



An Roinn Caiteachais
Phoiblí agus Athchóirithe
Department of Public
Expenditure and Reform

Family Law Guidelines

*Implementation of Pension Adjustment
Orders in Public Service Pension Schemes*

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Introduction

Family law legislation makes provision for the court to grant certain orders to ensure that adequate and reasonable financial provision can be made for the spouse/civil partner/qualified cohabitant or dependent child. Pension entitlements are considered family assets and can therefore be subject to division between the parties, where appropriate.

Where, upon application by either spouse/civil partner/qualified cohabitant or by a person acting on behalf of a dependent child, the court determines that all or part of the pension benefits should be split between the parties, a Pension Adjustment Order (PAO) will be granted.

These guidelines are written based on Civil Service pre-2013 Superannuation Schemes but can be adapted and applied to other public service pension schemes based on the rules and entitlements available thereunder. It is intended that this document will be updated in the near future to provide specific guidance relating to the application of family law for members of the Single Public Service Pension scheme.

These guidelines aim to assist trustees of public service pension schemes in the administration and implementation of PAOs in respect of benefits payable under their schemes. They are not intended to be a legal interpretation of the legislation and should be read in conjunction with the relevant legislation and the [Pension Authority's Guidance Notes](#). Where trustees are in doubt in relation to the implementation of a PAO legal advice should be sought.

Please note specific legal terminology is used in relation to family law cases and it is important to read these guidelines in line with the glossary found at Appendix A.

I. Legislation

Section 12 of the [Family Law Act, 1995](#) (the "1995 Act") provides for Pension Adjustment Orders (PAOs) in relation to judicial separations. Section 17 of the [Family Law \(Divorce\) Act, 1996](#) (the "1996 Act") contains a similar provision for PAOs in the context of divorce proceedings. Section 121 of the [Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010](#) (the "2010 Act"), as amended by section 158 of the [Children and Family Relationships Act 2015](#), provides for PAOs on dissolution of a civil partnership and section 187 of the 2010 Act deals with PAOs upon an application for redress by a qualified cohabitant.

The [Pension Schemes \(Family Law\) Regulations, 1997 \(S.I. 107/1997\)](#), as amended by the [Pension Schemes \(Family Law\) \(Amendment\) Regulations 2012 \(S.I. 254/2012\)](#) (the “Regulations”), provide guidelines on the manner in which benefits under a PAO are to be calculated.

[Orders 59](#) and [59A](#) of the Circuit Court Rules contain the relevant rules governing court proceedings in family law cases, in particular rules regarding the service of notice to the trustees of the relevant pension scheme.¹

II. Obligations imposed by the Legislation

Under the legislation, responsibility for compliance with the legislation, in so far as it affects the administration of public service pension schemes, falls on the trustees of the schemes. In the public service, unless the scheme was established under a Deed of Trust (which would name the Trustees), the trustees are the staff that administer the pension scheme. For pre-existing Civil Service Superannuation Schemes, HR Shared Services (PeoplePoint) are the trustees for family law purposes for clients under their remit.

The legislation imposes strict time limits in respect of certain aspects of family law cases and accordingly, all cases and correspondence in relation thereto should be treated as urgent and given high priority. It should also be remembered that family law cases are heard *in camera* (in private) and should, therefore, be treated as confidential and handled in a sensitive manner.

Trustees and staff involved in the administration of pension schemes should obtain copies of the relevant legislation referenced above and familiarise themselves with their obligations and responsibilities thereunder. They should also obtain copies of, and familiarise themselves with, the Pensions Authority’s Guidance Notes on the Family Law Legislation and the Trustees Handbook, which are available to download online at www.pensionsauthority.ie

III. General Principles

A PAO, directed to the trustees of the scheme, is required in order that the pension can be paid out as agreed between the parties (or as decided by the court as the case may be), rather than in accordance with the rules of the scheme. Any agreement between the parties

¹ As set out in [S.I. No 427 of 2018](#) and in [S.I. No 385 of 2011](#).

to split the pension benefits, such as in the context of a separation agreement, will not be enforceable: a valid PAO is necessary in all circumstances.

Where a valid PAO has been granted by the court the trustees are obliged to abide by the terms and such an order will prevail over the scheme rules and any discretionary power that the trustees may have in relation to the pension benefits.

IV. Beneficiaries

A PAO can be made in favour of the member's spouse/civil partner/qualified cohabitant or a person acting on behalf of a dependent child. Throughout the guidelines this beneficiary is referred to as the "non-member" i.e. they are not the member of the superannuation scheme but are to receive a benefit under the terms of a PAO.

A PAO will not be granted where the non-member spouse has remarried or where the non-member civil partner has entered into a new civil partnership or has married.

Dependent child

A PAO can be granted in favour of a dependent child in the context of a judicial separation, divorce or the dissolution of a civil partnership².

The 1995 and 1996 Acts define a "dependent member of the family", as any child:

- (a) Of both spouses or adopted by both spouses; or
- (b) Of either spouse or adopted by either spouse where the other spouse, being aware that he or she is not the parent of the child, has treated the child as a member of the family.

And who is:

- (c) Under the age of 18 years; or
- (d) Under the age of 23 and in full-time education; or
- (e) Has a mental or physical disability to such extent that it is not reasonably possible for the child to maintain himself or herself fully.

A "dependent child" is defined in the same terms under the 2010 Act (as amended by the 2015 Act).

² S.121(2) of the 2010 Act was amended by s.158 of the Children and Family Relationships Act 2015 to allow for a PAO in favour of a dependent child.

Please note that the ages for dependence may vary from the rules of the relevant Spouses' and Children's Pension Scheme where, for example in respect of the Established Civil Service Superannuation Scheme, the relevant age limits are 16 and 22 years. When dealing with a family law case it is the definition of dependence under the Family Law Acts which is applied.

Where the dependent child ceases to be dependent, the PAO ceases to have effect insofar as it relates to him/her and that portion of the pension payment reverts to the member.

V. Benefits that may be covered by a PAO

There are two types of benefits that may be covered by a PAO:

- (a) Retirement benefits which include all benefits payable under the scheme other than contingent benefits. The retirement benefits allocated to the non-member are known as the "*designated benefit*"; and
- (b) Contingent benefits which are benefits payable on the death of the member while he/she is still in relevant employment.

Prior to the introduction of the Single Scheme, most public service organisations provided two separate pension schemes: the Main Superannuation Scheme and the Spouses' and Children's Scheme with the following benefits available thereunder:

Retirement benefit		Contingent benefit	
i.	Retirement pension <i>(Main scheme)</i>	i.	Death gratuity <i>(Main scheme)</i>
ii.	Retirement lump sum <i>(Main scheme)</i>	ii.	Spouse's pension payable pre-retirement <i>(Spouses and Children's pension scheme)</i>
iii.	Spouse's pension payable post-retirement <i>(Spouses and Children's scheme)</i>		

A PAO should clearly identify which of the above benefits it relates to and the relevant scheme the benefit comes from i.e. main scheme or Spouses and Children's scheme. Please see Appendix E for model PAOs which have been drafted based on the above benefits.

The benefits referred to in the PAO, however, must have accrued at the time of making the PAO and be payable in line with scheme rules e.g. if the member of the scheme is not a member of the Spouse's and Children's pension scheme³, there is no entitlement to a spousal pension and therefore the PAO should not be framed to include payment of such. Please see tables at Appendix D for more information on what entitlements are available.

VI. Deductions of liabilities from the death gratuity or retirement lump sum

In certain circumstances outstanding liabilities or contributions are deducted from the death gratuity or the retirement lump. Where there is a PAO attached to either, the following guidance should be followed in relation to the deduction of liabilities:

Superannuation deductions

Where a superannuation deduction is required from a lump sum in line with scheme rules the overriding principle in determining whether it is deducted from:

- i) the lump sum before application of the PAO; or
- ii) the member's portion of the lump sum

is based on whether the superannuation entitlement to which it relates was taken into account of at the date of decree.

Where deductions are required in relation to the Spouse's and Children's scheme member contributions arising out of actual service in the body or service that has been made pensionable or transferred into the scheme before the date of decree, then the deductions should be taken from the relevant lump prior to the application of the PAO. Please see Example 11 in these guidelines for further guidance on this approach.

Where deductions are required in relation to the Spouse's and Children's scheme arising out of professional or ill health added years the member contributions should be taken from the member's portion of the lump sum only. These benefits do not accrue until retirement and cannot be taken into account in a PAO framed before retirement. Where the PAO is framed after retirement the deductions will already have been taken from the overall lump sum.

³ In the Civil Service, this would only apply to officers appointed up to 31st August 1984 who had the option to join the Spouses and Children's scheme. With the introduction of the Revised Scheme, all officers appointed on or after 1 September 1984 became members of the scheme automatically and membership became a condition of employment.

Where deductions are required in relation to purchased service, contributions relating to a purchase agreement entered into before the point at which the PAO was framed should be deducted from the lump sum before application of the PAO; however, where a purchase agreement was entered into after the date of decree then any deductions will be taken from the member's portion of the lump sum only. Please see Example 9 in these guidelines for guidance on this approach when purchase contributions are owed on a pensionable allowance at retirement.

Where deductions are required in relation to earlier service for which a member contribution is owing, the amount involved should be deducted from the lump sum before application of the PAO if the service concerned was taken into account at the date of decree.

Any deductions in respect of contributions owing to be made from the lump sum before application of the PAO should be taken into account where a non-member requests a transfer amount (see section 4.4.10.1. for further detail).

Non-superannuation deductions

Where deductions are to be taken from a lump sum and they do not relate to a superannuation benefit, they should be taken from the member's portion of the lump sum e.g. an outstanding payment on the Bike to Work Scheme or the recoupment of an overpayment in relation to salary.

VII. Disclosure of information

Trustees of public service pension schemes are under legal obligation to disclose certain information relating to those schemes in family law cases. The extent of the information to be shared will vary depending on whether the member's consent has been provided, a court order or subpoena has been received or whether a PAO is in place.

Stages 1-3 of these Guidelines address, *inter alia*, the extent of the information which should be shared with the non-member and their legal representative.

Stage 1: Request for information in connection with family law proceedings

In family law proceedings, the Court must consider what constitutes ‘proper provision’ for the non-member(s). The Court can only do so when it is fully familiar with the true financial position of each party to the proceedings. Therefore, when proceedings are instituted seeking any of the financial orders available under the Family Law Acts, both parties are required to exchange full particulars of their property and income, which includes details of pension entitlements accrued under an occupational pension scheme.

The Court may only consider making a PAO when an application is made by a party to the proceedings. PAOs are not made or indeed required in all family law cases. In deciding whether or not it is appropriate to make a PAO, the Court will consider whether proper provision for those concerned could be made through any of the other orders available under family law legislation (such as maintenance orders, property adjustment orders, or financial compensation orders).

While member specific information is required for family law proceedings, the amount of information the trustees can disclose is very limited without member consent or a court order. The following sections capture the extent of the information that can be shared based on the different circumstances.

1.1 Information to be supplied as of right: No requirement for member consent / court order

The [Pensions Act 1990](#) (“the 1990 Act”), and the Regulations made thereunder ([Occupational Pension Schemes \(Disclosure of Information\) Regulations, 2006 to 2013](#)) (“the Disclosure of Information Regulations”), provide for disclosure by the trustees of certain basic information to the non-member spouse or civil partner, including:

- (a) the constitution of the scheme;
- (b) the administration and finances of the scheme;
- (c) the rights and obligations that arise or may arise under the scheme; and
- (d) such other matters as may be relevant to the scheme in general.⁴

Where proceedings for a decree of divorce, judicial separation or dissolution of civil partnership have commenced, the non-member, both during the family law proceedings and after the granting of the appropriate decree, continues to be entitled to the general

⁴ Section 54(1) of the *Pensions Act, 1990*.

scheme information set out above that he/ she was previously entitled to as the member's spouse or civil partner.⁵

There is no provision under the 1990 Act requiring trustees to disclose general scheme information to a non-member qualified cohabitant. However in order to facilitate proceedings it is recommended that this information be shared where requested in the public service.

A full list of general scheme information that can be provided is found at Appendix B.

Please note: the non-member is not entitled to member specific information or detailed information such that would allow them to calculate individual entitlements without the express consent of the member or a court order.

1.2 Disclosure of information with the member's consent

Although the non-member may apply to the Court for an order requiring the disclosure of the member's individual pension entitlements, the Trustees, with the consent of the member, should, if possible, provide the information voluntarily.⁶ Facilitating the provision of information on a voluntary basis minimises costs for the parties and reduces the necessity for court appearance.

Member-specific information, such as the length of reckonable service and pensionable salary, along with any further member specific information, may be given to the non-member with the member's express consent. A written authority from the member directing the Trustees to disclose specified information should be furnished prior to the disclosure of member-specific information.

Where consent is not provided by the member, trustees must not disclose any member specific information unless a court order is received.

⁵ Pensions Authority, *Guidance Notes on the Disclosure of Information by Occupational Pension Schemes*, 2019, at p.58.

⁶ *Ibid.*

1.3 Disclosure of information through a Court Order

Where the member's consent is not forthcoming, it is open to the other party of the family law proceedings to bring a motion before the Court seeking an order directing the Trustees to provide him/ her (i.e. the non-member or other person concerned) with the required pension related information.⁷ Alternatively, the Court may decide on its own motion that such an order is required. Where the Court so directs, the Trustees must furnish in writing the following information:

- (a) a calculation of the value and the amount, determined in accordance with relevant guidelines, of the retirement benefit or contingent benefit payable under the scheme and has accrued at the time of the making of that order;⁸ and
- (b) a calculation of the amount of the contingent benefit payable under the scheme.⁹

On occasion, Trustees may be served with a Discovery Order directing that certain documents (e.g. copies of the scheme rules, benefit entitlements) must be issued to a named party. Where a valid Discovery Order is served, all documentation requested thereunder must be furnished.

1.4 Disclosure of information via Subpoena system

Trustees may be served with a subpoena to appear in court for the purpose of giving information on pension entitlements. Where the issue of the subpoena is as a result of the refusal by the member to consent to the release of information to the non-member, it is suggested that the Trustees inform the party serving the subpoena of their willingness to provide the information on foot of a direction from the Court.

Where the Trustees have done all they could to provide the necessary information (including updating or revising information already supplied) they should seek to have the subpoena lifted and, if this fails, they should inform the parties that they will seek all the costs allowable under the legislation, including the cost of court appearances. If the subpoena is not lifted, the Trustees should seek legal advice.

⁷ Section 12(25) of the Family Law Act, 1995 and Section 17(25) of the Family Law Act, 1996.

⁸ Section 12(25)(a) of the Family Law Act, 1995 and Section 17(25)(a) of the Family Law Act, 1996.

⁹ Section 12(25)(b) of the Family Law Act, 1995 and Section 17(25)(b) of the Family Law Act, 1996

1.5 Actuarial Valuations

Where a request is received to furnish a calculation of the value and amount of the retirement benefit and contingent benefit, the actuarial valuation of the retirement benefits must be calculated in accordance with the appropriate guidelines issued by the Society of Actuaries of Ireland.

Actuarial valuations are provided in respect of the relevant retirement benefits only. Actuarial valuations of contingent benefits are not required under the legislation and are never given.

This Department will supply such valuations for public service scheme members where requested (with the consent of the member) or on foot of a direction by the Court.

To obtain a valuation, please contact the actuaries at pensions@per.gov.ie.

Stage 2: Receipt of a draft PAO

Where an application is made to the court for a PAO, notice of such application must be served on the Trustees of the Scheme. A draft PAO should be submitted to the Trustees at least 10 days before trial¹⁰ and it should be examined carefully to ensure that it can be implemented. If a draft PAO is received with less than the minimum notice, the Courts and the parties should be informed.

A PAO framed to include retirement benefits can be made at any time after the decree during the lifetime of the member. A PAO framed to include contingent benefits must be made within 1 year of the decree (apart from in the case of qualified cohabitants where no time limit is referred to).

2.1 Reviewing draft PAOs

The trustees should **not** *approve* the draft PAO as this is outside of their remit. However, they should:

- Confirm receipt of the draft PAO;
- review the draft PAO to determine whether it is implementable using the checklist found at section 2.1.1 below; and
- Note any problems with the Order as drafted or comments that the trustees consider relevant.

If the draft orders are unclear, for example if each benefit is not clearly identified and linked to the relevant scheme, or not implementable, for example if they refer to the S&C scheme when there is no entitlement to a spousal pension, both parties should be informed accordingly and told the reasons why they are not considered valid. A copy of the relevant model PAO found at Appendix E should be sent to assist in drafting a valid PAO.

¹⁰ Article 37(1) of S.I. No. 427 of 2018 Circuit Court Rules (Family Law) 2018 and Article 12 of S.I. No 385 of 2011 Circuit Court Rules (Civil Partnership and Cohabitation) 2011

2.1.1 Checklist for reviewing a draft PAO

Checklist for reviewing a draft PAO

- | | <i>(Tick)</i> |
|---|-------------------------------------|
| • Each benefit referred to in the PAO is clearly identified | <input checked="" type="checkbox"/> |
| • For <u>each</u> order the following information should be included: | |
| ○ the Act, section and sub-section that applies to the Order | <input checked="" type="checkbox"/> |
| ○ the date of the decree or order for redress | <input checked="" type="checkbox"/> |
| ○ the name of the scheme to which the Order relates | <input checked="" type="checkbox"/> |
| ○ the <u>clearly identified</u> benefit(s) to which the Order relates | <input checked="" type="checkbox"/> |
| ○ the name of the member, together with a personal identifier | <input checked="" type="checkbox"/> |
| ○ the name and address of the non-member | <input checked="" type="checkbox"/> |
| ○ the name and address of the trustees of the scheme | <input checked="" type="checkbox"/> |
| ○ the 'relevant percentage'* of the benefit being allocated | <input checked="" type="checkbox"/> |
| • In addition, any orders relating to retirement benefits , must also specify: | |
| ○ the 'relevant period'** | <input checked="" type="checkbox"/> |

**The 'relevant percentage' is the percentage of the retirement benefit that has accrued during that period that is to be paid to the non-member, which can vary from 0.001% to 100%*

***The 'relevant period' is the period of reckonable service of the member to be taken into account – it must specify the start date and the end date, which cannot extend beyond the date of the decree*

2.2 Preservation Order

On judicial separation, the court may grant an order pursuant to section 13(1) of the 1995 Act directing the trustees not to regard the separation of the spouses, following the judicial separation, as a reason to disqualify the non-member spouse from receiving a benefit where there is a condition in the scheme requiring the spouses to reside together. Many public service pension schemes do not have such a condition under the rules of the Scheme and, where this is the case, such an Order under section 13 will not have any effect.

There is no corresponding provision applicable in divorce proceedings. In order for a former spouse to claim a pension entitlement in respect of a member, following a divorce, there

must be a PAO in place. Where a preservation order is granted ancillary to a decree of judicial separation it will cease to have effect on divorce.

The court may make an order preserving the pension entitlements of a civil partner, following dissolution of the civil partnership, under section 49 of the 2010 Act.

There is no similar provision available to a qualified cohabitant.

Stage 3: Receipt of a valid PAO

Where the Court has granted a PAO, the Court Registrar or Clerk will serve a copy of the PAO on the Trustees. Only a copy of the PAO that has been certified by the Court will be accepted.

Upon receipt of a valid PAO, the trustees are obliged to provide the following information to the non-member within two months of receiving the notification:

- i. A statement with the details both as to the amount of and the nature of the benefit to be provided under the PAO;
- ii. A note that further information may be obtained from the Pensions Authority;
- iii. The name or title, and the address of the team/section to whom enquiries should be sent; and
- iv. A statement that the non-member is advised to notify the trustees of any change of address.

