

# **A brief guide to the pension provisions of the Family Law Acts and the Civil Partnership and Certain Rights and Obligations of Cohabitants Act, 2010**

## **Disclaimer**

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## Table of contents

1.	Introduction .....	5
2.	Background.....	7
	Family Law Acts.....	7
	Civil Partnership and Cohabitants Act .....	7
	General pension provisions regarding civil partnerships .....	7
	PAOs regarding civil partnerships .....	7
	Qualified cohabitant provisions.....	8
	Retirement benefits and contingent benefits.....	8
	Retirement benefits .....	8
	Contingent benefits.....	9
	Adjustment to non-pension assets.....	9
	Types of PAOs.....	9
	PAO - retirement benefits .....	9
	PAO - contingent benefits.....	10
3.	How do I obtain information on pension benefits? .....	11
	Disclosure of property and income .....	11
	Court directions.....	11
	General.....	11
	Information on retirement benefits - defined benefit scheme .....	11
	Information on retirement benefits - defined contribution scheme .....	12
	Contingent benefits.....	12
	Following the making of a PAO.....	12
4.	How do I apply for a PAO? .....	13
	Time limits to make an order: Retirement benefits.....	13
	Time limits to make an order: Contingent benefits.....	13
	Notice to pension scheme trustees.....	14
5.	How is the non-member person's share of the retirement benefits calculated? .....	15
	Designated benefits .....	15
	Role of the court .....	15
	Role of the trustees.....	15



Defined benefit .....	15
Changes in benefits.....	17
Defined contribution.....	17
Hybrid schemes.....	18
AVCs and notional service.....	18
Transfer of accrued rights from another scheme .....	19
6. How is the non-member person's share of the retirement benefits paid? .....	20
Establishment of independent benefit.....	20
The process for establishing an independent benefit.....	21
Independent benefit in the same scheme .....	22
Independent benefit in another occupational pension scheme .....	22
Independent benefit in an approved insurance policy or PRSA .....	23
Can a transfer amount be made without consent? .....	23
Payment of designated benefit .....	24
Options at retirement .....	24
7. What happens to the non-member person's share of the retirement benefit if the member spouse/civil partner/qualifying cohabitant dies?.....	26
Death prior to the commencement of the designated benefit.....	26
Death following the commencement of the designated benefit.....	26
Order in favour of a dependent child.....	26
8. What happens to the non-member person's share of the retirement benefits if they die? .....	27
Death prior to the commencement of designated benefit.....	27
Death following commencement of designated benefit.....	27
Order made in favour of a dependent child.....	28
9. What happens to death in service benefits (contingent benefits) payable under the pension scheme?.....	29
Cessation of the PAO in relation to contingent benefits .....	30
10. What if the non-member spouse/non-member civil partner/non-member qualified cohabitant remarries or gets married? .....	32
11. Who pays for the costs incurred by the trustees? .....	33
12. Can the terms of a PAO be varied? .....	34
13. How are the remaining pension benefits calculated following the making of a PAO? .....	35
Retirement benefits.....	35



Cessation of the PAO: Retirement benefits .....	35
Contingent benefits .....	36
Cessation of PAO: Contingent benefits.....	37
14. How are benefits taxed? .....	38
15. Glossary of terms.....	39
16. Appendix – Disclosure of information .....	42
17. Useful addresses .....	45

In this guide you will see certain terms in bold print. These are words or expressions commonly used in relation to pensions or which have a specific definition under the Pensions Act, 1990, as amended. You will find an explanation of any of these terms in the glossary of terms at the end of this guide.

## 1. Introduction

The Pensions Authority (the Authority) is the statutory body that supervises compliance with the requirements of the Pensions Act, 1990, as amended (the Act) by trustees of occupational pension schemes and trust RACs, PRSA providers, registered administrators and employers. The Authority also provides guidance and information to these stakeholders on their duties and responsibilities and advises the Minister for Social Protection on pension matters.

Until the mid-1990s, the courts had no way to share out pensions on a marital breakdown. Separation agreements which tried to agree a simple split of the benefits were not, and are still not, enforceable against pension scheme **trustees**. The Family Law Act, 1995 (the 1995 Act) and the Family Law (Divorce) Act, 1996 (the 1996 Act) (together referred to as the Family Law Acts) were introduced and enabled the courts to share out pension rights between separating or divorcing couples. Subsequently, the Civil Partnership and Certain Rights and Obligations of Cohabitants Act, 2010 (the Civil Partnership and Cohabitants Act) was introduced. This Act allows the court to share out pension rights between **civil partners** on the dissolution of civil partnerships and between qualified cohabitants on the ending of their relationship.

