schedule” has the meaning given in section 47(2) of the Debtors (Scotland) Act 1987(5);

“money purchase benefits” has the meaning given in the RMSPS Rules;

“Pension Attachment Order” means—

- (a) an order made under section 23 of the Matrimonial Causes Act 1973(6) or section 17 of the Matrimonial and Family Proceedings Act 1984(7) by virtue of section 25B or section 25C of the Matrimonial Causes Act 1973,
- (b) an order made under Part 1 of Schedule 5 or paragraph 9 of schedule 7 of the Civil Partnership Act 2004(8) by virtue of Part 6 of Schedule 5 of that Act,
- (c) an order made under Article 25 of the Matrimonial Causes (Northern Ireland) Order 1978(9) or Article 21 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989(10) by virtue of Article 27B or 27C of the Matrimonial Causes (Northern Ireland) Order 1978,
- (d) an order made under Part 1 of Schedule 15 or paragraph 9 of Schedule 17 of the Civil Partnership Act 2004 by virtue of Part 5 of Schedule 15 of that Act,
- (e) an order made under section 8 of the Family Law (Scotland) Act 1985(11) by virtue of section 12A of that Act,
- (f) an order made under Part IV of the Matrimonial and Family Proceedings Act 1984(12) corresponding to such order as is mentioned in paragraph (v), or
- (g) an order made under paragraph 2 of Schedule 11 of the Civil Partnership Act 2004 corresponding to such order as is mentioned in paragraph (v);

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(1) 1971 c.32.

(2) S.I. 1981/225 (N.I. 6).

(3) 1991 c.48.

(4) S.I. 1991/2628 (N.I. 23).

(5) 1987 c.18.

(6) 1973 c.18. Section 23 amended by Family Law Act 1996, section 15, schedule 2, paragraph 5.

(7) 1984 c.42.

(8) 2004 c.33.

(9) S.I. 1978/1045 (N.I. 15).

(10) S.I. 1989/677 (N.I. 4).

(11) 1985 c.37. Section 12A inserted by the Pensions Act 1995, section 167(3).

(12) 1984 c.42.

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“Pension Credit” means a credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999(13);

“Pension Sharing Order” means an order made under section 24B of the Matrimonial Causes Act 1973(14) or other order or provision mentioned in section 28(1) of the Welfare Reform and Pensions Act 1999;

“person responsible” means a person responsible under—

- (a) section 25D(1) of the Matrimonial Causes Act 1973(15),
- (b) Article 27D(1) of the Matrimonial Causes (Northern Ireland) Order 1978,
- (c) paragraph 27 of Schedule 5 of the Civil Partnership Act 2004,
- (d) paragraph 22 of Schedule 15 of the Civil Partnership Act 2004, or
- (e) section 12A(6) of the Family Law (Scotland) Act 1985;

“Relevant Scottish Order” has the meaning given in paragraph 4;

“shareable rights” has the meaning given in section 27(2) of the Welfare Reform and Pensions Act 1999(16) and Article 23A(a) of the Matrimonial Causes (Northern Ireland) Order 1978;

“Voluntary Deduction from Earnings Arrangement” means an arrangement whereby one person gives authority for payments to be made on their behalf to another person or to an account of that other person in accordance with section 28J of the Child Support Act 1991(17) or the Child Support (Voluntary Payments) Regulations 2000(18).

## **Pension Sharing Orders**

**2.** A Pension Sharing Order made on or before the Cut-Off Date in respect of shareable rights under the RMPP which has not been implemented on or before the Cut-Off Date in relation to any person who is a pensioner or deferred pensioner of the RMPP at the end of the Cut-Off Date shall be implemented in the RMSPS.

**3.** A Pension Sharing Order made on or before the Cut-Off Date in respect of shareable rights under the RMPP which has not been implemented on or before the Cut-Off Date in relation to any person who is an active member of the RMPP at the end of the Cut-Off Date has effect as if a separate Pension Sharing Order had been made in respect of the RMSPS in relation to the rights accrued by that member and shall accordingly be implemented in the RMSPS in relation to those rights, with the order being deemed to be subject to any adjustments that are necessary to provide under the RMSPS a pension credit of the same value as would have been provided under the RMPP had the transfers implemented by article 5 of this Order not occurred.

**4.** A Pension Sharing Order made after the Cut-Off Date in respect of shareable rights under the RMPP in relation to any person who is an active member of the RMPP at the end of the Cut-Off Date has effect—

- (a) as if it had been made in respect of the RMPP in relation to the rights of that member under the RMPP other than those transferred by article 5 of this Order and shall accordingly be implemented in the RMPP in respect of those rights, and
- (b) as if a separate Pension Sharing Order had been made in respect of the RMSPS in relation to the rights of that member under the RMPP transferred by article 5 of this Order and shall accordingly be implemented in the RMSPS in relation to those rights,

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(13) 1999 c.30.

