

## Notes on your retirement benefits and divorce

### Introduction

These notes provide you with general information about the treatment of your retirement benefits in the event of divorce (or dissolution of a civil partnership). The notes explain the information that you will receive, whether you will be charged for the information and, if so, how much and when, and how these charges will be levied. Also included are the options available when dealing with the pensions implications of a divorce settlement.

### Background

The following options are open to the courts for dealing with retirement benefits assets on divorce.

#### *Offsetting*

The court may decide to 'offset' the value of your retirement benefits against other financial assets (such as cash or property). The idea behind an offset is that one spouse may accept a smaller share of the other family assets to balance out the value of the retirement benefits which then do not need to be split.

#### *Earmarking*

Under this option, the court makes an order that a portion of your benefit should be reserved or 'earmarked' for your former spouse/civil partner. When an earmarking order is made, the retirement benefits remain that of the scheme member, but the scheme is required to make some form of payment to the former spouse/civil partner when the member retires or dies.

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

- All, or part, of your annuity on retirement.
- All, or part, of your lump sum benefit on retirement.
- All, or part, of any lump sum paid in the event of your death.

As it may be some time 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 annuity payments (but not lump sums) will automatically lapse on remarriage of the former spouse/civil partner entering into another civil partnership and the full annuity will be restored to you.
- Annuity payments to your former spouse/civil partner will lapse on your death.
- If you transfer your benefits to another scheme, the earmarking order will also transfer. We will keep your former spouse/civil partner informed of any transfer.
- The whole annuity prior to any reduction due to earmarking is deemed to be your income for tax purposes.

We will contact your former spouse/civil partner when you apply for your retirement benefits, or, if the lump sum on death has been earmarked, when you die. We will check

that the earmarking order is still valid and, if so, arrange for payment to be made to your former spouse/civil partner.

### *Pension Sharing*

Under this option, the court makes an order to transfer part, or all, of the value of your retirement account (a pension credit) to a pension arrangement chosen by your former spouse/civil partner. Your retirement account will then be reduced by a corresponding pension debit. The rest of these notes are primarily concerned with the procedures surrounding pension sharing.

### **Valuation of the Pension**

The way that your retirement benefits are valued depends on whether the scheme is:

- Defined benefit, or final salary, or
- Defined contribution, or pension investment plan.

The TSB Pension Scheme ('the Scheme') is a defined contribution scheme. The transfer value is your accumulated retirement account and will be shown on the 'Pension Benefit Statement for use in Divorce Proceedings' that you will receive from the Scheme administrator, following your application for a quotation.

Please note that the transfer value shown on the statement is not guaranteed and is for information purposes only. If a pension sharing order is made by the court, the cash equivalent will be recalculated or the value of your accumulated retirement account will be taken when the order is implemented. This may be different to the original quote.

It should also be noted that when valuing pension rights, there is a difference between England and Scotland as to what rights are covered. In England, Wales and Northern Ireland, all rights, including those earned before the marriage took place, up to the time of the divorce, are covered. In Scotland, however, it is only pension rights earned during the marriage, up to the date of separation that are covered. If the divorce is under the jurisdiction of Scottish law, the Scheme administrator will require the relevant dates for calculating the transfer value.

### **Pension Sharing**

The pension sharing procedures can be considered in three steps:

- a. An initial indication that a sharing situation may occur, following a request for information being made to the Scheme administrator.
- b. A specific notification by you or your spouse that, as part of the divorce settlement, there is an intention to seek a pension sharing order from the court in respect of your benefits.
- c. The action required by the Scheme administrator to comply with the terms of any court order.

### *Requests for information*

The statement you will receive from the Scheme administrator will give you a valuation of your retirement benefits which, together with these notes, will provide all the information that may be required by the court.

The Scheme administrator will not provide your former spouse/civil partner with details of your retirement benefits unless requested to do so by you or the court.

The initial provision of a transfer value is free of charge. If a further transfer value is required within 12 months of your first request, there will be an administration fee of £150 (plus VAT) for each additional calculation.

