

THE INDUSTRY-WIDE MINeworkERS' PENSION SCHEME

The Co-ordinator wishes to amend the Trust Deed and Rules by the addition of pension sharing on divorce provisions. Clause 38(1) of the Trust Deed provides that the Co-ordinator may with the consent of the Committee of Management amend the Trust Deed and Rules. The Co-ordinator wishes to propose the amendments set out below for the approval by a resolution of a majority of the members for the time being of the Committee of Management.

1. With effect on and from 1 December 2000 a new Rule 35A shall be inserted as follows:

"35A. PENSION SHARING ON DIVORCE

- (1) The provisions of Appendix III are hereby adopted and incorporated as part of the Rules and shall override any other provisions of the Scheme with which they are inconsistent. Words defined in Appendix III shall have the same meaning in this Rule. Safeguarded Rights shall have the meaning given to it in s 68A of the 1993 Act.
- (2) Where a Pension Sharing Order is made in respect of a member's or Ex-Spouse Participant's benefits, the Committee of Management shall reduce those benefits by the amount of the Pension Debit.
- (3) An Ex-Spouse shall not be entitled to join the Scheme in respect of Pension Credit Rights unless the Committee of Management in its absolute discretion decides otherwise. The terms on which an Ex-Spouse may join the Scheme and the benefits payable to such Ex-Spouse shall be determined by the Committee of Management and notified to the Ex-Spouse.
- (4) A member shall not be able to transfer Pension Credit Rights into the Scheme unless the Committee of Management in its absolute discretion decides otherwise. The benefits payable to a member in respect of his Pension Credit Rights shall be determined by the Committee of Management and notified to the member. Any Pension Credit Benefits granted to such member shall be provided separately from any other benefits provided under the Scheme for or in respect of the member.
- (5) Any pension payable to an Ex-Spouse Participant from the Scheme shall be increased each year in accordance with Rule 28 or 29 as is relevant.
- (6) Charges may be applied for activity in relation to pension sharing. The Committee of Management shall, subject to s 41 of the Welfare Reform and Pensions Act 1999, determine the circumstances in which such charges shall be applied, the amount of such charges and the method of recovery.
- (7) The Committee of Management shall have power to transfer an Ex-Spouse's Pension Credit, Pension Credit Rights, Pension Credit Benefits and Safeguarded Rights without his consent to another scheme or arrangement in accordance with Chapter I of Part IV of the Welfare Reform and Pensions Act 1999 and where such transfer will not prejudice Inland Revenue Approval.
- (8) (a) The Committee of Management shall determine the part of the Pension Credit which is in respect of Safeguarded Rights in accordance with section 68A of the 1993 Act. The Committee of Management shall ensure that such part of the Pension Credit or Pension Credit Benefit of the Ex-Spouse or Ex-Spouse Participant is separately identifiable as being in respect of Safeguarded Rights.

- (b) The Committee of Management must give effect to Safeguarded Rights by the provision of a pension for life unless one of the circumstances in regulation 9 of the Pension Sharing (Safeguarded Rights) Regulations 2000 apply.
 - (c) Safeguarded Rights may be suspended or forfeited only in the circumstances set out in regulation 12 of the Pension Sharing (Safeguarded Rights) Regulations 2000.
- (9) In addition to the powers set out in the Rules, the Committee of Management shall have all other powers necessary to deal with Pension Credit, Pension Credit Rights, Pension Credit Benefits and Safeguarded Rights payable to or in respect of members, Ex-Spouses and Ex-Spouse Participants in any way permitted by the Welfare Reform and Pensions Act 1999 and the Regulations made under that Act and where the Welfare Reform and Pensions Act 1999 or Regulations made under that Act only permit the Committee of Management to deal with Pension Credit, Pension Credit Rights, Pension Credit Benefits and Safeguarded Rights payable to or in respect of members, Ex-Spouses Ex-Spouse Participants if the Rules so permit, the Rules shall be deemed to provide the necessary permission".
2. A new Appendix III (Rules for Pension Sharing on Divorce) shall be inserted as follows:

"APPENDIX III

RULES FOR PENSION SHARING ON DIVORCE

1. **DEFINITIONS**

"Ex-Spouse" means an individual to whom Pension Credit Rights have been or are to be allocated following a Pension Sharing Order, agreement or equivalent provision.

