



# Compensation and divorce

Pension  
Protection  
Fund

# Introduction

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Regulations which set out how Pension Protection Fund (PPF) compensation may be affected for members who get divorced/have their civil partnership dissolved came into force on 6 April 2011.

These new rules make provision for a member's pension compensation to be shared with their former spouse or former civil partner if the court makes a pension compensation sharing order.

The changes mean that the courts now have similar mechanisms available to them to deal with sharing PPF compensation on divorce as they have with members of pension schemes not in the PPF.

There is one main difference. If the former spouse/former civil partner receives a share of the member's compensation it must be paid as PPF compensation – and not be transferred into a pension arrangement of the former spouse/former civil partner's own choice.

The regulations also enable the courts to make attachment orders, also known as 'earmarking', for PPF compensation.

# How does compensation sharing work?

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When deciding how to share PPF compensation in the event of divorce or dissolution, the courts will look at the value of the member's compensation defined in cash terms. The PPF will provide this information.

The value of compensation is defined in cash terms and is known as the Cash Equivalent Value (CEV).

The court will tell the PPF how much compensation will be shared with the former spouse or former civil partner at the time of the divorce or dissolution. In England and Wales, this will be a percentage split. In Scotland, it can be either a percentage split or a specified amount.

Broadly, this percentage is subtracted from the member's final CEV and given to the former spouse or former civil partner in the form of a credit which will be used to provide their compensation.

# How does 'earmarking' work?

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Attachment orders are often referred to as earmarking orders. This is because, if an attachment order is made, part of the member's compensation will be earmarked/diverted to the former spouse or former civil partner.

The court will tell the PPF how much compensation will be earmarked to the former spouse or former civil partner at the time of the divorce or dissolution. This will be a percentage split.

Payments to the former spouse or former civil partner can only be made once the member's compensation comes into payment.

Payment of the earmarked compensation will stop if the former spouse or former civil partner remarries, or forms a new civil partnership.

Earmarking will cease on death of either party.

# Compensation sharing on divorce FAQs

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## If I divorce after my former pension scheme transfers to the PPF, can the court make an order that my compensation is shared with my former spouse/ former civil partner?

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Yes. From 6 April 2011, regulations enable pension compensation to be shared when a person seeks a divorce, dissolution or annulment. This will mean that if the court makes a compensation sharing order, your former spouse or former civil partner will receive a share of your PPF compensation.

## What is a pension compensation sharing order?

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This is the court order which determines that PPF compensation must be shared.

It means that a member's compensation will be reduced to take account of the pension compensation debit and their former spouse/ former civil partner will become entitled to a pension compensation credit.

## Why has the law been changed to allow pension compensation sharing?

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The Government has made these changes to align pension schemes which have transferred to the PPF with pension schemes outside the PPF. This means that the courts now have similar mechanisms available to them to deal with sharing PPF compensation on divorce as they have with members of pension schemes not in the PPF.

### How does pension compensation sharing differ for Scottish divorce cases?

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In England, Wales, and Northern Ireland, pension compensation sharing is only possible by court order. In Scotland, it can be by either qualifying agreement or court order.

The initial CEV requested from the PPF will be calculated at the relevant date – the earlier of when co-habitation ended and the date of service of court summons. The CEV must then be apportioned for the period of marriage.

Broadly, there is a two month time limit from the date of divorce for the divorcing parties to provide to the PPF a copy of the pension compensation sharing order, a copy of the order/decreed of divorce and other relevant information required under legislation. If the limit is breached then the order or provision is deemed never to have taken effect, unless the court of session or the sheriff extends the deadline.

When implementing a Scottish pension compensation sharing order, it may either state a specified percentage or an amount of the compensation entitlement to be split. To implement a Scottish pension compensation sharing order, the valuation procedures in the implementation period continue to apply as described previously in this document.

### I've been asked to provide details of my compensation entitlement to the court. What do I need to do?

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You need to write to the PPF explaining that you are involved in, or contemplating, divorce or dissolution proceedings and ask for information about your compensation. The PPF will provide you with a cash equivalent value and any other information about PPF compensation needed for the completion of court forms.

