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**HM TREASURY**

**OFFICIAL COMMITTEE ON OCCUPATIONAL PENSIONS**

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**NOTE BY THE SECRETARY**  
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**IMPLEMENTING PENSION SHARING IN PUBLIC SERVICE SCHEMES: POLICY  
PAPER**

- 1 The attached policy paper gives notice of proposed legislation enabling divorcing couples to share accrued pension rights as part of a divorce settlement.
- 2 It includes information, guidance and examples for implementing the new legislation. You are asked to note the action points in paragraph 6.

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# IMPLEMENTING PENSION SHARING IN PUBLIC SERVICE SCHEMES: POLICY PAPER

## INTRODUCTION

- 1 This paper gives notice of impending legislation enabling pension rights to be shared between a couple as part of a divorce settlement. It also sets out guidance for public service pension schemes to follow in implementing the legislation. The paper consists of a general explanation of pension sharing and how it will affect public service schemes, together with general principles of policy. Some areas of policy are open to scheme discretion. For others, public service policy applies and those schemes which are obliged to follow such policy must implement pension sharing as described. *Please note, this paper does not offer definitive detailed advice on implementing pension sharing in respect of each individual public service pension scheme*
- 2 **Background** During Summer 1998, DSS consulted on a draft Pension Sharing Bill amending family and pensions law to enable pension rights to be shared between a divorcing couple. The consultation document also included corresponding amendments to tax law. The draft legislation was reviewed by the main public service pension schemes, the Government Actuary's Department (GAD) and the Treasury. Pension sharing now forms part of the Welfare Reform and Pensions Bill, which is currently being considered by Parliament. Changes to tax law are to be included in a future Inland Revenue Finance Bill (1999 or 2000, depending on the implementation date for pension sharing)
- 3 The pension sharing legislation makes the necessary amendments to public service schemes' primary legislation. DSS regulations will follow in due course, probably during Spring/Summer 1999. Following these, schemes will need to amend their own rules/regulations to comply with the pension sharing requirements.
- 4 Pension sharing will affect all occupational pension schemes, as well as personal pension arrangements and SERPS. The basic State pension will not be affected because existing arrangements already accommodate divorce. The pension sharing legislation sets out when and how pension sharing can apply, the type of benefits to which it may be applied, schemes' responsibilities and rights, how a pension share affects the original scheme member and how the share passed to the member's former spouse may be used.
5. **Timetable** The current timetable envisages pension sharing coming into operation some time in the year 2000 (its implementation date is conditional on LCD introducing the new divorce procedures provided under the Family Law Act 1996, this is likely to be late 2000) and, along with schemes in the private sector, public service schemes will need to be in a position to comply with the new law from its implementation date.

- 6 **Action** Schemes should note the contents of this paper. Each scheme must assess its own policies, rules and administrative practices against the requirements of the pension sharing legislation and this paper. Please note that this paper reflects Treasury's current understanding of the Bill and how DSS intend to use regulatory powers under the Bill. Its contents are therefore subject to change as the legislation progresses.
- 7 Once legislation is made, schemes should seek their own actuarial and legal advice in good time and set a timetable for amending their rules and administrative procedures to ensure that they are able to implement pension sharing from the operative date. Schemes will also need to prepare guidance material for members in due course.

## DIVORCE SETTLEMENTS AND PENSION SHARING

- 8 **Who can pension share?** Couples divorcing under UK legislation after the implementation date will be able to make use of the pension sharing legislation to share pension rights as part of a divorce settlement, in the same way that other assets can be divided. Pension sharing will apply to current and former members, provided rights have vested (ie. that the person has at least 2 years' service or has reached State Pension Age (SPA)), including those with benefits in payment. Pension sharing will not apply to scheme beneficiaries, such as widows, or where the scheme member's pension rights have not yet vested. It will apply equally to men and women, but given the current pattern of pension ownership, it will more often involve a male scheme member sharing accrued pension rights with his former wife. Pension sharing will not be compulsory and the pension rights can be shared in any ratio up to 100% of the value (ie. it will not necessarily be a 50/50 share).
- 9 The Bill contains a power allowing certain public service schemes to be exempted from the pension sharing legislation. This is only intended to be used where it is impractical, for technical reasons, to include schemes. The power requires Treasury to designate a Government minister or department to lay exempting regulation.
- 10 **Divorce settlements** Under each of the UK jurisdictions, couples will normally be able to choose whether to agree their own financial settlement, including a pension share, or for the settlement to be determined by a Court. Where the latter applies, schemes will receive a special form of Court Order detailing the pension share that they must implement. In the case of the former, a legal written agreement will be sent to the scheme setting out the sharing arrangements. Schemes should note that they may face pension shares from different UK jurisdictions, eg. a Scottish scheme may face a pension share arising from an English divorce and vice versa.
11. In England/Wales the pension sharing order or agreement must express the share of the pension rights to be passed to the former spouse as a % of the original member's pension rights. Scottish law will allow either a % or a monetary amount to be specified.
- 12 **Process** A brief outline of the process, as it involves pension schemes, follows.

Pre-implementation: the information stage

- scheme member seeks advice from scheme about value of accrued pension rights and policy on pension sharing (member should advise scheme that a divorce is under consideration),
- scheme advises member of current value of pension rights and provides other explanatory information on pension sharing, such as whether or not former spouse can transfer her share to another pension scheme or arrangement and scale of charges to be levied;
- couple confirm to scheme that they intend to proceed with pension share and scheme responds with notice that it is content.

Implementation stage

- couple/Court decide on terms of settlement, divorce finalised;
- scheme sent pension share order/agreement, with papers confirming divorce;
- scheme updates valuation of benefits, implements pension share in accordance with order/agreement by reducing member's rights and implementing the former spouse's "award" and advises couple that pension share has been actioned;

Post implementation

- no action where former spouse rights were transferred out;
- where former spouse membership is given, scheme pays benefits when former spouse reaches retirement age (scheme may also need to respond to occasional enquiries from former spouse).

13 More detailed information on some of these aspects follows.

**VALUING THE MEMBER'S ACCRUED PENSION RIGHTS**

14 *General valuation principles* The pension sharing legislation requires pension schemes to value accrued pension rights, using "CETV principles" (CETV= cash equivalent transfer value) In some circumstances, particularly where benefits are already in payment, the valuation may differ slightly, but it will nevertheless apply similar principles. DSS have taken a power in the new Bill to make regulations setting out what is to be valued and how valuations must be carried out in specific circumstances, for example, where benefits are in payment. DSS will also permit schemes to take medical evidence into account in valuing benefits in payment.

