GOVERNMENT ACTUARY'S DEPARTMENT

Note on the dates to be used in the calculation of the pension credit on pension sharing on divorce

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1 Introduction

1.1 This note is to be read in conjunction with the Government Actuary's Department Note on 'Pension Sharing Following Divorce Calculation of Pension Credits for Ex-Spouse' issued to schemes in 2000. It clarifies the use of the transfer date and the valuation date in the calculation of the credit and the application of pensions increases in response to queries raised by scheme administrators.

1.2 Legislation on pension sharing on divorce has generally been written with private sector funded schemes in mind. It is possible to take a simpler approach for the public sector while still giving the required result. This note sets out the approach to take for future cases so as to avoid the issues which have been arising.

2 Legislation and Definitions

2.1 Pension sharing on divorce is introduced by the Welfare Reform and Pensions Act 1999 (the 1999 Act) and consequential regulations.

2.2 The 1999 Act defines two dates:

- Transfer day: the day the pension sharing order takes effect. This may also be known as the effective date.
- Valuation day: a day chosen by the scheme within the 4 month implementation period. The implementation period starts on the transfer day or, if later, on the day the pension scheme has the prescribed information needed to implement the pension sharing order. This may also be known as the implementation date.

2.3 The valuation day may be some time after the transfer day.

2.4 The 1999 Act says that schemes should recalculate the cash equivalent of the benefits subject to the pension sharing order at the valuation date in order to discharge their liabilities. This ensures that, where the liability to the ex-spouse is to be discharged by way of a transfer to another scheme, no interest is lost between transfer day and valuation day. However, for unfunded public sector schemes, the 1999 Act says that the liability to the ex-spouse can be met by providing the ex-spouse with pension credit benefits of the appropriate value within the public sector scheme. These pension credit benefits are conferred as at the transfer day (and pension debits also operate at transfer day).

2.5 The arrangements for the public sector to discharge the liability to the ex spouse within the scheme mean that a strict adherence to the 1999 Act with a recalculation of the cash equivalent at the valuation date adds unnecessary complexity. This has caused confusion for administrators. Effectively the recalculation of the cash equivalent adds interest between the transfer day and the valuation day, which then needs to be removed again in order to confer the pension credit rights at the transfer date. A simpler system, which nevertheless meets the legislative requirements for unfunded public sector schemes, is to calculate both the cash equivalent and the equivalent pension credit benefit as at the transfer date.

3 Calculation method

3.1 For future cases, to avoid administrative complexity. the calculation date applying in the note on ‘Pension Sharing Following Divorce Calculation of Pension Credits for Ex-Spouse’ should be taken to be the transfer date rather than the valuation date. The pension credit rights then start at the transfer date. When the member was paid benefits between the transfer date and the valuation date the credit awarded to the ex-spouse may have been less than provided for under this revised guidance. Schemes should consider revisiting these cases. Any back payments needed where the ex-spouse has begun to receive benefits would count as authorised payments under the Finance Act 2004.

4 Applying pensions increases to pension credit benefits

4.1 Section 8(2A) of the Pension Increases Act 1971, as amended by the 1999 Act, says that pension increases should be applied to pension credit benefits from the transfer date. This is consistent with conferring the pension credit rights at the transfer date.

4.2 The complexity of the strict calculation approach has led to administrative problems in applying the pension increases under the 1971 Act in some cases. There should be no such problems with the method going forward.

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