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SCHEDULES

SCHEDULE 5

[^{F1}FINANCIAL RELIEF: PROVISION CORRESPONDING TO PROVISION MADE BY PART 2 OF THE MATRIMONIAL CAUSES ACT 1973]

Textual Amendments

- F1** Sch. 5 title substituted (22.4.2014) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(3), [Sch. 11 para. 177](#); [S.I. 2014/954](#), art. 2(e) (with art. 3) (with transitional provisions and savings in [S.I. 2014/956](#), arts. 3-11)

PART 6

MAKING OF PART 1 ORDERS HAVING REGARD TO PENSION BENEFITS

PROSPECTIVE

Pension benefits to be included in matters to which court is to have regard

- 24 (1) The matters to which the court is to have regard under paragraph 21(2)(a) include any pension benefits under a pension arrangement or by way of pension which a civil partner has or is likely to have; and, accordingly, in relation to any pension benefits paragraph 21(2)(a)(ii) has effect as if “in the foreseeable future” were omitted.
- (2) The matters to which the court is to have regard under paragraph 21(2)(h) include any pension benefits which, because of the making of a dissolution or nullity order, a civil partner will lose the chance of acquiring.
- (3) “Pension benefits” means—
- (a) benefits under a pension arrangement, or
 - (b) benefits by way of pension (whether under a pension arrangement or not).

*Provisions applying where pension benefits taken
into account in decision to make Part 1 order*

- 25 (1) This paragraph applies if, having regard to any benefits under a pension arrangement, the court decides to make an order under Part 1.
- (2) To the extent to which the Part 1 order is made having regard to any benefits under a pension arrangement, it may require the person responsible for the pension arrangement, if at any time any payment in respect of any benefits under the arrangement becomes due to the civil partner with pension rights, to make a payment for the benefit of the other civil partner.

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- (3) The Part 1 order must express the amount of any payment required to be made by virtue of sub-paragraph (2) as a percentage of the payment which becomes due to the civil partner with pension rights.
- (4) Any such payment by the person responsible for the arrangement—
 - (a) discharges so much of his liability to the civil partner with pension rights as corresponds to the amount of the payment, and
 - (b) is to be treated for all purposes as a payment made by the civil partner with pension rights in or towards the discharge of that civil partner's liability under the order.
- (5) If the civil partner with pension rights has a right of commutation under the arrangement, the Part 1 order may require that civil partner to exercise it to any extent.
- (6) This paragraph applies to any payment due in consequence of commutation in pursuance of the Part 1 order as it applies to other payments in respect of benefits under the arrangement.
- (7) The power conferred by sub-paragraph (5) may not be exercised for the purpose of commuting a benefit payable to the civil partner with pension rights to a benefit payable to the other civil partner.
- (8) The powers conferred by sub-paragraphs (2) and (5) may not be exercised in relation to a pension arrangement which—
 - (a) is the subject of a pension sharing order in relation to the civil partnership, or
 - (b) has been the subject of pension sharing between the civil partners.

Modifications etc. (not altering text)

- C1** Sch. 5 para. 25(4) modified (8.8.2006) by [The Dissolution etc. \(Pension Protection Fund\) Regulations 2006 \(S.I. 2006/1934\)](#), [reg. 2](#)

Pensions: lump sums

- 26 (1) This paragraph applies if the benefits which the civil partner with pension rights has or is likely to have under a pension arrangement include any lump sum payable in respect of that civil partner's death.
- (2) The court's power under Part 1 to order a civil partner to pay a lump sum to the other civil partner includes the power to make by the order any provision in sub-paragraph (3) to (5).
- (3) If the person responsible for the pension arrangement has power to determine the person to whom the sum, or any part of it, is to be paid, the court may require him to pay the whole or part of that sum, when it becomes due, to the other civil partner.
- (4) If the civil partner with pension rights has power to nominate the person to whom the sum, or any part of it, is to be paid, the court may require the civil partner with pension rights to nominate the other civil partner in respect of the whole or part of that sum.
- (5) In any other case, the court may require the person responsible for the pension arrangement in question to pay the whole or part of that sum, when it becomes due,

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for the benefit of the other civil partner instead of to the person to whom, apart from the order, it would be paid.