15 At the information stage, schemes must provide a current estimate to the member for divorces in England/Wales. *For Scottish divorces at this stage*, the valuation is based on the benefits accrued up to a given date (for example, the date the couple separated) and valued as at a specific date; the valuation date, specified in Scottish legislation, is notified to the scheme by the member. It is normal in Scottish divorces for the settlement to take account only of those assets, including pension benefits, which were accrued during the period of the marriage; *it is for the couple/Court to determine the portion of the CETV relating to the period of marriage*. For Scottish divorces schemes may also be asked to supply an additional valuation reflecting the current value of all the accrued pension benefits.

16. In all cases, when a pension share is implemented a final (up-to-date) CETV calculation must be prepared, valued as at a current date. This valuation covers benefits accrued up to the date the pension sharing order or agreement comes into effect, which is normally the date of divorce.
17. ***What benefits does the valuation of pension rights include?*** In general, the valuation includes all vested pension rights (those benefits to which the member has gained entitlement) which would normally be included in a CETV ie. retirement benefits, such as pension, retirement lump sum and spouse's pension. Non-CETV type benefits/payments are excluded from pension sharing. This covers such payments as lump sum death benefits, compensation payments and personal injury benefits. DSS regulations will exclude benefits which could be inappropriately picked up by the pension sharing legislation Benefits which cannot be shared will normally be disclosed as "assets" during a divorce and can still be taken into account in the overall divorce settlement.
18. Tables 1 and 2 set out general information on valuations based on current understanding of the new legislation. Although the tables reflect GAD advice, schemes are advised to obtain their own actuarial advice to ensure that they receive information which is relevant to them.
19. *Benefits not yet in payment* See table 1.

**Table 1: benefits not in payment at time of pension share**

<b><i>1. member</i></b>	<b><i>valuation of accrued benefits</i></b>
1 1 member in service, under the retiring age	Accrued pension rights, calculated on service up to the day before the date of divorce, are included in a normal CETV type calculation, valued as at the date specified in DSS legislation
1 2 member in service, at or over the retiring age	As for 1 1 schemes will need to ensure that their CETV tables extend beyond the normal retiring age
1 3 former member with deferred pension rights	The preserved award forms the basis of a normal CETV calculation, valued as at the date specified in DSS legislation

20. *Benefits in payment* See table 2. The benefits to be included in a pension share valuation in these circumstances may not reflect all the benefits actually in payment or payable.

**Table 2: benefits in payment at time of pension share**

<i>2. former member</i>	<i>valuation of accrued benefits*</i>
2.1 age retirement benefits in payment (member either retired at the retiring age or has reached the retiring age following a deferred award)	Current pension rights are included in a CETV type calculation, valued as at the date specified in DSS legislation. The valuation will consist of the current pension and the widow(er)'s pension payable after the divorce, if any (normally the post-retirement widow(er)'s pension, i.e. the pension which would be payable to a widow(er) of a marriage which takes place after the member leaves the scheme). It will exclude lump sum benefits already paid out. (Where the member retired before post-retirement widow(er)s' pensions became available, no widow(er)'s pension will be included in the valuation.) Schemes will need to ensure that their CETV tables extend beyond the normal retiring age.
2.2 member retired with an actuarially reduced award	-still under the retiring age as for 2.1, but schemes will need to consult with their actuaries as new tables are likely to be needed  -over the retiring age as for 2.1
2.3 member retired on ill-health grounds	As for 2.1 (The valuation will be based on the enhanced pension rights, where in payment.)
2.4 member retired early eg for management reasons	-still under the retiring age in general, any compensation payments made or in payment are ignored and only the retirement benefits are valued. Where the scheme has enhanced the pension benefits the enhancement is normally included. Schemes should take legal/actuarial advice about the benefits to be valued, based on the requirements of the pension sharing legislation  -over the retiring age as for 2.1 but some compensation payments in payment might be excluded. Schemes should take legal/actuarial advice about the benefits to be valued, based on the requirements of the pension sharing legislation

Medical evidence may be needed for the valuation- see paragraph 14.

21. **Added years/AVCs** Any added years purchased (up to the eve of the date of divorce for a member in service) which increase reckonable service are included in the CETV calculation in the normal way.
22. Benefits arising from AVCs (additional voluntary contributions) paid into the occupational scheme are included in the CETV calculation, provided the benefits are of a type which would normally be included in a CETV. For example, an additional death benefit purchased by AVCs paid into the scheme would be excluded from the CETV (because death benefits fall outside the CETV calculation), but additional benefits arising from AVCs used to increase the accrual rate in respect of the member's pension are included.
23. Where AVCs are paid to a separate fund, under scheme regulations (i.e. they are not free-standing AVCs but are not paid into the main scheme), the resulting benefits are excluded from the CETV calculation (The member will need to obtain information direct from the

AVC provider. A separate pension sharing order may be served on the provider.)

- 24 Free-standing AVCs are excluded from the CETV; public service schemes have no responsibility for them. A separate pension sharing order may be served on the provider.
- 25 ***Lump sum deductions in respect of scheme contributions*** These arise properly under scheme rules, for example, where the member has unpaid widow(er)'s pension contributions in respect of service used in the CETV calculation. The CETV is calculated on the net lump sum, after deduction of the outstanding debt, in the normal way.
- 26 ***NI (National Insurance) Modification*** The CETV calculation takes NI modification into account in accordance with normal scheme transfer calculation rules. Where a (former) member is over the State retirement age, the valuation is based on the "net" pension in payment ie *after* NI Modification has been applied.
- 27 ***CETV tables*** Schemes will need CETV factors in respect of ages above the retiring age because pensions in payment can be shared (and may need to be valued for divorce purposes, even if they are not shared). New tables for other benefits in payment may also be needed
- 28 ***Examples*** Examples explaining how benefits are valued and reduced in respect of a pension share are set out in annexes to this paper. They have been simplified for ease of understanding. In practice, the calculations required may be a little more complex. The examples also show the resulting (in scheme) award to the former spouse.

***Annex A: Member in service***

***Example 1 : member in service at time of pension share, retires at normal pension age***

***Example 2: GMP and NI Modification***

***Example 3: Settling a contributions account***

***Example 4: Scottish pension sharing order***

***Annex B: Deferred member***

***Example 1: deferred member at time of pension share***

***Annex C: Pensioner***

***Example 1 . pensioner under State Pension Age at time of pension share***

***Example 2: pensioner over State Pension Age at time of pension share***

## **APPLYING THE PENSION SHARE**

29. ***Unfunded public service pension schemes*** It is public service policy that **unfunded** public service pension schemes will not transfer out former spouse rights to another pension scheme or arrangement, either at the time that the pension share takes place or subsequently. The former spouse must be given pension rights within the scheme. This policy is enshrined in the Bill. The benefit package to be offered to the former spouse is outlined below
- 30) ***Funded public service pension schemes*** In line with funded schemes in the private sector, **funded** public service schemes must offer a former spouse who is under the

retiring age a transfer of his/her portion of the accrued pension rights at the time of the pension share. A transfer can be made to another pension scheme or arrangement, subject to DSS legislation. If the former spouse does not select a recipient for the transfer, the scheme may make its own arrangements to transfer out the rights. Alternatively, funded schemes, including funded public service schemes, may offer former spouses scheme membership (note- where schemes opt to give former spouses (under the retiring age) a choice between scheme membership and a transfer, they must offer the choice generally, they cannot operate different policies in individual cases).