## What information will I and my former spouse/ former civil partner have to provide in order for the implementation period to begin?

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One of the parties must provide:

- **a copy of the decree absolute in the divorce/dissolution proceedings, and**
- **a copy of the signed and sealed pension compensation sharing order.**

We will also request other information that is necessary in order for the implementation period to begin.

## If information is withheld can the PPF implement compensation sharing?

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Generally, the implementation period will not commence until the PPF has received all of the required documents and information. In extreme circumstances where we consider that we have sufficient information, we will be able to proceed with implementing the order even where we do not receive all the information listed in the regulations.

## What is the implementation period?

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It is the four month period during which the PPF has to implement the court order. The implementation period begins on the later of the transfer day and the day the PPF has received all the relevant information.

The PPF will notify you of the date that the implementation period began within 21 days of receiving the necessary information.

## Will I have to pay for the implementation of a pension compensation sharing order?

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The PPF will charge for the relevant costs it incurs.

## How much are the charges?

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A list of the charges will be available on the Compensation Information page of our website. A copy of the charges will be also available on request.

## When must the charges be paid?

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Charges will need to be paid 21 days after you have received a request for payment. If payment is not made by the deadline the charges will be deducted/offset from your or the compensation of your former spouse/former civil partner.

## What is the ‘valuation day’?

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The ‘valuation day’ is a day during the implementation period when the PPF calculates the cash equivalent value.

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**Please note that the recalculated cash equivalent value could be greater or smaller than the amount initially provided to the court.**  
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### What is the effective date of the pension compensation sharing order?

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The date that the pension compensation sharing order takes effect is referred to as the “transfer day” which is 7 days after the period to appeal the order has expired, or the date of the Decree Absolute if later (the order cannot become effective before the divorce is finalised). Unless the court has specified the period for appeal in the order (and it may specify a longer or shorter period), the period to lodge an appeal is 21 days. Therefore, unless the court has specified a different appeal period, the transfer day will be 28 days after the date of the pension compensation sharing order.

The transfer day will always be the later of:

- **7 days after the period to appeal the order has expired (either 21 days or such period as the court has set)**
- **date of Decree Absolute.**

### What happens if a party to the divorce/dissolution/annulment dies before the pension compensation sharing order is implemented?

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If the court has made the pension compensation sharing order it will still be implemented. The survivors of the deceased party may be entitled to receive a share of the member’s relevant compensation. This will depend on individual circumstances.

### How will my compensation be reduced to take account of the pension compensation debit?

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Compensation will be reduced by the amount set by the court, either a percentage of compensation or a specific amount. This will appear as a debit in any record of compensation.

### **What happens if I am already receiving compensation?**

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Your compensation in payment will be actuarially reduced as specified in the compensation sharing order.

If we have received the final order and decree absolute but are waiting for other information so that the implementation period can begin, we will reduce your compensation by the appropriate amount to minimise any overpayments.

### **I am a compensation credit member. Will my compensation be tested against the compensation cap?**

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Yes, your compensation will be tested against the compensation cap. The compensation cap is a statutory limit on the amount of compensation which may be paid.

### **I am a compensation credit member, when can I take my compensation?**

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The age at which you can take your compensation is known as your pension compensation age. Your pension compensation age will generally mirror the normal pension age of the member whose compensation has been shared. In some cases you may have more than one portion of compensation payable at different ages. We will provide you with details of when your compensation will come into payment.

If you attained pension compensation age before or on the transfer day you will be entitled to compensation starting on the transfer day.

You will also be eligible to take your compensation early if you have reached age 55. Details on how to apply for early retirement are available on our website.

### **I am a compensation credit member, how will compensation be revalued?**

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Where your compensation credit is not in payment, revaluation which is subject to a cap of 2.5 per cent, will be applied from the transfer day (the day the pension compensation sharing order takes effect) and the day before pension compensation age.

### **Will my compensation payments increase?**

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Where any part of your compensation is derived from pensionable service on or after 6 April 1997, that part of your compensation will increase each year in line with inflation, subject to a maximum of 2.5 per cent.

