



Pensions

# Information for people who intend to divorce or dissolve a civil partnership

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# Introduction

## **Information for Scheme members and their spouse or civil partner**

For many people, pension rights are one of their most important assets.

Provisions brought into effect from December 2000 allow for 'Pension sharing' arrangements on divorce. From 5 December 2005 civil partnership couples have the same rights as married couples on the dissolution of the civil partnership. Information about Pension sharing can be found on pages 3 to 8.

Prior to December 2000 an earlier provision allowed for 'Earmarking' of pension benefits on divorce. Information about this can be found on pages 9 and 10.

This booklet gives general information about these provisions and is only a general guide. It is not a full statement of the law which governs the Scheme, and members are advised to take appropriate legal advice.

## **Limits on tax-free pension benefits**

From 6 April 2006 HM Revenue and Customs (HMRC) changed the way it limits tax-free pension savings in all registered pension schemes like the NHSPS.

The previous tax law limits on length of membership and maximum contributions, have been replaced with an individual Lifetime Allowance and Annual Allowance. (More information about the tax rules can be found on our website.) A Pension sharing or Earmarking arrangement is subject to the provisions of this legislation.

A Pension sharing order will cause the Pension Credit Member to lose Enhanced Protection on the date the Pension Sharing order is implemented.

# Pension sharing

## **What is pension sharing?**

Pension sharing is where a court serves a Pension Sharing Order on the Scheme. When the court orders a pension to be shared, the pension credit member is allocated a percentage (up to 100%) of the member's benefits at the effective date of the order.

The court order will be sent to NHS Pensions who will acknowledge and implement it as directed. The pension credit member will be allocated a personal reference number in the Scheme under which their pension benefits will be held.

The member's benefits are reduced accordingly, and the pension credit member will hold benefits in their own right, independent of the Scheme member.

Where a Scheme member is in receipt of a HMRC Primary Protection certificate and subsequently becomes subject to a pension debit either their Primary Protection factor will be reduced or if the capital value of their pension benefits, at 6 April 2006, falls below £1.5m the Scheme member will lose their Primary Protection. For more information on HMRC protection please go to their website at [www.hmrc.gov.uk](http://www.hmrc.gov.uk)

## **What will a pension share mean for the Scheme member?**

### **Pension Share ordered before retirement**

The member's pension, lump sum retiring allowance and any subsequent survivor benefits, at the effective date of the order, will be reduced by the percentage allocated to their pension credit member. For divorces or dissolutions taking place in Scotland, the court will specify either a percentage or monetary amount. This reduction will be known as a 'pension debit'.

At retirement, the pension debit will be increased in line with the cost of living and deducted from the member's total pension benefits. The reduced benefits will be tested against the Scheme member's lifetime allowance.

On the member's death, if they have remarried or formed a new civil partnership, a pension share will reduce the survivor benefits available to a new spouse or civil partner. But, if the member has dependent children, any child allowance payable will not be reduced because of a pension share.

### **Transferring benefits**

The member will still be able to transfer their remaining benefits to another registered pension scheme or arrangement.

### **Pension share ordered after retirement**

The pension currently in payment will be reduced by the percentage allocated to the pension credit member from the date of the pension share. On the member's death, if they have remarried or formed a new civil partnership, a pension share will reduce the survivor benefits available to a new spouse or civil partner. But if the member has dependent children, any child allowance payable will not be reduced because of a pension share.

## **What will a pension share provide for a former spouse or civil partner?**

### **Pension share ordered before the member's retirement**

After a pension share the former spouse or civil partner will become a pension credit member and hold pension credit benefits in the NHS Pension Scheme in their own right. The pension credits will provide:

- an annual pension, payable at normal pension age, or the date of the pension share whichever is the later, and
- a lump sum equal to three times the pension, or
- an increased lump sum by choosing to commute some of the pension, or
- a lump sum equal to three times the annual pension, on the death of the former spouse or civil partner before benefits are claimed, or

- early payment of benefits with an actuarial reduction from the minimum pension age, or
- commutation of trivial benefits at normal retirement age. If the pension credit is very small we may be able to convert it into a once and for all payment providing the requirements of the Finance Act 2004 are met, or
- early payment of benefits if permanently incapable of any regular employment because of ill health, provided the requirements of the Finance Act 2004 are met, or
- early payment of commuted benefits on the grounds of serious ill health of the former spouse or civil partner.

A pension credit member who is retiring on the grounds of seriously ill health may commute the maximum amount of pension into additional lump sum before the remaining pension is commuted into a serious ill health lump sum.

At the payment stage, the pension credit benefits (if applicable) will be increased in line with the cost of living from the date of the pension share and will be subject to the lifetime allowance.