(14) Section 24B inserted by the Welfare Reform and Pensions Act 1999, s 19, schedule 3, paragraphs 1 and 4.

(15) Section 25D inserted with savings by the Pensions Act 1995, s 166(1).

(16) 1999 c.30.

(17) 1991 c.48.

(18) S.I. 2000/3177.

but any such Pension Sharing Order which is comprised in an order or provision made in Scotland pursuant to Section 29(3) of the Welfare Reform and Pensions Act 1999 specifying an amount to be transferred (a “Relevant Scottish Order”) shall be dealt with in the manner set out in paragraphs 5 and 6.

5. The amount specified by a Relevant Scottish Order shall be apportioned in the ratio of the cash equivalent of the rights mentioned in paragraph 4(a) to the cash equivalent of the rights mentioned in paragraph 4(b) and

- (a) the proportion of the said amount which corresponds to the rights mentioned in paragraph 4(a) shall be implemented in the RMPP, and
- (b) the proportion of the said amount which corresponds to the rights mentioned in paragraph 4(b) shall be implemented in the RMSPS.

6. Cash equivalents shall be calculated for the purposes of paragraph 5 by the person responsible for the RMPP on the same basis as the cash equivalent is calculated for the purposes of section 29 of the Welfare Reform and Pensions Act 1999.

### **Pension Attachment Orders**

7. A Pension Attachment Order made on or before the Cut-Off Date in respect of a person responsible for the RMPP in relation to any person who is a pensioner or deferred pensioner of the RMPP at the end of the Cut-Off Date has effect as if it had been made instead in respect of the person responsible for the RMSPS in relation to that pensioner or deferred pensioner.

8. A Pension Attachment Order made on or before the Cut-Off Date in respect of a person responsible for the RMPP in relation any person who is an active member of the RMPP at the end of the Cut-Off Date has effect—

- (a) as if it had been made in respect of the person responsible for the RMPP in relation to the rights of that member under the RMPP other than those transferred by article 5 of this Order; and
- (b) as if a separate order had been made in respect of the person responsible for the RMSPS in relation to the rights of that member under the RMPP transferred by article 5 of this Order, except insofar as the Pension Attachment Order relates to any lump sum payable on death.

9. A Pension Attachment Order made on or before the Cut-Off Date in respect of a person responsible for the RMPP in relation to rights in respect of any lump sum payable on death has effect—

- (a) as if it had been made in respect of the person responsible for the RMPP, in relation to a lump sum payable on death in respect of a member of the RMPP under the RMPP Rules after the Cut-Off Date, calculated by reference to the rights of that member under the RMPP other than those transferred by article 5 of this Order; and
- (b) as if a separate order had been made in respect of the person responsible for the RMSPS, in relation to a lump sum payable on death in respect of a member of the RMSPS under the RMSPS Rules after the Cut-Off Date, calculated by reference to the rights of the relevant member under the RMPP transferred by article 5 of this Order.

### **Orders for deductions from earnings**

10.—(1) Where any of the orders at sub-paragraph 2 are made on or before the Cut-Off Date and the order directs the RMPP or the trustee of the RMPP to make deductions in relation to any person who is a member of the RMPP at the end of the Cut-Off Date, the order is to have effect as if it directed the Secretary of State in his capacity as the person responsible for the management

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of the RMSPS to make deductions specified in the order in relation to the rights of that member under the RMSPS.

- (2) The orders referred to in sub-paragraph (1) are—
- (a) an Attachment of Earnings Order;
  - (b) a Deductions from Earnings Order;
  - (c) an Earnings Arrestment Schedule; or
  - (d) a Voluntary Deduction from Earnings Arrangement.

### **Money purchase benefits**

**11.** This Schedule does not apply so as to transfer or modify any obligations of the person responsible for the RMPP under any—

- (a) Pension Sharing Order;
- (b) Pension Attachment Order;
- (c) Attachment of Earnings Order;
- (d) Deductions from Earnings Order;
- (e) Earnings Arrestment Schedule; or
- (f) Voluntary Deduction from Earnings Arrangement

to the extent that the order or arrangement relates to money purchase benefits.

### **No further obligations of the RMPP**

**12.** The trustee of the RMPP shall have no further obligation in relation to—

- (a) a Pension Sharing Order to which paragraph 2 or paragraph 3 applies;
- (b) a Pension Sharing Order to which paragraph 4 or paragraph 5 applies, in respect of the rights of the relevant member under the RMPP transferred by article 5 of this Order;
- (c) a Pension Attachment Order to which paragraph 7 applies;
- (d) a Pension Attachment Order to which paragraph 8 or paragraph 9 applies, in respect of the rights of the relevant member under the RMPP transferred by article 5 of this Order, and
- (e) an Attachment of Earnings Order, a Deductions from Earnings Order, an Earnings Arrestment Schedule or a Voluntary Deduction from Earnings Arrangement to which paragraph 10 applies,

except to the extent that any such order or arrangement has effect in relation to money purchase benefits.