

# BRITISH AIRWAYS PENSION SCHEMES

## Pension Sharing Information Leaflet

***This leaflet provides general guidance to how Pension Sharing Orders are applied within APS/NAPS and is not intended to be a comprehensive study of issues relating to pensions and divorce, nor to provide legal advice and cannot be relied upon or treated as a substitute for a member or the spouse or civil partner, or former spouse or civil partner of a member or other third party obtaining specific legal advice concerning individual situations.***

Information for members of the Airways Pension Scheme (APS) and New Airways Pension Scheme (NAPS) and their spouses or civil partners about how Pension Sharing Orders are applied in APS and NAPS is shown below. Please read this leaflet carefully because it contains information which the Trustees of APS and NAPS are required to provide by law.

References in this leaflet to divorce are also applicable to the dissolution of a civil partnership

### **What is Pension Sharing?**

Pension sharing was introduced with effect from 1 December 2000 and applies only to divorce and nullity cases where petitions have been presented on or after that date. It provides an option whereby pension benefits may be shared between divorcing couples. Whether a pension is to be shared and, if so, the amount of the share, would usually be determined by the Court as part of the divorce settlement. The Court will issue a Pension Sharing Order stating the percentage of the member's pension to be transferred to the former spouse or former civil partner (in Scotland, a "qualifying" Agreement may be issued rather than a Court Order - each reference to an Order below will apply equally to an Agreement. Additionally, Scottish law provides the option for a specified amount of the member's pension to be shared instead of a percentage). The effect of this means that the member's pension is reduced (by a pension 'debit') and the former spouse or civil partner receives a pension 'credit'. Examples of how a pension debit can affect the ongoing pension of an active member or pensioner of the Scheme can be found at the end of this Leaflet.

### **Cash Equivalent Transfer Value (CETV) or Cash Equivalent of Benefits (CEB)**

The value of a pension in APS or NAPS will be worked out by the calculation of a CETV, which is a lump sum amount representing the value of the main Scheme pension, at a given date (in the case of a pension already in payment, the calculation will determine a CEB). For pension sharing purposes this will usually be the date the request is received. For those members with an AVC fund (or pensioners with an AVC annuity being paid by the Scheme) an additional sum representing the current value of the AVC benefits will also be provided. Details of the pension and AVC benefits can only be provided directly to a member's former spouse or former civil partner if the member specifically requests us to do so). The amount of the CETV/CEB plus, if applicable, the value of the AVC benefits will be used by the Courts when working out the divorce settlement. If the Scheme receives a Pension Sharing Order the CETV/CEB (and the value of the AVC benefits) will be recalculated to assess the value of the pension debit and credit using the effective date as specified on the Court Order. The valuation date for the recalculation will be the commencement date of the implementation period, i.e. the date on which all the information and the charges (see the section called Schedule of Charges that will apply to Pension Sharing Orders) required by the Scheme have been received.

### **How the Pension Credit will work**

- ◆ When a Pension Sharing Order (PSO) is received the Scheme will take steps to implement the Order in accordance with legislation. The Scheme will provide detailed information about the implementation of the pension share, including the value of the pension credit due to the former spouse or former civil partner.
- ◆ A four-month implementation period is allowed for the discharge of the pension credit and will begin on receipt of the Order and all the information required to be provided by the divorcing couple and/or the Courts pursuant to legislation. **It is extremely important that all information requested by the Scheme is provided promptly to avoid any delay in discharging the pension credit.**
- ◆ The 'Annex' to the PSO will specify the percentage of the pension credit to be transferred.
- ◆ The Valuation Date for assessing the CETV/CEB of the pension credit will be the date on which the implementation period commences. The Scheme will make every attempt to discharge the pension credit as soon as possible after the start of the implementation period.