- 31 Where the former spouse has reached the retiring age at the time of the pension share, the transfer option does not apply and he/she must be given rights within the scheme. Former spouses who accept scheme membership within a funded scheme gain the right to transfer the former spouse rights subsequently to another scheme or arrangement at any time after the pension share, subject to DSS legislation, eg. up to one year before the former spouse retiring age.

### **EFFECT OF PENSION SHARE ON THE MEMBER**

- 32 *Reducing the benefits* The pension sharing legislation sets out how the scheme member's benefits may be reduced (debited) following a pension share. The benefits on which the CETV was based are reduced according to the proportion of the accrued pension rights passed to the former spouse. For example, where the court order/agreement requires the former spouse to receive 40% of the accrued pension rights, the member's benefits will be reduced by 40% (leaving 60% payable). This means reducing the member's pension, retirement lump sum, spouse's pension and GMP by 40%.

- 33 Where a Scottish pension share refers to a monetary amount rather than a %, the amount must first be recalculated into a %, before the reduction is applied. This is done by dividing the monetary amount quoted into an up-to-date CETV calculation. However, the amount passed to the former spouse cannot exceed 100% of the value of the up-to-date CETV calculation

- 34 *Members in service* Where the member is in service when the pension share takes place, the reduction is applied in the following way:

-a notional reduction of the benefits is recorded on the member's file at the time of the pension share, *but no actual reduction of benefits takes place at that time*. The member continues to accrue pension rights as if the pension share had not taken place;

-when service ends on retirement or resignation, an award is first calculated as normal, without taking the pension share into account,

-the *notional reduction*, recorded at the time of the pensions share, is uprated to a **current** value by the application of a PI factor, and debited from the member's benefits. This is known as the negative deferred benefit reduction. It ensures that the member loses only the specified portion of the rights which had accrued up to the date of divorce; benefits

accrued after that date are unaffected by the pension share. See Annex A for examples

- 35 ***Former members*** For deferred members and pensioners, the reduction is made at the time the pension share is implemented by providing the pension paying agent with a **substitute** award. (Note- This is not the same as a corrected award (following which the paying agent would seek to impose a new award from day one, possibly leading to recovery of overpaid benefits ) The **substitute** award is a new award which reduces the basic rate of pension on which pensions increase is calculated (in the same way in which NI Modification reduces the basic rate of pension) The new award is made at the time of the pension share and applies from a current date; but it gives the new figures at the pension beginning date to permit the correct application of pensions increase. For pensioners this will immediately reduce the pension currently in payment, including any pensions increase in payment. See Annex B (deferred members) and Annex C (pensioners) for examples
36. Tables 4-7 below outline how the debit is applied and when, and the pensions increase implications. Although the pension sharing legislation overrides scheme rules to give authority to schemes to reduce pension rights as a result of a pension share, nevertheless schemes may wish to consider introducing a new rule which establishes that the annual rate of pension payable is the pension after the pension debit is applied for the better comprehension of scheme members, particularly the pensions increase implications that result from a pension share.
- 37 ***AVCS/added years*** A member in service may wish to pay additional contributions to rebuild some or all of the benefits lost following a pension share. For scheme members on moderate incomes (those with yearly earnings up to 25% of the earnings cap- £22,650 from 6 April 1999 when the cap rises to £90,600), the lost pension is ignored when determining the maximum IR benefit limits. For other members, additional contributions may also be paid but only to the extent that he/she would have been able to pay them had the pension share not taken place. The 15% limit on member contributions will apply as normal These are Inland Revenue requirements.
- 38 ***Lump sum deductions in respect of scheme contributions*** On retirement, some schemes may need to settle a contribution account for past service by reducing the retirement lump sum. Where there has been a pension share during service, a proportion of the debt is deemed to have been settled at the time of the pension share; the proportion deemed to have been settled depends on the details of the pension share. For example, where the former spouse received a pension share of 40% of the accrued pension rights, the member's lump sum deduction at retirement *in respect of earlier service used in the CETV calculation* is reduced by this %. This is shown in Example 3 of Annex A.

**Table 4: member in service**

<b>4. member in service at pension share (PS)</b>	<b>debit</b>	<b>PI</b>
<p>4 1 Retires at NPA or later Example 1 of Annex A</p>	<p>Notional debit, as prescribed in order/agreement, recorded against accrued benefits when pension share implemented At retirement, award calculated based on all service; debit + PI from PS to date of retirement then deducted from full award</p>	<p>Reduced award attracts PI from normal beginning date.</p>
<p>4 2 Retires early with unreduced or enhanced pension</p>	<p>Notional debit, as prescribed in order/agreement, recorded against accrued benefits when pension share implemented At retirement, award calculated as normal, debit + PI from PS to date of retirement then deducted from full award.</p>	<p>Reduced award attracts PI from normal beginning date PI not payable below age 55 unless ill-health retirement</p>
<p>4 3 Retires early with actuarially reduced pension</p>	<p>Notional debit, as prescribed in order/agreement, recorded against accrued benefits when pension share implemented At retirement, award calculated as normal debit + PI from PS to date of retirement deducted from full award Reduced award then actuarially reduced for early commencement</p>	<p>Reduced award attracts PI from normal beginning date PI not payable below age 55</p>
<p>4 4 Resigns and becomes deferred member</p>	<p>Notional debit, as prescribed in order/agreement. recorded against accrued benefits when pension share implemented On leaving award calculated as normal, debit + PI from PS to date of leaving deducted from full award</p>	<p>Reduced award attracts PI from normal beginning date</p>

