

United Kingdom Atomic Energy Authority

PENSIONS and DIVORCE

Information for scheme members and their spouses

Introduction

Divorce courts have powers to make two types of order that impact upon an individual's pension benefits. They are known as *earmarking* orders and *pension sharing* orders. The courts make either type of order, but not both in respect of the same pension benefits.

Earmarking. Earmarking orders are special attachment orders, which the courts can make against benefits under a pension scheme in the course of divorce, nullity, and judicial separation proceedings. Where an earmarking order is made, the pension still remains that of the scheme member, but the scheme is required to make payments (in much the same way as it might make payments under other sorts of attachment order) to the ex-spouse.

Pension Sharing. For cases of divorce and nullity (but NOT judicial separation) where legal proceedings begin on or after 1 December 2000, the courts also have the option of making a pension sharing order. Unlike earmarking, the shared part of the pension benefits belong to the ex-spouse in his/her own right, and entitlement does not lapse if the member dies or the ex-spouse remarries.

This leaflet outlines the way in which the pension scheme deals with these provisions.

Any queries and requests for information must in the first instance be sent to the Pensions Administration Office, Thurso.

How does the process work?

There are three stages:

- getting information
- the court order
- paying the earmarked/shared pension

Stage 1: getting the information

In deciding whether an application for an earmarking order, pension sharing order or neither may be appropriate, information may be needed by the court about the United Kingdom Atomic Energy Authority pension scheme benefits due to the scheme member. Detailed information can be disclosed only to a United Kingdom Atomic Energy Authority pension scheme member or their solicitor.

We are able to provide only basic information (such as scheme booklets) about the United Kingdom Atomic Energy Authority pension scheme to the member's spouse (or their solicitor). A scheme booklet explaining the United Kingdom Atomic Energy Authority pension arrangements is available on request from the Pensions Administration Office (PAO) Thurso.

Scheme members are entitled to receive information about their benefits under the United Kingdom Atomic Energy Authority pension scheme, including an estimate of their cash equivalent transfer value (CETV). Where PAO receives a request for the United Kingdom Atomic Energy Authority scheme CETV and the member concerned has a benefit in the United Kingdom Atomic Energy Authority Group AVC or Shift Pay Plan arrangement, separate CETVs of these funds will also be provided. The CETV is the capitalised value of the pension benefits and provides a convenient way of assessing the value of the pension in relation to other assets of the marriage. When requesting a CETV members must confirm that the request is in connection with divorce proceedings.

PAO will respond to requests for information (from members and solicitors) by providing details of the member's accrued benefits to date, death benefits, a CETV and a summary sheet giving details of the main provisions of the scheme.

Members are entitled to one CETV of their United Kingdom Atomic Energy Authority scheme benefits per year without charge. Members will be charged for any additional CETV calculations, and payment will be required in advance (details of the charges are set out at the end of this leaflet).

Stage 2: the court order

NOTE: When applying to the court for an order, a person must serve notice of the application on the United Kingdom Atomic Energy Authority pension scheme, in writing to the Pensions Administration Office, Thurso.

EARMARKING

Under the earmarking regulations, the court can order that the ex-spouse receives:

- all or part of the United Kingdom Atomic Energy Authority pension
- all or part of the pension lump sum
- all or part of the lump sum paid if the scheme member dies in service
- all or part of the member's AVC benefits
- all or part of the member's Shift Pay Pension Plan benefits

What happens next?

The court order containing details of the earmarking or sharing provisions for the United Kingdom Atomic Energy Authority scheme and, if appropriate the AVC or Shift Pay Plan arrangement, should be sent to Pensions Administration Office, Thurso who will acknowledge the order and ensure that it is acted upon.

Bearing in mind that it may be many years between the divorce and the pension coming into payment, the ex-spouse must make sure that the Pensions Administration Office, Thurso is kept informed of any changes of address.

The Pensions Administration Office, Thurso must also be informed if the ex-spouse remarries. Earmarking orders against periodical pension payments (but not lump sums) will then lapse automatically.

Following the divorce, the scheme member may need to update his/her death benefit nomination; the nomination will however only apply to the part not affected by any earmarking order.

If the United Kingdom Atomic Energy Authority pension scheme member transfers to another scheme, the earmarking order will also transfer. The ex-spouse will be notified by the Pensions Administration Office, Thurso.

PENSION SHARING

Under the pension sharing regulations, the courts may order that a percentage of the member's benefits (valued at a specified date on or shortly after the date of the order) be transferred permanently to the ex-spouse. In Scotland, the courts will refer to a monetary amount, which is converted into a percentage by dividing it by the member's CETV at the valuation date.

This percentage is applied to the following elements of the member's benefits to create a pension debit:

- pension
- lump sum
- contingent spouse's pension
- contingent post-retirement spouse's pension
- guaranteed minimum pension (GMP) – if applicable
- National Insurance modification – if applicable

NOTE: whether or not the contingent children's pension is affected by the pension share is still being considered.

The percentage figure is then applied to the member's CETV at the valuation date to calculate the ex-spouse's pension credit. (In Scotland the monetary figure quoted in the order is used.) Using CETV factors appropriate to the ex-spouse's age and gender, the pension credit is converted into a pension and (provided the retirement lump sum has not already been paid to the member) a lump sum, payable to the ex-spouse from their 60th birthday. No dependant's pension is applicable to the ex-spouse's award. Where an ex-spouse dies **before** drawing their pension, a death benefit lump sum equal to 25% of the cash equivalent transfer value of their preserved pension credit award, calculated at the date of death, would be payable to their legal personal representative. Where an ex-spouse dies **after** drawing their pension, a death benefit lump sum would be paid if the total pension and lump sum paid in respect of the pension credit is less than five times the annual rate of the pension in payment. In these circumstances, the death benefit lump sum is the difference between the amount already paid to the ex-spouse and five times the annual rate of pension.