3.1 Nominal Orders

Frequently, the percentage and (where relevant) the specified period in PAOs are designed to produce a designated benefit so small that it cannot be paid. This is because it is not possible for the Court to order that none of a member's pension benefits be given to a non-member, so in practice if such an order is sought, the Court will rule that a very small percentage of benefits (e.g. 0.001%) be designated to the non-member. Such orders (often called nominal orders) are valid and the parties should be so informed. Since the designated benefit is of a nugatory value, the parties should be informed that the trustees intend to note the orders but to take no further action.

3.2 Filing

Administrators are responsible for putting in place proper systems to manage PAOs in order to ensure that it is immediately recognisable that a PAO affects a member's retirement benefits and/or contingent benefits and that payment pursuant to a PAO can be made in a timely manner.

3.3 Provision of Information where a PAO is on file

Under the 1990 Act and the Disclosure of Information Regulations, once a PAO is in place on the pension, the trustees are obliged to furnish the non-member with certain information based on a number of triggering events. This information must be provided within a 2 month period of the triggering event. The table found at Appendix C identifies the relevant triggering events and lists the corresponding information to be provided by the Trustees.

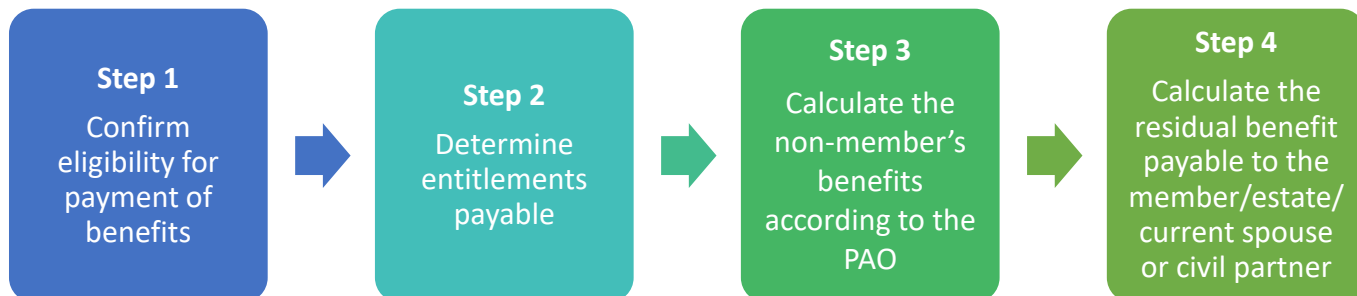
Stage 4: Payments pursuant to a PAO

4.1 Activation of a PAO

The payment of benefits under a PAO are payable in accordance with the rules of the scheme. Ordinarily the benefits come into payment upon the retirement of the member, however, there are a number of triggering events which activate a payment pursuant to a PAO, including:

- Application for a transfer amount by non-member;
- Death of the member whilst in relevant employment;
- Death of the non-member while the member is in relevant employment;
- Retirement of the member;
- Death of a member post-retirement; and
- Death of a non-member when the member has retired.

When a triggering event for payment of benefits under a PAO is activated there are a number of steps to be taken:



4.2 Step 1: Confirm eligibility for payment of benefits

Prior to making any payment pursuant to a PAO, the trustees should satisfy themselves that the person in whose favour the PAO is made remains eligible to receive such payment. The trustees may, in the absence of evidence to the contrary, rely on the statement of such person.

Possible exclusions from payment are captured in the table below:

Table 1: Possible exclusions from payment of a PAO

	Judicial Separation	Divorce	Dissolution of a Civil Partnership	Redress by a qualified cohabitant
Retirement benefits	<p>If the order is for the benefit of a dependent member of family and he/she:</p> <ul style="list-style-type: none"> i) no longer meets the criteria to be considered a dependent; or ii) dies <p>before payment of designated benefit has commenced.</p>	<p>If the order is for the benefit of a dependent member of family and he/she:</p> <ul style="list-style-type: none"> i) no longer meets the criteria to be considered a dependent; or ii) dies <p>before payment of designated benefit has commenced.</p>	<p>Not payable upon entry into a new civil partnership or marriage.</p>	<p>Not payable upon entry into a civil partnership or marriage.</p>
Contingent benefits	<p>If the member leaves relevant employment</p> <p>If the non-member dies or remarries</p>	<p>If the member leaves relevant employment</p> <p>If the non-member dies or remarries</p>	<p>If the member leaves relevant employment</p> <p>If the non-member dies or enters a new civil partnership or marriage.</p>	<p>N/A – contingent benefits not payable to non-member cohabitants under public service scheme rules</p>

4.3 Step 2: Determine the benefits payable to the non-member

Each of the triggering events listed at 4.1 above give rise to different entitlements under family law legislation. The benefits payable are also dependent on the piece of legislation under which the PAO has been framed.

Please see Appendix D which includes tables detailing the benefits payable in cases involving:

- Judicial separation
- Divorce / dissolution of civil partnership
- Divorce and 2nd marriage / dissolution of a civil partnership and 2nd civil partnership
- Qualified cohabitants

The tables have been developed based on Section 12 of the Family Law Act 1995, Section 17 of the Family Law (Divorce) Act, 1996, Sections 121 and 187 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010. They have been developed to provide guidance on cases where the PAO is framed to include the orders captured in Table 2 below. It is worth bearing in mind that when a PAO is framed, the parties may choose to make all or only some of the orders referred to below. In such cases, it is only the operation of the orders included in the PAO that must be considered.

Table 2: retirement and contingent benefit orders

PAO framed to include:	i) Retirement benefits only	ii) Contingent benefits only	iii) Retirement and contingent benefits
Orders:	<ul style="list-style-type: none"> - retirement pension - pension lump sum - spousal pension on death in retirement 	<ul style="list-style-type: none"> - death gratuity lump sum - spousal pension on death in service 	<ul style="list-style-type: none"> - retirement pension - pension lump sum - spousal pension on death in retirement - death gratuity lump sum - spousal pension on death in service

Where the scheme rules provide for a discretionary power to grant additional benefits to an individual scheme member, any such additional benefit granted to the member at the commencement of his/her reckonable service, or which can be said to have accrued at any time prior to the date of the decree must be included in calculating the designated benefit. Please see section 4.4.10 for guidance on what entitlements should be included for payment.

4.4 Step 3: (A) Calculation of Designated Benefit (Retirement benefits)

The designated benefit is the part of a member's retirement benefit that is allocated for payment to the non-member under the PAO. Retirement benefits usually include orders relating to the retirement pension, the pension lump sum and the spousal pension on death in retirement.

As set out in section 2.1.1, a valid PAO relating to retirement benefits must specify the 'relevant period' (i.e. the period of reckonable service of the member to be taken into account) and the 'relevant percentage' (i.e. the percentage of the retirement benefit that has accrued during the relevant period that is to be paid to the non-member).

The formulae for calculating a designated benefit are set out in Part 2 of the Pension Schemes (Family Law) Regulations 1997 (S.I. No. 107 of 1997). The calculation will depend on the status of the member at the date of the decree/order for redress and when the payments commence, i.e. whether the member is an active member, a deferred member or a current pensioner and whether the active member retires at normal pensionable age (i.e. minimum retirement age) or earlier or later than normal pensionable age (i.e. earlier or later than minimum retirement age).

Please note a separate calculation is required for each retirement benefit that is payable to the non-member.

The retirement benefit, upon which the designated benefit is based, is calculated by reference to the rules of the scheme in force at the date of the decree/order for redress.

The formulae used to calculate the designated benefit in various circumstances and examples explaining the operation of the calculations are set out below. The below guidance should be read in conjunction with the relevant articles in S.I. 107/1997.

Please note: the examples provided in this chapter are based on non-integrated* and integrated** pensions available to pre-2013 civil servants.

In order to provide simple example calculations:

- ***A pensionable salary of €100,000 has been used. Trustees should calculate 'A' based on the rules of their own scheme.***
- ***Apart from examples 9, 11, 17 & 18 the designated and residual benefits in relation to the retirement lump have been calculated as if no liabilities or contributions are owing. [please see page 5 for detail on deducting liabilities from the lump sum]***

* i.e. pensions available to those civil servants appointed pre-1st April 1995 and based on 1/80th of final salary per year of reckonable service

** i.e. pensions available to civil servants appointed on or after 1st April 1995 which are based on the 1/200th calculation and take account of the entitlement to the State Pension (Contributory)

4.4.1 Normal pensionable age (i.e. minimum retirement age)

The term ‘*normal pensionable age*’ is used throughout S.I. 107/1997 and the formula to be applied is dependent on whether the member retires before, at or after *normal pensionable age*. The definition provided is:

“the earliest age at which a member of a pension scheme is entitled to receive benefits under the rules of the scheme on retirement from relevant employment disregarding any such rules providing for early retirement on grounds of ill health or otherwise” [emphasis added]

In general, the normal pensionable ages and maximum retirement ages for established civil servants who are not part of a fast accrual scheme are those found in Table 3 below:

Table 3: Normal Pensionable Ages in the Civil Service for pre-2013 members who are not members of fast accrual schemes

Date of appointment	Normal pensionable age	Maximum Retirement age
Pre- 1 st April 2004	60	70
1 st April 2004 – 31 st December 2012	65	None

For individuals who retire between the normal pensionable age and the maximum retirement age (if any), section 4.4.4 below should be used which refers to retirement after normal pensionable age.

4.4.2 Retirement at normal pensionable age

Article 7 of S.I. 107/1997 provides the formula to use where the member is an active member at the date of the PAO and retires at normal pensionable age.

The formula should be applied separately for each retirement benefit payable to the non-member e.g. retirement pension, retirement lump sum, spouses pension in retirement etc. The designated benefit in cases where an individual retires at normal pensionable age is calculated as follows:

$$(A \times B \times P) / C$$

Where:

- A is the amount of retirement benefit at normal pensionable age, payable in accordance with the rules in force;
- B is the period of retirement benefit service that the member has completed within the relevant period;
- C is the period of retirement benefit service that the member has completed at normal pensionable age as defined under the rules in force;
- P is the relevant percentage.

Please Note: In determining A, any benefits derived from AVCs (i.e. purchased notional service) or derived from rights transferred into the scheme are ignored and dealt with separately. Please see section 4.4.10 on the treatment of purchased and transferred service.

In determining B and C (period of service) any scheme rule subjecting the service to an upper limit is disregarded.

Example 1: Retirement at normal pensionable age

Member has 40 years' service and retires at normal pensionable age, with a salary of €100,000.

There is a PAO on the main scheme retirement pension and lump sum – relevant period 20 years and relevant percentage 50%

(A) Non-integrated pension

- The designated benefit of the **retirement pension** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = 100,000 \times 40/80 = \text{€}50,000$$

$$B = 20 \text{ years}$$

$$C = 40 \text{ years}$$

$$P = 50\%$$

$$[50000 \times 20 \times 50\%] / 40 = \text{€}12,500 \text{ p.a.}$$

- The designated benefit of the **retirement lump sum** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = 100,000 \times 3/80 \times 40 = \text{€}150,000$$

$$B = 20 \text{ years}$$

$$C = 40 \text{ years}$$

$$P = 50\%$$

$$[150,000 \times 20 \times 50\%] / 40 = \text{€}37,500$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlement	€50,000 p.a.	€150,000
Designated benefits available to the non-member	€12,500 p.a.	€37,500
Residual benefits available to the member	[50,000-12,500] = €37,500 p.a.	[150,000 – 37,500]= €112,500

(B) Integrated pension:

- The designated benefit of the **retirement pension** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = \text{€}37,043.90 [\text{€}8,637.40 (\text{€}43,187 \times 40/200) + \text{€}28,406.50 (\text{€}56,813 \times 40/80)]$$

$$B = 20 \text{ years}$$

$$C = 40 \text{ years}$$

$$P = 50\%$$

$$[\text{€}37,043.90 \times 20 \times 50\%] / 40 = \text{€}9,260.97 \text{ p.a.}$$

- The designated benefit of the **retirement lump sum** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = 100,000 \times 3/80 \times 40 = \text{€}150,000$$

$$B = 20 \text{ years}$$

$$C = 40 \text{ years}$$

$$P = 50\%$$

$$[\text{€}150,000 \times 20 \times 50\%] / 40 = \text{€}37,500$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements	€37,043.90 p.a.	€150,000
Designated benefits available to non-member	€9,260.97 p.a.	€37,500
Residual benefits available to the member	[37,043.90 – 9,260.97] = €27,782.93 p.a.	[150,000 – 37,500]= €112,500

4.4.3 Retirement earlier than normal pensionable age (e.g. CNER)

Article 8 of S.I. 107/1997 provides the formula to use where the member is an active member at the date of the PAO and subsequently receives retirement benefit on termination of reckonable service before normal pensionable age. The same formula (found at 4.4.2 above) is used, except:

A is the amount of retirement benefit payable in accordance with the rules in force;
and

C is the period of retirement benefit service that the member has completed to the date of the member's termination of reckonable service.

As noted above, any service obtained through purchase or transfer should be excluded from the calculation and dealt with separately in line with section 4.4.10.

Example 2: CNER

Member has 35 years' service and retires earlier than normal pensionable age under CNER terms on a salary of €60,000. Member has a preserved pension age of 60 and retires at age 55 and 5 days.

There is a PAO on the main scheme retirement pension and lump sum – relevant period 20 years and relevant percentage 50%.

(A) Non-integrated pension:

- *The designated benefit of the **retirement pension** is calculated as follows:*

$$[A \times B \times P] / C$$

$$A = €20,436.17^{11}$$

$$B = 20 \text{ years}$$

$$C = 35 \text{ years}$$

$$P = 50\%$$

$$[20,436.17 \times 20 \times 50\%] / 35 = €5,838.90 \text{ p.a.}$$

¹¹ $[77.8\% + ((5/365) \times (81.6\% - 77.8\%))] \times (60,000 \times 35/80) = €20,436.17 \text{ p.a.}$

- The designated benefit of the **retirement lump sum** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = \text{€}71,444.59^{12}$$

$$B = 20 \text{ years}$$

$$C = 35 \text{ years}$$

$$P = 50\%$$

$$[71,444.59 \times 20 \times 50\%] / 35 = \text{€}20,412.74$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements	€20,436.17 p.a.	€71,444.59
Designated benefits available to non-member	€5,838.90 p.a.	€20,412.74
Residual benefits available to the member	[€20,436.17 – €5,838.90] = €14,597.27 p.a.	[€71,444.59 – €20,412.74]= €51,031.85

(B) Integrated pension:

- The designated benefit of the **retirement pension** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = \text{€}11,610.38^{13}$$

$$B = 20 \text{ years}$$

$$C = 35 \text{ years}$$

$$P = 50\%$$

$$[11,610.38 \times 20 \times 50\%] / 35 = \text{€}3,317.25 \text{ p.a.}$$

¹² $[90.7\% + ((5/365) \times (92.4\% - 90.7\%))] \times (60,000 \times 3 \times 35/80)$

¹³ $[77.8\% + ((5/365) \times (81.6\% - 77.8\%))] \times [(\text{€}43,187 \times 35/200) + (\text{€}16,813 \times 35/80)] = \text{€}11,610.38 \text{ p.a.}$

- The designated benefit of the **retirement lump sum** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = \text{€}71,444.59^{14}$$

$$B = 20 \text{ years}$$

$$C = 35 \text{ years}$$

$$P = 50\%$$

$$[71,444.59 \times 20 \times 50\%] / 35 = \text{€}20,412.74$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements	€11,610.38 p.a.	€71,444.59
Designated benefits available to non-member	€3,317.25 p.a.	€20,412.74
Residual benefits available to the member	[€11,610.38 – €3,317.25] = €8,293.13 p.a.	[€71,444.59 – €20,412.74]= €51,031.85

¹⁴ $[90.7\% + ((5/365) \times (92.4\% - 90.7\%))] \times (60,000 \times 3 \times 35/80)$

4.4.4 Retirement later than normal pensionable age

Article 10 of S.I. 107/1997 provides the formula to use where the member is an active member at the date of the PAO and subsequently receives a retirement benefit later than normal pensionable age, the same formula (found at 4.4.2 above) is used, except:

- A is the amount of retirement benefit payable in accordance with the rules in force;
and
C is the period of retirement benefit service that the member has completed to the date of the member's termination of reckonable service.

As noted above, in determining B and C (period of service) any scheme rule subjecting the service to an upper limit is disregarded. In addition, any service obtained through purchase or transfer should be excluded from the calculation and dealt with separately in line with section 4.4.10.

Example 3: Retirement later than normal pensionable age

Member is retiring later than the normal pensionable age of her pension scheme rules at aged 63. She has 38 years' service with a salary of €100,000.

There is a PAO on the main scheme retirement pension and lump sum – relevant period 20 years and relevant percentage 50%.

(A) Non-integrated pension

- *The designated benefit of the **retirement pension** is calculated as follows:*

$$[A \times B \times P] / C$$

$$A = 100,000 \times 38/80 = \text{€}47,500$$

$$B = 20 \text{ years}$$

$$C = 38 \text{ years}$$

$$P = 50\%$$

$$[47500 \times 20 \times 50\%] / 38 = \text{€}12,500$$

- *The designated benefit of the **retirement lump sum** is calculated as follows:*

$$[A \times B \times P] / C$$

$$A = 100,000 \times 3/80 \times 38 = \text{€}142,500$$

$$B = 20 \text{ years}$$

$C = 38$ years

$P = 50\%$

$$[142,500 \times 20 \times 50\%] / 38 = \mathbf{€37,500}$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements	€47,500 p.a.	€142,500
Designated benefits available to non-member	€12,500 p.a.	€37,500
Residual benefits available to the member	$[\text{€}47,500 - \text{€}12,500] =$ €35,000 p.a.	$[\text{€}142,500 - \text{€}37,500]=$ €105,000

(B) Integrated pension:

- The designated benefit of the **retirement pension** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = \text{€}35,191.70 [\text{€}8,205.53 (\text{€}43,187 \times 38/200) + \text{€}26,986.17 (\text{€}56,813 \times 38/80)]$$

$B = 20$ years

$C = 38$ years

$P = 50\%$

$$[\text{€}35,191.70 \times 20 \times 50\%] / 38 = \mathbf{€9,260.97}$$

- The designated benefit of the **retirement lump sum** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = 100,000 \times 3/80 \times 38 = \text{€}142,500$$

$B = 20$ years

$C = 38$ years

$P = 50\%$

$$[142,500 \times 20 \times 50\%] / 38 = \mathbf{€37,500}$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements	€35,191.70 p.a	€142,500
Designated benefits available to non-member	€9,260.97 p.a.	€37,500
Residual benefits available to the member	[€35,191.70 – €9,260.97] = €25,930.73 p.a.	[€142,500 – €37,500]= €105,000

4.4.5 Retirement having previously withdrawn from reckonable service (e.g. preserved pension or refund of contributions)

Article 11 of S.I. 107/1997 provides the formula to use where the member is an active member at the date of the PAO and reckonable service terminates before pensionable age, other than on death or retirement. The same formula (found at 4.4.2 above) is used, except:

- A is the amount of retirement benefit that becomes payable in accordance with the rules in force; and
- C is the period of retirement benefit service that the member has completed to the date of the member termination of reckonable service.

Where there is no entitlement to a retirement benefit, no designated benefit is payable. Where a refund of the contributions in respect of the retirement benefit is due, on termination of reckonable service, the above formula is used to calculate the designated benefit, except 'A' is the amount of retirement benefit payable in the form of a refund of contributions payable in accordance with the rules in force.

As noted above, any service obtained through purchase or transfer should be excluded from the calculation and dealt with separately in line with section 4.4.10.

Example 4: Preserved Pension

Member resigns at 50 years of age with 25 years' service and a preserved pension based on a pensionable salary of €50,000.

There is a PAO in place on the main scheme retirement pension and retirement lump sum – relevant period 20 years and relevant percentage 50%.

