

# WELFARE REFORM AND PENSIONS ACT 1999

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## EXPLANATORY NOTES

### COMMENTARY

#### *Adaptation of statutory schemes*

##### **Section 42: Extension of scheme-making powers**

The section extends statutory powers to establish pension schemes to include the power to provide benefits in respect of pension credit rights to former spouses.

*Subsection (1)* extends the powers to make statutory schemes so that those schemes may be amended to allow for the use of pension credits to provide benefits to former spouses. The pension credits may arise directly out of rights under the scheme in question, or under a public service pension scheme for which it is specified as an alternative in accordance with Schedule 5 paragraph 2.

*Subsection (4)* enables statutory schemes to make provision for former spouses regardless of any obligation to consult; this enables schemes which would otherwise be required to consult on changes, detrimental or otherwise, to implement pension sharing without doing so.

##### **Section 43: Power to extend judicial pension schemes**

This section enables the appropriate minister to make regulations in respect of judicial pension schemes for the purposes of enabling them to accommodate pension credits.

*Subsection (1)* empowers the appropriate minister to make regulations:

- (a) to enable a judicial pension scheme to use pension credits to provide benefits to former spouses. The pension credits may arise directly out of rights under the scheme in question, or from another statutory scheme for which it is specified as a replacement in accordance with Schedule 5 paragraph 2; or
- (b) requiring him to refuse transfers in of pension credit rights from another pension scheme.

*Subsection (2)*: the regulation-making power under *subsection (1)* includes provision for pension credit benefits to be a charge on, and payable out of the Consolidated Fund; and a power to make further subordinate legislation, on technical matters, under the judicial pensions Acts.

*Subsection (3)* explains who the appropriate minister is.