**Table 5: former member with deferred benefits**

<b>5. deferred member at pension share (PS)</b>	<b>debit</b>	<b>PI</b>
<p>5.1 Retires at NPA</p> <p>Example 1 of Annex B</p>	<p>Substitute award made at time of pension share, taking effect from date of pension share. Substitute award sets out new details (reduced benefits) in respect of benefits subject to the pension share. (Benefits not subject to the pension share remain unchanged.)</p>	<p>PI on substitute award from <i>original</i> beginning date</p>
<p>5.2 Retires early with unreduced pension (brought into payment early eg. for ill-health reasons)</p>	<p>Substitute award made at time of pension share taking effect from date of pension share. Substitute award sets out new details (reduced benefits) in respect of benefits subject to the pension share. (Benefits not subject to the pension share remain unchanged.)</p>	<p>PI on substitute award from <i>original</i> beginning date. PI not payable below age 55 unless ill-health retirement</p>
<p>5.3 Retires early with actuarially reduced pension</p>	<p>Substitute award made at time of pension share, taking effect from date of pension share. Substitute award sets out new details (reduced benefits) in respect of benefits subject to the pension share. (Benefits not subject to the pension share remain unchanged.) Reduced award then actuarially reduced for early commencement</p>	<p>PI on substitute award from <i>original</i> beginning date. PI not payable below age 55</p>
<p>5.4 Transfers benefits to another scheme or arrangement</p>	<p>Transfer valuation calculated on reduced benefits set out in substitute award</p>	<p>PI on substitute award from <i>original</i> beginning date; PI applied in accordance with normal transfer requirements</p>

**Table 6: former member with benefits in payment**

<b>6. pensioner at pension share (PS)</b>	<b>debit</b>	<b>PI</b>
6.1 Retired at NPA or later  See examples 1 and 2 of Annex C	Substitute award made at time of pension share, taking effect from date of pension share. Substitute award sets out new details (reduced benefits) in respect of benefits subject to the pension share (member's pension and any post-retirement spouse's pension*) (Ordinary contingent widow(er)'s pension no longer available)	PI on substitute award from <i>original</i> beginning date. Net effect is that member's current rate of pension (including any PI added) will be reduced from a current date and PI will apply to reduced benefits thereafter.
6.2 Retired before NPA	Substitute award made at time of pension share, taking effect from date of pension share. Substitute award sets out new details (reduced benefits) in respect of benefits subject to the pension share (member's pension and any post-retirement spouse's pension*) (Ordinary widow(er)'s pension no longer available)	PI on substitute award from <i>original</i> beginning date. Net effect is that member's current rate of pension (including any PI added) will be reduced from a current date and PI will apply to reduced benefits thereafter. PI not payable below age 55 unless ill-health retirement.

\* ie the pension which would be payable to a widow(er) of a marriage which takes place after the member leaves the scheme

**Table 7: member or former member dies**

<b>7. member or former member dies</b>	<b>debit</b>	<b>PI</b>
7.1 Before pension share order/agreement made effective	Pension share action ceases. Normal award procedures applied.	Normal PI rules apply to award.
7.2 After pension share order/agreement made effective	Pension share implemented in accordance with order/agreement. Survivor's pension based on <i>reduced</i> benefits. Child's pension based on <i>full</i> benefits as if pension share not implemented.	Normal PI rules apply to award(s). Survivor's/child's pension attracts PI from normal beginning date for member in service (or member's original beginning date where pension was in payment at date of death).

39 **NI Modification** At State pension age, pensions may be reduced in respect of NI Modification Schemes should consult their legal advisers about whether a rule amendment is needed to provide for a proportionate modification following a pension share. For example, where the former spouse received a pension share of 40% of the accrued pension rights, the member's NI modification is reduced by this %. This is shown in the examples contained in the annexes to this paper.

40. ***Scheme objections and forfeiture*** The divorcing couple must advise the scheme that they intend to pension share before they act to do so. In return, the scheme will send a notice confirming that the scheme has no objection to the proposed pension share. This is one of the documents that the couple must produce to the Court in respect of a settlement where a pension share is proposed.
41. Schemes can object to the pension share in appropriate circumstances; for public service schemes, we would expect objections in respect of forfeiture only. This can happen at any time before the pension share order or agreement comes into effect (normally the date of the divorce, subject to any appeals period). Once the order or agreement takes effect it must be implemented and forfeiture can only apply to any benefits which remain the property of the member.
42. A scheme objection requires a clear trigger. For public service forfeiture, we recommend that this is where the scheme is actively pursuing forfeiture or disciplinary proceedings or proceedings before a court have been commenced against the member, which could lead to forfeiture.
43. ***Abatement and other 'income tests'*** Scheme rules may contain provisions which use the level of pension in payment to assess whether other benefits might be payable, eg. a form of income test such as applies on abatement or when injury benefits are claimed. A reduced level of pension has implications for those provisions. For example, when assessing whether or not a pension should be abated following a member's re-employment, the pension payable before a pension share might require abatement, but a reduced pension after a pension share will lower the member's actual income. Although there may be some provisions where it is appropriate to ignore the pension share, where the test relates to the member's actual income we would expect the reduced pension to be used. This may mean some increase in expenditure but we would not expect it to be significant. Schemes should consider their rules and provide for the reduced pension to be used *where it is appropriate to do so*.

## **EFFECT OF PENSION SHARE ON FORMER SPOUSE**

44. The former spouse's share of the accrued rights must be awarded to her within the timescale provided in the DSS legislation. It is either transferred to another scheme or arrangement (funded public service schemes only) subject to DSS legislation, or the scheme must use the share to provide benefits in that scheme. The guidance below sets out how the internal scheme membership process works.
45. ***The award*** The former spouse will become-
- a former spouse member and receive deferred benefits, or
  - a former spouse pensioner and receive immediate payment of benefits, where the former spouse has reached the (former spouse) retiring age .

This will apply even if the former spouse is or was a member in his/her own right; in such cases the former spouse rights will be entirely ring-fenced. (In effect, such a person would hold “dual” membership, with benefits accrued as an active member being treated in the normal way and the former spouse rights the subject of a separate award.)

- 46 **Former spouse benefits** In order to maximise the former spouse’s pension benefits and to keep the benefit package simple, the main public service schemes have decided that it will consist of a pension, or a pension and lump sum, but no dependants’ benefits. Inland Revenue will permit the former spouse to have a retirement lump sum as well as a pension in those schemes which provide for commutation of pension rights *However, where the original member has already received the retirement lump sum the former spouse cannot have a further lump sum, even in a scheme which would normally provide automatic commutation* Table 8 sets out what the pension share buys in different circumstances and the implications for pensions increase.
- 47 Schemes may, if they wish, allow former spouses to provide for subsequent spouses, but should note that this will complicate the benefit package and reduce the amount of benefit available to the former spouse in his/her own right. Schemes which offer this provision will also need to consider whether an associated child’s pension should be made available (note- the main schemes propose to provide a child’s pension based on the unreduced member’s pension following the death of a (former) member. The child is therefore neither better nor worse off following a pension share.)
- 48 The former spouse will not have a GMP; instead, all the former spouse’s pension rights will be treated as post April 1997 rights, for contracting-out purposes
- 49 As table 8 shows, the former spouse lump sum death benefits are similar to those that apply in respect of deferred members and pensioners. Schemes may wish to consider how the death benefit arrangements should be applied to a former spouse. For example, whether she should be able to nominate a recipient when the pension share takes place.
- 50 **Calculating the award** The former spouse’s award is calculated as follows:
- the % specified in the order/agreement is applied against the up-to-date CETV calculation to obtain the monetary equivalent; this is used to “buy” benefits for the former spouse in the scheme (note- for Scottish orders which quote a monetary figure, this part of the calculation will not be necessary, but schemes must check that the amount quoted does not exceed 100% of the up-to-date CETV calculation);
  - the monetary amount is then divided by factors to purchase pension benefits. Former spouse benefits will be analogous to deferred pensioner benefits (because they increase in line with prices and are payable from the former spouse’s retirement age -or immediately where the former spouse is at or over that age). For this reason, the factors to be used would usually be the scheme’s normal transfer **out** factors for members’ pensions and lump sums (where a lump sum is applicable), but ignoring factors for other ancillary scheme benefits. (Transfer out factors are used because they are consistent with the circumstances of the award; transfer in factors are based on actuarial assumptions that

