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*Changes to legislation: There are currently no known outstanding effects for the Welfare Reform and Pensions Act 1999, SCHEDULE 4. (See end of Document for details)*

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## SCHEDULES

### SCHEDULE 4

Section 21.

#### AMENDMENTS OF SECTIONS 25B TO 25D OF THE MATRIMONIAL CAUSES ACT 1973

- 1 (1) Section 25B of the <sup>M1</sup>Matrimonial Causes Act 1973 is amended as follows.
- (2) In subsection (1), for “scheme”, wherever occurring, there is substituted “arrangement”.
- (3) Subsection (2) ceases to have effect.
- (4) In subsection (3), for “scheme” there is substituted “arrangement”.
- (5) In subsection (4)—
- (a) for “scheme”, wherever occurring, there is substituted “arrangement”, and
  - (b) for “trustees or managers of” there is substituted “person responsible for”.
- (6) For subsection (5) there is substituted—
- “(5) The order must express the amount of any payment required to be made by virtue of subsection (4) above as a percentage of the payment which becomes due to the party with pension rights.”
- (7) In subsection (6)—
- (a) for “trustees or managers”, in the first place, there is substituted “person responsible for the arrangement”, and
  - (b) for “the trustees or managers”, in the second place, there is substituted “his”.
- (8) In subsection (7)—
- (a) for the words from “may require any” to “those benefits” there is substituted “has a right of commutation under the arrangement, the order may require him to exercise it to any extent”,
  - (b) for “the payment of any amount commuted” there is substituted “any payment due in consequence of commutation”, and
  - (c) for “scheme” there is substituted “arrangement”.
- (9) After that subsection there is inserted—
- “(7A) The power conferred by subsection (7) above may not be exercised for the purpose of commuting a benefit payable to the party with pension rights to a benefit payable to the other party.
- (7B) The power conferred by subsection (4) or (7) above may not be exercised in relation to a pension arrangement which—
- (a) is the subject of a pension sharing order in relation to the marriage, or
  - (b) has been the subject of pension sharing between the parties to the marriage.

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(7C) In subsection (1) above, references to benefits under a pension arrangement include any benefits by way of pension, whether under a pension arrangement or not.”

**Commencement Information**

**I1** Sch. 4 para. 1 wholly in force at 1.12.2000; Sch. 4 para. 1 in force for certain purposes at Royal Assent see s. 89(1)(5); Sch. 4 para. 1 in force at 1.12.2000 by S.I. 2000/1116, art. 2(e)

**Marginal Citations**

**M1** 1973 c. 18.

- 2 (1) Section 25C of that Act is amended as follows.
- (2) In subsection (1), for “scheme” there is substituted “ arrangement ”.
- (3) In subsection (2)—
- (a) in paragraph (a)—
- (i) for the words from “trustees” to “have” there is substituted “ person responsible for the pension arrangement in question has ”, and
- (ii) for “them” there is substituted “ him ”, and
- (b) in paragraph (c), for “trustees or managers of the pension scheme” there is substituted “ person responsible for the pension arrangement ”.
- (4) In subsection (3)—
- (a) for “trustees or managers” there is substituted “ person responsible for the arrangement ”, and
- (b) for “the trustees, or managers,” there is substituted “ his ”.
- (5) At the end there is inserted—
- “(4) The powers conferred by this section may not be exercised in relation to a pension arrangement which—
- (a) is the subject of a pension sharing order in relation to the marriage, or
- (b) has been the subject of pension sharing between the parties to the marriage.”

**Commencement Information**

**I2** Sch. 4 para. 2 wholly in force at 1.12.2000; Sch. 4 para. 2 in force for certain purposes at Royal Assent see s. 89(1)(5); Sch. 4 para. 2 in force at 1.12.2000 by S.I. 2000/1116, art. 2(e)

- 3 (1) Section 25D of that Act is amended as follows.
- (2) For subsection (1) there is substituted—
- “(1) Where—
- (a) an order made under section 23 above by virtue of section 25B or 25C above imposes any requirement on the person responsible for a pension arrangement (“the first arrangement”) and the party with pension rights acquires rights under another pension arrangement

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(“the new arrangement”) which are derived (directly or indirectly) from the whole of his rights under the first arrangement, and

(b) the person responsible for the new arrangement has been given notice in accordance with regulations made by the Lord Chancellor, the order shall have effect as if it had been made instead in respect of the person responsible for the new arrangement.”