### **Can the courts make an attachment/earmarking order in respect of pension compensation?**

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Yes. With attachment/earmarking, pension compensation is allocated to the former spouse/former civil partner at the time the member takes the pension compensation. It is not divided at the time of the divorce/dissolution, as with pension compensation sharing. An attachment/earmarking order will require payment of a percentage of the earmarked compensation directly to the former spouse/former civil partner when the member's compensation comes into payment.

### **A pension sharing order was made during the assessment period but the trustees did not implement the order before my former pension scheme transferred to the PPF. What happens now?**

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The PPF is required to implement the pension sharing order after transfer. We will contact you to explain how the order will be implemented.

### **My pension scheme is in the assessment period. Can a pension compensation sharing order be made?**

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No, if your scheme is still in the assessment period, then pension sharing on divorce regulations will apply. Pension sharing will be administered by the trustees of your scheme.

### **When I divorced, prior to my former pension scheme transferring to the PPF, part of my pension was earmarked for my former spouse/former civil partner, what does this mean for my compensation?**

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The PPF will be required to implement any earmarking order (also known as an attachment order) previously made against your accrued rights in your former pension scheme against your compensation payments.

### **When I divorced, prior to my former pension scheme transferring to the PPF, a pension sharing order was made and implemented by the Trustees, what does this mean for my compensation?**

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If you were receiving a pension prior to the PPF assuming responsibility for your former pension scheme, there should be no further impact on your compensation.

Where you start to receive compensation after your former pension scheme transfers to the PPF, your compensation will be reduced to take into account the fact that a pension sharing order was made. Your Statement of Compensation Entitlement will show details of the pension sharing order.

# Glossary

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## **Assessment period**

The time during which the PPF assessment team assesses if the PPF is required to assume responsibility for a scheme.

## **Attachment order and pension compensation attachment order**

An order made by the court as part of a financial settlement on divorce to earmark part of the member's future pension/compensation rights for the benefit of his/her former spouse.

## **Civil partnership**

A relationship between two individuals registered under the Civil Partnership Act 2004.

## **Compensation**

The sum payable to an individual in accordance with the Pension Act 2004 instead of the scheme benefits following assumption of responsibility by the PPF.

## **Compensation payments**

Payments of compensation made by the PPF.

## **Dissolution**

Dissolution is the termination of a civil partnership.

## **Former civil partner**

An individual who was previously in a civil partnership with the member.

## **Former pension scheme**

The member's pension scheme for which the PPF assumed responsibility.

## **Former spouse**

An individual who was previously married to a member.

## **Pension/compensation credit**

The pension/compensation credit that the former spouse/civil partner receives as a result of the order.

## **Pension/compensation debit**

The reduction that is applied to a member's pension/compensation, following a pension/compensation sharing order.

## **Pension Protection Fund (PPF)**

The statutory fund administered by the Board of the PPF.

## **Pension sharing order and pension compensation sharing order**

An order made by the court as part of a financial settlement on divorce.

## **Statement of deferred compensation**

This is the document sent to deferred compensation members with the Welcome Pack letters.

# Notes

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Notes continued

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# Further information

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If you have any queries or would like further information about compensation and divorce, please contact us using the details set out below.

You can contact us by:

Email:

**members@ppfonline.org.uk**

Telephone:

**0845 603 7224**

Fax:

**0870 169 9711**

Or write to us at:

Operations Team  
Pension Protection Fund  
PO Box 128  
Mowden Hall  
Darlington  
DL1 9DA

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This booklet is for guidance only. It is not a definitive statement of law or entitlement. Information in the booklet is based upon current understanding of the legislation in force in England and Wales at the time of writing. Please note that divorce and dissolution proceedings in Scotland differ from those in England and Wales and there may be different requirements than those set out in this booklet.

This booklet is not tailored to take into account any specific individual circumstances. You should contact the Pension Protection Fund if you wish to discuss any query you may have about how any of the issues raised in this booklet may apply to your own personal circumstances. Our contact details are set out at the end of this booklet. The Pension Protection Fund cannot provide advice on your personal or financial circumstances.