- (6) Any payment by the person responsible for the arrangement under an order made under Part 1 made by virtue of this paragraph discharges so much of his liability in respect of the civil partner with pension rights as corresponds to the amount of the payment.
- (7) The powers conferred by this paragraph may not be exercised in relation to a pension arrangement which—
- (a) is the subject of a pension sharing order in relation to the civil partnership, or
 - (b) has been the subject of pension sharing between the civil partners.

Pensions: supplementary

27

If—

- (a) a Part 1 order made by virtue of paragraph 25 or 26 imposes any requirement on the person responsible for a pension arrangement (“the first arrangement”),
- (b) the civil partner with pension rights acquires rights under another pension arrangement (“the new arrangement”) which are derived (directly or indirectly) from the whole of that civil partner’s rights under the first arrangement, and
- (c) the person responsible for the new arrangement has been given notice in accordance with regulations made by the Lord Chancellor,

the Part 1 order has effect as if it had been made instead in respect of the person responsible for the new arrangement.

Commencement Information

- II** Sch. 5 para. 27 wholly in force at 5.12.2005; Sch. 5 para. 27 not in force at Royal Assent see s. 263; Sch. 5 para. 27(c) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 5 para. 27 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

Regulations

28

(1) The Lord Chancellor may by regulations—

- (a) make provision, in relation to any provision of paragraph 25 or 26 which authorises the court making a Part 1 order to require the person responsible for a pension arrangement to make a payment for the benefit of the other civil partner, as to—
 - (i) the person to whom, and
 - (ii) the terms on which,the payment is to be made;
- (b) make provision, in relation to payment under a mistaken belief as to the continuation in force of a provision included by virtue of paragraph 25 or 26 in a Part 1 order, about the rights or liabilities of the payer, the payee or the person to whom the payment was due;

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- (c) require notices to be given in respect of changes of circumstances relevant to Part 1 orders which include provision made by virtue of paragraphs 25 and 26;
 - (d) make provision for the person responsible for a pension arrangement to be discharged in prescribed circumstances from a requirement imposed by virtue of paragraph 25 or 26;
 - (e) make provision about calculation and verification in relation to the valuation of—
 - (i) benefits under a pension arrangement, or
 - (ii) shareable state scheme rights (within the meaning of paragraph 16(3)),
 for the purposes of the court’s functions in connection with the exercise of any of its powers under this Schedule.
- (2) Regulations under sub-paragraph (1)(e) may include—
- (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person, and
 - (b) provision by reference to regulations under section 30 or 49(4) of the 1999 Act.
- (3) The power to make regulations under paragraph 27 or this paragraph is exercisable by statutory instrument which is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) “Prescribed” means prescribed by regulations.

Commencement Information

- I2** Sch. 5 para. 28 wholly in force at 5.12.2005; Sch. 5 para. 28 not in force at Royal Assent see s. 263; Sch. 5 para. 28 in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 5 para. 28 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

Interpretation of provisions relating to pensions

- 29 (1) In this Part “the civil partner with pension rights” means the civil partner who has or is likely to have benefits under a pension arrangement.
- (2) In this Part “pension arrangement” has the same meaning as in Part 4.
- (3) In this Part, references to the person responsible for a pension arrangement are to be read in accordance with section 26 of the Welfare Reform and Pensions Act 1999 (c. 30).

Commencement Information

- I3** Sch. 5 para. 29 wholly in force at 5.12.2005; Sch. 5 para. 29 not in force at Royal Assent see s. 263; Sch. 5 para. 29(2)(3) in force for certain purposes at 15.4.2005 by [S.I. 2005/1112](#), [art. 2](#), [Sch. 1](#) and Sch. 5 para. 29 in force otherwise at 5.12.2005 by [S.I. 2005/3175](#), [art. 2\(1\)](#), [Sch. 1](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 102(8A) inserted by [2023 asp 3 s. 56\(2\)](#)
- s. 103(10) inserted by [2023 asp 3 s. 56\(5\)](#)
- s. 108(5) inserted by [2023 asp 3 s. 56\(8\)](#)
- s. 213(1A) inserted by [2013 c. 30 Sch. 2 para. 5\(2\)](#)