

HSC Pension Scheme

Pensions on Divorce – Guidance for Members

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 HSC Pension Scheme (HSCPS).

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 new tax rules can be located in the Scheme Guide for members.) A Pension sharing or earmarking arrangement is subject to the provisions of this legislation.

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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 former spouse or civil partner is allocated a percentage (up to 100%) of the member's benefits. The member's benefits are reduced accordingly, and the former spouse or civil partner will hold benefits in their own right, independent of the scheme member.

The court order will be sent to HSC Pensions who will acknowledge and implement it as directed. The former spouse or civil partner will be allocated a personal reference number in the Scheme under which their pension benefits will be held.

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. Any questions about this should be directed to HMRC.

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's benefits will be reduced by the percentage allocated to their former spouse or civil partner. This reduction will be known as a 'pension debit'. For divorces or dissolutions taking place in Scotland, the court will specify either a percentage or monetary amount.

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's benefit 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. If they transfer their benefits to another Health Service Scheme, in England & Wales or Scotland, their benefits will be transferred in full and the pension debit applied by the new scheme at retirement.

The HSC Pension Scheme does not accept transfers of any pension credit rights into the Scheme.

Pension share ordered after retirement

The pension currently in payment will be reduced by the percentage allocated to the former spouse or civil partner from the date of the pension share. 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 civil partnership, a pension share will reduce the survivor's benefit 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 the former spouse?

Pension share ordered before member's retirement

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

- an annual pension, payable at age 60, or the date of the pension share whichever is the later, and
- a lump sum equal to three times 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 commuted benefits on the grounds of serious ill health of the former spouse or civil partner, 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 providing the requirements of the Finance Act 2004 are met.

At the payment stage, the pension credit benefits 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 a pension credit does not count for the purpose of the individual's Annual Allowance.

Pension credit benefits do NOT provide survivors 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 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.

Transferring benefits

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

Buying additional membership

The former spouse or civil partner will not be able to make additional voluntary contributions to increase their pension credit benefits.

IMPORTANT

As the former spouse or civil partner'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.

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 age 60, or the date of the pension share, whichever is the later, or

a lump sum equal to three times annual pension payable on the death of the former spouse or civil partner, or

early payment of commuted benefits on the grounds of serious ill health of the former spouse or civil partner, 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.

At payment stage, the pension credit benefits 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 purpose of the individual's Annual Allowance.

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Transferring benefits

It is not possible to transfer pension credits to another registered pension scheme. Similarly, pension credits cannot be transferred into the HSC Pension Scheme.

Buying additional membership

The former spouse or civil partner will not be able to make additional voluntary contributions to increase their pension credit benefits in the HSC Pension Scheme.

IMPORTANT

As the former spouse or civil partner'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.

Paying the shared pension

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

HSC Pensions will advise the former spouse or civil partner 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 former spouse or civil partner is, or has been, in pensionable HSC 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 former spouse or civil partner acquires pension credit rights before 6 April 2006, an increase to the individual's level of lifetime allowance may be available from HMRC. Individuals have until 5 April 2009 to apply to HMRC for a Pre-commencement Pension Credit Factor.

If the former spouse or civil partner has also applied to HMRC for Primary Protection then they cannot have a Pre-commencement Pension Credit Factor, as the Primary Protection Factor will include the Pre-commencement Pension Credit Factor.

Where a former spouse or civil partner 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 former spouse or civil partner 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 preceded Pension sharing arrangements and 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.

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

- all, or part, of the member's HSC pension
- all, or part, of the member's HSC 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 HSC benefits bought by additional voluntary contributions.

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

Changes

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

An earmarking order against pension payments (but not lump sums) will automatically lapse on the remarriage of the former spouse, and the full pension will be restored to the member.

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

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

Paying the earmarked pension

HSC Pensions will contact the former spouse 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.

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 proceedings

The court will need information about the member's benefits and the HSC 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 HSC Pension Scheme.

Members are entitled to ask for information about the Scheme and their own benefits and should request A Cash Equivalent Transfer Value (CETV). This is the capitalised value of their HSC pension benefits. It provides a convenient way of assessing the value of the pension in relation to other assets (eg a house).

Members must confirm that the CETV is required for divorce proceedings. It is important to tell us the date of a court appointment if one has been set. Members are entitled to one CETV per year, for any purpose.

A charge will be made for any additional CETV within 12 months or where the Scheme member is already in receipt of their HSC pension benefits. The charges that the HSC Pension Scheme will make for administering an earmarking or pension sharing order are available from the HSC Pension Service.

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

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

Money Purchase Additional Voluntary Contributions (AVCs)

Members' who have made contributions to the HSC Money Purchase AVC provider should contact the provider to request details of the fund value for pension sharing purposes. The HSC Money Purchase AVC provider is:

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



More information

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

HSC Pension Service
Waterside House
75 Duke Street
Londonderry
BT47 6FP

Telephone: 028 71 319000

This is the switchboard number. The switchboard is open from 9.00 am to 5.00 pm Monday to Friday (except Public Holidays).

You can also get in touch with us by fax on 028 71 319 144.

Our website address is: www.hscpensions.hscni.net

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