The member reaches preserved pension age.

(A) Non-integrated pension:

- The designated benefit on the **retirement pension** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = 50,000 \times 25/80 = \text{€}15,625$$

$$B = 20 \text{ years}$$

$$C = 25 \text{ years}$$

$$P = 50\%$$

$$[15,625 \times 20 \times 50\%] / 25 = \text{€}6,250$$

- The designated benefit of the **retirement lump sum** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = 50,000 \times 3/80 \times 25 = \text{€}46,875$$

$$B = 20 \text{ years}$$

$$C = 25 \text{ years}$$

$$P = 50\%$$

$$[46,875 \times 20 \times 50\%] / 25 = \text{€}18,750$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements	€15,625 p.a.	€46,875
Designated benefits available to non-member	€6,250 p.a.	€18,750
Residual benefits available to the member	[€15,625 – €6,250] = €9,375 p.a.	[€46,875 – €18,750]= €28,125

(B) Integrated pension:

- The designated benefit of the **retirement pension** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = €7,527.43 [€5,398.37 (€43,187 \times 25/200) + €2,129.06(€6,813 \times 25/80)]$$

$$B = 20 \text{ years}$$

$$C = 25 \text{ years}$$

$$P = 50\%$$

$$[€7,527.43 \times 20 \times 50\%] / 25 = \mathbf{€3,010.97}$$

- The designated benefit of the **retirement lump sum** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = 50,000 \times 3/80 \times 25 = €46,875$$

$$B = 20 \text{ years}$$

$$C = 25 \text{ years}$$

$$P = 50\%$$

$$[46,875 \times 20 \times 50\%] / 25 = \mathbf{€18,750}$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements	€7,527.43 p.a.	€46,875
Designated benefits available to non-member	€3,010.97 p.a.	€18,750
Residual benefits available to the member	[€7,524.43 – €3,010.97] = €4,516.46 p.a.	[€46,875 – €18,750]= €28,125

4.4.6 Current pensioner

Article 13 of S.I. 107/1997 provides the formula to use where the member is a current pensioner at the date of the PAO. The same formula (found at 4.4.2 above) is used, except:

- A is the amount of future payments of retirement benefit payable in accordance with the rules in force; and
- C is the period of retirement benefit service that the member has completed to the date of the member's termination of reckonable service

Please note in the case of a current pensioner, a PAO cannot be framed to include any benefits already paid e.g. a retirement lump sum. As noted above, any service obtained through purchase or transfer should be excluded from the calculation and dealt with separately in line with section 4.4.10.

Example 5: Current pensioner

Member retired 5 years ago on a pensionable salary of €100,000 and is receipt of his/her pension.

A PAO is framed on the main scheme retirement pension – relevant period 20 years and relevant percentage 50%

(A) Non-integrated pension

- *The designated benefit of the **retirement pension** is calculated as follows:*

$$[A \times B \times P] / C$$

$$A = 100,000 \times 40/80 = \text{€}50,000$$

$$B = 20 \text{ years}$$

$$C = 40 \text{ years}$$

$$P = 50\%$$

$$[50000 \times 20 \times 50\%] / 40 = \text{€}12,500$$

Summary:

	Retirement pension
Overall pension entitlements	€50,000 p.a.
Designated benefits available to non-member	€12,500 p.a.
Residual benefits available to the member	[€50,000 – €12,500] = €37,500 p.a.

(B) Integrated pension

- The designated benefit of the **retirement pension** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = €37,043.90 \text{ [€8,637.40 (€43,187} \times 40/200) + €28,406.50 (€56,813 \times 40/80)]$$

$$B = 20 \text{ years}$$

$$C = 40 \text{ years}$$

$$P = 50\%$$

$$[€37,043.90 \times 20 \times 50\%] / 40 = \mathbf{€9,260.97}$$

Summary:

	Retirement pension
Overall pension entitlements	€37,043.90 p.a.
Designated benefits available to non-member	€9,260.97 p.a.
Residual benefits available to the member	[€37,043.90 – €9,260.97] = €27,782.93 p.a.

4.4.7 Fast Accrual

Certain schemes provide for fast accrual of service, by awarding an additional benefit in respect of service in excess of a certain threshold. For instance, schemes relating to prison officers and An Garda Síochána, provide for an additional benefit of 1/80th of final salary for every year of service over 20 years.

In calculating the designated benefit, the relevant formula should be used based on whether retirement takes place before, at or after normal pensionable age (i.e. minimum retirement age).

The amount of the retirement benefit (i.e. 'A' in the formula) should be calculated including reference to the fast accrual provision under the scheme.

However, the period of retirement benefit service (used in 'B' and 'C' of the relevant formula) will be the actual service without reference to any 'doubling' of service over 20 years as this cannot be considered to be a period of employment or indeed a period that is treated as employment.

Example 6: Fast accrual

A member of a fast accrual scheme retires after completing 30 years' service on a salary of €100,000.

There is a PAO on the main scheme retirement benefits – relevant period 20 years and relevant percentage 50%

(A) Non-integrated pension

- *The designated benefit of the **retirement pension** is calculated as follows:*

$$[A \times B \times P] / C$$

$$A = €100,000 \times [(20 \times 1/80) + (10 \times 2/80)] = €50,000$$

$$B = 20 \text{ years}$$

$$C = 30 \text{ years}$$

$$P = 50\%$$

$$[50,000 \times 20 \times 50\%] / 30 = \mathbf{€16,667}$$

- The designated benefit of the **retirement lump sum** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = \text{€}100,000 \times 3[(20 \times 1/80) + (10 \times 2/80)] = \text{€}150,000$$

$$B = 20 \text{ years}$$

$$C = 30 \text{ years}$$

$$P = 50\%$$

$$[150,000 \times 20 \times 50\%] / 30 = \text{€}50,000$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements	€50,000 p.a.	€150,000
Designated benefits available to non-member	€16,667 p.a.	€50,000
Residual benefits available to the member	[€50,000 – €16,667] = €33,333 p.a.	[€150,000 – €50,000]= €100,000

(B) Integrated pension:

- The designated benefit of the **retirement pension** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = \text{€}43,187 \times [(20 \times 1/200) + (10 \times 2/200)] + \text{€}56,813 \times [(20 \times 1/80) + (10 \times 2/80)]$$

$$= \text{€}8,637.40 + \text{€}28,406.50 = \text{€}37,043.90$$

$$B = 20 \text{ years}$$

$$C = 30 \text{ years}$$

$$P = 50\%$$

$$[\text{€}37,043.90 \times 20 \times 50\%] / 30 = \text{€}12,347.96$$

- The designated benefit of the **retirement lump sum** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = \text{€}100,000 \times 3[(20 \times 1/80) + (10 \times 2/80)] = \text{€}150,000$$

$$B = 20 \text{ years}$$

$$C = 30 \text{ years}$$

$$P = 50\%$$

$$[150,000 \times 20 \times 50\%] / 30 = \text{€}50,000$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements	€37,043.90 p.a.	€150,000
Designated benefits available to non-member	€12,347.96 p.a.	€50,000
Residual benefits available to the member	[€37,043.90 – €12,347.96] = €24.695.94 p.a.	[€150,000 – €50,000]= €100,000

4.4.8 Ill-health retirement

Article 9 of S.I. 107/1997 provides the formula to use where the member is an active member at the date of the PAO and subsequently receives retirement benefit on termination of reckonable service as a result of incapacity prior to normal pensionable age. The same formula (found at 4.4.2 above) is used, except

- A is the amount of retirement benefit payable in accordance with the rules in force in relation to retirement on incapacity, excluding any additional benefit granted under the rules of the scheme specifically on account of retirement on incapacity (i.e. excluding any added years); and
- C is the period of retirement benefit service that the member has completed to the date of the member's termination of reckonable service (disregarding any period of notional service that has been granted under the rules of the scheme in relation to ill-health retirement.

As noted above, any service obtained through purchase or transfer should be excluded from the calculation and dealt with separately in line with section 4.4.10.

Example 7: Ill-health retirement

Member has 35 years' service, retires on ill-health with a salary of €100,000 and receives 5 added years' notional service.

There is a PAO on the main scheme retirement pension and lump sum – relevant period 20 years and relevant percentage 50%.

(A) Non-integrated pension

- *The designated benefit of the **retirement pension** payable to the non-member is calculated as follows:*

$$[A \times B \times P] / C$$

$$A = 100,000 \times 35/80 = \text{€}43,750$$

$$B = 20 \text{ years}$$

$$C = 35 \text{ years}$$

$$P = 50\%$$

$$[43750 \times 20 \times 50\%] / 35 = \text{€}12,500$$

- The designated benefit of the **retirement lump sum** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = 100,000 \times 3/80 \times 35 = \text{€}131,250$$

$$B = 20 \text{ years}$$

$$C = 35 \text{ years}$$

$$P = 50\%$$

$$[131,250 \times 20 \times 50\%] / 35 = \text{€}37,500$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements	€43,750 p.a.	€131,250
Designated benefits available to non-member	€12,500 p.a.	€37,500
Residual benefits available to the member	[€43,750 – €12,500] = €31,250 p.a.	[€131,250 – €37,500]= €93,750

(B) Integrated pension:

- The designated benefit of the **retirement pension** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = \text{€}32,413.40[\text{€}7,557.72(\text{€}43,187 \times 35/200) + \text{€}24,855.68(\text{€}56,813 \times 35/80)]$$

$$B = 20 \text{ years}$$

$$C = 35 \text{ years}$$

$$P = 50\%$$

$$[\text{€}32,413.40 \times 20 \times 50\%] / 35 = \text{€}9,260.97$$

- The designated benefit of the **retirement lump sum** is calculated as follows:

$$[A \times B \times P] / C$$

$$A = 100,000 \times 3/80 \times 35 = \text{€}131,250$$

$$B = 20 \text{ years}$$

$$C = 35 \text{ years}$$

$$P = 50\%$$

$$[131,250 \times 20 \times 50\%] / 35 = \text{€}37,500$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements	€32,413.40 p.a.	€131,250
Designated benefits available to non-member	€9,260.97 p.a.	€37,500
Residual benefits available to the member	[€32,413.40 – €9,260.97] = €23,152.43 p.a.	[€131,250 – €37,500]= €93,750

4.4.9 Additional benefits

Where the scheme rules provide for additional retirement benefits to which the member is entitled, the table below provides guidance on whether the entitlement should be included or excluded as a designated benefit in relation to pre-2013 Civil Service Superannuation Schemes. Trustees of other public service pension schemes should develop a table based on the entitlements available under their scheme rules. Where uncertainty arises regarding whether an entitlement is payable to a non-member legal advice should be sought.

Table 4: Additional retirement benefits

Additional retirement benefits	Treatment	Specific formula to determine designated amount?
i. Ill-health added years	Excluded as a designated benefit	Yes - See section 4.4.8
ii. Purchased service	<u>Service purchased prior to the date of decree or where purchase arrangement in place at the time of decree:</u> Included as a designated benefit	Yes – See section 4.4.9 below
	<u>Service begins to be purchased after the date of decree:</u> Excluded as a designated benefit	n/a
iii. Transferred service	<u>Service transferred prior to the date of decree:</u> Included as a designated benefit.	Yes – See section 4.4.9 below
	<u>Service transferred after the date of decree:</u> Excluded as a designated benefit	n/a
iv. Professional added years awarded at retirement	<u>PAO framed during relevant Employment:</u> Excluded as a designated benefit	n/a

	<u>PAO framed when pension in payment:</u> Included as a designated benefit.	No – use general formulae found at para 4.4.6 and include added years in calculation. Separate calculation not necessary.
v. Enhanced first month's payment of the Spouses' pension	Included as a designated benefit	No – use general formulae found at paras 4.4.2-4.4.6 to carry out separate calculation
vi. Supplementary pension	<u>PAO framed during relevant Employment:</u> Excluded as a designated benefit	N/A
	<u>PAO framed when pension in payment:</u> Included as a designated benefit.	No – use general formulae found at para 4.4.6 and include additional benefit in calculation. Separate calculation not necessary.

4.4.9.1 Purchased Service

The Pension Schemes (Family Law) Regulations, 1997 defines 'additional voluntary contributions' as such "contributions (if any) as are paid on a voluntary basis by a member of an occupational pension scheme and are designed to fully provide additional benefits".

Notional service that is purchased by a Member comes within the scope of this definition and Article 20 of S.I. 107/1997 provides the formula to use for calculating the designated benefit in respect of any additional retirement benefit, to which the Member is entitled by virtue of such purchase:

$$(X \times Y \times P) / Z$$

Where:

- X is the amount of additional retirement benefit payable to, or in respect of, the member by virtue of making additional voluntary contributions;
- Y is the period of retirement benefit service during which the member has paid additional voluntary contributions which falls within the relevant period;
- Z is the total period of retirement benefit service during which the member has paid additional voluntary contributions;
- P is the relevant percentage

Where the rate at which the member makes additional voluntary contributions is altered at any time after the date of the decree, the value 'X' in the formula should be based on the amount of additional retirement benefit payable by reference to the rate of contribution in force at the date of the decree, i.e. disregard any change in the rate of purchase that occurs after the date of the decree.

Example 8: Purchase of service commenced prior to date of decree

Non-integrated pension

Member commenced service in 1990 and obtains a decree of divorce in 2010.

He retires age 65 in 2020, with 30 years actual service, and on a salary of €100,000. In 2005 he commenced the purchase of 10 years' notional service by way of periodic contributions by reference to age 65 i.e. he purchases 10 added years over a 15 year period.

There is a PAO on the main scheme retirement benefits – relevant period 20 years (1990 – 2010) and relevant percentage 50%.

- The designated benefit of the additional benefit to the **retirement pension** arising from purchased service is calculated as follows:

$$[X \times Y \times P] / Z$$

$$X = 100,000 \times 10/80 = \text{€}12,500$$

$$Y = 5 \text{ years (2005-2010)}$$

$$Z = 15 \text{ years}$$

$$P = 50\%$$

$$[12,500 \times 5 \times 50\%] / 15 = \text{€}2,083.33$$

- The designated benefit of the additional benefit to the **retirement lump sum** arising from purchased service is calculated as follows:

$$[X \times Y \times P] / Z$$

$$X = 100,000 \times 3/80 \times 10 = \text{€}37,500$$

$$Y = 5 \text{ years (2005-2010)}$$

$$Z = 15 \text{ years}$$

$$P = 50\%$$

$$[37,500 \times 5 \times 50\%] / 15 = \text{€}6,250$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements arising from purchased service	€12,500 p.a.	€37,500
Designated benefits available to non-member	€2,083.33p.a.	€6,250
Residual benefits available to the member	[12,500 – 2,083.33] = €10,416.67 p.a.	[37,500 – 6,250]= €31,250

Example 9: Purchase of service commenced prior to date of decree with purchase contributions owed on allowance at retirement

Non-integrated pension

Member commenced service in 1990 and obtains a decree of divorce in 2010.

He retires age 65 in 2020, with 30 years actual service, and on a salary of €100,000. In 2005 he commenced the purchase of 10 years' notional service by way of periodic contributions by reference to age 65 i.e. he purchases 10 added years over a 15 year period.

At retirement there is a non-salary element to his pension, an allowance of €5,000 which he will owe purchase contributions on for the 10 years purchased service.

There is a PAO on the main scheme retirement benefits – relevant period 20 years (1990 – 2010) and relevant percentage 50%.

- The designated benefit of the additional benefit to the **retirement pension** arising from purchased service is calculated as follows:

$$[X \times Y \times P] / Z$$

$$X = 105,000 \times 10/80 = \text{€}13,125$$

$$Y = 5 \text{ years (2005-2010)}$$

$$Z = 15 \text{ years}$$

$$P = 50\%$$

$$[13,125 \times 5 \times 50\%] / 15 = \text{€}2,187.50$$

- The designated benefit of the additional benefit to the **retirement lump sum** arising from purchased service is calculated as follows:

$$[X \times Y \times P] / Z$$

$$X = [105,000 \times 3/80 \times 10 = \text{€}39,375] - [\text{allowance purchase deduction: } 15 \text{ yrs} \times \text{allowance @€5,000} \times \text{relevant rate } 25.8\% = 19,350] = \text{€}20,025$$

$$Y = 5 \text{ years (2005-2010)}$$

$$Z = 15 \text{ years}$$

$$P = 50\%$$

$$[20,025 \times 5 \times 50\%] / 15 = \text{€}3,337.50$$

**Circular D.Finance 4/2006: Appendix Table 2 (Lump sum purchase rates reference age 65, non-integrated, member of S&C Scheme)*

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements arising from purchased service	€13,125 p.a.	€20,025
Designated benefits available to non-member	€2,187.5 p.a.	€3,337.50
Residual benefits available to the member	[13,125 – 2,187.50] = €10,937.50 p.a.	[20,025 – 3,337.50]= €16,687.50

4.4.9.2 Transferred Service

Article 21 of S.I. 107/1997 provides the formula to use where the member has transferred accrued pension rights into the scheme, prior to the date of the PAO. Where the transfer occurs after the date of the PAO no designated benefit shall be payable in respect of the transferred service.

The designated benefit in respect of the additional transferred retirement benefit is calculated using the following formula:

$$(K \times L \times P) / M$$

Where:

- K is the amount of additional retirement benefit payable to, or in respect of, the member under the receiving scheme by virtue of the transferred rights from the previous scheme;
- L is the period of retirement benefit service that the member has completed in the previous scheme that falls within the relevant period;
- M is the total period of retirement benefit service that the member has completed in the previous scheme;
- P is the relevant percentage

Example 10: Transferred service

A member commences new public service employment in 2000 and at this time transfers 10 years' service (1990-2000), under the Public Sector Transfer Network, in respect of his prior pension scheme benefits.

He obtains a decree of divorce in 2010. He reaches normal pensionable age of 65 in 2020 and retires on a salary of €100,000.

There is a PAO on the main scheme retirement benefits – relevant period 15 years (1995 – 2010) and relevant percentage 50%

- The designated benefit of the additional benefit to the **retirement pension** arising from transferred service is calculated as follows:

$$[K \times L \times P] / M$$

$$K = 100,000 \times 10/80 = \text{€}12,500$$

$$L = 5 \text{ years}$$

$$M = 10 \text{ years}$$

$$P = 50\%$$

$$[12,500 \times 5 \times 50\%] / 10 = \text{€}3,125 \text{ p.a.}$$

- The designated benefit of the additional benefit to the **retirement lump sum** arising from transferred service is calculated as follows:

$$[K \times L \times P] / M$$

$$K = 100,000 \times 3/80 \times 10 = \text{€}37,500$$

$$L = 5 \text{ years}$$

$$M = 10 \text{ years}$$

$$P = 50\%$$

$$[37,500 \times 5 \times 50\%] / 10 = \text{€}9,375$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements arising out of transferred service	€12,500 p.a.	€37,500
Designated benefits available to non-member	€3,125 p.a.	€9,375
Residual benefits available to the member	[€12,500 – €3,125] = €9,375 p.a.	[€37,500 – €9,375] = €28,125

Example 11: Transferred service where S&C contributions owed on transferred service at retirement

A member commences new public service employment in 2000 and at this time transfers 10 years' service (1990-2000), under the Public Sector Transfer Network, in respect of his prior pension scheme benefits.

He obtains a decree of divorce in 2010. He reaches normal pensionable age of 65 in 2020 and retires on a salary of €100,000.

At retirement he owes Spouses' and Children contributions on all the transferred service.