Pension rights still cannot be shared out without a court order. The laws contain a complicated system for dividing up the benefits and it is not always possible to match how the couple wants to share out the benefits with what the law requires. In such cases, one solution is to leave the parties' pensions alone but to change the way other assets are shared out.

Broadly, there are two approaches which may be taken by the court in recognising the value of pension benefits. These are:

1. The court may serve an order, known as a 'pension adjustment order' (PAO) on the **trustees** of the pension scheme of which either the spouse/**civil partner**/qualified cohabitant is a member, requiring the **trustees** of that scheme to pay a proportion of the pension benefits to the other spouse/**civil partner**/qualified cohabitant or for the benefit of a dependent member of the family.
2. The court may take account of pension benefits by means of any other type of order under the Family Law Acts (e.g., by making an adjustment to the allocation of non-pension matrimonial assets i.e., property, savings, shares etc.) or the Civil Partnership and Cohabitants Act, as appropriate.

A PAO may be made in addition to, or in substitution for, any other type of order under the Family Law Acts or the Civil Partnership and Cohabitants Act, as appropriate (such

as maintenance orders, property adjustment orders, financial compensation orders etc.). This guide sets out the process involved in making a PAO and the criteria governing the calculation and payment of benefits which are payable under such an order.

### Important Notice

PAOs may be made in respect of benefits in the following pension arrangements:

- Company pension schemes,
  - PAO on **retirement benefits**,
  - PAO on **contingent benefits**,
- **Additional Voluntary Contributions (AVCs)**,
- **Personal Retirement Savings Accounts (PRSAs)**,
- Retirement Annuity Contracts (RACs),
- Trust RACs, and
- Buy-out bonds.

It is very important to note that separate PAOs must be made for **retirement benefits** and **contingent benefits** in a company pension scheme. Separate PAOs are also required for each separate private pension arrangement that exists (for example, if you or your spouse/**civil partner**/qualified cohabitant contribute to a separate **AVC** arrangement).

The primary aim of the guide is to provide information to a person who is seeking or has obtained a PAO. It will also be of interest to those involved with the operation of pension schemes, such as scheme **trustees**.

The Authority monitors and supervises the operation of the Act and pension developments generally. The Authority does not monitor or regulate the Family Law Acts or the Civil Partnership and Cohabitants Act. However, the Act and the Occupational Pension Schemes (Disclosure of Information) Regulations, 2006 as amended (the Disclosure Regulations) detail what information the **trustees** should provide to people affected by PAOs. The appendix to this guide sets out the information that you may be entitled to if you are applying for or have obtained a PAO.

Under section 50 of the Act, **trustees** of pension schemes can reduce member benefits where certain specified conditions are met. A **designated benefit** under a PAO can be reduced as a result of a section 50 direction made on or after 1 June 2012. This is the case even if the section 50 direction is made after the date of the decree.

## 2. Background

### Family Law Acts

The 1995 Act (which applies to judicial separations and foreign divorces) and the 1996 Act oblige the courts to take the value of pension benefits into account in arriving at a financial settlement following the granting of a decree of judicial separation or divorce. The legislation only applies where the decree is granted, or the marriage dissolved, after the relevant Act was brought into operation - 1 August 1996 (judicial separations and foreign divorces) or 27 February 1997 (Irish divorces).

The legislation does not apply to separation agreements not involving the court. It should be noted that separation agreements which are not made by a court order cannot split pension benefits, as they cannot bind the **trustees** of the scheme.

### Civil Partnership and Cohabitants Act

The Civil Partnership and Cohabitants Act came into force on 1 January 2011. It extends marriage-like benefits to same gender couples in registered civil partnerships in the areas of property, social welfare, succession, maintenance, pensions and tax. It also establishes a financial redress scheme for opposite gender and same-gender cohabiting couples who meet certain conditions.

#### General pension provisions regarding civil partnerships

Section 99 of the Civil Partnership and Cohabitants Act overrides current pension scheme rules by deeming that a benefit under a pension scheme that is provided for the spouse of a person is deemed to be provided equally for the **civil partner** of a person. The extension by section 99 of spouses' entitlements to **non-member civil partners** only extends as far as the **non-member civil partner** and not to any dependants.

#### PAOs regarding civil partnerships

Where a decree of dissolution of a civil partnership is granted, either **civil partner** may apply for a PAO in respect of **retirement benefits** and a PAO in respect of **contingent benefits** (i.e., death in service benefits) under the pension scheme of which one **civil partner** is a member, in a manner broadly similar to that applying under the Family Law Acts to spouses.