"Ex-Spouse Participant" is an Ex-Spouse who participates in the Scheme. For this purpose the Ex-Spouse Participant must participate in the Scheme, either:

- (a) solely for the provision of a Pension Credit Benefit; or
- (b) for the wholly separate provision of a Pension Credit Benefit, where benefits accrue or have accrued to that individual under the Scheme for any other reason.

"Index" means the Government's Index of Retail Prices.

"Insurance Company" is as defined in Section 659B of the Act.

"Member" means a member of the Scheme to whom benefit is currently accruing as a result of service as an employee, or an Ex-Spouse Participant whose rights under the Scheme derive from a pension sharing order, agreement or equivalent provision.

"Negative Deferred Pension" means the amount by which the Member's pension or deferred pension under the Scheme which arose/arises from Service with the Employer(s), is reduced at the Relevant Date by Section 31 Welfare Reform and Pension Act 1999 or under corresponding Northern Ireland Legislation, following a Pension Sharing Order, agreement or equivalent provision. For this purpose, Service with the Employer(s) includes all periods of service with other employers which have been treated as if they were Service with the Employer(s) where a transfer payment has been made to the Scheme in respect of that other service.

"Pension Credit" means a credit under Section 29(1)(b) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation.

"Pension Credit Benefit" means the benefits payable under the Scheme to or in respect of a person by virtue of rights under the Scheme attributable (directly or indirectly) to a Pension Credit.

"Pension Credit Rights" means rights to future benefits under a scheme which are attributable (directly or indirectly) to a Pension Credit.

"Pension Debit" means a debit under Section 29(1)(a) of the Welfare Reform and Pensions Act 1999 or under corresponding Northern Ireland legislation.

"Pension Debit Member" means a Member whose benefits have been permanently reduced by a Pension Debit. Such a Member will either be:

- (c) a Member who is a controlling director of a company which is his/her employer if he/she is a director of the company to whom paragraph (b) of Section 417(5) of the Taxes Act 1988 applies either at the date on which the marriage was dissolved or annulled, or at any time within the period of 10 years before that date; or
- (d) a Member whose earnings at the date at which his/her marriage was dissolved or annulled exceeded 1/4 of the Permitted Maximum for the year of assessment in which the dissolution or annulment occurred. Earnings for these purposes shall be taken to be the total emoluments:
 - (i) which were paid to the member in consequence of pensionable service to which the Scheme relates during the year of assessment before the year of assessment in which the marriage was dissolved or annulled; and
 - (ii) from which tax was deducted in accordance with the Income Tax (Employments) Regulations 1993.

"Pension Sharing Order" means any order or provision as is mentioned in Section 28(1) of the Welfare Reform and Pensions Act 1999 or Article 25(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

"Relevant Date" means the date of retirement, leaving active membership or death as the case may be.

2. ASSIGNMENT

Rule 43 is amended to permit the assignment of part or all of the Member's retirement benefits or rights to benefits under the Scheme to his Ex-Spouse to the extent necessary to comply with a Pension Sharing Order, agreement or equivalent provision or the assignment of part or all of the Ex-Spouse Participant's benefits or rights under the Scheme to his Ex-Spouse to the extent necessary to comply with a Pension Sharing Order, agreement or equivalent provision.

- 3. The Committee must make provision for the Pension Credit Benefits under the Scheme to be treated as provided separately from any benefits provided under the Scheme for the same individual as an employee or as the Defendant of an employee.
- 4. Participation in the Scheme offered to an Ex-Spouse either where the requirement in Rule 3 of this Appendix III is satisfied, or where the Ex-Spouse only has Pension Credit Benefits under the Scheme.

The following options will, subject to Rule 35A, be available to the Ex-Spouse Participant in relation to the Pension Credit Benefit, subject to compliance with Social Security legislation.