There is a PAO on the main scheme retirement benefits – relevant period 15 years (1995 – 2010) and relevant percentage 50%

- The designated benefit of the additional benefit to the **retirement pension** arising from transferred service is calculated as follows:

$$[K \times L \times P] / M$$

$$K = 100,000 \times 10/80 = \text{€}12,500$$

$$L = 5 \text{ years}$$

$$M = 10 \text{ years}$$

$$P = 50\%$$

$$[12,500 \times 5 \times 50\%] / 10 = \text{€}3,125 \text{ p.a.}$$

- The designated benefit of the additional benefit to the **retirement lump sum** arising from transferred service is calculated as follows:

$$[K \times L \times P] / M$$

$$K = [100,000 \times 3/80 \times 10 = \text{€}37,500] - [\text{S\&C: } 1\% \times 100,000 \times 10 = \text{€}10,000] = \text{€}27,500$$

$$L = 5 \text{ years}$$

$$M = 10 \text{ years}$$

$$P = 50\%$$

$$[27,500 \times 5 \times 50\%] / 10 = \text{€}6,875$$

Summary:

	Retirement pension	Retirement lump sum
Overall pension entitlements arising out of transferred service	€12,500 p.a.	€27,500
Designated benefits available to non-member	€3,125 p.a.	€6,875
Residual benefits available to the member	[€12,500 – €3,125] = €9,375 p.a.	[€27,500 – €6,875] = €20,625

4.4.9.3 Professional Added Years

Where the power to award professional added years can only be exercised on retirement, as in the case of added years awarded under Circulars 12/1997 or 8/2005, the treatment of added years in relation to the non-member will depend on the date of decree.

Where the date of decree took place prior to retirement, the added years should not be included in the calculation of the designated benefit.

Where the date of decree took place after retirement, the added years should be included in the calculation of the designated benefit. A separate calculation is not required but rather the added years are added into the main calculations used for determining the retirement benefits (found in section 4.4.2).

Example 12: Professional Added Years

Member has 33 years' actual service and retires on 1 January 2018, with a salary of €100,000. She is awarded 2 professional added years on retirement.

A decree of divorce is granted on 1 January 2020. There is a PAO on the main scheme retirement benefits – relevant period 20 years and relevant percentage 50%. As the retirement lump sum has already been paid the designated benefit to be paid will include the retirement pension only (and later, where relevant the Spouse's pension).

- *The designated benefit of the **retirement pension** payable to the non-member is calculated as follows:*

$$[A \times B \times P] / C$$

$$A = €100,000 \times 35/80 = €43,750$$

$$B = 20 \text{ years}$$

$$C = 35 \text{ years}$$

$$P = 50\%$$

$$[43,750 \times 20 \times 50\%] / 35 = \mathbf{€12,500}$$

As the PAO was framed post-retirement, the 2 added years are included in the calculation.

Summary:

	Retirement pension
Overall pension entitlements	€43,750 p.a.
Designated benefits available to non-member	€12,500 p.a.
Residual benefits available to the member	[€43,750 – €12,500] = €31,250 p.a.

4.4.9.4 Supplementary Pension

An entitlement to a supplementary pension is determined at the point of retirement and the entitlement cannot be said to have accrued before that date (given that pension contributions are calculated on an integrated basis).

Where the date of decree took place prior to retirement, the supplementary pension should not be included in the calculation of the designated benefit.

Where the date of decree took place after retirement, the supplementary pension should be included in the calculation of the designated benefit.

4.4.10 Transfer Amounts

A Transfer Amount is an amount of money equal to the value of the designated benefit (retirement benefits), calculated on an actuarial basis. A transfer amount cannot include contingent benefits.

A transfer amount is payable in four certain circumstances:

- On request by the non-member
- Death of the non-member before payment of the designated benefit has commenced
- Death of the non-member after payment of the designated benefit has commenced
- Member dies in service

Where a Transfer Amount is payable, the actuarial value should be obtained from this Department. Please contact the actuarial team at pensions@per.gov.ie to obtain a copy of the relevant form to be completed. Relevant information should also be provided in respect of any contributions owing which fall to be deducted from the lump sum or death gratuity before application of the PAO (see page 5 for further detail).

4.4.10.1 On request by the non-member

Family law legislation ¹⁵provides that where:

- the court has made a PAO in respect of a retirement benefit in favour of a non-member; and
- payment has not yet commenced

the non-member is entitled to apply for a transfer amount, equal to the value of the designated benefit on retirement benefits.

Where orders are in place on all retirement benefits (retirement pension, lump sum and spouses pension payable post-retirement), the transfer amount will include the actuarial value of the designated benefit in respect of the retirement pension based on the lifetime of the member, the retirement lump sum and the spouse's pension (based on what would be payable beyond the lifetime of the member, if any).

¹⁵ S.12(4) of the Family Law Act 1995 and corresponding provisions in the Family Law (Divorce) Act 1996 and the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

The non-member can request that the transfer amount be applied to establish an independent pension, either:

- (i) in the same scheme (with the trustees' consent*); or
- (ii) in an alternate pension scheme of which the non-member is a member, or
- (iii) transferred to an approved insurance policy.

*Preference will be given to options (ii) and (iii), however, option (i) should be considered by relevant scheme administrators on a case-by-case basis depending on the individual circumstances of the case.

Please note that the option of a transfer on request is not available to a dependent child.

Where a member dies in relevant employment following payment of a transfer amount on request, and where there are orders in place on contingent benefits please see section 4.5.1.

No further action is required where there are no orders on contingent benefits.

4.4.10.2 Death of the non-member before payment of designated benefit has commenced

If the non-member dies **before** payment of the designated benefit commences, the trustees must within 3 months pay an amount equal to the transfer amount to the personal representatives of the non-member in relation to retirement benefits¹⁶.

Where orders are in place on all retirement benefits (retirement pension, lump sum and spouses and children's pension), the transfer amount will include the actuarial value of the designated benefit in respect of the retirement pension based on the lifetime of the member, the retirement lump sum and the spouse's pension (based on what would be payable beyond the lifetime of the member, if any). The payment to be made shall be calculated as if the transfer amount had been requested by the non-member immediately prior to his/her death¹⁷.

¹⁶ S.12(9) of the Family Law Act 1995 and corresponding provisions in the Family Law (Divorce) Act 1996 and the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

¹⁷ See S.17(10) of 1996 Family Law (Divorce) Act and Article 41 of the S.I No. 107/1997

Example 13: Transfer amount where non-member dies before payment of designated amount has commenced

Member has 30 years' service and is on a salary of €100,000.

A PAO containing the following orders is attached to the member's pension:

(a) Main scheme retirement pension – relevant period 20 years and relevant percentage 50%;

(b) Main scheme retirement lump sum – relevant period 20 years and relevant percentage 50%;

(c) S&C scheme retirement benefits – relevant period 20 years and relevant percentage 100%;

(d) Main scheme contingency benefits – relevant percentage 25%;

(e) S&C scheme contingency benefits – relevant percentage 50%;

The non-member dies while the member is still in employment:

- No amounts are payable in relation to (d) or (e) as the member has not died in relevant employment as required for payment of a contingent benefit.
- In relation to (a), (b) and (c) the actuarial value of the following benefits will be payable to the personal representative of the non-member. The form used to obtain an actuarial valuation will include the following designated benefits:
 - **Retirement pension:** €12,500 p.a. ($[(€37,500 \times 20 \times 50\%)/30]$);
 - **Retirement lump sum:** €37,500 ($[(€112,500 \times 20 \times 50\%)/30]$); and
 - **Spouse's pension:** €12,500 ($[(100,000 \times 30/80)/2] \times 20 \times 100\%/30$)¹⁸
 - **Enhanced first month's payment of the spouse's pension:** €2,083.33 ($[(37,500/12) \times 20 \times 100\%/30]$)¹⁹

¹⁸ Any amount payable on this designated benefit will be based on the actuaries determination regarding what would have been payable beyond the lifetime of the member (if anything) had the non-member made a request for transfer immediately prior to their death

¹⁹ Any amount payable on this designated benefit will be based on the actuaries determination regarding what would have been payable beyond the lifetime of the member (if anything) had the non-member made a request for transfer immediately prior to their death

Please see FAQ V re. enhanced first month's pay of the spouse's pension

4.4.10.3 Death of the non-member after payments commence

If the non-member dies **after** payment of the designated benefit has commenced, the trustees must, within 3 months, pay a transfer amount to the personal representatives of the non-member²⁰.

i) Orders in place on all benefits

Where orders are in place on all retirement benefits (retirement pension, lump sum and spouses and children's pension), and payment of the retirement pension has commenced, the transfer amount will include the actuarial value of the designated benefit in respect of the retirement pension based on the lifetime of the member. No transfer amount will be paid in respect of the spouse's pension.

ii) Order in place on spouse's pension only (including where nominal orders on other retirement benefits)

Where an order is in place on the spouses and children's pension only or where a nominal order is in place on the retirement pension and lump sum, and it cannot therefore be said that the designated benefit has commenced, a transfer amount should be paid on the spouse's pension (based on what would be payable beyond the lifetime of the member, if any). The payment to be made shall be calculated as if the transfer amount had been requested by the non-member immediately prior to his/her death²¹.

Example 14: Transfer amount where non-member dies after payment of designated amount has commenced

Taking the example from 12 above and assuming in this instance the member retires on a salary of €100,000 with 40 years' service.

On retirement:

The non-member receives:

- iii) *a retirement pension of €12,500 per annum ($(€50,000 \times 20 \times 50\%) / 40$); and*
- iv) *a retirement lump sum of €37,500 ($(€150,000 \times 20 \times 50\%) / 40$).*

On the death of the non-member after payment of designated amount has commenced:

²⁰ S.12(10) of the Family Law Act 1995 and corresponding provisions in the Family Law (Divorce) Act 1996 and the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

²¹ See S.17(9)(b) of the Family Law (Divorce) Act 1996 and Article 41 of the S.I No. 107/1997

The personal representative of the non-member receives an amount equal to the actuarial value of a retirement pension of €12,500 per annum based on the life expectancy of the member. As the designated benefit has commenced nothing will be payable on the spouse's pension.²²

4.4.10.4 Death of member in service

Where the member dies before any retirement benefits become payable, a transfer amount is to be paid to the non-member within three months of the death of the member²³.

Where orders are in place on all retirement benefits (retirement pension, lump sum and spouses and children's pension), the transfer amount will include the actuarial value of the designated benefit in respect of the retirement pension based on the lifetime of the member, the retirement lump sum and the spouse's pension (based on what would be payable beyond the life expectancy of the member, if any). Please note projected service to age 65 on the spouse's pension is not taken into account when calculating the designated benefit.

Where there are also orders framed on contingent benefits please see section 4.5.1 below regarding the treatment of contingent benefits where a transfer amount is also payable.

Example 15: Transfer amount where the member dies in service

Taking the example from 12 above and assuming in this instance the member dies on a salary of €100,000 with 30 years' service, the actuarial value of the retirement benefit, retirement lump sum and spouse's pension will be payable to the non-member by way of a transfer amount. The form used to obtain an actuarial valuation will include the following designated benefits:

- **Retirement pension:** €12,500 p.a. $[(€37,500 \times 20 \times 50\%)/30]$;
- **Retirement lump sum:** €37,500 $[€112,500 \times 20 \times 50\%/30]$; and
- **Spouse's pension:** €12,500 $[((100,000 \times 30/80)/2) \times 20 \times 100\%/30]$ ²⁴
- **Enhanced first month's payment of the spouse's pension:** €2,083.33 $[(37,500/12) \times 20 \times 100\%/30]$ ²⁵

²² See S.17(10) of the Family Law (Divorce) Act 1996. Where the designated benefit has commenced in payment, the transfer value will only include those benefits that would "have been payable to the spouse during the lifetime of the member spouse", this does not include a spouse's pension.

²³ S.12(7) of the Family Law Act 1995 and corresponding provisions in the Family Law (Divorce) Act 1996 and the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

²⁴ Projected service not included

²⁵ Please see FAQ V re. enhanced first month's pay of the spouse's pension

The contingent benefits should also be listed in the form for valuation. If the value of the contingent benefits are greater than that of the transfer value, the difference in value will also be payable to the non-member.

4.4.10.5 Death of member in retirement

Where the member dies in retirement, payment of the designated benefit on the retirement pension ceases to be paid in line with scheme rules. Where there is an order in place and entitlement in respect of the Spouses' and Children's Scheme, the non-member will receive an on-going pension in respect of that benefit. No transfer amount is required.

Example 16: Death of member in retirement

Member has 40 years' service and is on a salary of €100,000.

A PAO containing the following orders is attached to the member's pension:

- (a) Main scheme retirement pension – relevant period 20 years and relevant percentage 50%;*
- (b) Main scheme retirement lump sum – relevant period 20 years and relevant percentage 50%;*
- (c) S&C scheme retirement benefits – relevant period 20 years and relevant percentage 100%;*
- (d) Main scheme contingency benefits – relevant percentage 25%;*
- (e) S&C scheme contingency benefits – relevant percentage 50%;*

On retirement:

The non-member receives:

- v) a retirement pension of €12,500 per annum ($[(€50,000 \times 20 \times 50\%)/40]$); and*
- vi) a retirement lump sum of €37,500 ($[(€150,000 \times 20 \times 50\%)/40]$).*

On death of member in retirement:

The non-member receives:

- vii) a pension under the S&C scheme of €12,500 for life ($[(€25,000 \times 20 \times 100\%)/40]$)*

- viii) *Enhanced first month's payment of the spouse's pension*²⁶: €2,083.33
 [(50,000/12) x20 x 100%/40]

Summary of payments to be made as transfer amounts

The following payments are to be made in cases that include PAOs on retirement pension, retirement lump sum and spouse's pension payable post retirement.

Table 5: Summary of payments to be made as transfer amounts

Triggering event	Payment to include actuarial value of the designated benefit in respect of:		
	retirement pension	lump sum	spouse's pension based on what would be payable beyond the life expectancy of the member (if any)
On request by non-member	Y	Y	Y
Death of non-member <u>before</u> payment of designated benefit has commenced	Y	Y	Y
Death of non-member <u>after</u> payment of designated benefit has commenced	Y	Y	N ²⁷
Member dies in service	Y	Y	Y (projected service to 65 is not included in valuation)

²⁶ Please see FAQ V re. enhanced first month's pay of the spouse's pension

²⁷ Payment of a designated benefit must have commenced. Where the retirement pension/retirement lump sum is in payment/has been paid but the non-member has not received any payment because there is an order on the spouse's pension only or nominal orders on the retirement pension/lump sum then the designated benefit cannot be said to have commenced and the designated benefit of the spouse's pension is payable via transfer amount.

4.5 Step 3: (B) Calculation of Contingent Benefits

Where the member dies in service, payment in respect of contingent benefits should be made to the non-member in accordance with the terms of the PAO. The benefit payable is calculated by reference to the percentage specified in the order and in accordance with the rules of the Scheme at the date of the decree/order for redress.

As contingent benefit orders are allocated based on a percentage and a relevant period is not taken into account, the full service (including death-in-service added years and projected service to age 65 in the S&C scheme) should be included in the calculation. This differs from retirement benefits where notional service awarded on death in service is excluded.

Example 17: Member dies in service - contingent benefits only payable

Member dies in service aged 55 with 35 years' service and on a salary of €100,000. A PAO containing the following orders is attached to the member's pension:

- (a) Main scheme death gratuity – relevant percentage 25%;*
- (b) S&C scheme payable pre-retirement – relevant percentage 50%;*

*The **death gratuity** is calculated based on the rules in force, which include death in service added years, at €150,000.*

*The amount payable to the non-member is 25% in line with the terms of the PAO: [€150,000 – [S&C contributions owing: 1% x 100,000 x 5 years projected service to age 65 up to a max of 40 years' service = €5,000]] x 25% = **€36,250***

*The **pension under the S&C scheme** is calculated based on the rules in force, which includes projected service to age 65, at €25,000.*

*The amount of the spouse's pension payable to the non-member is 50% in line with the terms of the PAO: €25,000 x 50% = **€12,500 per annum***

*In addition payment should be made on the **enhanced first month's spouse's pension**²⁸: €50,000/12 x 50% = **€2,083.33***

²⁸ Please see FAQ V re. enhanced first month's pay of the spouse's pension

4.5.1 Treatment of contingent benefits where a transfer amount has been paid

Where:

- i) the PAO includes orders on both retirement orders and contingent orders; and
- ii) the member dies in service; and
- iii) a transfer amount has been paid on request (see section 4.4.10.1) or is payable in relation to the designated benefit on retirement benefit orders upon death of the member (see section 4.4.10.4)

the amount payable on contingent benefits is limited to the difference in value between the transfer value and the contingent benefits. If the transfer value is equal or greater in value than the contingent benefits no further payment is due²⁹.

Please send such cases for valuation to the actuaries in this Department via this email address: pensions@per.gov.ie.

Example 18: Member dies in service – retirement and contingent benefits payable

Member dies with 30 years' service and on a salary of €100,000. A PAO containing the following orders is attached to the member's pension:

- (a) Main scheme retirement pension – relevant period 20 years and relevant percentage 50%;*
- (b) Main scheme retirement lump sum – relevant period 20 years and relevant percentage 50%;*
- (c) S&C scheme pension (payable post-retirement) – relevant period 20 years and relevant percentage 100%;*
- (d) Main scheme death gratuity – relevant percentage 25%;*
- (e) S&C scheme pension (payable pre-retirement) – relevant percentage 100%;*

Retirement benefits (a-c)

A transfer amount is payable based on the actuarial value of the designated benefit of:

- **Retirement pension:** €12,500 p.a. ($[(€37,500 \times 20 \times 50\%)/30]$);
- **Retirement lump sum:** €37,500 ($[(€112,500 \times 20 \times 50\%)/30]$); and
- **Spouse's pension:** €12,500 ($[(100,000 \times 30/80)/2] \times 20 \times 100\%/30$)³⁰

²⁹ S.12(16)(b) of the Family Law Act 1995 and corresponding provisions in the Family Law (Divorce) Act 1996 and the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010

³⁰ Projected service not included

- **One month supplement of spouse's pension: €2,083.33** $[(37,500/12) \times 2 \times 100\%/30]$ ³¹

Contingent benefits (d-e)

The amount allocated as a contingent benefit is calculated, this includes:

- *the death gratuity of €35,000 [€150,000³² – [S&C contributions owing: 1% x 100,000 x 10 years projected service to age 65 up to a max of 40 years' service = €10,000]] x 25%)*
- *Actuarial valuation of pension under the S&C scheme of €25,000 (€25,000³³ x 100%)*
- *Enhanced first month's spouse's pension of €37,500/12 = €3,125 (100%)*

In cases involving payments on both retirement and contingent benefits the actuaries will determine the amount payable on both. Only where the value of the contingent benefits exceeds that of the transfer value is payment made on the contingent benefits.

³¹ Please see FAQ V re. enhanced first month's pay of the spouse's pension

³² This sum includes death in service added years

³³ This includes projected service to age 65. The contributions owing on the projected service is paid from the residual amount of the death gratuity.

4.6 Pension Increases

Article 36 of S.I. 107 of 1997 provides that where the rules in force permit, and the appropriate person exercises, a discretion to grant a cost of living increase in the retirement benefit payable to all, or a certain category of, pensioners, and the member's retirement benefit is increased as a result, the same increase must be applied to the designated benefit.

Where a transfer amount has been paid out on the designated benefit prior to a pension increase, the pension increase is only applied to the residual benefit. The transfer amount will have assumed a level of pension increase in its calculation.

4.7 Tracking systems

In some cases, PAOs will result in the payment of one benefit (e.g. member's pension) being divided between two or more people. It is important that all such cases are cross-referenced with each other and that any tracking system used is capable of identifying all payees, whether beneficiaries under PAOs or recipients of residual benefits.

4.8 Declaration Forms

Where pensioners are required to complete declaration forms on a regular basis, beneficiaries of designated benefits should also be required to complete such forms. However, existing forms will not be suitable in cases where a valid PAO will override the scheme rules and payment under the PAO will be made even where the beneficiary would not have qualified under the rules of the scheme.