- ◆ **Pension credits cannot be retained within APS or NAPS** – pension credits must be transferred to an approved alternative pension arrangement, for example a personal pension scheme or a stakeholder pension offered by many insurance companies.
- ◆ We will write to the former spouse or former civil partner to request details of the chosen pension provider when we receive notice of an impending PSO.
- ◆ If the former spouse or former civil partner does not provide the relevant information and take the steps needed to allow the Trustees of the Scheme to effect a transfer of the pension credit to a pension provider within four months of the start of the implementation period, the Trustees of the Scheme will transfer the credit to an arrangement selected by the Trustees as permitted by legislation (see the section called Default Transfer later in this leaflet). It is in the former spouse's or former civil partner's best interests to nominate a suitable pension provider to receive the pension credit. Delay by the former spouse or former civil partner will **not** result in the former spouse or former civil partner becoming a member of, or entitled to benefits under the Scheme.
- ◆ Pension credit rights acquired by a former spouse or former civil partner following a PSO will normally need to be tested against the recipient's Lifetime Allowance (LTA). However if, prior to the PSO taking effect, the member's benefits had been subject to a LTA test (or the benefits were in payment before 6/4/2006) then the pension credit will not be tested against the former spouse or former civil partner's LTA, subject to the former spouse or former civil partner making an appropriate notification to the HM Revenue & Customs (HMRC)\*. The LTA is the total value of pension that a member can receive from all registered pension schemes without incurring a LTA tax charge. Further details regarding the LTA can be found on the HMRC website: [www.hmrc.gov.uk](http://www.hmrc.gov.uk) or our website: [www.mybapension.com](http://www.mybapension.com)

\* Further information regarding the notification procedure can be found on page RPSM11101170 of the HMRC manual, which can be located on the website - [www.hmrc.gov.uk/manuals/rpsmmanual/index.htm](http://www.hmrc.gov.uk/manuals/rpsmmanual/index.htm)

#### **Further information your solicitor is likely to require**

- ◆ Pension Sharing Orders applicable to APS or NAPS must be sent to British Airways Pensions, Whitelocke House, 2-4 Lampton Road, Hounslow, Middlesex TW3 1HU. **The Pension Sharing Order should be forwarded to the Scheme within 7 days of being sealed by the Court.**
- ◆ Neither APS nor NAPS is in the process of winding up (this refers to a scheme being totally closed down with all liabilities being secured with external arrangements).
- ◆ Pensions within APS and NAPS do not generally contain any benefits which are not shareable under the Pension Sharing provisions. If an Earmarking Order or Bankruptcy Order is applicable in an individual case this will be advised in our member-specific covering letter.
- ◆ Cash Equivalent Transfer Value (CETV) and Cash Equivalent of Benefits (CEB) quotations represent 100% of a member's main Scheme benefit. No reductions have been applied.
- ◆ Where a member has AVC benefits these will be quoted as a separate value. For purposes of assessing the pension debit and pension credit the percentage specified on the Pension Sharing Order must be applied to the total sum of the CETV/CEB and value of the AVC fund.

### **Schedule of Charges that will apply to Pension Sharing Orders**

- ◆ Basic information regarding APS and NAPS and the provision of the initial CETV/CEB is provided free of charge.
- ◆ When a Pension Sharing Order is received by APS or NAPS a minimum charge will apply and will be payable to the Scheme. The charges applied are detailed below. **Processing of the pension credit will be dependent on this charge having been settled.**
- ◆ The payment must be made by cheque to the Scheme at the time of receipt of the Order.
- ◆ The Scheme member or pensioner will be responsible for payment of the charge unless the Order specifies alternative arrangements.
- ◆ If the Scheme receives an Order, which is incorrect and is inoperable any charges incurred in clarifying the Order may also be passed on to the member or pensioner.
- ◆ The amount of the charges will be reviewed periodically.
- ◆ If a period of more than twelve months elapses between us sending this information and an Order being received, an adjustment for increases in the Retail Prices Index is likely to apply.

### **Administration Costs**

Divorce and pension regulations provide for the recovery by pension schemes of the administrative expenses that they are likely to incur in complying with their obligations under the regulations. The British Airways Pension Schemes make such a charge, which is payable by the Scheme member at the time a sealed Court Order with a Pension Attachment Annex is received by the Trustees.