## Qualified cohabitant provisions

Under the Civil Partnership and Cohabitants Act, a qualified cohabitant is an adult who was in an intimate and committed relationship with another (whether of the same or opposite gender), and who immediately before the time that the relationship ended, was living with the other adult as a couple for (i) a period of two years or more where they are the parents of one or more dependent children and (ii) for a period of five years or more in any other case.

Sections 187 and 188 of the Civil Partnership and Cohabitants Act contain provisions whereby either qualified cohabitant can apply for a PAO in respect of **retirement benefits** and **contingent benefits** at the end of the relationship whether this occurs by way of break up or death. A PAO as regards the payment of **contingent benefits** in the case of a qualified cohabitant can only be made where the rules of the scheme expressly allow this. There is no provision for the making of an order in favour of a dependent member of the family. It is possible for qualified cohabitants to enter into an agreement between themselves to provide for financial matters during the relationship or when it ends, through death or otherwise. The Civil Partnership and Cohabitants Act provides that such an agreement may provide that neither cohabitant can apply for an order of redress (including a **retirement benefit** or **contingent benefit** PAO) or an order from the estate of the **member qualified cohabitant**. In effect, this means that qualified cohabitants can contract out of the right to apply for a **retirement benefit** or **contingent benefit** order.

The main difference is that a PAO can only be made in favour of a **civil partner**; there is no provision for the making of an order in respect of a dependent member of the family (e.g., a dependent child).

For the purposes of the legislation, 'pension benefits' refers to rights earned under any type of scheme or arrangement. In this guide where the term 'pension' is used, it includes a **PRSA**.

Benefits payable under the Social Welfare Acts and disability benefits arising under an insured income continuance policy are not pension benefits and therefore the above referenced legislation does not apply.

## Retirement benefits and contingent benefits

The Family Law Acts and the Civil Partnership and Cohabitants Act divides pension benefits into two types of benefit.

### Retirement benefits

**Retirement benefits** include all benefits payable to the member of the pension scheme, or to others at, or following, retirement or earlier withdrawal from service except **contingent benefits**. **Retirement benefits** include retirement pensions, retirement lump sums or gratuities, benefits (such as **dependants'** pensions) payable following the member's death in retirement and periodic increases on all pensions whilst in payment. The definition of **retirement benefits** includes benefits arising from a previous employment which have not yet commenced, retirement pensions which are in the course of payment and benefits arising from a current employment which will commence from a future date.

### **Contingent benefits**

**Contingent benefits** are the benefits payable if a scheme member dies during employment (or self-employment) to which the scheme relates. In a company pension scheme, **contingent benefits** are generally referred to as 'death in service' benefits. The definition includes lump sum benefits and pensions payable to **dependants**, where applicable.

### **Adjustment to non-pension assets**

Although the court must take pension benefits into account, it does not follow that a PAO is mandatory. The court may decide to take **retirement benefits** into account by means of a different type of order (for example, it may decide to adjust the split of non-pension assets). Similarly, the court may decide that adequate financial protection can be made for the **non-member spouse/non-member civil partner/non-member qualified cohabitant** and any dependent children by requiring the **member spouse/member civil partner/member qualified cohabitant** to effect a suitable life assurance policy rather than making a PAO in relation to **contingent benefits** payable under a pension scheme.

In deciding whether to make the order, the court is required to consider whether adequate provision exists, or can be made, by making any of the other types of order that are available under the legislation.

### **Types of PAOs**

Where the court decides to make a PAO, it can make either or both of the following two types of order:

#### **PAO – retirement benefits**

An order in relation to **retirement benefits** may be made in favour of either the **non-**

**member spouse/non-member civil partner/non-member qualified cohabitant** or in the case of their death a personal representative. Under the Family Law Acts, a PAO with respect to **retirement benefits** may be sought on behalf of dependent members of the family (i.e., a dependent child). However, this is not possible under the Civil Partnership and Cohabitants Act.

The order is served on the **trustees** of the pension scheme and requires that they pay a specified part of the **retirement benefits** earned by the member in question to the person named in the order.

### **PAO – contingent benefits**

An order in relation to **contingent benefits** may be made in favour of the **non-member spouse/non-member civil partner/non-member qualified cohabitant**. Under the Family Law Act, an order in relation to **contingent benefits** may be sought on behalf of dependent members of the family (i.e., a dependent child).