will not apply to the former spouse eg. the allowance for movement in salary and possible promotion. It would be actuarially inconsistent and unfair to use factors which assumed the rights purchased by the pension share would increase in value beyond basic price protection.)

- 51 This principle should hold good where the former spouse's retirement age and the retirement age assumed in a scheme's transfer out tables are the same. **Schemes will need to seek actuarial advice on whether their transfer out tables are appropriate; fast accrual schemes may need specific tables which are linked to the deferred retirement age applying to former spouses in their schemes.**
- 52 For most public service schemes, the method of calculating former spouse rights will be as shown in the example below. (The example factors are only appropriate to a scheme with a retirement age of 60.)

**EXAMPLE**      *The CETV at divorce amounts to £24210, the % credited to former spouse is 40%, the former spouse is a female aged 35. The factors used in the calculation of the former spouse award (taken from iv out tables appropriate to a scheme with an age 60 retirement age, providing a pension and an automatic lump sum of 3 times pension) are 5.25 (pension) and 0.38 (lump sum)*

$£24210 \times 40\% = £9684$

Pension  $£9684 - (5.25 + 3 \times 0.38) = £9684 - 6.39 = \mathbf{£1515}$

Lump sum  $£1515 \times 3 = \mathbf{£4545}$

**Table 8: former spouse benefits and PI**

<i>8. former spouse</i>	<i>award</i>	<i>PI</i>
8.1 Under former spouse retiring age at pension share	Pension share used to buy deferred pension (and lump sum in appropriate circumstances) Benefits payable at retiring age	PI beginning date = effective date of order
8.2 At or over former spouse retiring age at pension share	Pension share used to buy pension (and lump sum in appropriate circumstances) Benefits payable with effect from effective date of order	PI beginning date = effective date of order
8.3 Dies after pension share order/agreement made effective but before it is implemented	Former spouse must be made a member of the scheme (any transfer action in respect of a funded scheme must stop) 8.4 then applies	See 8.4

8. former spouse	award	PI
8 4 Dies after pension share order/agreement implemented and former spouse membership given	Lump sum death benefit as provided by scheme rules for deferred members/pensioners, depending on whether the former spouse has reached former spouse retirement age No dependants' benefits payable(unless scheme rules permit this)	N/a unless the scheme provides for dependants' benefits in respect of former spouse members. If so, PI will be payable on those pensions

- 53 **Former spouse retiring age** For most public service schemes, this is the scheme's normal deferred retiring age (ie. the age at which a deferred member's benefits are payable) Schemes which do not include such an age must set an appropriate age in their scheme rules/regulations.
- 54 **Early retirement** DSS legislation requires schemes to make former spouse retirement benefits payable at the deferred retiring age; they are not required to make provision for any early or medical retirement provisions. It is public service policy not to make any provision which allows early unreduced or enhanced benefits. Those schemes which allow members to take actuarially reduced benefits before the retiring age may make the same facility available to former spouses if they wish.
- 55 **Transfers in of former spouse rights** DSS legislation does not require schemes to accept transfers in of former spouse rights from other pension schemes or arrangements. The main public service schemes do not intend to accept transfers in of former spouse rights.
- 56 **Transfers out of former spouse rights** A former spouse who accepts membership in a funded public service pension scheme retains the right to subsequently transfer those benefits, subject to DSS legislation, ie. up to one year before the former spouse retiring age. Former spouse rights in unfunded public service pension schemes **cannot** be transferred elsewhere. But, where the former spouse also has accrued pension rights in an unfunded scheme **resulting from employment**, these can be transferred to another scheme or arrangement, subject to the normal transfer rules, but the former spouse rights must be retained in the scheme.
- 57 **AVCs/added years** The former spouse is not eligible to pay any contributions to increase his/her deferred former spouse benefits, this exclusion covers both AVCs and added years.
- 58 **Benefit payments** Former spouse benefits will normally be paid from the same source as the original member's pension. For example, a former spouse member of a civil servant will receive her eventual benefits from the Civil Superannuation Vote. Schemes should ensure that their rules/legislation and/or Vote do not contain any barriers to former spouse benefits being drawn from the appropriate source. To this end, Treasury has already checked the legislative authority for making certain pension payments from the Consolidated Fund and the Bill extends existing powers to cover payments to or in

respect of former spouses

- 59 **Forfeiture** The DSS Bill allows the former spouse to be treated the same as any other member whose rights are to be forfeited under DSS legislation and schemes retain the discretion of when and how to apply forfeiture to individual cases, as they do for members, within the legal limits.
- 60 For public service schemes, it is recommended that former spouse rights may be subject to forfeiture:
- (i)- in circumstances where it might apply in the private sector (ie. as provided for in the Pensions Act 1995- this covers offences under the Official Secrets Acts, treason etc);
- (ii)- where he/she is convicted of offences alongside the member, where such offences lead to the forfeiture of his/her benefits.
- This means that he/she would not be subject to the forfeiture of rights which require a public service employment link (unless (ii) operates).
- 61 Where a person has both ordinary member and former spouse rights within a scheme, the two types of benefits may be treated differently (for example, the member rights might be forfeit but the former spouse rights retained in certain circumstances)
- 62 **Disclosure of information and other rights** The DSS Bill gives the former spouse member/pensioner certain rights after the pension share takes place. This includes such rights as the right to certain information and the right to appeal to the Pensions Ombudsman
- 63 **Abatement** Where a former spouse is also a member of a public service scheme in his/her own right, or later becomes such a member, only the pension relating to their *own service* will be used in any abatement calculation, in the event of later re-employment. The former spouse rights should be ignored for these purposes.