For instance, in the case of a spouse's pension payable under a PAO on a retirement benefit, the benefit would continue in payment if the non-member remarries; however, a spouse's pension payable under a PAO on a contingent benefit or under the rules of the spouses' and children's scheme would automatically cease on remarriage. It may be necessary, therefore, to introduce declaration forms solely for issue to beneficiaries under PAOs.

5. Taxation of Benefits

Please note the below guidance has been confirmed by the Office of the Revenue Commissioners as correct as of 29/09/2020. It is the responsibility of pension administrators and trustees to keep abreast of any developments or changes in this area. Tax-related issues are the primary responsibility of the Office of the Revenue Commissioners and queries should be directed there in the first instance.

Please note the below guidance relates to the tax treatment of PAOs involving judicial separation, divorce or dissolution of civil partnership. Where the PAO has been framed for the benefit of a qualified cohabitant please contact Revenue for relevant guidance.

Pension payments made pursuant to a PAO are treated as income and, consequently, income tax may be payable under the PAYE system. It is the responsibility of both the scheme member and the non-member to organise their personal tax affairs. Both the member and the non-member are advised to confirm their tax arrangements, under a PAO, with the Office of the Revenue Commissioners.

In the case of occupational pension schemes, the maximum benefit which a member may take from a scheme is calculated in the same way whether or not a PAO is in effect. Any benefit which is the subject of a PAO is regarded as part of the member's benefit for the purposes of calculating maximum benefits. The existence of a PAO does not affect maximum contribution limits for either employers or employees. The benefit payable to the member is the amount calculated using the normal rules, minus any amount which is the subject of a PAO. This applies whether the PAO results in the benefits being retained in the member's scheme or transferred to another scheme.

The benefit arising from a PAO is not regarded as a 'retained benefit' for the purposes of calculating maximum benefits for non-members.³⁴ Any pension is, however, liable to taxation in the hands of the recipient.³⁵

The correct tax treatment of a PAO is to apportion the pension in accordance with the Court Order, with both parties being subject to PAYE separately. Both parties should be set up on the payroll and a Revenue Payroll Notification (RPN) requested for both the scheme member and the non-member.

5.1 Limits on tax-relieved pension funds

Certain lifetime limits apply to the total capital value of pension benefits that an individual can draw from tax-relieved pension products.³⁶ Where the value of the pension benefit is in

³⁴ Revenue Commissioners, *Pensions Manual, Chapter 27: Taxation of Retirement Lump Sums* (2019), last reviewed September 2019, at p.3.

³⁵ *Ibid*

³⁶ Chapter 2C1 of Part 30 of the Taxes Consolidation Act 1997 (TCA), and Schedule 23B thereto, set out the limits on tax-relieved pension funds.

excess of the primary limit (i.e. the Standard Fund Threshold³⁷ or the Personal Fund Threshold³⁸), Chargeable Excess Tax³⁹ (CET) is applied at 40%.

Prior to 1 January 2015, any CET arising in circumstances where a PAO applied was recovered by the Scheme Administrator solely from the member's part of the pension benefits, after the application of the terms of the PAO. This meant that the non-member's designated share of the pension benefits was unaffected. This position changed in 2015.⁴⁰

With effect from 1 January 2015, CET arising on pension benefits subject to a PAO must be apportioned by the Scheme Administrator, having regard to the terms of the PAO. This new arrangement provides that both the member and non-member share the tax charge, with the charge being recovered from their respective retirement funds. Section 787R(2A) of the Taxes Consolidation Act 1997 (TCA) sets out how the apportionment is to be made between the parties and who is liable for the respective shares of the tax in such situations.⁴¹

The requirement to apportion CET applies equally to the Administrator of a pension arrangement to which a member may have taken a transfer value after the PAO was made.⁴²

5.2 Tax Treatment of Retirement lump sums

Retirement lump sums are paid free of tax up to certain Revenue limits. As of 1 January 2011, the maximum tax-free amount of a retirement lump sums is €200,000.⁴³ This is a lifetime limit and encompasses all retirement lump sums paid to an individual on or after 7 December 2005.

³⁷ The Standard Fund Threshold is the generally applicable maximum tax-relieved pension fund for an individual and, since 1 January 2014, is set at €2m - pursuant to Section 18 of the Finance (No. 2) Act 2013, which amended section 787O TCA.

³⁸ The Personal Fund Threshold is an increased maximum tax-relieved pension fund which may apply instead of the Standard Fund Threshold (SFT) where the capital value of an individual's pension rights, on the specified date, exceeds the amount of the SFT which applies on that date.

³⁹ The value of any pension benefit in excess of the Standard Fund Threshold or Personal Fund Threshold is subject to Chargeable Excess Tax, which is applied at 40%. See further Revenue Commissioners, *Pensions Manual, Chapter 25: Limit on Tax Relieved Pension Funds* (2019), Document last reviewed July 2019, at p.4.

⁴⁰ By virtue of Section 19 of the Finance Act 2014, which made a number of amendments to Chapter 2C of Part 30 TCA.

⁴¹ Revenue Commissioners, *Pensions Manual, Chapter 25: Limit on Tax Relieved Pension Funds* (2019), Document last reviewed July 2019, at p.17. Section 787R(2A) TCA also provides, in cases where a non-member has availed of a transfer amount to provide an independent benefit in a separate scheme, for a process of certification by the Administrator of the member's scheme, of the amount of the non-member's share of the tax. This certification is provided to the Administrator of the non-member's scheme. It also provides for the notification of the amount of the non-member's share of the tax to the non-member.

⁴² Revenue Commissioners, *Pensions Manual, Chapter 25: Limit on Tax Relieved Pension Funds* (2019), Document last reviewed July 2019, at p.17.

⁴³ Revenue Commissioners, *Pensions Manual, Chapter 27: Taxation of Retirement Lump Sums* (2019), last reviewed September 2019, at p.3.

Section 790AA of the TCA governs the rate of income tax payable on lump sums which exceed the €200,000 threshold. Where Section 790AA TCA applies to a retirement lump sum, which is subject to a PAO, the portion of the lump sum which is paid to each party, in accordance with the terms of the PAO, is treated as a separate lump sum for the purposes of that provision.⁴⁴

This means that the portion of the retirement lump sum paid to each party, under the terms of a PAO, is tax-free up to a limit of €200,000 and this limit applies individually and in full. The extent to which each party is charged income tax is based on the amount of the lump sum they receive.⁴⁵

5.3 Taxation of Death benefits in cases where PAO apply

Payments made under a PAO in relation to retirement benefits, following the death of the member or the non-member, and payments pursuant to a PAO in relation to contingent benefits, are not subject to income tax but may be liable to Capital Acquisitions Tax (CAT), e.g. when paid to a child or other beneficiary and to the extent that the relevant CAT thresholds are exceeded.⁴⁶ Benefits payable on the death of a scheme member form part of the member's 'death in-service' benefits for the purposes of Revenue limits.⁴⁷

Benefits payable on the death of the member spouse, member civil partner or member qualified cohabitant (either under an order in relation to retirement benefit or under an order in relation to contingent benefit) form part of the member spouse, member civil partner or member qualified cohabitant's 'death in-service' benefits for the purposes of Revenue limits.

Where a 'decree'⁴⁸ has been obtained, any payment on the death of the member to the non-member by virtue, or in consequence, of a PAO is exempt from Capital Acquisitions

⁴⁴ *Ibid*, at p.9.

⁴⁵ Income tax is changed under Case IV of Schedule D or Schedule E of the TCA. See further Revenue Commissioners, *Notes for Guidance: Taxes Consolidation Act 1997, Finance Act 2018 Edition Part 4, Principal Provisions Relating to the Schedule D Charge* (2018), December 2018, at p.23.

⁴⁶ Pensions Authority, *Guidance Notes: Pension Provisions of Family Law Acts* (2015), last updated November 2015, at p.23.

⁴⁷ Pensions Authority, *Guidance Notes: Pension Provisions of Family Law Acts* (2015), last updated November 2015, at p.23. Part 9 of Guidance Notes describes the issues relating to Revenue maximum benefits and taxation - both in the context of the residual benefits that may be provided for the member spouse, member civil partner or member qualified cohabitant following the making of a PAO and the format of the designated benefit (or other benefit following payment of a transfer amount) that may be provided for the person named in the PAO.

⁴⁸ In this instance, "decree" means a decree of judicial separation or foreign divorce to which Section 12 of the Family Law Act 1995 applies or a decree of divorce to which Section 17 of the Family Law (Divorce) Act 1996 applies or of dissolution to which Sections 121 to 126 of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 apply. See Pensions Authority, *Guidance Notes: Pension Provisions of Family Law Acts* (2015), last updated November 2015, at p.10.

Tax.⁴⁹ Benefits emerging from a pension fund on the death of a member are assessable on the recipients for the purposes of CAT and/or income tax. Lump sums payable are subject to CAT. Under current legislation, spouses and civil partners including those who are divorced or whose civil partnership has dissolved pay no CAT. Payments to children and other beneficiaries are subject to the CAT thresholds which apply to them. Therefore, CAT may apply where the payment is to a child or other beneficiary.

⁴⁹ Pensions Authority, *Guidance Notes: Pension Provisions of Family Law Acts (2015)*, last updated November 2015, Paragraph 346 at p.131. This is a CAT exemption between spouses which is extended to those separated/divorced etc.

Appendix A – Glossary of Terms

Active Member: a member of the pension scheme who is in reckonable service;

Actuarial Value: the equivalent cash value of a benefit (including, where appropriate, provision for any revaluation of such benefit) under a pension scheme calculated by reference to appropriate financial assumptions and making due allowance for the probability of survival to normal pensionable age and thereafter in accordance with normal life expectancy on the assumption that the member concerned of the scheme, at the effective date of calculation, is in normal state of health having regard to his or her age;

Cohabitant: one of two adults (whether of the same or the opposite sex) who live together as a couple in an intimate and committed relationship;

Contingent Benefit: a benefit payable if the member dies while in relevant employment and before attaining normal pensionable age provided for under the rules (in other words death-in-service benefits). Such benefits can arise under both the Main Scheme (death gratuity) and the Spouses' and Children's Scheme (Spouses' and Children's pensions on death in service);

Current Pensioner: a member of the pension scheme whose reckonable service has ended and who is in receipt of retirement benefit from the pension scheme;

Decree: in the context of family law legislation, a decree of judicial separation under the 1995 Act, a decree of divorce under the 1996 Act, and a decree of dissolution under the 2010 Act;

Deferred Pensioner: a member of the pension scheme whose reckonable service has ended and who is not in receipt of retirement benefit from the pension scheme (i.e. a person with entitlement to preserved benefits);

Defined Benefit Scheme: a pension scheme which provides for a specific level of retirement and death benefits based on formulae set out in the rules of the scheme (e.g. a pension of 1/80ths of retiring salary per year of service). Almost all public service pension schemes are in this category;

Defined Contribution Scheme: a pension scheme which, under its rules, provides retirement benefit, the rate or amount of which is in total directly determined by the amount of the contributions paid by or in respect of the member of the pension scheme concerned;

Designated Benefit: the part of a member's retirement benefit which is allocated for payment to the non-member spouse/civil partner/cohabitant or dependent family member under a Pension Adjustment Order;

Discharge / Variation Order: an Order discharging or varying the terms of an existing PAO;

Member: the person who, having been admitted to membership of the pension scheme under its rules, remains entitled to any benefit under the scheme;

Non-Member Spouse / Civil Partner / Qualified Cohabitant: the spouse / civil partner / qualified cohabitant of the Member;

Non-variation Order: an Order, generally included within a PAO, which restricts the future variation of the PAO;

Normal Pensionable Age: the earliest age at which a member of a pension scheme is entitled to receive benefits under the rules of the pension scheme on retirement from relevant employment disregarding any such rules providing for early retirement on grounds of ill health or otherwise;

Pension Adjustment Order (PAO): an Order granted by the court directing that a specified portion of pension scheme benefits be paid to the member's spouse/civil partner/cohabitant and/or dependent children;

Preserved Benefit: the pension scheme benefits payable following the completion of the vesting period and where the relevant employment terminates otherwise than on death but before normal pensionable age;

Qualified Cohabitant: an adult in a relationship of cohabitation with another adult and who has lived with the other adult as a couple for a period of (a) 2 years or more, in the case where they are the parents of one or more dependent children, or (b) 5 years or more, in any other case;

Reckonable Service: service in relevant employment during membership of the pension scheme;

Relevant Employment: any employment (or any period treated as employment) to which the pension scheme applies;

Relevant Period: the period of reckonable service of the member spouse, prior to the granting of the decree, which the PAO specifies is to be taken into account;

Relevant Percentage: the percentage of the retirement benefit accrued during the relevant period which the PAO specifies is to be paid to a named beneficiary;

Residual Benefit: the amount of retirement or contingent benefit remaining in respect of the member spouse after deduction therefrom of the relevant designated benefit or contingent benefit payable pursuant to a PAO;

Retirement Benefit: benefits payable following retirement or earlier withdrawal from service (including those payable on the death of the member after retirement) under both the Main Superannuation Scheme and the Spouses' and Children's Superannuation Scheme. For example, in the Established Civil Service Scheme retirement benefit includes retirement pension and lump sum, balancing gratuity, spouse's and children's pension payable on

death after retirement, and, where the member retires before accruing enough service to qualify for pension, or short service gratuity payable;

Retirement Benefit Service: means the period of reckonable service within the pension scheme during which the benefit was earned;

Rules in Force: the rules of the pension scheme in force at the date of the decree (subject to any overriding provisions of the Pensions Act of 1990);

Spouse: means a partner to a marriage recognised at a given time by the law of the State as valid;

Transfer Amount: an amount of money equal to the value of the designated benefit, calculated on an actuarial basis;

Trustees: where the pension scheme was not established under a trust (as is the case for most public service pension schemes), the persons who administer the pension scheme.

Appendix B – List of Basic Information about the Scheme to be supplied

The 1990 Act and the Disclosure of Information Regulations provide for the disclosure by the trustees of a pension scheme of certain basic information to the non-member spouse or civil partner⁵⁰, as follows:

BASIC INFORMATION ABOUT THE SCHEME

1. The categories of persons who are eligible to be members of the scheme.
2. Whether or not membership of the scheme is a condition of employment and the categories of persons (if any) to whom such a condition applies.
3. The conditions of membership.
4. How members' contributions are calculated.
5. How employers' contributions are calculated.
6. Whether the scheme is approved under Chapter II of Part I of the Finance Act, 1972 or Chapter 1 of Part 30 of the Taxes Consolidation Act, 1997 , and, if not, whether an application for such approval of the scheme is under consideration by the Revenue Commissioners.
7. Whether the scheme is a defined benefit or defined contribution scheme for the purposes of the Pensions Act 1990.
8. What benefits, if any, are payable under the scheme, and how they are calculated.
9. The conditions on which benefits are paid and any options relating thereto.
10. Which benefits, if any, are payable only at some person's discretion.
11. Which of the benefits are, and which are not, funded.
12. Which of the benefits, if any, are such that fulfilment of the obligation to pay them to or in respect of particular members is guaranteed by means of one or more insurance policies which are specifically allocated to the provision of benefits payable to or in respect of those members. Where the payment of the benefit under any life assurance policy is subject to the satisfaction of any underwriting criteria, this should be stated.

⁵⁰ There is no provision under the 1990 Act requiring trustees to disclose information to a non-member cohabitant; however, it is recommended that the basic scheme information be furnished to a qualified cohabitant upon request.

13. The short title of the Act or Acts of the Oireachtas (if any) which provides for both -
 - (a) the setting up of the scheme, and
 - (b) the determination of the rate or amount of the benefits under the scheme.
14. If the employer of any person who is entitled to benefits under the scheme has entered into an obligation to pay the benefits if the scheme's resources are insufficient to do so the extent of that obligation.
15. Other than in the case of a defined contribution scheme, if there is discretionary power under the scheme rules to increase pensions after they become payable, a statement that where discretionary increases to pensions already in payment have been granted, details of who exercised this discretionary power and information about the increase given will be set out in the annual report.
16. The name or title and address of the person to whom enquiries about the scheme generally or about an individual's entitlement to benefit should be sent.
17. Whether there is power to amend the scheme terms detailing who may amend the scheme and whether there are any significant conditions on the exercise of that power.
18. The arrangements (if any) which are made for the payment by members of additional voluntary contributions.
19. A statement that the scheme has been registered with the Pensions Authority and the registration number.
20. A statement that, in the event of judicial separation or divorce, a Court application for a Pension Adjustment Order in respect of the retirement or contingent benefits payable to or in respect of a married member may be made noting that further information about the operation and impact of Pension Adjustment Orders may be obtained from the Pensions Authority.
21. If the scheme provides an integrated pension (within the meaning of section 59C of the Act) the inclusion of a statement describing integration in the form set out below or in such other form as the trustees deem appropriate:

“This scheme is an integrated scheme meaning it is one that takes account of Old Age (Contributory) Pension (or other similar contributory benefits payable under social insurance) in designing the overall pension package. An integrated scheme looks at the Old Age (Contributory) Pension as part of the total pension package. Both employers and employees make pay-related social insurance (PRSI) contributions and these in turn entitle scheme members to Social Welfare benefits.