- (a) A pension can be paid at the request of the Ex-Spouse Participant at any time between attaining age 50 and 75, or earlier on grounds of incapacity where she is simultaneously taking benefits on incapacity grounds arising from Qualifying Service as an employee under the Scheme in which the Pension Credit Benefits are held. Additionally a pension not yet in payment may be fully commuted, at any age, on the grounds of exceptional circumstances of serious ill-health. The Ex-Spouse Participant cannot defer commencement of the pension beyond her 75th birthday. If she is aged 75 or over at the date the Pension Sharing Order is implemented, the pension must come into payment immediately. There is no limit on the amount of the pension. Such a pension should not be commuted, surrendered or assigned except in accordance with the Scheme rules. Such a pension must be payable for life unless it is fully commuted under Rule 4(f) of this Appendix III, and may be guaranteed.
- (b) No lump sum may be paid to the Ex-Spouse Participant where the Member (who was formerly married to the Ex-Spouse Participant) has already received a lump sum retirement benefit from the Scheme before the date of the implementation by the Scheme of the Pension Sharing Order, agreement or equivalent provision.

No lump sum may be paid to the Ex-Spouse Participant where all of the Pension Credit Rights under the Scheme have been transferred into the Scheme with a lump sum nil certificate.

Otherwise the Ex-Spouse Participant may choose to take a lump sum in commutation for part of the pension, at the time the pension first becomes payable. The lump sum is limited to a maximum of 2.25 x the initial annual pension. For this purpose, the initial annual pension should be calculated on the following bases:

- (i) if the pension payable for the year changes, the initial pension payable should be taken;
- (ii) it should be assumed that the Ex-Spouse Participant will survive for a year;
- (iii) the effect of commutation should be ignored.
- (c) Where the Ex-Spouse Participant dies before benefits come into payment a lump sum death benefit may be paid. This lump sum can be paid to any person at the discretion of the Committee of Management.

The lump sum is limited to 25% of what would have been the cash equivalent of the Pension Credit Rights at the Ex-Spouse Participant's date of death. The balance of the said cash equivalent may be used to provide a non-commutable pension to a Dependant of the Ex-Spouse Participant. The amount of pension payable to a Dependant is limited to a maximum of 2/3rds of the amount of the pension that could have been paid to the Ex-Spouse Participant at the date of death had the whole of the cash equivalent of the Pension Credit Rights been used to purchase an annuity at an available market rate. For the purpose of determining the pension which could have been paid to the Ex-Spouse Participant, it should be assumed that she was aged 50 at the date of death, where she died at an earlier age. Where more than one pension is to be paid the

total of all the pensions cannot exceed the amount of the pension that could have been paid to the Ex-Spouse Participant.

Such pensions must be payable for life, except that pensions paid to children must cease on the attainment of age 18 or, if later, on the cessation of full time education. Such pensions may, however, be fully commuted for a lump sum on the grounds of triviality at the time that such a pension becomes payable.

- (d) Where the Ex-Spouse Participant dies after the pension has come into payment, a non-commutable pension may be payable to a Dependant of the Ex-Spouse Participant.

The amount of pension payable to a Dependant is limited to a maximum of 2/3rds of the initial annual pension which was paid to the Ex-Spouse Participant as increased by any rise in the Index since the commencement of the Ex-Spouse Participant's pension. Where more than one pension is to be paid the total of all the pensions cannot exceed the amount of the initial annual pension which was paid to the Ex-Spouse Participant, as increased by any rise in the Index since the commencement of the Ex-Spouse Participant's pension. For these purposes initial annual pension should be calculated on the same basis as for Rule 4(b) of Appendix III.

Such pensions must be payable for life, except that pensions paid to children must cease on the attainment of age 18 or, if later, on the cessation of full time education. Such pensions may, however, be fully commuted for a lump sum on the grounds of triviality at the time that such a pension becomes payable.