## SCHEME EXPENSES AND CHARGES

- 64 The pension sharing legislation permits schemes to recover the costs they incur in making individual pension shares from divorcing couples. In general, schemes are expected to establish a tariff system based on average costs per case. This information must be disclosed to the divorcing couple at the time the pension valuation is provided. A variety of recovery methods can be applied, including invoicing and recovery from benefits. It is likely that public service schemes, particularly where the former spouse is given scheme membership, will wish to invoice to ensure that costs that occur at the time of the pension share are recouped at the time they arise.
65. Public service schemes may recover their costs, subject to the requirements of the pension sharing legislation, in the way that most suits their administrative arrangements. The Treasury expects schemes to implement charging in line with the legislation, unless there

is good reason not to **Schemes should note that there will be no extra Government funds to implement pension sharing.**

## APPEALS

66. Legislation and Court rules set out the limits of the divorcing couples' rights to appeal against divorce settlements, including pension share orders. Table 9 briefly describes the appeal system as it applies to pension sharing orders. There are no appeal procedures for pension sharing agreements.

**Table 9 - Appeals**

<b>appeal type</b>	<b>description of arrangements</b>
<p>appeal in time</p> <p>"Stay" period this is the period allowed for appeals its length depends on the level of Court which is hearing the case</p>	<p>An appeal made during the "stay" period. These will not affect schemes as they take place before the pension sharing order is made effective ie before the scheme is advised of the order. (The effective date of the order is the later of the date of divorce or the end of the stay period )</p>
<p>appeal out of time (1)</p>	<p>An appeal made after the end of the "stay" period but before the pension share order is made effective These will not therefore affect schemes</p>
<p>appeal out of time (2)</p>	<p>An appeal made after the end of the "stay" period when a pension sharing order is in effect, it will be very rare It must be made within a "reasonable time", most likely within 3 months of the original order The Court notifies the scheme and pension share action ceases pending the appeal's outcome</p> <p>If the scheme has completed the pension share, or has acted to its "detriment" in commencing the pension share but has not yet completed it, the scheme may make a submission to the Court to stop the appeal so far as it relates to the pension sharing order The Court could not vary or discharge the original order but, if the appeal were successful, it could make additional orders to amend the settlement to achieve the desired outcome The scheme should complete any outstanding action in respect of the original pension share</p> <p>"Detriment" is not defined in the legislation Schemes will decide at what point they have committed themselves to an extent that they would suffer detriment if the original order was rescinded For example, schemes may decide that sufficient costs have been incurred at the time calculations have been made, but perhaps not before then, to object to an appeal</p>

## CLOSED UNFUNDED PUBLIC SERVICE SCHEMES

- 67 The pension sharing legislation contains a power enabling an alternative scheme to be nominated to provide the former spouse with pension rights. This power applies to unfunded public service schemes which are closed to new members. It is expected that this power will be used in limited circumstances, for example, where a scheme has few members and is running down. The former spouse will reasonably expect not to be adversely affected by the change in scheme. OCOP(97)16 sets out further information on the circumstances in which the power may be used.

## ANNEX A - Member in Service

### **EXAMPLE 1- member in service at time of pension share, retires at normal pension age**

*Please note, this is a simplified calculations for example, no account has been taken of any GMP. Calculations are rounded to the nearest £ for simplicity*

#### **Part 1: Action at time of pension share**

- i) calculate up-to-date CETV and apply pension sharing order/agreement to obtain former spouse share
- ii) calculate former spouse award
- iii) calculate notional reduction of member's retirement benefits

#### **Part 2: Action at retirement**

- i) calculate member's full award
- ii) update notional reduction to current value and deduct from pension benefits

#### **Part 1: Action at time of pension share**

##### **i) Calculate and apportion the CETV**

*Member = PCSPS member aged 38, male, salary = £24,000, past service = 10 years*

$$\text{Pension} = \frac{10 \times £24,000}{80} = \mathbf{£3,000 \text{ pa}}$$

$$\text{Lump sum} = \frac{10 \times (3) \times £24,000}{80} = \mathbf{£9,000}$$

$$\begin{aligned} \text{Contingent widow's (CW's)} \\ \text{pension} &= \frac{10 \times (\frac{1}{2}) \times £24,000}{80} = \mathbf{£1,500 \text{ pa}} \end{aligned}$$

*Cash equivalent transfer value (CETV) uses factors for male age 38*

*(Adjustment for market conditions (AMC) is ignored for illustrative purposes, although it would be taken into account in quoting the actual value )*

$$\text{CETV} = (3,000 \times 5.10) + (9,000 \times 0.43) + (1,500 \times 2.28) = \mathbf{£22,590}$$

*Split on divorce = member 60%, former spouse 40% (£22,590 x 40% = £ 9,036)*

##### **ii) Calculate former spouse award**

*Former spouse = female aged 35- benefits (deferred to age 60) calculated using CETV out factors for female age 35*

$$\begin{aligned} \text{Pension} &= £9,036 / (5.25 + 3 \times 0.38) = \mathbf{£ 1,414 \text{ pa}} \\ \text{Lump sum} &= 3 \times £1,414 = \mathbf{£ 4,242} \end{aligned}$$

##### **iii) Calculate notional reduction of member's retirement benefits**

$$\begin{aligned} \text{Pension reduction} &= 40\% \text{ of } £3,000 \text{ pa} &= \mathbf{£ 1,200 \text{ pa}} \text{ (£1800 remains)} \\ \text{Lump sum reduction} &= 40\% \text{ of } £9,000 &= \mathbf{£ 3,600} \text{ (£5400 remains)} \\ \text{Contingent spouse reduction} &= 40\% \text{ of } £1,500 \text{ pa} &= \mathbf{£ 600 \text{ pa}} \text{ (£900 remains)} \end{aligned}$$

## Part 2: Action at retirement

i) Calculate full award

*At retirement the member's total pension (ignoring the pension share) amounts to £8000, the lump sum is £24000 and the spouse's pension is £4000*

ii) Update notional reduction to current value and deduct from pension benefits

*Example assumes that PI factor is 1.5*

Notional pension reduction	= £1200 x 1.5	= £1800
notional lump sum reduction	= £3600 x 1.5	= £5400
notional spouse's pension reduction	= £600 x 1.5	= £900
Annual rate of pension	= £8000 - £1800	= <b>£6200 pa</b>
Lump sum	= £24000 - £5400	= <b>£18600</b>
Spouse's pension	= £4000 - £900	= <b>£3100 pa</b>

### EXAMPLE 2- notional reduction in GMP and NI Modification at time of pension share

Member's GMP before pension share		= <b>£ 800 pa</b>
Member's NI modification before pension share		= <b>£ 20 pa</b>
Member's GMP after pension share	= £800 x 60%	= <b>£480 pa</b>
Member's NI modification after pension share	= £20 x 60%	= <b>£12 pa</b>