Integration is used as a means of taking into account the benefits payable under the Social Welfare system to calculate -

- The amount of occupational pension required so that the combined pension from both sources is at the level being aimed for in designing the scheme;
- The level of contributions payable by the employee towards the cost of his or her occupational pension

Appendix C – Disclosure of information obligations on Trustees where a PAO has been made

Event	Information to be disclosed
i. Trustees notified about pension adjustment order in favour of non-member spouse or other person in the order.	<p>(1) A statement with details both as to the amount of and the nature of the benefit to be provided.</p> <p>(2) A note that further information may be obtained from the Pensions Authority.</p> <p>(3) The name and address of the person to whom enquiries should be sent.</p> <p>(4) A statement that the non-member /specified person is advised to notify the Trustees of any change of address.</p> <p><i>To be provided within 2 months of notification</i></p>
ii. Non-member seeks information or seeks to exercise statutory options.	<p>(1) An estimate of the transfer amount which may be applied by the non-member, if the amount payable reflects a reduction in accordance with section 34(2) then these must be stated together with the amount of the reduction.</p> <p>(2) A statement of the options available to the non-member in relation thereto and,</p> <p>(3) An estimate of the contingent benefit (if any) payable under the order.</p> <p>(4) A note that further information may be obtained from the Pensions Authority.</p> <p><i>To be provided within 2 months of request</i></p>

Event	Information to be disclosed
<p>iii. Trustees notified that the member ceases to be in reckonable service and no transfer amount has been paid out of the scheme.</p>	<p>(1) A statement of the options available to the non-member</p> <p>(2) A note that further information may be obtained from the Pensions Authority.</p> <p>(3) The name and address of the person to whom enquiries should be sent.</p> <p><i>To be provided within 2 months of notification</i></p>
<p>iv. Trustees notified that the member ceases to be in relevant employment.</p>	<p>(1) A statement of the options available to the non-member spouse.</p> <p>(2) A statement that any contingent benefit awarded under the order ceases to have effect.</p> <p>(3) A note that further information may be obtained from the Pensions Authority.</p> <p>(4) The name or title, and the address of the person to whom enquiries should be sent.</p> <p><i>To be provided within 2 months of notification</i></p>
<p>v. Person specified in the pension adjustment order seeks information.</p>	<p>(1) An estimate of the contingent benefit (if any) payable under the order.</p> <p>(2) A note that further information may be obtained from the Pensions Authority. To be provided within 2 months of request.</p> <p><i>To be provided within 2 months of cessation</i></p>

Event	Information to be disclosed
<p>vi. Member ceases to be a member other than on death.</p>	<p>1) A statement of the options available to the non-member spouse.</p> <p>(2) A note that further information may be obtained from the Pensions Authority.</p> <p>(3) The name and address of the person to whom enquiries should be sent.</p> <p>(4) A statement that the member spouse has ceased to be a member of the scheme.</p> <p><i>To be provided within 2 months of cessation</i></p>
<p>vii. Trustees exercise their statutory options.</p>	<p>(1) The date of the application in accordance with the notice served under a.34 of the Pension Schemes (Family Law) Regulations 1997.</p> <p>(2) The name and address of the scheme to which the transfer amount has been applied or of the undertaking with whom the policy or contract of assurance has been entered into on behalf of the non-member spouse.</p> <p>(3) A note that further information may be obtained from the Pensions Authority.</p> <p><i>To be provided to the non-member spouse within 2 months of application by Trustees</i></p>

Event	Information to be disclosed
<p>viii. Member dies before designated benefit commences.</p>	<p>(1) The amount of benefit which is payable to or in respect of the non-member or other person specified in the order and any options relating thereto and the procedure for exercising them.</p> <p>(2) In the case of a defined benefit scheme the method by which the amount specified in paragraph (1) has been calculated.</p> <p>(3) If the amount of benefit is payable periodically the conditions (if any), subject to which the payment will continue. (4) If the benefit is payable periodically the provisions (if any) under the rules of the scheme whereby the amount payable will be altered.</p> <p><i>To be provided within 2 months of benefit becoming payable</i></p>
<p>ix. Member retires.</p>	<p>(1) The amount of benefit which is payable to or in respect of the non-member or other person specified in the order and any options relating thereto and the procedure for exercising them.</p> <p>(2) In a defined benefit scheme (within 2 months upon request) the method by which the amount specified in paragraph (1) has been calculated.</p> <p>(3) If the amount of benefit is payable periodically the conditions (if any), subject to which the payment will continue. (4) If the benefit is payable periodically the provisions (if any) under the rules of the scheme whereby the amount payable will be altered.</p> <p><i>To be provided within 2 months of benefit becoming payable</i></p>

Event	Information to be disclosed
<p>x. Non-member dies after designated benefit commences.</p>	<p>(1) The amount of benefit which is payable to or in respect of the non-member s and any options relating thereto and the procedure for exercising them.</p> <p>(2) In the case of a defined benefit scheme the method by which the amount specified in paragraph (1) has been calculated.</p> <p>(3) If the amount of benefit is payable periodically the conditions (if any), subject to which the payment will continue. (4) If the benefit is payable periodically the provisions (if any) under the rules of the scheme whereby the amount payable will be altered.</p> <p><i>To be provided within 2 months of benefit becoming payable</i></p>
<p>xi. Non-member or other person specified in the order re-marries.</p>	<p>No disclosure is required.</p>
<p>xii. Dependency of specified person ceases.</p>	<p>No disclosure is required.</p>

Appendix D – Triggering Events for payment of a PAO

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Please note: The impact of various triggering events on the operation of PAOs as set out in the below tables is based on the following assumptions:

- (i) Where both retirement benefit orders and contingent benefit orders have been made, there is a maximum of five orders that can be in play, namely; pension lump sum, retirement pension and spousal pension on death in retirement (retirement benefits), and death gratuity lump sum and spousal pension on death in service (contingent benefits);
- (ii) Where only a retirement benefits order has been made, there is a maximum of three orders to be dealt with, namely; the pension lump sum, the retirement pension and the spousal pension on death in retirement;
- (iii) Where only a contingent benefits order has been made, there is a maximum of two orders to be examined, namely; the death gratuity lump sum and the spousal pension.

It is worth bearing in mind that when putting PAOs in place, the parties may choose to make all or only some of the five orders referred to above. In such cases, it is only the operation of the orders that have specifically been put in place that must be considered when dealing with each triggering event.

Please also note there is no legal obligation on trustees to pay contingent benefits to qualified cohabitants under a PAO; such a payment is dependent on scheme rules. The Civil Service Superannuation Schemes do not make provision for the payment of contingent benefits to qualified cohabitants.

1.(A) Payment of designated benefit not commenced: Application for a transfer amount

Payment of designated benefit not commenced: Application for a transfer amount				
Relevant legislative provisions: Family Law Act 1995 s. 12, subs. (4) and (5)				
PAO providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2 nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Retirement benefit only	<p><u>At time of request for transfer amount:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension)</p> <p><u>At time of retirement:</u> Member entitled to residual benefit at time of retirement</p> <p><u>Death of member:</u> Any residual spousal pension is paid to the non-member spouse in accordance with scheme rules</p>	<p><u>At time of request for transfer amount:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension)</p> <p><u>At time of retirement:</u> Member entitled to residual benefit at time of retirement</p> <p><u>Death of member:</u> No further payment due</p>	<p><u>At time of request for transfer amount:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension)</p> <p><u>At time of retirement:</u> Member entitled to residual benefit at time of retirement</p> <p><u>Death of member:</u> Any residual spousal pension is paid to the current spouse / civil partner in accordance with scheme rules</p>	<p><u>At time of request for transfer amount:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension and lump sum)</p> <p><u>At time of retirement:</u> Member entitled to residual benefit at time of retirement</p> <p><u>Death of member:</u> No further payment due</p>

PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2 nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Contingent benefit only	N/A there is no mechanism under legislation whereby a request can be made to transfer the actuarial value of the contingent benefits.	N/A there is no mechanism under legislation whereby a request can be made to transfer the actuarial value of the contingent benefits.	N/A there is no mechanism under legislation whereby a request can be made to transfer the actuarial value of the contingent benefits.	N/A Contingent benefits are not payable to qualified cohabitants under public service pension scheme rules
Retirement and contingent benefits	<p><u>At time of request:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension)</p> <p><u>At time of retirement:</u> Member entitled to residual benefit at time of retirement</p> <p><u>Death of member:</u> <i>a) pre-retirement:</i> Contingent benefit is paid reduced by the amount already paid under the transfer amount Any residual spousal pension is paid to the non-member spouse in accordance with scheme rules</p> <p><i>b) post-retirement:</i> Any residual spousal pension is paid to the non-member spouse in accordance with scheme rules</p>	<p><u>At time of request:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension)</p> <p><u>At time of retirement:</u> Member entitled to residual benefit at time of retirement</p> <p><u>Death of member:</u> <i>a) pre-retirement:</i> Contingent benefit is paid reduced by the amount already paid under the transfer amount</p> <p><i>b) post-retirement:</i> No further payment due</p>	<p><u>At time of request:</u> Pay transfer amount to non-member based on actuarial value of the retirement pension, lump sum and the spouse's pension)</p> <p><u>At time of retirement:</u> Member entitled to residual benefit at time of retirement</p> <p><u>Death of member:</u> <i>a) pre-retirement:</i> Contingent benefit is paid reduced by the amount already paid under the transfer amount Any residual spousal pension is paid to current spouse / civil partner.</p> <p><i>b) post-retirement:</i> Any residual spousal pension is paid to the current spouse / civil partner in accordance with scheme rules</p>	<p><u>At time of request:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension and lump sum)</p> <p><u>At time of retirement:</u> Member entitled to residual benefit at time of retirement</p> <p><u>Death of member:</u> <i>a) pre-retirement:</i> No further payment due – contingent benefits are not payable to qualified cohabitants under public service pension scheme rules</p> <p><i>b) post-retirement:</i> No further payment due</p>

1.(B) Payment of designated benefit not commenced: Member dies in service

Payment of designated benefit not commenced: B) Member dies in service				
Relevant legislative provisions: Family Law Act 1995 s. 12, subs. (3), (7), (16)(b) and (17)				
PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2 nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Retirement benefit only	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the member</p> <p>And</p> <p>Any residual spousal pension is paid to the non-member spouse in accordance with scheme rules</p>	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the member</p>	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the member</p> <p>And</p> <p>Any residual spousal pension is paid to the current spouse / civil partner in accordance with scheme rules</p>	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension and lump sum) within 3 months of the death of the member</p>
Contingent benefit only	<p>Payment of contingent benefits to non- member</p> <p>And</p> <p>Payment of any residual spousal pension to the non-member spouse in accordance with scheme rules</p>	<p>Payment of contingent benefits to non- member</p>	<p>Payment of contingent benefits to non- member</p> <p>And</p> <p>Any residual spousal pension is paid to the current spouse/civil partner in accordance with scheme rules</p>	<p>N/A</p> <p>Contingent benefits are not payable to qualified cohabitants under public service pension scheme rules</p>

PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2 nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Retirement and contingent benefits	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the member.</p> <p>The amount payable as contingent benefits is to be reduced by that payable as a transfer amount on retirement benefits. [to be carried out by DPER actuaries]</p> <p>And</p> <p>Any residual spousal pension is paid to the non-member spouse in accordance with scheme rules</p>	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the member.</p> <p>The amount payable as contingent benefits is to be reduced by that payable as a transfer amount on retirement benefits. [to be carried out by DPER actuaries]</p>	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the member.</p> <p>The amount payable as contingent benefits is to be reduced by that payable as a transfer amount on retirement benefits. [to be carried out by DPER actuaries]</p> <p>And</p> <p>Any residual spousal pension is paid to the current spouse/civil partner in accordance with scheme rules</p>	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension and lump sum) within 3 months of the death of the member.</p> <p>Contingent benefits are not payable to qualified cohabitants under public service pension scheme rules</p>

1.(C) Payment of designated benefit not commenced: Non-member dies

Payment of designated benefit not commenced: C) Non-member dies				
Relevant legislative provisions: Family Law Act 1995 s. 12, subs. (9) and (17)				
PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Retirement benefit only	Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the non-member to his/her personal representative.	Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the non-member to his/her personal representative.	Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the non-member to his/her personal representative. <u>Death of member:</u> The current spouse / civil partner gets residual spousal pension in accordance with scheme rules.	Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension and lump sum) within 3 months of the death of the non-member to his/her personal representative.
Contingent benefit only	No payment required	No payment required	No payment required	N/A

PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2 nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Retirement and contingent benefits	Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the non-member to his/her personal representative.	Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the non-member to his/her personal representative.	Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the non-member to his/her personal representative. <u>Death of member:</u> The current spouse / civil partner gets residual spousal pension in accordance with scheme rules.	Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension and lump sum) within 3 months of the death of the non-member to his/her personal representative.

2.(A) Payment of designated benefit commenced: Member dies post-retirement

Payment of designated benefit commenced: Member retires and later dies post-retirement				
Relevant legislative provisions: Family Law Act 1995 s. 12 generally				
PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2 nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Retirement benefit only	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and lump sum in line with PAO to non-member and residual pension and lump sum to member.</p> <p><u>Death of member:</u> Payment of designated benefit of retirement pension ceases and payment of relevant percentage of spousal pension commences.</p> <p>And</p> <p>Any residual spousal pension is paid to the non-member spouse in accordance with scheme rules</p>	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and lump sum in line with PAO to non-member and residual pension and lump sum to member.</p> <p><u>Death of member:</u> Payment of designated benefit of retirement pension ceases and payment of relevant percentage of spousal pension commences</p>	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and lump sum in line with PAO to non-member and residual pension and lump sum to member.</p> <p><u>Death of member:</u> Payment of designated benefit of retirement pension ceases and payment of relevant percentage of spousal pension commences</p> <p>And</p> <p>Any residual spousal pension is paid to the current spouse / civil partner in accordance with scheme rules</p>	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and lump sum in line with PAO to non-member and residual pension and lump sum to member.</p> <p><u>Death of member:</u> Payment of designated benefit of retirement pension ceases.</p>
Contingent benefit only	N/A	N/A	N/A	N/A

PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2 nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Retirement and contingent benefits	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and lump sum in line with PAO to non-member and residual pension and lump sum to member.</p> <p><u>Death of member:</u> Payment of designated benefit of retirement pension ceases and payment of relevant percentage of spousal pension commences.</p> <p>And</p> <p>Any residual spousal pension is paid to the non-member spouse in accordance with scheme rules</p>	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and lump sum in line with PAO to non-member and residual pension and lump sum to member.</p> <p><u>Death of member:</u> Payment of designated benefit of retirement pension ceases and payment of relevant percentage of spousal pension commences.</p>	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and lump sum in line with PAO to non-member and residual pension and lump sum to member.</p> <p><u>Death of member:</u> Payment of designated benefit of retirement pension ceases and payment of relevant percentage of spousal pension commences.</p> <p>And</p> <p>Any residual spousal pension is paid to the current spouse / civil partner in accordance with scheme rules</p>	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and lump sum in line with PAO to non-member and residual pension and lump sum to member.</p> <p><u>Death of member:</u> Payment of designated benefit of retirement pension ceases.</p>

2.(B) Payment of designated benefit commenced: Non-member dies

Payment of designated benefit commenced: B) Non-member dies				
Relevant legislative provisions: Family Law Act 1995 s. 12, subs. (10) and (17)				
PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2 nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Retirement benefit only	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and relevant percentage of lump sum at retirement to non-member</p> <p><u>Death of non-member:</u> Pay transfer amount based on the actuarial value of the retirement pension (based on the lifetime of the member) within 3 months of the death of the non-member to his/her personal representative.</p> <p>The spousal element of the retirement benefit is not transferred to the personal representative. There is no residual spousal pension.</p>	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and relevant percentage of lump sum at retirement to non-member</p> <p><u>Death of non-member:</u> Pay transfer amount based on the actuarial value of the retirement pension (based on the lifetime of the member) within 3 months of the death of the non-member to his/her personal representative.</p>	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and relevant percentage of lump sum at retirement to non-member</p> <p><u>Death of non-member:</u> Pay transfer amount based on the actuarial value of the retirement pension (based on the lifetime of the member) within 3 months of the death of the non-member to his/her personal representative.</p> <p>The spousal element of the retirement benefit is not transferred to the personal representative.</p> <p>The current spouse / civil partner gets full spousal pension in accordance with scheme rules.</p>	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and relevant percentage of lump sum at retirement to non-member</p> <p><u>Death of non-member:</u> Pay transfer amount based on the actuarial value of the retirement pension (based on the lifetime of the member) within 3 months of the death of the non-member to his/her personal representative.</p>

PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2 nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Contingent benefit only	N/A	N/A	N/A	N/A
Retirement and contingent benefits	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and relevant percentage of lump sum at retirement to non-member</p> <p><u>Death of non-member:</u> Pay transfer amount based on the actuarial value of the retirement pension (based on the lifetime of the member) within 3 months of the death of the non-member to his/her personal representative.</p> <p>The spousal element of the retirement benefit is not transferred to the personal representative. There is no residual spousal pension.</p>	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and relevant percentage of lump sum at retirement to non-member</p> <p><u>Death of non-member:</u> Pay transfer amount based on the actuarial value of the retirement pension (based on the lifetime of the member) within 3 months of the death of the non-member to his/her personal representative.</p>	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and relevant percentage of lump sum at retirement to non-member</p> <p><u>Death of non-member:</u> Pay transfer amount based on the actuarial value of the retirement pension (based on the lifetime of the member) within 3 months of the death of the non-member to his/her personal representative.</p> <p>The spousal element of the retirement benefit is not transferred to the personal representative.</p> <p>The current spouse / civil partner gets full spousal pension in accordance with scheme rules.</p>	<p><u>At time of retirement:</u> Pay designated benefit of retirement pension and relevant percentage of lump sum at retirement to non-member</p> <p><u>Death of non-member:</u> Pay transfer amount based on the actuarial value of the retirement pension (based on the lifetime of the member) within 3 months of the death of the non-member to his/her personal representative.</p>

3.(A) Preserved benefit: Payment of designated benefit not commenced: Application for a transfer amount

Preserved Benefit: Payment of designated benefit not commenced: A) Application for a transfer amount				
Relevant legislative provisions: Family Law Act 1995 s. 12, subs. (4) and (5)				
PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Retirement benefit only	<p><u>At time of request:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension)</p> <p><u>At time member reaches preserved pension age:</u> Member entitled to payment of residual benefit</p> <p><u>Death of member:</u> Any residual spousal pension is paid to the non-member in accordance with scheme rules</p>	<p><u>At time of request:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension)</p> <p><u>At time member reaches preserved pension age:</u> Member entitled to payment of residual benefit</p>	<p><u>At time of request:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension)</p> <p><u>At time member reaches preserved pension age:</u> Member entitled to payment of residual benefit</p> <p><u>Death of member:</u> Any residual spousal pension is paid to the current spouse / civil partner in accordance with scheme rules</p>	<p><u>At time of request for transfer amount:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension and lump sum)</p> <p><u>At time member reaches preserved pension age:</u> Member entitled to payment of residual benefit</p>

PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2 nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Contingent benefit only	N/A	N/A	N/A	N/A
Retirement and contingent benefits	<p><u>At time of request:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension)</p> <p><u>At time member reaches preserved pension age:</u> Member entitled to payment of residual benefit</p> <p><u>Death of member:</u> Any residual spousal pension is paid to the non-member in accordance with scheme rules</p>	<p><u>At time of request:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension)</p> <p><u>At time member reaches preserved pension age:</u> Member entitled to payment of residual benefit</p>	<p><u>At time of request:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension)</p> <p><u>At time member reaches preserved pension age:</u> Member entitled to payment of residual benefit</p> <p><u>Death of member:</u> Any residual spousal pension is paid to the current spouse / civil partner in accordance with scheme rules</p>	<p><u>At time of request for transfer amount:</u> Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension and lump sum)</p> <p><u>At time member reaches preserved pension age:</u> Member entitled to payment of residual benefit</p>

3.(B) Preserved benefit: Payment of designated benefit not commenced: Member dies

Payment of designated benefit not commenced: B) Member dies				
Relevant legislative provisions: Family Law Act 1995 s. 12, subs. (7) and (17)				
PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2 nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Retirement benefit only	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the member.</p> <p>And</p> <p>Any residual spousal pension is paid to the non-member spouse in accordance with scheme rules</p>	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the member.</p>	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the member.</p> <p>And</p> <p>Any residual spousal pension is paid to the current spouse / civil partner in accordance with scheme rules</p>	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension and lump sum) within 3 months of the death of the member.</p>
Contingent benefit only	No payment due as Member not in relevant employment	No payment due as Member not in relevant employment	No payment due as Member not in relevant employment	N/A

PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2 nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Retirement and contingent benefits	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the member.</p> <p>And</p> <p>Any residual spousal pension is paid to the non-member spouse in accordance with scheme rules</p>	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the member.</p>	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the member.</p> <p>And</p> <p>Any residual spousal pension is paid to the current spouse / civil partner in accordance with scheme rules</p>	<p>Pay transfer amount on retirement benefit to non-member (based on actuarial value of the retirement pension and lump sum) within 3 months of the death of the member.</p>

3.(C) Preserved benefit: Payment of designated benefit commenced: Non-member dies

Preserved Pension: Payment of designated benefit not commenced: Non-member dies				
Relevant legislative provisions: Family Law Act 1995 s. 12, subs. (9) and (17)				
PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Retirement benefit only	<p>Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the non-member to his/her personal representative.</p> <p><u>Death of member:</u> Any residual spousal pension is paid to the non-member spouse in accordance with scheme rules</p>	<p>Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the non-member to his/her personal representative.</p>	<p>Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the non-member to his/her personal representative.</p> <p><u>Death of member:</u> The current spouse / civil partner is paid the residual spousal pension in accordance with scheme rules.</p>	<p>Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension and lump sum) within 3 months of the death of the non-member to his/her personal representative.</p>
Contingent benefit only	No payment required	No payment required	No payment required	N/A

PAOs providing for:	Benefit(s) Payable in case of judicial separation	Benefit(s) Payable in case of divorce / dissolution of civil partnership	Benefit(s) Payable in case of divorce & 2 nd marriage / new civil partnership	Benefit(s) payable in case of redress for qualified cohabitants
Retirement and contingent benefits	<p>Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the non-member to his/her personal representative.</p> <p><u>Death of member:</u> Any residual spousal pension is paid to the non-member spouse in accordance with scheme rules</p>	<p>Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the non-member to his/her personal representative.</p>	<p>Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension, lump sum and the spouse's pension) within 3 months of the death of the non-member to his/her personal representative.</p> <p><u>Death of member:</u> The current spouse / civil partner is paid the residual spousal pension in accordance with scheme rules.</p>	<p>Pay transfer amount on retirement benefit (based on actuarial value of the retirement pension and lump sum) within 3 months of the death of the non-member to his/her personal representative.</p>

Appendix E – Model Pension Adjustment Orders

The Model Pension Adjustment Orders are provided *for guidance purposes only*.