Pension credit benefits do NOT provide survivor or dependant benefits.

A lump sum is not normally payable when a Scheme pensioner dies, unless the pension has only been in payment for a very short time. Then the lump sum will be 5 times the pension less the amount of pension already paid. This is subject to a maximum of twice the member's pensionable pay less the retirement lump sum already paid. The smaller amount will be paid. The lump sum will be subject to the lifetime allowance.

### **Pension share ordered after the member's retirement**

If a pension share takes place after the member has retired, the pension credit will provide:

- an annual pension payable from normal retirement age, or the date of the pension share, whichever is the later, or
- a lump sum equal to three times the annual pension payable on the death of the pension credit member before benefits are paid. A pension credit member who is retiring on the grounds of serious ill health may commute the maximum amount of pension into additional lump sum before the remaining pension is commuted into a serious ill health lump sum, or

- early payment of benefits with an actuarial reduction from the minimum pension age, or
- commutation of trivial benefits. If the pension credit is very small we may be able to convert it into a once and for all payment provided the requirements of the Finance Act 2004 are met, or
- early payment of benefits if permanently incapable of any regular employment because of ill health, provided the requirements of the Finance Act 2004 are met, or
- early payment of commuted benefits on the grounds of serious ill health of the pension credit member.

At payment stage, the pension credit benefits (if applicable) will be increased in line with the cost of living from the date of the pension share and will be subject to the lifetime allowance. The receipt of the pension credit does not count for the purposes of the individual's Annual Allowance.

Pension credit benefits do NOT provide survivor or dependants benefits.

A lump sum is not normally payable when a Scheme pensioner dies, unless the pension has only been in payment for a short time. Then the lump sum will be 5 times the pension less the amount of pension already paid. This is subject to a maximum of twice the member's pensionable pay less the retirement lump sum already paid. The smaller amount will be paid. The lump sum will be subject to the lifetime allowance.

### **IMPORTANT**

As the pension credit member's benefits are independent from the member's, a pension sharing order does not lapse on the death of the member, the remarriage of the former spouse or the former civil partner forming a new civil partnership.

### **Transferring benefits**

It will not be possible to transfer pension credits to another pension scheme. Similarly, pension credits cannot be transferred into the NHS Pension Scheme.

### **Buying additional membership**

The pension credit member will not be able to make additional voluntary contributions to increase their pension credit benefits in the NHS Pension Scheme.

## **Paying the shared pension**

The Scheme member will claim their NHS pension benefits in the normal way.

NHS Pensions will advise the pension credit member how to apply for their benefits when the pension share is confirmed.

The pension will be taxed, adjusted for the lifetime allowance (if appropriate) and paid by our agents.

If the pension credit member is, or has been, in pensionable NHS employment, their benefits will be paid independently from any pension credit rights, and will be payable from age 60, regardless of when their other benefits are paid.

## **Lifetime Allowance Enhancement Factors**

Where a pension credit member acquires pension credit rights before 6 April 2006, an increase to the individual's level of lifetime allowance may be available from HMRC. Individuals had until 5 April 2009 to apply to HMRC for a Pre-commencement Pension Credit Factor.

If the pension credit member has Primary Protection from HMRC then they cannot have a Pre-commencement Pension Credit Factor, as the Primary Protection Factor will include the Pre-commencement Pension Credit Factor. If the pension credit member has Enhanced Protection this will be lost when the Pension sharing order is implemented.

Where a pension credit member acquires pension credit rights after 5 April 2006 and these come from a Scheme member's pension already in payment, payable after 5 April 2006, an increase to the individual's level of lifetime allowance may be available from HMRC. Individuals have up to five years after 31 January following the tax year when the provision took effect to apply to HMRC for a Pension Protection Factor.

There will be no entitlement to a Pension Protection Factor when a pension credit member acquires pension credit rights after 5 April 2006 where there is no Scheme member's pension in payment or where the Scheme member's pension in payment became payable before 6 April 2006.

# Earmarking

## What is earmarking?

Earmarking is the term used to describe special attachment orders, made by the court.

When an attachment, or earmarking order is made, the pension still remains that of the Scheme member, but the Scheme is required to make some form of payment to the former spouse or civil partner.

The court can order that the former spouse or civil partner receives one, or a combination, of the following:

- all, or part, of the member's NHS pension
- all, or part, of the member's NHS lump sum retiring allowance
- all, or part, of any lump sum payment paid in the event of a member's death
- all, or part, of the member's NHS benefits bought by additional voluntary contributions.

The order will be sent to NHS Pensions who will acknowledge it and ensure that it is acted upon.