*Example assumes that GMP revaluation factor is 1.7, public service PI factor is 1.5*

Member's GMP at retirement	= £480 x 1.7	= <b>£816 pa</b>
Member's NI modification at retirement	= £12 x 1.5	= <b>£18 pa</b>

### EXAMPLE 3- settling a contributions account via the retirement lump sum

Lump sum deduction taken into account in CETV at time of pension share		= <b>£400</b>
Member's notional lump sum deduction after pension share	= 60% of £400	= <b>£240</b>

*Therefore £160 (£400 x 40%) is assumed to have been settled at the time of the pension share. At retirement, the contributions account is settled in the normal way to determine the lump sum deduction. The lump sum deduction is then reduced by (£160 x PI) to date of settlement.*

### EXAMPLE 4- Scottish pension sharing order

Amount specified in order		= <b>£ 9,000</b>
Corresponding percentage	= £9000/CETV = £9,000/£22,590	= <b>39.84%</b>

*Former spouse award uses £9000 to "purchase" scheme benefits  
Member's pension rights used in CETV reduced by 39.84%*

## ANNEX B - Deferred member

### **EXAMPLE 1- deferred member at time of pension share, retires at normal pension age**

*Please note, this is a simplified calculations for example, no account has been taken of any GMP. Calculations are rounded to the nearest £ for simplicity*

#### **Part 1: Action at time of pension share**

- i) calculate up-to-date CETV and apply pension sharing order/agreement to obtain former spouse share
- ii) calculate former spouse award
- iii) calculate member's reduced retirement benefits

#### **Part 2: Making the member's substitute award**

#### **Part 1: Action at time of pension share**

##### i) Calculate and apportion the CETV

Member = PCSPS member aged 58, male

Pension on leaving service	<b>= £ 3,000 pa</b>
Lump sum on leaving service	<b>= £ 9,000</b>
Contingent widow's (CW's) pension on leaving service	<b>= £ 1,500 pa</b>
Pension Increase (PI) factor (at age 58)	<b>= 1.5</b>
PI factor at retirement (at age 60)	<b>= 1.7</b>

*Cash equivalent transfer value (CETV) (ignoring the adjustment for market conditions (AMC) but including updated value of pension benefits to current date)*

$$\text{CETV} = £3,000 \times 1.5 \times (11.31 + 3 \times 0.92 + \frac{1}{2} \times 1.31) = \text{£ } 66,263$$

*Split on divorce = member 60%, former spouse 40% (£66263 x 40% = £26505)*

##### ii) Calculate former spouse award

*Former spouse = female, aged 55- benefits (deferred to age 60), using CETV out factors for female age 55*

Pension	<b>= £26,505 / (11.49 + 3 x 0.82)</b>	<b>= £1,900 pa</b>
Lump sum	<b>= 3 x £1,900</b>	<b>= £ 5,700</b>

##### iii) Calculate reduction of member's retirement benefits (value as at leaving service)

Pension	<b>= £ 3,000 x 60%</b>	<b>= £1800 pa</b>
Lump sum on leaving service	<b>= £ 9,000 x 60%</b>	<b>= £5400</b>
Widow's pension*	<b>= £ 1,500 x 60%</b>	<b>= £900 pa</b>

*\*The pension payable after divorce will normally be the post-retirement widow(er)'s pension, ie the pension which would be payable to a widow(er) of a marriage which takes place after the member leaves the scheme. In some cases this is less than the contingent widow(er)'s pension, which will be lost on divorce. (Note- this applies even though the ordinary widow(er)'s pension is used in the CETV calculation)*

## Part 2 *Making the member's substitute award*

The table shows the passage of time and assumes that a standard PI rate of 2% has been applied to uprate the deferred pension to the retiring age and subsequently Rows A and B of the table show the original pension details, where A reflects the position before NI Mod and B after Rows C and D show the details following a pension share when the substitute award is made taking effect from the date of the pension share C shows the substitute award at the time it is made and the subsequent effect at the member's normal deferred pension age (ie before NI Mod) D shows the substitute award affected by NI Mod at State Pension Age *Note, the pensions beginning date for pensions increase purposes remains unchanged*

<b>Deferred member when pension share occurs</b>					
<i>Award details</i>	<i>Last day in service (basic rate of pension for PI purposes)</i>	<i>pension share (at age 58)</i>	<i>retirement (age 60) PI from original beginning date to 60 =2% →</i>	<i>next PI (2%)</i>	<i>next PI (2%)</i>
	→	→	→	→	
<i>A.</i> original award before NI Mod	pension = <b>£3000</b> 1/sum = <b>£9000</b> spouse's pension = <b>£1500</b>	40% to former spouse, member retains 60% Award before pension share is cancelled and new basic rate pension imposed via substitute award			
<i>B</i> original award after NI Mod (£100)	pension = £3000 - £100 = <b>£2900</b>				
<i>C</i> award effective from date of pension share ( <i>substitute award</i> ) before NI Mod	pension= £3000 x 60% = <b>£1800</b> 1/sum= £9000 x 60%= <b>£5400</b> spouse's pension= £1500 x 60%= <b>£900</b>	made at time of pension share, and comes into effect at that time ←	pension=£1800 x 2%(+)= <b>£1836</b> lump sum= £5400 x 2%(+)= <b>£5508</b>	Pension £1836 x 2%(+)= <b>£1873</b>	Pension £1872.72 x 2%(+)= <b>£1910</b>
<i>D</i> substitute award after NI Mod applied at State Pension Age	(NI Modification = £100 x 60% = £60) Pension = £1800 - £60= <b>£1740</b>		Pension = £1740 x 2%(+)= <b>£1775</b> Further PI from NPA to SPA added to give current value of pension payable at SPA		

## ANNEX C - Pensioner

### **EXAMPLE 1- pensioner under State Pension Age (SPA) at time of pension share**

*Please note, this is a simplified calculations for example, no account has been taken of any GMP. Calculations are rounded to the nearest £ for simplicity*

#### **Part 1: Action at time of pension share**

- i) calculate up-to-date CETV and apply pension sharing order/agreement to obtain former spouse share
- ii) calculate former spouse award
- i) calculate reduction of member's retirement benefits

#### **Part 2: Making the member's substitute award**

##### **Part 1: Action at time of pension share**

- i) Calculate and apportion the CETV

Member = PCSPS member aged 62, male

Current pension = £ 8,820 pa  
(No lump sum because it was paid out at age 60)  
(Contingent widows (CW's) pension lost on divorce)  
calculation uses any widow's pension payable after divorce,  
ie the post retirement widow's pension\* = £ 3,308 pa

ie the pension which would be payable to a widow(er) of a marriage which takes place after the member leaves the scheme