Under the Civil Partnership and Cohabitants Act, only the **non-member civil partner or non-member qualified cohabitant** may apply for a PAO. In addition, in the case of a **non-member qualified cohabitant**, the rules of the scheme must expressly allow for this.

The order is served on the **trustees** of the pension scheme and requires that a specified part of the **contingent benefits** must be paid by them to the person(s) named in the order.

### 3. How do I obtain information on pension benefits?

#### Disclosure of property and income

If legal proceedings have started for any of the orders specified in the legislation, each spouse/**civil partner**/qualified cohabitant is required to give particulars of their property and income to the other spouse/**civil partner**/qualified cohabitant (or to a person representing any dependent children). Property and income include rights acquired under a pension scheme.

#### Court directions

With the consent of the **member spouse/member civil partner/member qualified cohabitant**, the **trustees** should, if possible, provide the information voluntarily to avoid putting the parties to the expense of obtaining a court order. If this is not possible, the court may direct pension scheme **trustees** to provide more specific information in relation to pension benefits. The **trustees** must provide the information within the period specified by the court.

The information which must be provided by the **trustees**, if so directed by the court, is as follows:

#### General

- Name of scheme or policy number.
- Name of member concerned.
- Date on which member first qualified for **retirement benefits**.
- Current **pensionable salary**.
- Details of additional benefits arising from payment of any **AVCs**.
- Details of additional benefits arising from a transfer of accrued rights from another scheme.
- Contact name and address for further enquiries.

#### Information on retirement benefits - defined benefit scheme

The information required where the spouse/**civil partner**/qualified cohabitant is a member of a **defined benefit scheme** is as follows:

- Amount of each element of **retirement benefits** accrued (or earned) to a specified

date<sup>1</sup>.

- Method of calculation of **retirement benefits**.
- Date on which **retirement benefits** become payable.
- Provision for increases in **retirement benefits**.
- Actuarial value of accrued **retirement benefits**.

## Information on retirement benefits - defined contribution scheme

The information required where the spouse/**civil partner**/qualified cohabitant is a member of a **defined contribution scheme** is as follows:

- Accumulated value of the contributions paid by, or in respect of, the member for the purposes of **retirement benefits** up to a specified date\*.
- The date on which the **retirement benefits** become payable together with a brief explanation as to how these will be calculated.

## Contingent benefits

The following information must be provided in relation to **contingent benefits** payable under the scheme:

- Amount of each element of **contingent benefits**.
- Method of calculation of **contingent benefits**.

## Following the making of a PAO

Following the making of a PAO, the pension scheme **trustees** should notify the person(s) in whose favour the order is made of the amount and nature of **retirement benefits** and/or **contingent benefits** which have been designated under the order, as the case may be. The **trustees** should also advise the person of the options available regarding any transfer amount that may be available in lieu of keeping the **designated benefit** in the pension scheme.

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<sup>1</sup> When providing information in respect of **retirement benefits**, the **trustees** will have regard to **retirement benefits** accrued to the date of the decree. If the decree has not yet been granted, the information may relate to any date within the preceding 12 months as may be specified by the **trustees**.

## 4. How do I apply for a PAO?

Either spouse/**civil partner**/qualified cohabitant (or a person representing a dependent child, where appropriate) may apply (usually through a solicitor or barrister) to the court for an order in relation to **retirement benefits** and/or **contingent benefits**. The court will not make either type of order if the spouse/**civil partner** who applies for it has remarried. As mentioned previously, PAOs are only applicable where the decree for the judicial separation or foreign divorce was granted after 1 August 1996 or where an Irish divorce is obtained following the operation of the legislation with effect from 27 February 1997. Similarly, the Civil Partnership and Cohabitants Act only came into operation on 1 January 2011 and so it is not possible for **civil partners** or qualified cohabitants to seek a PAO prior to that date.

### Time limits to make an order: Retirement benefits

An order in relation to either spouse's, **civil partner's** or qualified cohabitant's **retirement benefit** may be made at the time of the granting of the decree in the case of a **member spouse** or **member civil partner**, or the ending of the relationship in the case of a **member qualified cohabitant**, or at any time thereafter during the **member spouse** or **member civil partner's** lifetime (including after payment of their **retirement benefit** has begun).

In relation to qualified cohabitants, however, while proceedings must be instituted within the lifetime of the member, there is also a statutory limitation in place requiring that PAO applications be made within two years of the time that the relationship has ended.

A separate order will be required in respect of each pension scheme. As a result, several orders may be required if the **member spouse/member civil partner/member qualified cohabitant** is a member of more than one scheme (including insurance policies and separate arrangements for **additional voluntary contributions**).