The model PAOs are aimed at guiding members who are applying for such orders in family law matters.

While every care has been taken in its preparation, the Department does not accept any liability for any errors or omissions. Scheme Members or Legal Practitioners intending to utilise these model PAOs should make themselves fully aware of the legal requirements, the meaning of the clauses, and the rules specific to the relevant Scheme and seek specialist advice where necessary.

(i) Model PAO for use in cases of judicial separation

[RECORD NUMBER]

THE CIRCUIT FAMILY COURT

[CIRCUIT]

[COUNTY]

IN THE MATTER OF THE FAMILY LAW ACT 1995

BETWEEN

[Name of Applicant]

Applicant

and

[Name of Respondent]

Respondent

ORDER

DATE OF DECREE OF JUDICIAL SEPARATION [Date of Decree]

Upon notice having been given to the Trustees of the Scheme(s) named below in accordance with Section 12(18) of the Family Law Act 1995 of the application of [Name of Applicant Spouse] for pension adjustment orders under the Family Law Act 1995 and upon hearing ...

1. [Retirement Pension]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 12(2) of the Family Law Act 1995 in the following terms:-

Pension Scheme to which this Order relates: [Name of Scheme] (“the Scheme”)

Persons upon whom this Order is served: [The Trustees of the Scheme]

Retirement Benefits to which this Order relates: The retirement pension accrued under the Scheme in respect of [Scheme Member’s

Name and Address][PPS No] (“the Retirement Benefits”)

Person in whose favour this Order is made: [Name of Beneficiary] (and in the case of his/her death, his/her personal representative) OR [[Name of Specified Person] for the benefit of [Name of Dependant]] of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay to the Beneficiary that part of the Retirement Benefits, as determined hereunder, in accordance with the Rules of the Scheme.

For the purpose of determining the amount of the Retirement Benefits payable to the Beneficiary, **THE COURT RULES** that:

- (a) the period of reckonable service over which the designated benefit is deemed to have accrued is the period commencing on [not before date of joining Scheme or, if earlier, date of joining previous scheme from which a transfer payment has been received into the Scheme in respect of the Scheme Member] and ending on [not later than the date of decree] (“the Designated Period”); and
- (b) the relevant percentage of the Retirement Benefits accrued over the Designated Period and to be paid to the Beneficiary is [X]%

2. [Retirement Lump Sum and other Retirement Benefits]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 12(2) of the Family Law Act 1995 in the following terms:-

Pension Scheme to which this Order relates: [Name of Scheme] (“the Scheme”)

Persons upon whom this Order is served: [The Trustees of the Scheme]

Retirement Benefits to which this Order relates: The retirement benefits accrued under the Scheme (excluding the retirement pension and survivor’s pension) in respect of [Scheme Member’s Name and address][PPS No] (“the Retirement Benefits”)

Person in whose favour this Order is made: [Name of Beneficiary] (and in the case of his/her death, his/her personal

representative) OR [[Name of specified person] for the benefit of [Name of Dependant]] of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay to the Beneficiary that part of the Retirement Benefits, as determined hereunder, in accordance with the Rules of the Scheme.

For the purpose of determining the amount of the Retirement Benefits payable to the Beneficiary, **THE COURT RULES** that:

- (c) the period of reckonable service over which the designated benefit is deemed to have accrued is the period commencing on [not before date of joining Scheme or, if earlier, date of joining previous scheme from which a transfer payment has been received into the Scheme in respect of the Scheme Member] and ending on [not later than date of decree] (“the Designated Period”); and
- (d) the relevant percentage of the Retirement Benefits accrued over the Designated Period and to be paid to the Beneficiary is [X]%.

3. [Survivor’s Pension (Retirement Benefit)]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 12(2) of the Family Law Act 1995 in the following terms:-

Pension Scheme to which this Order relates:	[Name of Scheme] (“the Scheme”)
Persons upon whom this Order is served:	[The Trustees of the Scheme]
Retirement Benefits to which this Order relates:	The survivor’s pension accrued under the Scheme in respect of [Scheme Member’s Name and address][PPS No] (“the Retirement Benefits”)
Person in whose favour this Order is made:	[Name of Beneficiary] (and in the case of his/her death, his/her personal representative) OR [[Name of specified person] for the benefit of [Name of Dependant]] of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay to the Beneficiary that part of the Retirement Benefits, as determined hereunder, in accordance with the Rules of the Scheme.

For the purpose of determining the amount of the Retirement Benefits payable to the Beneficiary, **THE COURT RULES** that:

- (e) the period of reckonable service over which the designated benefit is deemed to have accrued is the period commencing on [not before date of joining Scheme or, if earlier, date of joining previous scheme from which a transfer payment has been received into the Scheme in respect of the Scheme Member] and ending on [not later than date of decree] (“the Designated Period”); and
- (f) the relevant percentage of the Retirement Benefits accrued over the Designated Period and to be paid to the Beneficiary is [X]%.

4. [Main Scheme Contingent Benefits, including Death Gratuity]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 12(3) of the Family Law Act 1995 in the following terms:-

Pension Scheme to which this Order relates: [Name of Scheme] (“the Scheme”)

Persons upon whom this Order is served: [The Trustees of the Scheme]

Contingent Benefits to which this Order relates: The contingent benefits accrued under the Scheme in respect of [Scheme Member’s Name and address][PPS No], excluding the survivor’s pension (“the Contingent Benefits”)

Person in whose favour this Order is made: [Name of Beneficiary] (and in the case of his/her death, his/her personal representative) OR [[Name of specified person] for the benefit of [Name of Dependant]] of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay [X]% of the Contingent Benefits to the Beneficiary in accordance with the Rules of the Scheme.

5. [Survivor’s Pension (Contingent Benefit)]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 12(3) of the Family Law Act 1995 in the following terms:-

Pension Scheme to which this Order relates:	[Name of Scheme] (“the Scheme”)
Persons upon whom this Order is served:	[The Trustees of the Scheme]
Contingent Benefits to which this Order relates:	The survivor’s pension accrued under the Scheme in respect of [Scheme Member’s Name and address][PPS No] (“the Contingent Benefits”)
Person in whose favour this Order is made:	[Name of Beneficiary] (and in the case of his/her death, his/her personal representative) OR [[Name of specified person] for the benefit of [Name of Dependant]] of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay [X]% of the Contingent Benefits to the Beneficiary in accordance with the Rules of the Scheme.

6. [Direction to Trustees]

THE COURT DIRECTS the Trustees pursuant to Section 12(20) of the Family Law Act 1995 to take such steps as may be necessary to give effect to the above Orders.

7. [Costs Order]

THE COURT MAKES AN ORDER pursuant to Section 12(22) of the Family Law Act 1995 directing that any costs incurred by the Trustees in implementing the above Orders be paid by [the applicant or respondent or equally].

8. [OPTIONAL Non-Variation Order]

[THE COURT MAKES AN ORDER pursuant to Section 12(26) of the Family Law Act 1995 excluding the application of Section 18 to the above Orders.]

9. Until further notice from [Name of Beneficiary] to the trustees concerned the address to which payments to be made under the above Orders are to be remitted is: [address of Beneficiary].

By the Court

County Registrar

(ii) Model PAO for use in cases of divorce

[RECORD NUMBER]

THE CIRCUIT FAMILY COURT

[CIRCUIT]

[COUNTY]

IN THE MATTER OF THE FAMILY LAW (DIVORCE) ACT 1996

BETWEEN

[Name of Applicant]

Applicant

and

[Name of Respondent]

Respondent

ORDER

DATE OF DECREE OF DIVORCE [Date of Decree]

Upon notice having been given to the Trustees of the Schemes named below in accordance with Section 17(18) of the Family Law (Divorce) Act 1996 of the application of [Name of Applicant Spouse] for pension adjustment orders under the Family Law (Divorce) Act 1996 and upon hearing ...

1. [Retirement Pension]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 17(2) of the Family Law (Divorce) Act 1996 in the following terms:-

Pension Scheme to which this Order relates: [Name of Scheme] (“the Scheme”)

Persons upon whom this Order is served: [The Trustees of the Scheme]

Retirement Benefits to which this Order relates: The retirement pension accrued under the Scheme in respect of [Scheme Member’s

Name and Address][PPS No] (“the Retirement Benefits”)

Person in whose favour this Order is made: [Name of Beneficiary] (and in the case of his/her death, his/her personal representative) OR [[Name of Specified Person] for the benefit of [Name of Dependant]] of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay to the Beneficiary that part of the Retirement Benefits, as determined hereunder, in accordance with the Rules of the Scheme.

For the purpose of determining the amount of the Retirement Benefits payable to the Beneficiary, **THE COURT RULES** that:

- (g) the period of reckonable service over which the designated benefit is deemed to have accrued is the period commencing on [not before date of joining Scheme or, if earlier, date of joining previous scheme from which a transfer payment has been received into the Scheme in respect of the Scheme Member] and ending on [not later than the date of decree] (“the Designated Period”); and
- (h) the relevant percentage of the Retirement Benefits accrued over the Designated Period and to be paid to the Beneficiary is [X]%

2. [Retirement Lump Sum and other Retirement Benefits]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 17(2) of the Family Law (Divorce) Act 1996 in the following terms:-

Pension Scheme to which this Order relates: [Name of Scheme] (“the Scheme”)

Persons upon whom this Order is served: [The Trustees of the Scheme]

Retirement Benefits to which this Order relates: The retirement benefits accrued under the Scheme (excluding the retirement pension and survivor’s pension) in respect of [Scheme Member’s Name and address][PPS No] (“the Retirement Benefits”)

Person in whose favour this Order is made: [Name of Beneficiary] (and in the case of his/her death, his/her personal

representative) OR [[Name of specified person] for the benefit of [Name of Dependant]] of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay to the Beneficiary that part of the Retirement Benefits, as determined hereunder, in accordance with the Rules of the Scheme.

For the purpose of determining the amount of the Retirement Benefits payable to the Beneficiary, **THE COURT RULES** that:

- (i) the period of reckonable service over which the designated benefit is deemed to have accrued is the period commencing on [not before date of joining Scheme or, if earlier, date of joining previous scheme from which a transfer payment has been received into the Scheme in respect of the Scheme Member] and ending on [not later than date of decree] (“the Designated Period”); and
- (j) the relevant percentage of the Retirement Benefits accrued over the Designated Period and to be paid to the Beneficiary is [X]%.

3. [Survivor’s Pension (Retirement Benefit)]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 17(2) of the Family Law (Divorce) Act 1996 in the following terms:-

Pension Scheme to which this Order relates: [Name of Scheme] (“the Scheme”)

Persons upon whom this Order is served: [The Trustees of the Scheme]

Retirement Benefits to which this Order relates: The survivor’s pension accrued under the Scheme in respect of [Scheme Member’s Name and address][PPS No] (“the Retirement Benefits”)

Person in whose favour this Order is made: [Name of Beneficiary] (and in the case of his/her death, his/her personal representative) OR [[Name of specified person] for the benefit of [Name of Dependant]] of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay to the Beneficiary that part of the Retirement Benefits, as determined hereunder, in accordance with the Rules of the Scheme.

For the purpose of determining the amount of the Retirement Benefits payable to the Beneficiary, **THE COURT RULES** that:

- (k) the period of reckonable service over which the designated benefit is deemed to have accrued is the period commencing on [not before date of joining Scheme or, if earlier, date of joining previous scheme from which a transfer payment has been received into the Scheme in respect of the Scheme Member] and ending on [not later than date of decree] (“the Designated Period”); and
- (l) the relevant percentage of the Retirement Benefits accrued over the Designated Period and to be paid to the Beneficiary is [X]%.

4. [Main Scheme Contingent Benefits, including Death Gratuity]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 17(3) of the Family Law (Divorce) Act 1996 in the following terms:-

Pension Scheme to which this Order relates:	[Name of Scheme] (“the Scheme”)
Persons upon whom this Order is served:	[The Trustees of the Scheme]
Contingent Benefits to which this Order relates:	The contingent benefits accrued under the Scheme in respect of [Scheme Member’s Name and address][PPS No], excluding the survivor’s pension (“the Contingent Benefits”)
Person in whose favour this Order is made:	[Name of Beneficiary] (and in the case of his/her death, his/her personal representative) OR [[Name of specified person] for the benefit of [Name of Dependant]] of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay [X]% of the Contingent Benefits to the Beneficiary in accordance with the Rules of the Scheme.

5. [Survivor’s Pension (Contingent Benefit)]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 17(3) of the Family Law (Divorce) Act 1996 in the following terms:-

Pension Scheme to which this Order relates:	[Name of Scheme] (“the Scheme”)
Persons upon whom this Order is served:	[The Trustees of the Scheme]
Contingent Benefits to which this Order relates:	The survivor’s pension accrued under the Scheme in respect of [Scheme Member’s Name and address][PPS No] (“the Contingent Benefits”)
Person in whose favour this Order is made:	[Name of Beneficiary] (and in the case of his/her death, his/her personal representative) OR [[Name of specified person] for the benefit of [Name of Dependant]] of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay [X]% of the Contingent Benefits to the Beneficiary in accordance with the Rules of the Scheme.

6. [Direction to Trustees]

THE COURT DIRECTS the Trustees pursuant to Section 17(20) of the Family Law (Divorce) Act 1996 to take such steps as may be necessary to give effect to the above Orders.

7. [Costs Order]

THE COURT MAKES AN ORDER pursuant to Section 17(22) of the Family Law (Divorce) Act 1996 directing that any costs incurred by the Trustees in implementing the above Orders be paid by [the applicant or respondent or equally].

8. [OPTIONAL Non-Variation Order]

[THE COURT MAKES AN ORDER pursuant to Section 17(26) of the Family Law (Divorce) Act 1996 excluding the application of Section 22 to the above Orders.]

9. Until further notice from [Name of Beneficiary] to the trustees concerned the address to which payments to be made under the above Orders are to be remitted is: [address of Beneficiary].

By the Court

County Registrar

(iii) Model PAO for use in cases of dissolution of civil partnership

[RECORD NUMBER]

THE CIRCUIT FAMILY COURT

[CIRCUIT]

[COUNTY]

IN THE MATTER OF THE CIVIL PARTNERSHIP AND CERTAIN RIGHTS AND OBLIGATIONS OF
COHABITANTS ACT 2010

BETWEEN

[Name of Applicant]

Applicant

and

[Name of Respondent]

Respondent

ORDER

DATE OF DECREE OF DISSOLUTION [Date of Decree]

Upon notice having been given to the Trustees of the Schemes named below in accordance with Section 122(1) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 of the application of [Name of Applicant Civil Partner] for pension adjustment orders under the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 and upon hearing ...

1. **[Retirement Pension]**

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 121(2) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 in the following terms:-

Pension Scheme to which this Order relates: [Name of Scheme] (“the Scheme”)

Persons upon whom this Order is served: [The Trustees of the Scheme]

Retirement Benefits to which this Order relates: The retirement pension accrued under the Scheme in respect of [Scheme Member's Name and Address][PPS No] ("the Retirement Benefits")

Person in whose favour this Order is made: [Name of Beneficiary] (and in the case of his/her death, his/her personal representative) of [Address of Beneficiary] ("the Beneficiary")

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay to the Beneficiary that part of the Retirement Benefits, as determined hereunder, in accordance with the Rules of the Scheme.

For the purpose of determining the amount of the Retirement Benefits payable to the Beneficiary, **THE COURT RULES** that:

- (m) the period of reckonable service over which the designated benefit is deemed to have accrued is the period commencing on [not before date of joining Scheme or, if earlier, date of joining previous scheme from which a transfer payment has been received into the Scheme in respect of the Scheme Member] and ending on [not later than the date of decree] ("the Designated Period"); and
- (n) the relevant percentage of the Retirement Benefits accrued over the Designated Period and to be paid to the Beneficiary is [X]%

2. [Retirement Lump Sum and Other Retirement Benefits]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 121(2) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 in the following terms:-

Pension Scheme to which this Order relates: [Name of Scheme] ("the Scheme")

Persons upon whom this Order is served: [The Trustees of the Scheme]

Retirement Benefits to which this Order relates: The retirement benefits accrued under the Scheme (excluding the retirement pension and survivor's pension) in respect of [Scheme Member's Name and address][PPS No] ("the Retirement Benefits")

Person in whose favour this Order is made: [Name of Beneficiary] (and in the case of his/her death, his/her personal representative) of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay to the Beneficiary that part of the Retirement Benefits, as determined hereunder, in accordance with the Rules of the Scheme.

For the purpose of determining the amount of the Retirement Benefits payable to the Beneficiary, **THE COURT RULES** that:

- (o) the period of reckonable service over which the designated benefit is deemed to have accrued is the period commencing on [not before date of joining Scheme or, if earlier, date of joining previous scheme from which a transfer payment has been received into the Scheme in respect of the Scheme Member] and ending on [not later than date of decree] (“the Designated Period”); and
- (p) the relevant percentage of the Retirement Benefits accrued over the Designated Period and to be paid to the Beneficiary is [X]%.

3. [Survivor’s Pension (Retirement Benefit)]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 121(2) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 in the following terms:-

Pension Scheme to which this Order relates: [Name of Scheme] (“the Scheme”)

Persons upon whom this Order is served: [The Trustees of the Scheme]

Retirement Benefits to which this Order relates: The survivor’s pension accrued under the Scheme in respect of [Scheme Member’s Name and address][PPS No] (“the Retirement Benefits”)

Person in whose favour this Order is made: [Name of Beneficiary] (and in the case of his/her death, his/her personal representative) of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay to the Beneficiary that part of the Retirement Benefits, as determined hereunder, in accordance with the Rules of the Scheme.

For the purpose of determining the amount of the Retirement Benefits payable to the Beneficiary, **THE COURT RULES** that:

- (q) the period of reckonable service over which the designated benefit is deemed to have accrued is the period commencing on [not before date of joining Scheme or, if earlier, date of joining previous scheme from which a transfer payment has been received into the Scheme in respect of the Scheme Member] and ending on [not later than date of decree] (“the Designated Period”); and
- (r) the relevant percentage of the Retirement Benefits accrued over the Designated Period and to be paid to the Beneficiary is [X]%.

4. [Main Scheme Contingent Benefits, including Death Gratuity]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 121(5) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 in the following terms:-

Pension Scheme to which this Order relates:	[Name of Scheme] (“the Scheme”)
Persons upon whom this Order is served:	[The Trustees of the Scheme]
Contingent Benefits to which this Order relates:	The contingent benefits accrued under the Scheme in respect of [Scheme Member’s Name and address][PPS No], excluding the survivor’s pension (“the Contingent Benefits”)
Person in whose favour this Order is made:	[Name of Beneficiary] (and in the case of his/her death, his/her personal representative) of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay [X]% of the Contingent Benefits to the Beneficiary in accordance with the Rules of the Scheme.