The standard minimum charges applied in all cases are:

Current member or member with a deferred pension:	£1,100.00 plus VAT
Retirement member with pension in payment:	£1,300.00 plus VAT

Higher charges can be applied in certain circumstances. The actual charge levied will depend on the volume of work and the complexity of the communications that the Scheme administrators are engaged in. If the case requires the involvement of senior pensions personnel or any of the external advisors to the Scheme the Trustees have discretion to determine what the maximum charge will be.

### **Default Transfer**

- ◆ As explained above former spouse or former civil partners entitled to a pension credit must provide the Scheme with details of their chosen pension provider and help the Trustees to finalise the transfer of the credit within four months of commencement of the implementation period. The credit cannot be left in APS or NAPS.
- ◆ Where the four month period has passed and the Trustees have not been notified of the chosen pension provider the Trustees will transfer the credit to an external arrangement selected by them and will finalise a transfer to that arrangement on behalf of the former spouse or former civil partner as permitted by legislation. This is likely to be to a non-profit deferred annuity contract or a policy referred to as a buy-out arrangement, again usually offered by insurance companies but the exact nature of the arrangement would be clarified at that time.

***If you have any specific queries not covered above or require clarification on the above points please contact us.***

## How a Pension Debit may affect an active member's ongoing Scheme pension

*(All figures are hypothetical and for illustration purposes only)*

### Example:

#### At Effective Date of Pension Sharing Order

- ◆ Member's Pension payable from Normal Retirement Date [20 years service / 56ths of £25,000 (assumed Retiring Pay)] = £8,929 a year
- ◆ Cash Equivalent Transfer Amount (CETV) = £90,000
- ◆ Former spouse or former civil partner awarded say 20% in Pension Sharing Order (PSO). Pension credit awarded to former spouse or former civil partner is therefore 20% of £90,000 = £18,000, this amount is transferred to former spouse or former civil partner's external pension arrangement.
- ◆ Member's Pension Debit at effective date of PSO (20% of £8,929) = £1,785 a year
- ◆ If member paid AVCs the fund balance at effective date of PSO would also need to be reduced by the applicable percentage shown in the PSO. The relevant amount would be transferred to the former spouse or former civil partner's external pension arrangement along with the amount from the member's main Scheme pension.

#### At Retirement

- ◆ Member retires 10 years later, pension payable [30 years service / 56ths of £40,000 (assumed Retiring Pay at leaving date)] = £21,429 a year
- ◆ Pension Debit at retirement [Pension Debit at date of divorce plus annual increases to retirement] = £ 2,700 a year
- ◆ Member's Pension at retirement following adjustment for PSO [£21,429 less £2,700] = £18,729 a year

### HM Revenue & Customs – maximum pension benefits and contributions

- ◆ The value of the member's pension is tested against a Lifetime Allowance (LTA) when payment of the pension commences.
- ◆ For members with a PSO it is the value of the pension after reduction for the Pension Debit that will be tested against the member's LTA when his/her pension comes into payment.
- ◆ A member whose benefits are subject to a PSO may if they wish pay extra contributions to help make up some of the shortfall in pension, subject to normal tax restrictions, i.e. members cannot pay more than 100% of their annual earnings in pension contributions and if AVCs are paid, which together with the increase in pension value, exceeds the relevant Annual Allowance, could result in liability for an Annual Allowance tax charge. Contributions to the BA Schemes are up to a maximum of 30% of pay. Further details regarding the Annual Allowance can be found on the HMRC website: [www.hmrc.gov.uk](http://www.hmrc.gov.uk) or our website: [www.mybapension.com](http://www.mybapension.com)