## Changes

As it may be many years between the divorce / dissolution of a civil partnership and the benefits coming into payment, it is important to be aware of the effect of the following changes:

The former spouse or civil partner must inform NHS Pensions of any change of address, and/or bank account details.

An earmarking order against pension payments (but not lump sums) will automatically lapse on the remarriage of the former spouse, or the registration of

a new civil partnership, and the full pension will be restored to the member.

If the NHS Pension Scheme member transfers their benefits to another registered pension scheme, the earmarking order will also transfer. NHS Pensions will keep the former spouse or civil partner informed of any transfer.

## **Paying the earmarked pension**

NHS Pensions will contact the former spouse or civil partner when the member applies for their pension benefits, or, if the lump sum payable on death has been earmarked, when the member has died. We will check that the earmarking order is still valid and if so, arrange for payment to be made to the former spouse or civil partner.

### **IMPORTANT**

If NHS Pensions have not been informed of your change of address and are unable to contact you, benefits will revert back to the member.

At retirement or death all appropriate benefits, including any that are earmarked, must be tested against the Scheme member's HMRC lifetime allowance.

# **Divorce or civil partnership dissolution proceedings**

## **What to do if you are involved in divorce or civil partnership proceedings**

The court will need information about the member's benefits and the NHS Pension Scheme, to consider if a pension sharing order is appropriate.

The member's spouse or civil partner, or their solicitor, can only request basic information about the NHS Pension Scheme.

Members are entitled to ask for information about the Scheme and their own benefits and should complete the forms PDI and/or PD2, that came with this booklet, to request a current Cash Equivalent Transfer Value (CETV). This is the capitalised value of their NHS pension benefits. It provides a convenient way of assessing the value of the pension in relation to other assets (eg. a house).

Members are entitled to one CETV per year, for any purpose and they must confirm that it is required for divorce or dissolution proceedings. It is important to tell us the date of a court appointment if one has been set. A charge will be made for any additional CETV within 12 months or where the Scheme member is already in receipt of their NHS pension benefits.

Form PD3 should be downloaded, completed and returned with the court order and payment to enable the order to be implemented.

The charges that NHS Pensions make for administering a pension sharing or earmarking order are shown in the Schedule of Charges we have sent with this booklet and can also be found on our website.

Unless the court order says otherwise, all charges disclosed on the Schedule of Charges must be paid up front. This means that NHS Pensions must receive full payment by cheque before providing any information or before the implementation of any court order can start.

All parties will be notified where the implementation of a court order has been postponed.

NHS Pensions will review its schedule of charges each year in line with NAPF guidelines. You should always check the current schedule of charges on the website before sending any payment to NHS Pensions.

This booklet gives general guidance only to assist a Scheme member and their spouse or civil partner who may be involved in divorce or dissolution proceedings.

Individuals should seek further advice from their solicitors about the relevance of pension sharing provisions to individual proceedings.

## **Money Purchase Additional Voluntary Contributions (AVCs)**

Members who have made contributions to the NHS Money Purchase AVC providers should contact their provider to request details of the fund value for pension sharing purposes. The NHS Money Purchase AVC providers are:

Standard Life  
Group Pensions Public Sector  
Standard Life House  
30 Lothian Road  
Edinburgh  
EH1 0WT

Prudential  
Stirling  
FK9 4UE

**[www.pru.co.uk/nhs](http://www.pru.co.uk/nhs)**  
Helpline: 0845 070 2456

**[www.standardlife.co.uk/nhs](http://www.standardlife.co.uk/nhs)**  
Helpline: 0800 33 33 06

The Equitable Life including  
Clerical Medical Investments  
GV30 PO Box 183  
Equitable Life  
Walton Street  
Aylesbury  
Bucks  
HP21 7GP

**[www.equitable.co.uk](http://www.equitable.co.uk)**  
Helpline: 0870 909 0009

# More Information

If you need more information about Scheme benefits you can contact us at:

NHS Pensions  
Hesketh House  
200-220 Broadway  
Fleetwood  
FY7 8LG

Telephone: 0845 421 4000

This is the Member helpline number. It is open from 8.30am to 5.00pm Monday to Thursday and to 4.30pm on Fridays (except Public Holidays).

You can get in touch with us by fax on 01253 774412.

Our website address is: **[www.nhsbsa.nhs.uk/pensions](http://www.nhsbsa.nhs.uk/pensions)**

If you have a NHS Pension Scheme reference number (it usually begins with "SD") it will help if you quote it. If you do not have a reference number please quote your National Insurance number.

You will find more information about the Scheme in these booklets and leaflets. You can get copies from your

Pensions Officer or employer or downloaded from our website.

SD Guide     A Guide to the Scheme

SD502        If you are thinking of leaving the Scheme

SDIB         NHS Injury Benefits Scheme