Where the Ex-Spouse Participant selected a guarantee not exceeding five years and the guarantee period has not expired, the remaining balance of the pension instalments can be paid as a lump sum. This lump sum can be paid to any person at the discretion of the Committee of Management. Where the Ex-Spouse Participant selected a guarantee exceeding five years and the guarantee period has not expired, the remaining balance of the pension instalments must be paid in pension form to an individual or individuals at the discretion of the Committee of Management.

- (e) On the date the Ex-Spouse Participant's pension becomes payable (but not where the pension is paid in the form of income drawdown), part of this pension may be surrendered for the provision, on the death of the Ex-Spouse Participant, of a pension payable to a Dependant of the Ex-Spouse Participant. The amount of pension surrendered should not exceed the reduced pension that the Ex-Spouse Participant retains.
- (f) Full commutation of the Pension Credit Rights on the grounds of triviality or exceptional circumstances of serious ill-health is permitted when the pension first becomes payable. Where the Ex-Spouse Participant is also entitled to benefits under the Scheme arising from Qualifying Service as an employee, for the purposes of determining the aggregate value of the total benefits payable to the Member on the grounds of triviality, benefits from Pension Credit Rights must be included. Where the Ex-Spouse Participant is also entitled to benefits under the Scheme arising from Qualifying Service as an employee, full commutation of the Pension Credit Rights on the grounds of triviality will only be permitted where benefits arising from Qualifying Service as an employee are simultaneously commuted.
- (g) The Ex-Spouse Participant may request that the Committee of Management arranges a transfer of his Pension Credit Rights to another scheme approved

under Chapter I Part XIV of the Act if she is already a member of that scheme or an Ex-Spouse participant in that scheme or to a scheme approved under Chapter IV Part XIV of the Act. The Ex-Spouse Participant may request that the Committee of Management arranges a transfer of his Pension Credit Rights to any other scheme if the Board of Inland Revenue's requirements are satisfied in relation to a transfer to that scheme. The Committee of Management must confirm to the receiving scheme or arrangement, that the transfer value consists wholly or partly of Pension Credit Rights for the benefit of an Ex-Spouse Participant.

- (h) At the point the pension becomes payable, the Ex-Spouse Participant may request that the Committee of Management arranges for the purchase of an annuity from an Insurance Company of his choice.
 - (i) The rights to a Pension Credit Benefit under the Scheme shall not be absolute, but shall be forfeited upon the bankruptcy of the Ex-Spouse Participant. Such benefits may then be paid to any individuals or individual as specified by the Committee of Management, in their absolute discretion.
5. Notwithstanding any other provisions of the rules, the benefits for a Pension Debit Member are additionally subject to the following limits, subject to compliance with Social Security legislation:
- (a) The pension shall not exceed the Aggregate Retirement Benefit in Appendix II less the Negative Deferred Pension in this Scheme and the Negative Deferred Pension in any Associated Scheme (as defined in Appendix V) and, furthermore in the case of a Class A Member the Negative Deferred Pension in any Connected Scheme (as defined in Appendix V).
 - (b) The lump sum from this and any Associated Scheme shall not exceed:
 - (i) for Pension Debit Members who are Class A Members or Class B Members, an amount determined by $2.25 \times$ the initial annual pension payable
 - (ii) for Pension Debit Members who are Class C Members, an amount of the greater of:
 - (1) $2.25 \times$ the initial annual pension payable; or
 - (2) an amount determined in accordance with Appendix V as if there had been no Pension Debit, less $2.25 \times$ the Negative Deferred Pension.

For the purposes of this Rule, the initial annual pension should be calculated on the following bases:

- (iii) if the pension payable for the year changes, the initial pension payable should be taken;
 - (iv) it should be assumed that the Pension Debit Member will survive for a year;
 - (v) the effect of commutation should be ignored.
- (c) On the death of the Pension Debit Member, any pension for a Dependant shall not exceed $\frac{2}{3} \times$ an amount determined in accordance with Appendix II as if there had been no Pension Debit, less the Negative Deferred Pension and the Negative

Deferred Pension in any Associated Scheme and, furthermore in the case of a Class A Member the Negative Deferred Pension in any Connected Scheme. Where more than one pension is to be paid the total of all the pensions cannot exceed 100% of an amount determined in accordance with Appendix II as if there had been no Pension Debit, less the Negative Deferred Pension and the Negative Deferred Pension in any Associated Scheme and, furthermore in the case of a Class A Member the Negative Deferred Pension in any Connected Scheme.