## How a Pension Debit may affect a pension already in payment

- ◆ Pension Sharing Order should be sent by the Court to the Scheme within 7 days of the Order being made. In practice we have found that this is not always the case. **Pensioners, or their legal advisers, must forward a copy as soon as possible following the Court hearing to avoid any overpayment of pension payments.**
- ◆ On receipt of the Pension Sharing Order we will notify all parties if any of the information and charges required to discharge the pension credit remains outstanding. It is very important that any outstanding information and fees are provided quickly to avoid delays in discharging the pension credit.
- ◆ The 'Annex' to the Pension Sharing Order will specify the percentage of the pension to be transferred to the former spouse (the 'pension credit') – **the member's pension in payment will be reduced by the same percentage.**
- ◆ The 'Annex' will also specify the date on which the Order takes effect – **it is from this date that the reduction to the pension in payment will be made. If this date is before the date of the Court Order or if there is any delay in the Scheme receiving the information needed to start the implementation period it will result in the member's pension being overpaid, which will need to be repaid once the Order is implemented**
- ◆ The legislation requires that we do not implement the Order until we have received all appropriate information and fees but that when implementation occurs this must be applied with regard to the effective date of the Order.

**It is very important that every effort is taken to make sure there is no delay in receipt of the Pension Sharing Order or in any additional information and fees that are required as this could result in the Scheme having to make a retrospective change to the pension in payment, e.g. the pensioner may have already received one or more instalments of his/her 'full' pension since the effective date. In such a case the pension will need to be reduced by the appropriate percentage once all the information is received and any overpayment of pension will need to be repaid. In cases of hardship the Scheme will consider collecting any overpaid pension in instalments.**

- ▶ See next page for examples of the affect a Pension Debit can have on a pension already in payment.

**(All figures are hypothetical and for illustration purposes only)**

**Example 1 – Pension in Payment**

- ◆ Pension Sharing Order and all required information received: 30 April 2009
  - ◆ Percentage shown on Annex of Pension Sharing Order: 50%  
(i.e. percentage to be transferred to former spouse)
  - ◆ Effective date shown on Annex to Pension Sharing Order: 16 April 2009  
(i.e. the date from which the reduction to member's pension must be made)
- Member's pension (before reduction for pension share): £6,000 a year (£500 p.m.)
- Member's pension (after application of Pension Sharing Order): £3,000 a year (£250 p.m.)
- Date pension reduction applicable from: 16 April 2009

In this example, the Pension Sharing Order was received after April 2009 pension payment had been processed, which means the member's April pension payment would have been paid at the rate of £500 resulting in an overpayment of £125 (i.e. the required reduction for the period 16 – 30 April). The action taken by the Scheme would be to reduce the member's pension to £250 with effect from the May 2009 payroll to recover the overpaid pension of £125\*.

**Example 2 – Pension in Payment**

- ◆ Pension Sharing Order and all required information received: 30 November 2008
  - ◆ Percentage shown on Annex of Pension Sharing Order: 50%  
(i.e. percentage to be transferred to former spouse)
  - ◆ Effective date shown on Annex to Pension Sharing Order: 1 May 2008  
(i.e. the date from which the reduction to member's pension must be made)
- Member's pension (before reduction for pension share): £6,000 a year (£500 p.m.)
- Member's pension (after application of Pension Sharing Order): £3,000 a year (£250 p.m.)
- Date pension reduction applicable from: 1 May 2008

In this example, the Pension Sharing Order was received after the November 2008 pension payment had been processed, which means the member's pension payments since May would have been paid at the rate of £500 per month instead of £250 per month resulting in an overpayment of £1,750 (i.e. the required reduction for the period 1 May 2008 – 30 November 2008). The action taken by the Scheme would be to reduce the member's pension to £250 with effect from the December 2008 payroll and to recover the overpaid pension of £1,750\*.

\* To avoid short-term financial hardship the Scheme would consider collecting the overpaid amount in monthly instalments.

**If there is any delay in us receiving any of the required information, e.g. payment of charges, details of the spouse's pension arrangement, decree absolute, etc. this will effect the implementation date and can result in a significant retrospective adjustment to the pension in payment. Please ensure that information is provided promptly to ease any inconvenience to each party.**