(3) In subsection (2)—

- (a) for “Regulations may” there is substituted “ The Lord Chancellor may by regulations ”,
- (b) in paragraph (a), for “trustees or managers of a pension scheme” there is substituted “ person responsible for a pension arrangement ”,
- (c) after that paragraph there is inserted—
- “(ab) make, in relation to payment under a mistaken belief as to the continuation in force of a provision included by virtue of section 25B or 25C above in an order under section 23 above, provision about the rights or liabilities of the payer, the payee or the person to whom the payment was due,”
- (d) after paragraph (b) there is inserted—
- “(ba) make provision for the person responsible for a pension arrangement to be discharged in prescribed circumstances from a requirement imposed by virtue of section 25B or 25C above,”
- (e) paragraphs (c) and (d) are omitted,
- (f) for paragraph (e) there is substituted—
- “(e) make provision about calculation and verification in relation to the valuation of—
- (i) benefits under a pension arrangement, or
- (ii) shareable state scheme rights,
- for the purposes of the court’s functions in connection with the exercise of any of its powers under this Part of this Act.”,
- and
- (g) the words after paragraph (e) are omitted.

(4) After that subsection there is inserted—

- “(2A) Regulations under subsection (2)(e) above may include—
- (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person, and
- (b) provision by reference to regulations under section 30 or 49(4) of the Welfare Reform and Pensions Act 1999.
- (2B) Regulations under subsection (2) above may make different provision for different cases.
- (2C) Power to make regulations under this section shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(5) For subsections (3) and (4) there is substituted—

“(3) In this section and sections 25B and 25C above—

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“occupational pension scheme” has the same meaning as in the <sup>M2</sup>Pension Schemes Act 1993;

“the party with pension rights” means the party to the marriage who has or is likely to have benefits under a pension arrangement and “the other party” means the other party to the marriage;

“pension arrangement” means—

- (a) an occupational pension scheme,
- (b) a personal pension scheme,
- (c) a retirement annuity contract,
- (d) an annuity or insurance policy purchased, or transferred, for the purpose of giving effect to rights under an occupational pension scheme or a personal pension scheme, and
- (e) an annuity purchased, or entered into, for the purpose of discharging liability in respect of a pension credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation;

“personal pension scheme” has the same meaning as in the Pension Schemes Act 1993;

“prescribed” means prescribed by regulations;

“retirement annuity contract” means a contract or scheme approved under Chapter III of Part XIV of the <sup>M3</sup>Income and Corporation Taxes Act 1988;

“shareable state scheme rights” has the same meaning as in section 21A(1) above; and

“trustees or managers”, in relation to an occupational pension scheme or a personal pension scheme, means—

- (a) in the case of a scheme established under a trust, the trustees of the scheme, and
- (b) in any other case, the managers of the scheme.

(4) In this section and sections 25B and 25C above, references to the person responsible for a pension arrangement are—

- (a) in the case of an occupational pension scheme or a personal pension scheme, to the trustees or managers of the scheme,
- (b) in the case of a retirement annuity contract or an annuity falling within paragraph (d) or (e) of the definition of “pension arrangement” above, the provider of the annuity, and
- (c) in the case of an insurance policy falling within paragraph (d) of the definition of that expression, the insurer.”

#### **Commencement Information**

**I3** Sch. 4 para. 3 wholly in force at 1.12.2000; Sch. 4 para. 3 in force for certain purposes at Royal Assent see s. 89(1)(5); Sch. 4 para. 3 in force at 1.12.2000 by S.I. 2000/1116, art. 2(e)

#### **Marginal Citations**

**M2** 1993 c. 48.

**M3** 1988 c. 1.

**Changes to legislation:**

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