6. The Committee of Management must give full details of the Pension Debit and a lump sum certificate specifying the maximum permissible lump sum, to the receiving scheme/arrangement where the fund underlying the benefits for a Pension Debit Member is transferred to another scheme approved under Chapter I Part XIV of the Act or a scheme approved under Chapter IV Part XIV of the Act.
7. Where the Committee of Management accepts a transfer payment for an individual who is already a Member of the Scheme or is already an Ex-Spouse Participant in the Scheme and is informed by the transferor that the transfer value consists wholly or partly of Pension Credit Rights in the former scheme or arrangement, then the Committee of Management must separately identify the transfer payment relating to the Pension Credit Rights or the part of the transfer payment relating to the Pension Credit Rights from other funds held for the benefit of the Member. Furthermore the Committee of Management must comply with the requirements of Rule 3 of this Appendix III in respect of the transferred-in Pension Credit Rights. Then the individual will acquire the status of an Ex-Spouse Participant in the Scheme in relation to his transferred-in Pension Credit Benefits. Such Pension Credit Benefits will not count towards any limit on benefits for that Member.
8. Where the Committee of Management accepts a transfer payment and is informed by the transferor of the details of a Pension Debit relating to the transfer payment, the Committee of Management must take account of the Pension Debit, if appropriate, in the calculation of any limit on benefits for that Member. If a transfer of the fund underlying the benefits for the Member is made to a scheme approved under Chapter I Part XIV of the Act or a scheme approved under Chapter IV Part XIV of the Act, the Committee of Management must give full details of the Pension Debit to the receiving scheme/arrangement.
9. If the Ex-Spouse dies after a Pension Sharing Order, agreement or equivalent provision is made but before it is acted upon by the Committee of Management, the following benefits may be paid.

A lump sum death benefit may be paid to any person at the discretion of the Committee of Management.

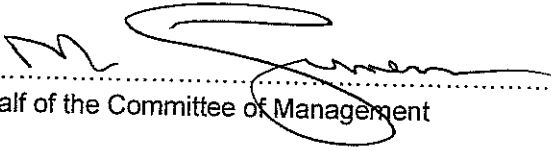
The lump sum is limited to 25% of what would have been the cash equivalent of the fund which would have provided the Pension Credit Rights for the Ex-Spouse. The balance of the fund may be used to provide a non-commutable pension to a Dependant of the Ex-Spouse.

The amount of pension payable to a Dependant is limited to a maximum of 2/3rds of the amount of the pension that could have been paid to the Ex-Spouse at the date of death if the whole of what would have been the cash equivalent of the fund which would have provided the Pension Credit Rights had been used to purchase an annuity at an available market rate. Where more than one pension is to be paid the total of all the pensions cannot exceed the amount of the pension that could have been paid to the Ex-Spouse.

Such pensions must be payable for life, except that pensions paid to children must cease on the attainment of age 18 or, if later, on the cessation of full time education. Such

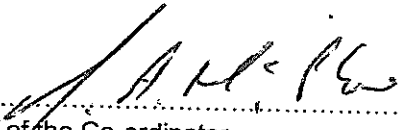
pensions may be fully commuted, however, for a lump sum on the grounds of triviality at the time such a pension becomes payable."

It is HEREBY RESOLVED that the above amendments proposed by the Co-ordinator in accordance with Clause 38 of the Trust Deed are HEREBY APPROVED by the Committee of Management.


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On behalf of the Committee of Management

15 April 2003
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Date

It is HEREBY RESOLVED by the Co-ordinator to amend the Scheme in the manner set out above.


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On behalf of the Co-ordinator

15 April 2003
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Date