*New "CETV" factors will be needed for valuing pensions in payment. This example shows illustrative factors only. CETV ignores the adjustment for market conditions (AMC)*

CETV = (£8820 x 10.00) + (£3308 x 4.00) = £101,432

Split on divorce = member 60%, former spouse 40% (£101,432 x 40%) = £40,573

- ii) Calculate former spouse award

*Former spouse = female, aged 55- benefits (deferred to age 60), using CETV out factors for female age 55*

Pension = £40,573 / (11.49) = £3531 pa  
No lump sum because it was paid to member at retirement

- iii) Calculate reduction of member's retirement benefits

a) Current value

Pension = £ 8,820 x 60% = £5292 pa, Post-retirement widow's pension = £ 3,308 x 60% = £1985 pa

b) Value as at last day of service (for purposes of Part 2)

Pension = £8000 x 60% = £4800 pa, Post-retirement widow's pension = £3000 x 60% = £1800 pa

**Part 2 Making the member's substitute award**

The table shows the passage of time and assumes that a standard PI rate of 5% was applied up to the time of the pension share and 2% thereafter to uprate the pension in payment. Rows A and B of the table show the original pension details, where A reflects the position before NI Mod and B after. Rows C and D show the details following a pension share when the substitute award is made, taking effect **from the date of the pension share**. C shows the substitute award at the time it is made, (ie before NI Mod). D shows the substitute award affected by NI Mod at State Pension Age. *Note, the pensions beginning date for pensions increase purposes remains unchanged*

<b>Pensioner under SPA when pension share occurs</b>					
<i>Award details</i>	<i>retirement at age 60 (basic rate of pension for PI purposes) →</i>	<i>PI from pensions beginning date (age 60) to age 62= 5% per year</i>	<i>pension share (at age 62) →</i>	<i>next PI (2%) →</i>	<i>next PI (2%)</i>
<i>A original award before NI Mod</i>	pension = <b>£8000</b> 1/sum = <b>£24000</b> CW pension = <b>£4000</b> Post-retirement widow's pension = <b>£3000</b>	pension = <b>£8820</b> CW pension = <b>£4410</b> Post-retirement widow's pension = <b>£3308</b>	40% to former spouse, member retains 60%. Award before pension share is cancelled and new basic rate pension imposed via substitute award		
<i>B original award after NI Mod (£150)</i>	Pension = £8000 - £150 = <b>£7850</b>				
<i>C award effective from date of pension share (substitute award) before NI Mod</i>	substitute award = pension £8000 x 60% = <b>£4800</b> Post-retirement widow's pension £3000 x 60% = <b>£1800</b>	pension = <b>£5292</b> Post-retirement widow's pension = <b>£1985</b>	made at time of pension share, and comes into effect at that time ←	Pension £5292 x 2%(+) = <b>£5398</b>	Pension £5398 x 2%(+) = <b>£5506</b>
<i>D substitute award after NI Mod applied at State Pension Age</i>	(NI Modification = £150 x 60% = £90) Pension = £4800 - £90 = <b>£4710</b> →	PI from age 60 to SPA applied to <b>£4710</b> to give pension payable from SPA			

## EXAMPLE 2- pensioner over State Pension Age (SPA) at time of pension share

*Please note, this is a simplified calculations for example, no account has been taken of any GMP Calculations are rounded to the nearest £ for simplicity*

### Part 1: Action at time of pension share

- i) calculate up-to-date CETV and apply pension sharing order/agreement to obtain former spouse share
- ii) calculate former spouse award
- iii) calculate member's reduced retirement benefits

### Part 2: Making the member's substitute award

#### Part 1: Action at time of pension share

- i) Calculate and apportion the CETV

Member = PCSPS member aged 67, male

Current pension = £ 9,017 pa  
(No lump sum because it was paid out at age 60)  
(Contingent widows (CWs) pension lost on divorce)  
calculation uses any widow's pension payable after divorce,  
ie the post retirement widow's pension = £ 3,446 pa

*New "CETV" factors will be needed for valuing pensions in payment This example shows illustrative factors only  
CETV ignores the adjustment for market conditions (AMC)*

CETV = (£9017 x 8) + (£3446 x 3.5) = £84197

Split on divorce = member 60%, former spouse 40% (£84197 x 40%) = £33679

- ii) Calculate former spouse award

*Former spouse = female, aged 62- benefits payable immediately, using CETV out factors for female age 62*

Pension = £33679/(12) = £2807 pa  
No lump sum because it was paid to member at retirement

- iii) Calculate member's reduced retirement benefits

a) Current value

Pension = £ 9,017 x 60% = £5410 pa, Post-retirement widow's pension = £ 3,446 x 60% = £2067 pa

b) Value as at last day of service (for purposes of Part 2)

Pension = £8000 x 60% = £4800 pa, Post-retirement widow's pension = £3000 x 60% = £1800 pa

#### Part 2: Making the member's substitute award

The table shows the passage of time and assumes that a standard PI rate of 2% was applied up to the time of the pension share and 2% thereafter to uprate the pension in payment Rows A and B of the table show the original pension details, where A reflects the position before NI Mod and B after (in this example row B sets out the pension details that apply at the time of the pension share) Rows C and D show the details following a pension share when the substitute award is

made, taking effect **from the date of the pension share**. C shows the effect of the pension share on the member's benefits. D shows the substitute award which is payable at the time of the pension share (NI Mod applies from SPA). *Note, the pensions beginning date for pensions increase purposes remains unchanged*

Pensioner over SPA when pension share occurs					
Award details	retirement at age 60 (basic rate of pension for PI purposes) →	PI from pensions beginning date (age 60) to age 67= 2% per year	pension share (at age 67) →	next PI (2%) →	next PI (2%)
A. original award before NI Mod	pension = <b>£8000</b> l/sum = <b>£24000</b> CW pension = <b>£4000</b> Post-retirement widow's pension = <b>£3000</b>		40% to former spouse , member retains 60% Award before pension share is cancelled and new basic rate pension imposed via substitute award		
B original award after NI Mod (£150)	Pension = £8000 - £150 = £7850	pension = <b>£9017</b> CW pension = <b>£4595</b> Post-retirement widow's pension = <b>£3446</b>			
C award effective from date of pension share (substitute award) before NI Mod	substitute award= pension £8000 x 60% = <b>£4800</b> Post-retirement widow's pension £3000 x 60%= <b>£1800</b>				
D substitute award after NI Mod applied at State Pension Age	(NI Modification = £150 x 60% = £90) Pension = £4800 - £90= <b>£4710</b> →	pension = <b>£5410</b> Post-retirement widow's pension= <b>£2067</b>	substitute award made at time of pension share, and comes into effect at that time ←	Pension £5410 x 2%(+)= <b>£5518</b>	Pension £5518 x 2%(+)= <b>£5629</b>