5. [Survivor’s Pension (Contingent Benefit)]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 121(5) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 in the following terms:-

Pension Scheme to which this Order relates:	[Name of Scheme] (“the Scheme”)
--	---------------------------------

Persons upon whom this Order is served:	[The Trustees of the Scheme]
Contingent Benefits to which this Order relates:	The survivor's pension accrued under the Scheme in respect of [Scheme Member's Name and address][PPS No] ("the Contingent Benefits")
Person in whose favour this Order is made:	[Name of Beneficiary] (and in the case of his/her death, his/her personal representative) of [Address of Beneficiary] ("the Beneficiary")

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay [X]% of the Contingent Benefits to the Beneficiary in accordance with the Rules of the Scheme.

6. [Direction to Trustees]

THE COURT DIRECTS the Trustees pursuant to Section 122(3) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 to take such steps as may be necessary to give effect to the above Orders.

7. [Costs Order]

THE COURT MAKES AN ORDER pursuant to Section 125(1) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 directing that any costs incurred by the Trustees in implementing the above Orders be paid by [the applicant or respondent or equally].

8. [OPTIONAL Non-Variation Order]

[THE COURT MAKES AN ORDER pursuant to Section 121(8) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 excluding the application of Section 131 to the above Orders.]

9. Until further notice from [Name of Beneficiary] to the trustees concerned the address to which payments to be made under the above Orders are to be remitted is: [address of Beneficiary].

By the Court

County Registrar

(iv) Model PAO for use in cases of redress for qualified cohabitants

[RECORD NUMBER]

THE CIRCUIT FAMILY COURT

[CIRCUIT]

[COUNTY]

IN THE MATTER OF THE CIVIL PARTNERSHIP AND CERTAIN RIGHTS AND OBLIGATIONS OF
COHABITANTS ACT 2010

BETWEEN

[Name of Applicant]

Applicant

and

[Name of Respondent]

Respondent

ORDER

DATE OF ORDER FOR REDRESS [Date of Order]

Upon notice having been given to the Trustees of the Schemes named below in accordance with Section 188(1) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 of the application of [Name of Applicant Qualified Cohabitant] for pension adjustment orders under the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 and upon hearing ...

1. **[Retirement Pension]**

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 187(2) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 in the following terms:-

Pension Scheme to which this Order relates: [Name of Scheme] (“the Scheme”)

Persons upon whom this Order is served: [The Trustees of the Scheme]

Retirement Benefits to which this Order relates: The retirement pension accrued under the Scheme in respect of [Scheme Member's Name and Address][PPS No] ("the Retirement Benefits")

Person in whose favour this Order is made: [Name of Beneficiary] (and in the case of his/her death, his/her personal representative) of [Address of Beneficiary] ("the Beneficiary")

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay to the Beneficiary that part of the Retirement Benefits, as determined hereunder, in accordance with the Rules of the Scheme.

For the purpose of determining the amount of the Retirement Benefits payable to the Beneficiary, **THE COURT RULES** that:

- (s) the period of reckonable service over which the designated benefit is deemed to have accrued is the period commencing on [not before date of joining Scheme or, if earlier, date of joining previous scheme from which a transfer payment has been received into the Scheme in respect of the Scheme Member] and ending on [not later than the date of the ending of the relationship] ("the Designated Period"); and
- (t) the relevant percentage of the Retirement Benefits accrued over the Designated Period and to be paid to the Beneficiary is [X]%.

2. [Retirement Lump Sum and Other Retirement Benefits]

THE COURT DOTH NOW MAKE a Pension Adjustment Order pursuant to Section 187(2) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 in the following terms:-

Pension Scheme to which this Order relates: [Name of Scheme] ("the Scheme")

Persons upon whom this Order is served: [The Trustees of the Scheme]

Retirement Benefits to which this Order relates: The retirement benefits accrued under the Scheme (excluding the retirement pension and survivor's pension) in respect of [Scheme Member's Name and address][PPS No] ("the Retirement Benefits")

Person in whose favour this Order is made: [Name of Beneficiary] (and in the case of his/her death, his/her personal representative) of [Address of Beneficiary] (“the Beneficiary”)

THE TRUSTEES ARE HEREBY ORDERED by the Court to pay to the Beneficiary that part of the Retirement Benefits, as determined hereunder, in accordance with the Rules of the Scheme.

For the purpose of determining the amount of the Retirement Benefits payable to the Beneficiary, **THE COURT RULES** that:

- (a) the period of reckonable service over which the designated benefit is deemed to have accrued is the period commencing on [not before date of joining Scheme or, if earlier, date of joining previous scheme from which a transfer payment has been received into the Scheme in respect of the Scheme Member] and ending on [not later than the date of the ending of the relationship] (“the Designated Period”); and
- (b) the relevant percentage of the Retirement Benefits accrued over the Designated Period and to be paid to the Beneficiary is [X]%.

3. [Direction to Trustees]

THE COURT DIRECTS the Trustees pursuant to Section 188(3) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 to take such steps as may be necessary to give effect to the above Orders [provided that the Scheme expressly provides for payments of contingent benefits to cohabitants].

4. [Costs Order]

THE COURT MAKES AN ORDER pursuant to Section 191(1) of the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 directing that any costs incurred by the Trustees in implementing the above Orders be paid by [the applicant or respondent or equally].

5. Until further notice from [Name of Beneficiary] to the trustees concerned the address to which payments to be made under the above Orders are to be remitted is: [address of Beneficiary].

By the Court

County Registrar

Appendix F – FAQs

- I. How do you deal with a family law case where the extension of the public service retirement age results in the member remaining in employment longer?

The *Public Service Superannuation (Age of Retirement) Act 2018* permits public servants appointed before 1 April 2004 to continue working up to the age of 70 years. Where concerns arise regarding the timing of the payment of a designated benefit occasioned by a public servant working past the age of 65, individuals may wish to contact their legal representatives to discuss the available options:

- i) Return to the courts in order to resolve any dispute, possibly by way of amendment of the PAO or any other relevant financial compensation order such as a maintenance order; or
- ii) Request a transfer amount (See section 4.4.10.1).

- II. How do you deal with a family law case where a member remains in service beyond accruing maximum pension entitlements?

The formulae provided in SI 107/1997 to calculate a designated benefit stipulate that retirement benefit service shall be:

“calculated disregarding any rule of the pension scheme under which the period to be taken into account in calculating retirement benefit is subject to an upper limit.”

In the public service a large number of superannuation schemes include a set period of time where maximum pension entitlements can be accrued e.g. 40 years’ service for civil servants appointed pre-2013 and 30 years’ service for prison officers and Gardaí. The result of disregarding the upper limit in relation to retirement benefit service is that the benefits payable to the non-member will decrease in value the longer the member decides to remain in service beyond accruing maximum pension entitlements.

Where concerns arise, individuals may wish to contact their legal representatives to discuss the available options:

- i) Return to the courts in order to resolve any dispute
- ii) Request a transfer amount (See section 4.4.10.1).

III. How do you treat the designated benefit on a retirement pension when the member dies in retirement and there is no entitlement to a spousal pension?

Ordinarily where a member dies in retirement and a designated payment is being made in respect of the retirement pension, this payment ceases and payment of the spouses' pension commences.

Where a member dies and there is either no entitlement to a spousal pension (e.g. if the member was not a member of the Spouses' and Children's Scheme) or there is no PAO in place on the Spouses' pension, the designated benefit on the retirement pension ceases to be paid and no further payments under the terms of the PAO are due.

IV. Is the Spouses' pension paid as an annual pension or as a lump sum?

Deciding whether a payment due on the Spouses' pension should be paid as a pension or as a lump sum (based on the actuarial value of Spouses' pension payable for the lifetime of the non-member) will be dependent on the triggering event which gives rise to the payment:

Triggering event	Orders in place on Spouses pension	Method of payment
Member dies in service	i. Contingent benefit order only	Annual pension for life-time of non-member
	ii. Retirement benefit order only	Lump sum (transfer amount)*
	iii. Retirement benefit <u>and</u> Contingent benefit orders	Lump sum (transfer amount)* And Lump sum (the difference between the amount payable as a transfer value and the amount payable as the contingent benefit lump sum)

Triggering event	Orders in place on Spouses pension	Method of payment
Member dies in retirement	i. Contingent benefit order only	No payment due
	ii. Retirement benefit order only	Annual pension for life-time of non-member
	iii. Retirement benefit <u>and</u> Contingent benefit orders	Annual pension for life-time of non-member
Non-Member dies before payment of designated benefit has commenced	i. Contingent benefit order only	No payment due
	ii. Retirement benefit order only	Lump sum (transfer amount)
	iii. Retirement benefit <u>and</u> Contingent benefit orders	Lump sum (transfer amount)
Non-member dies after payment of designated benefit has commenced	i. Contingent benefit order only	No payment due
	ii. Retirement benefit order only	No payment due
	iii. Retirement benefit <u>and</u> Contingent benefit orders	No payment due

*In this scenario the transfer amount may have already been paid before the member died in service by way of a transfer on request or it may be required as a result of the member dying.

V. How do you treat the enhanced first month's payment of the Spouse's pension when the member dies in service/in retirement?

Where an entitlement exists under Spouse's and Children's pension scheme rules to an enhanced first month's payment of the Spouse's pension this should also be included as a designated benefit or contingent benefit where there is an order in place on the Spouse's pension. In line with the treatment of the Spouse's pension, where there is a transfer

amount on request the designated benefit of the enhanced first month's payment should be included as part of the transfer amount.

Contingent benefit:

Where the member dies in service and the PAO includes a contingent benefit order on the Spouse's pension, payment should include the relevant percentage of the enhanced first month's payment stipulated in the PAO in relation to the Spouse's pension.

Retirement benefit:

Where the member dies in retirement and the PAO includes a retirement benefit order on the Spouse's pension, payment should include a designated benefit of the enhanced first month's payment based on the percentage and relevant period stipulated in the PAO in relation to the Spouse's pension.

Or

Where the non-member dies before the payment of the designated benefit has commenced and a transfer amount is due to include payment on the Spouse's pension (See sections 4.1.1.2 and 4.1.1.3(ii)) payment should include a designated benefit of the enhanced first month's payment based on the percentage and relevant period stipulated in the PAO in relation to the Spouse's pension.

- **Example 1 – Member dies in retirement, 2nd marriage, retirement benefit order**

Member has 40 years' service and retires with an annual retirement pension of €25,000. There is a PAO in place on the Spouse's pension which allocates 100% of the Spouse's pension accrued during the relevant period of 20 years to the non-member.

Enhanced first month payable: 1/12 of pension = €2,083.33

$$[A \times B \times P] / C$$

$$A = €2,083.33$$

$$B = 20 \text{ years}$$

$$C = 40 \text{ years}$$

$$P = 100\%$$

$$[2083.33 \times 20 \times 100\%] / 40 = €1,041.66$$

Enhanced first month's payment of pension

- Designated benefit payable to non-member = €1,041.66
- Residual benefit payable to current spouse/civil partner = €1,041.67 (€2,083.33 - €1,041.66)

- **Example 2 – Transfer on request and 2nd marriage**

PAO in place containing retirement benefit orders on:

- The retirement pension with relevant period of 20 years and relevant percentage of 50%;
- The retirement lump sum with relevant period of 20 years and relevant percentage of 50%; and;
- The Spouse's pension – relevant period 20 years and relevant percentage 100%

The non-member requests a transfer amount. At the time of the request the Member has 30 years' service and has pensionable remuneration of €50,000.

Pension entitlements used to determine designated benefits:

$$\text{Pension} = 50,000 \times 30/80 = \underline{\mathbf{€18,750}}$$

$$\text{Retirement lump sum} = 50,000/80 \times 3 \times 30/80 = \underline{\mathbf{€56,250}}$$

$$\text{Spouse's pension} = \underline{\mathbf{€9,375}}$$

$$\text{First month's enhanced spousal pension payment} = €18,750/12 = \underline{\mathbf{€1,562.50}}$$

Designated benefits used for actuarial calculations for transfer amount:

- Transfer amount will be calculated based on the actuarial valuation of the following designated benefits:

$$\text{Pension} = [€18,750 \times 20 \times 50\%]/30 = \underline{\mathbf{€6,250}}$$

$$\text{Lump sum} = [€56,250 \times 20 \times 50\%]/30 = \underline{\mathbf{€18,750}}$$

$$\text{Spouse's pension} = [(€18,750/2) = €9,375 \times 20 \times 100\%]/30 = \underline{\mathbf{€6,250}}$$

$$\text{First month's enhanced spousal pension payment} = [€1,562.50 \times 20 \times 100\%]/30 = \underline{\mathbf{€1,041.66}}$$

- Transfer amount made. Member works for another 10 years, his/her pensionable remuneration increases to €65,000.

The residual amounts payable at retirement/ in the event of the member predeceasing his/her current spouse include:

$$\text{Pension} = 65,000 \times 40/80 = €32,500 - €6,250 \text{ [designated benefit]} = \underline{\mathbf{€26,250}}$$

$$\text{Lump sum} = 65,000/80 \times 3 \times 40/80 = €97,500 - €18,750 \text{ [designated benefit]} = \underline{\mathbf{€78,750}}$$

Member dies in pensions, the current spouse/civil partner is due:

$$\text{Spouse's Pension} = (€32,500/2) = €16,250 - €6,250 \text{ [designated benefit]} = \underline{\mathbf{€10,000}}$$

$$\text{First month's enhanced spousal pension payment} = €32,500 \text{ [total pension ignoring transfer on request]} /12 = \text{Total payable } 2708.33 - €1,041.66 \text{ [designated amount]} = \underline{\mathbf{1666.67}} \text{ [residual amount]}$$

VI. How do you calculate the residual benefit owing to the Member?

The amount payable to the non-member as a designated benefit or contingent benefit is calculated first and the amount remaining is the residual benefit payable to the member (or the member's personal representative where the case involves a death in service).

Section 5 of the Pensions Act 1990 (as amended by section 4 of the Pensions (Amendment) Act 1996) defines the term *residual benefit* to mean:

"...the amount of retirement benefit remaining in respect of the member spouse concerned after deduction therefrom of the relevant designated benefit or the amount of contingent benefit in respect of the member spouse concerned remaining after deduction therefrom of the amount of contingent benefit payable pursuant to an order under subsection (3) of section 12 or the amount of payment made under subsection (7) of section 12."

Where an order has ceased to have effect (e.g. where the dependent family member has ceased to be dependent) and where no transfer amount has been made on designated benefits then the full amount of the retirement benefit reverts to the member.

VII. How do you treat residual benefits in cases of judicial separation?

Judicial separation, per se, has no effect on a spouse's entitlement to benefit under the terms of most public service spouses' and children's pension schemes, as the former spouse is still the legal spouse until such time as the parties obtain a decree of divorce. However, PAOs relating to spouses' pensions are sometimes obtained in cases of judicial separation and Trustees must comply with the terms of such orders.

In such cases, spouses may also qualify under the rules of the scheme for the residual benefit and this, in effect, makes them eligible for payment of the entire spouse's pension. It is important to remember that the qualifying conditions for payment under a PAO are not the same as under the rules of the scheme (e.g. remarriage or cohabitation does not affect the entitlement to the designated benefit secured under a PAO on retirement benefit) and for this reason the two payments, while being aggregated for taxation purposes, should be paid as separate benefits.

VIII. What do you do when served with a PAO where no notice to trustees was provided or the opportunity to review the PAO?

Where a PAO is served on trustees and the trustees were not provided with the notice to trustees or the opportunity to review the draft PAO (or both) in line with Circuit Court rules, the trustees should contact the courts and the solicitors of both parties to advise them of the same. At least 10 days' notice to trustees and an opportunity to review whether a PAO is implementable is required under S.I. 427/2018 Circuit Court Rules (Family Law) 2018 and S.I. 385/2011 Circuit Court Rules (Civil Partnership and Cohabitation) 2011.

IX. Can qualified cohabitants put a PAO in place when they are still in a relationship?

Yes, the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 provides that cohabitants may enter an agreement between themselves to provide for financial matters during the relationship or when the relationship ends.

X. Who determines whether a cohabitant is a 'qualified cohabitant' as defined under the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010?

It is the sole responsibility of the Courts to determine whether two adults residing together reach the threshold of 'qualified cohabitants'. Section 172 of the *Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010* sets out the definition of "cohabitant" and "qualified cohabitant" and lists the factors which a court will use to reach this decision.

XI. What benefits are payable to qualified cohabitants?

The entitlements available to non-member cohabitants vary from those available to non-member spouses or civil partners based on family law legislation and public service scheme rules.

The Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010 places no legal obligation on Trustees to pay a spouse's pension to qualified cohabitants but rather the matter is dependent on scheme rules. At present, public service spouse's pensions are payable only to a "spouse" or a "civil partner".

Where a PAO is put in place on the retirement pension and retirement lump sum and where the member dies in relevant service the non-member is entitled to the payment of a transfer amount within 3 months of the death of the member.

Where a PAO is received including all retirement and contingent benefit orders, the following benefits are payable:

Benefit	Payable
- Retirement Pension	Yes
- Retirement lump sum	Yes
- Spouse's pension payable post-retirement	No
- Spouse's pension payable pre-retirement	No
- Death Gratuity	No

XII. Can the parties seek to vary or discharge a PAO?

The below table captures when an order can be varied or discharged:

	Judicial separation	Divorce	Dissolution of civil partnership	Qualified cohabitants
Retirement benefit order	Y – unless a non-variation order is included in the PAO*	Y – unless a non-variation order is included in the PAO*	Y - unless a non-variation order is included in the PAO*	Y
Contingent benefit order	N	N	N	N/A

*The wording used in the PAO should be examined to determine the extent to which the variation of the PAO has been restricted (i.e. check whether the power to vary, discharge and suspend has been restricted or just one element).⁵¹

XIII. How do you deal with a case where the member is choosing not to draw down their preserved pension but the non-member would like to start receiving their allocation of pension?

The payment of a preserved pension is ordinarily activated by application from the member. A preserved pension is fully crystallised once preserved pension age is reached, therefore where the preserved pension has a PAO attached to it, application can also be accepted from the non-member for payment of the designated benefit. If an application is not received from the non-member payment of the designated benefit will commence upon application from the member for the pension. When the member resigns he/she receives a letter advising them of the process to draw down their pension once they reached preserved pension age, the non-member should receive a similar letter.

⁵¹ S.18 of the Family Law Act 1995 (and equivalent provisions in the 1996 and 2010 Acts) gives the court power to vary, discharge or suspend any provision of a PAO made under s.12(2) of the Act.

Section 12(26) of the 1995 Act provides that a PAO “may restrict to a specified extent or exclude the application of section 18” in relation to that order.

XIV. What is a 'freezing order'?

A 'freezing order' is the informal term for an order made under section 35 of the Family Law Act 1995 (and corresponding provisions within the Family Law (Divorce) Act 1996 and the Civil Partnership and Certain Rights and Obligations of Cohabitants Act 2010). This provision provides the Courts with the power, upon application from the non-member, to issue an order to prevent the member from dissipating or reducing the family assets where relief is being sought. The definition of 'relief' includes benefits conferred under a PAO.

XV. Is it correct to apply a Capital tax charge where the member's retirement lump sum is over €200,000?

Whether a Capital tax charge applies depends on individual limits. Therefore, where the lump sum of a member from a public service pension scheme is over €200,000 and there is a PAO in place, a capital tax charge will only be triggered for the member/non-member if:

- *the residual amount payable to the member is over €200,000 or the designated amount payable to the non-member is over €200,000; or*
- *the member/non-member has entitlement to other lump sums which when combined with his/her public service lump sum entitlement brings them over the €200,000 tax-free limit⁵².*

The portion of the lump sum which is paid to each party in accordance with the terms of the PAO is treated as a separate lump sum for the purposes of section 790AA TCA (Taxation of lump sums in excess of the tax free amount). This tax-free amount is a lifetime limit and encompasses all retirement lump sums paid to an individual on or after 7 December 2005.