### *Seeking a pension sharing order*

If you are seeking a pension sharing order, you should instruct your solicitor to forward a copy of any proposed order to the Scheme administrator at the earliest opportunity. This will allow them to comment before the final order is made to ensure it is workable. If an order is finally made in a form with which the Scheme administrator cannot comply, you will need to seek a further order at your own expense.

### *Receipt of a pension sharing order*

On receipt of a pension sharing order, the Scheme administrator will issue an acknowledgement setting out their requirements, including details of any charges that are due and any outstanding information.

Initial information required includes:

- A copy of the pension sharing order (or qualifying agreement).
- Evidence of the divorce (i.e. a copy of the decree absolute) to which the pension sharing order relates.
- For the former spouse/civil partner: full name, date of birth, national insurance number and contact address.
- Full payment of the charges.

When the Scheme administrator has a contact address for your former spouse/civil partner, they will provide him/her with a 'pension credit' quotation. The former partner will then specify the pension arrangement that they have chosen to receive the credit, providing that the arrangement is able to accept the transfer. ***Membership of the TSB Pension Scheme will not be offered to a former spouse as a result of the pension credit – he/she must make an external transfer.***

If instructions from the former spouse/civil partner are not received within three months of the quotation being supplied, the TSB Pension Scheme Trustee will exercise the 'default option' – the pension credit will be transferred to an insurance policy with an insurer chosen by the Trustee (see 'Additional Information', below).

### **Implementing a Pension Sharing Order**

A pension debit and credit cannot be created until the pension sharing order takes effect. The effective date will be the later of the 21 days from the date of the order and the date that the decree is made absolute. This means only benefits built up to this date are used in the calculation of the cash equivalent transfer value. This day is known as the *transfer day*. As you are a member of the TSB Pension Scheme, only your unit holding on the day immediately prior to the transfer day is taken into account.

There is a specified period within which the Scheme administrator must pay the pension credit to another pension arrangement, known as the *implementation period*. This is four months commencing the later of:

- The day on which the pension sharing order takes effect; or
- The day all the relevant information needed to implement the order is received by the Scheme administrator. A further pre-condition of implementing the pension sharing order may be the payment of any charges (unless payment is to be deducted from the transfer payment).

The percentage reduction (as specified in the pension sharing order) is applied on the *valuation date* to the cash equivalent of your relevant benefits. The *valuation date* is the date within the implementation period on which the calculations are made. In Scotland, the qualifying agreement may specify the amount to be deducted from the cash equivalent. The Scheme administrator will then determine the percentage reduction to the cash equivalent as at the day prior to the transfer day which is equivalent to this amount.

### *Member's benefit*

As you are a member of the TSB Pension Scheme, a defined contribution scheme, your retirement account is reduced by the amount transferred to the ex-spouse.

### **Charges**

All members are entitled to request a transfer value of their pension benefits once every 12 months free of charge. If a further transfer value is required in the same 12 month period, you will be charged an administration fee of £150 (plus VAT), for each additional calculation.

If a pension sharing order is made, an administration fee of £1,200 (plus VAT) will be charged. The Scheme administrator will comply with the provisions of the court order when advising who should pay the fee. If the court order does not state this, you, as the Scheme member, will have to pay the charge. If you have to meet some, or the entire fee, you will need to send a cheque to the Scheme administrator for the full amount.

If your former spouse/civil partner has to meet some or all of the charge, this will be deducted from the pension credit, and will be shown in the transfer value.

### **Additional Information**

#### *Default Option*

In selecting its chosen 'default option', the Trustee will exercise its normal level of care and be satisfied that in general terms this option is appropriate. The Trustee is not responsible for the investment performance of any insurer chosen as its default option and cannot guarantee that it is wholly appropriate to a former spouse/civil partner's situation. It is strongly recommended that your former spouse/civil partner should seek independent financial advice at an early stage in divorce proceedings regarding what may be the most appropriate options to follow.

For an independent financial adviser in your area, visit [www.unbiased.co.uk](http://www.unbiased.co.uk)

*Death of the former spouse / civil partner before implementation*

Your former spouse / civil partner may nominate who should receive the pension credit in the event of their death, after the pension sharing order has been issued, but before implementation.

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