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SCOTTISH STATUTORY INSTRUMENTS

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**2008 No. 228**

**The Local Government Pension Scheme  
(Administration) (Scotland) Regulations 2008**

**PART 10**

**PENSION SHARING**

**CHAPTER II**

*SHARING OF RIGHTS*

**Pension sharing mechanism in the Scheme**

**84.**—(1) Pension sharing is available under the Scheme in respect of any of a person’s shareable rights under the Scheme except as otherwise provided in this regulation.

(2) Excluded from shareable rights for the purposes of this Part of these Regulations are any rights under the Scheme in respect of which a person is in receipt of a pension by virtue of being the surviving spouse or other dependant of a deceased member with pension rights under the Scheme<sup>(1)</sup>.

**Pension sharing order activates pension sharing creating pension debits and credits**

**85.** On the coming into effect of a pension sharing order—

- (a) the transferor’s shareable rights under the Scheme become subject to a debit of the appropriate amount (“pension debit”<sup>(2)</sup>) as defined in regulation 86 (calculation of “appropriate amount”); and
- (b) the transferee becomes entitled to a credit of that amount (“pension credit”<sup>(3)</sup>) as against the administering authority.

**Calculation of “appropriate amount”**

**86.**—(1) Where the relevant pension sharing order specifies a percentage value to be transferred, the appropriate amount for the purposes of regulation 85 (pension sharing order) is the specified percentage of the cash equivalent of the relevant benefits on the valuation day.

(2) Where the relevant pension sharing order specifies an amount to be transferred, the appropriate amount for the purposes of regulation 85 is the lesser of—

- (a) the specified amount; and
- (b) the cash equivalent of the relevant benefits on the valuation day.

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(1) See regulation 2(1) of the Pension Sharing (Valuation) Regulations 2000 (S.I.2000/1052) which describes rights of a description which are not to be classed as shareable rights for the purposes of section 27(2) of the Welfare Reform and Pensions Act 1999 (c. 30).

(2) This definition is that in section 29(1)(a) of the 1999 Act and under corresponding Northern Ireland legislation.

(3) This definition is that in section 29(1)(b) of the 1999 Act and under corresponding Northern Ireland legislation.

(3) Where the transferor is in pensionable service under the Scheme on the transfer day, the relevant benefits for the purposes of paragraphs (1) and (2) are the benefits or future benefits to which the transferor would be entitled under the Scheme by virtue of the transferor's shareable rights under it had the transferor's pensionable service terminated immediately before that day.

(4) Otherwise, the relevant benefits for the purposes of paragraphs (1) and (2) are the benefits or future benefits to which, immediately before the transfer day, the transferor is entitled under the terms of the Scheme by virtue of the transferor's shareable rights under it.

(5) For the purposes of this regulation, the valuation day is such day within the implementation period for the discharge of the credit referred to in regulation 85(b) as the administering authority may specify by notice in writing to the transferor and transferee.

(6) In this regulation, the transfer day means the day on which the relevant pension sharing order or provision takes effect<sup>(4)</sup>.

### **Pension debits and reduction of benefit**

**87.**—(1) Subject to paragraph (2), where a member's shareable rights are subject to a pension debit, each benefit or future benefit—

- (a) to which the member is entitled under the Scheme by virtue of those rights; and
- (b) which is a qualifying benefit,

is reduced by the appropriate percentage.

(2) Where a pension debit relates to the shareable rights under the Scheme of a member who is in pensionable service under the Scheme on the transfer day, each benefit or future benefit—

- (a) to which the person is entitled under the Scheme by virtue of those rights; and
- (b) which corresponds to a qualifying benefit,

is reduced by an amount equal to the appropriate percentage of the corresponding qualifying benefit.

(3) A benefit is a qualifying benefit for the purposes of paragraphs (1) and (2) if the cash equivalent by reference to which the amount of the pension debit is determined includes an amount in respect of it.

(4) In this Part<sup>(5)</sup>—

“appropriate percentage”, in relation to a pension debit, means—

- (a) if the relevant order or provision specifies the percentage value to be transferred, that percentage;
- (b) if the relevant order or provision specifies an amount to be transferred, the percentage which the appropriate amount for the purposes of section 29(1) of the 1999 Act represents of the amount mentioned in subsection (3)(b) of that section;

“relevant order or provision”, in relation to a pension debit, means the pension sharing order on which the debit depends;

“transfer day” in relation to a pension debit, means the day on which the relevant order or provision takes effect.

### **Effect of pension sharing on protected rights and guaranteed minimum pension**

**88.** Where a member has protected rights or a guaranteed minimum in relation to a pension provided by the Scheme, these shall in the case of a pension debit in relation to the member's rights

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(4) This definition is that in section 29(8) of the 1999 Act.

(5) The definitions in this paragraph are those in section 31(5) of the 1999 Act.

under the Scheme be reduced in terms of the provisions in sections 10(4) and (5) and 15A of the Pension Schemes Act 1993<sup>(6)</sup>.

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<sup>(6)</sup> 1993 c. 30. Sections 10(4) and (5) and 15A of that Act were inserted by section 32 of the 1999 Act.