The ex-spouse's pension credit award attracts full inflation proofing.

If the court orders that a percentage (or monetary amount as appropriate) of a member's AVC or Shift Pay Pension Plan fund can be awarded to their ex-spouse, then that percentage (calculated as at the valuation date) or amount is deducted from the member's AVC or Shift Pay Pension Plan fund and transferred to an appropriate pension arrangement of the ex-spouse's choice. Alternatively, the ex-spouse can become an Ex-spouse Participant in the United Kingdom Atomic Energy Authority AVC Scheme or Shift Pay Pension Plan.

Stage 3: paying the earmarked/shared pension

Earmarking. The Pensions Administration Office, Thurso will contact both the member and the ex-spouse 6 months before the member is due to retire, to check that the earmarking order is still valid and to obtain bank details for payment purposes. Payments will be deducted from the member's net pension after tax.

Pension sharing. It is the responsibility of the member and their ex-spouse to claim their respective pensions when they reach the retiring age.

First, the member's retirement award will be calculated provisionally as if the pension share had not taken place. Next, the various elements of the pension debit will be increased in line with inflation and deducted from the corresponding elements of the member's provisional award. The resulting award will then be brought into payment.

The ex-spouse's pension credit award is payable when they reach age 60 (or immediately if over that age at the valuation date). Before coming into payment, it will be increased in line with inflation since the valuation date.

Charges

The following charges currently apply, although rates are subject to review and change. Payment is due to United Kingdom Atomic Energy Authority, and will be required in full on receipt of the court order. Payment for any additional CETV calculations required in processing the order must be received in advance. Payment should be sent to the Pensions Administration Office, Thurso. *Unless the court order specifies otherwise, all charges will be paid by the scheme member.*

Provision of information			
Cash Equivalent Transfer Value (<i>active and deferred members are entitled to one CETV estimate every 12 months without charge</i>)		Subsequent CETV estimate	
		£100	
Handling the earmarking order		Handling the pension sharing order	
Initial noting of file #	£25	Calculation of pension debit and pension credit award #	£250
Changes to record due to variations in court order or personal details	£10	Initial noting of file by paying authority #	£25
Transfer of order to another scheme	£30	Paying pension credit award #	£150
Paying the earmarked pension		If applicable, maintaining preserved pension credit (for each <u>full</u> year that the pension credit member is below age 60)* #	£2
Set-up (levied at time of payment) – lump sum only ‡	£75		
Set-up (levied at time of 1st payment) – periodical payments or periodical payments and lump sum ‡	£100		
Making periodical payments - annual charge ‡	£50		

All amounts are subject to VAT at 17.5%

‡ these charges will be deducted from any benefits that have come into payment

these charges are payable on receipt of the court order

* e.g. pension credit member is 50 at the valuation date, they are 9 full years below 60, charge is 9 x £2 = £18

Note: this leaflet gives general guidance only, to assist scheme members and their spouses who may be involved in divorce proceedings. Individuals should seek further information from their solicitors about the relevance of the earmarking provisions to individual divorce petitions.

For further information and advice about scheme benefits, contact the Pensions Administration Office, Thurso on 01847 804444 or benefits@ukaea.co.uk.

August 2004.

Summary of Benefits payable from the Combined Pension Scheme of the UNITED KINGDOM ATOMIC ENERGY AUTHORITY [FINAL SALARY OCCUPATIONAL PENSION SCHEME]

1.	Normal Retirement Age (NRA)	60 Some longer serving members have a reserved right to retirement at age 65.	
2.	Pensionable earnings (PE)	For service up to 31.3.1997 either 100% or 93.5% depending on members' contract of employment. Members joining after 1.6.1989 will be subject to the maximum salary allowed under the earnings capping regulations.	
3.	Pensionable Final Earnings (PFE)	Best 12 months' pensionable earnings in the last three years of service.	
4.	Member contributions	5% of pensionable earnings	
5.	<u>Benefits on Retirement</u> On normal retirement (1) Pension (2) Lump sum On ill health retirement (after completing 2 years' service)	Assuming reckonable service of N years N/80 x PFE 3N/80xPFE Benefits as per Normal Retirement but with enhancement to reckonable service (see Note 10)	
6.	<u>Benefits on Death in Service</u> (1) Lump sum (2) Spouse pension	2 Years' PFE 1/160 th of member's pensionable final earnings (for service up to 31.3.1997) assuming ill health retirement had occurred on the day before the member died (see note 10 for enhanced service) 1/140 th of member's pensionable final earnings (for service from 1.4.1997) assuming ill health retirement had occurred on the day before the member died (see note 10 for enhanced service)	
7.	<u>Benefits on Death in Retirement</u> (1) Lump sum (2) Spouse pension	5 years' pension less pension and lump sum already received by member 1/160 th of member's pensionable final earnings (for service up to 31.3.1997) assuming ill health retirement had occurred on the day before the member died (see note 10 for enhanced service) 1/140 th of member's pensionable final earnings (for service from 1.4.1997) assuming ill health retirement had occurred on the day before the member died (see note 10 for enhanced service)	
8.	<u>Benefits on Withdrawal</u> Less than 2 years service 2 or more years service	Refund of 3.5% of members contribution plus interest less tax Accrued benefits increased in deferment, payable from NRA	
9.	<u>Increases to Pensions</u> In Payment In deferment	In line with RPI on excess over GMP Total pension and lump sum increased in line with RPI	
10	Service enhancement on ill health retirement or death in service pension	2-5 years 5-10 years Over 10 years:	No enhancement Service doubled Service enhanced to (a) to 20 years or (b) by 6/23 rd years

			whichever gives the better result
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