### Time limits to make an order: Contingent benefits

An order in relation to **contingent benefits** must be made within 12 months of the granting of the decree of judicial separation or divorce or dissolution of the civil partnership. Where a **non-member qualified cohabitant** seeks a PAO order in relation to **contingent benefits**, this must be done within two years of the ending of the relationship.

As **contingent benefits** represent death benefits payable under a scheme which

relates to the current employment, it is unlikely that more than one order will be required. The order may, however, relate to several beneficiaries (i.e., a proportion of the benefits is payable to each of the **non-member spouse/non-member civil partner/non-member qualified cohabitant** and where permitted under the Family Law Acts a person representing any dependent children).

### **Notice to pension scheme trustees**

The person applying for the order(s) must give notice to the pension scheme **trustees**. In deciding whether to make an order, and in determining the provisions of the order, the court will have regard to any representations made by the **trustees**. The **trustees** should, where reasonably possible, co-operate with the parties in endeavouring to facilitate the making of a PAO on a consensual basis in order to minimise the costs of **trustee** court appearances, with the resultant cost implications to the parties.

## 5. How is the non-member person's share of the retirement benefits calculated?

### Designated benefits

Where the court decides to make a PAO in relation to **retirement benefits**, part of the **member spouse's/member civil partner's/member qualified cohabitant's** benefits is designated for payment to the non-member or to a person representing a dependent of the member, i.e., any dependent child, where applicable. This part is called the **designated benefit**.

### Role of the court

The court will rule on the two key factors which will determine the amount of the **designated benefit**. These are:

1. the **relevant period** (i.e., the period over which **retirement benefits** were earned which is to be taken into account);
2. the **relevant percentage** (i.e., the proportion of the **retirement benefits** earned during the **relevant period** which is to be allocated to the person specified in the order).

The **relevant period** may be the period of the marriage, but it need not necessarily be so. It must, however, end no later than the date of the granting of the decree of judicial separation, divorce, dissolution of civil partnership or the date of the order for redress for a qualifying cohabitant (i.e., the court may not specify a period which ends after that date). This means future benefits cannot be shared. Details of the **relevant period** and the **relevant percentage** will be contained in the order which is served on the **trustees** of the pension scheme.

### Role of the trustees

The **trustees** will then calculate the **designated benefit** following the procedure set out in the legislation. The calculation depends on whether the **retirement benefits** are determined on a defined benefit or a defined contribution basis.

### Defined benefit

If **retirement benefits** are determined on a defined benefit basis, the retirement pension and other benefits payable to the member (and their **dependants** where permitted) are calculated in accordance with the rules of the scheme.

The designated **retirement benefit** is the proportion of the member's **retirement benefit** set out in the court order. If the member retires early receiving a reduced pension the proportion in the court order applies to the reduced pension at the time of payment.

### Example – PAO in a defined benefit pension scheme

A **defined benefit pension scheme** provides a retirement pension of 1/60th of final salary for each year of **pensionable service** (i.e., the period of service which is taken into account in calculating the pension benefit) completed at age 65.

A married member, whose date of birth is 1 January 1971, joins a pension scheme on 1 January 1996 (i.e., at age 25). In this example the member ultimately retires at age 65 on a final salary of €50,000. The member is subsequently granted a decree of judicial separation on 1 January 2011.

At the time of the granting of the decree a PAO is made in relation to **retirement benefits** in favour of the **non-member spouse** which specifies:

- The **relevant period** is from 1 January 1996 to 1 January 2011 = 15 years
- The **relevant percentage** is 50%

Before the court order the members' pension would have been (40 years of earning pension) x 1/60th x €50,000 = €33,333 per year [40/60 x €50,000 = €33,333].

The court order gives the non-member spouse 50% of (15 years of marriage/40 years earning pension) x €33,333 = €6,250 per year [15/40 x €33,333/2 = €6,250].

Therefore, the residual pension benefit payable to the member is:  
€33,333 - €6,250 = €27,083 per year.

Therefore, following the PAO:

The <b>non-member spouse</b> receives	€6,250 per year
The member receives	€27,083 per year

Where there is an **AVC** element to a pension scheme you need to calculate those benefits on a defined contribution basis.

## Changes in benefits

The general principle is that changes in pension benefit design (whether an improvement or a reduction in benefit terms) which take effect prior to the date of the decree in the case of a **member spouse or member civil partner** or the ending of the relationship in the case of a **member qualified cohabitant** must be taken into account when calculating the **designated benefit**. 'Changes' does not mean losses as a result of investment performance. It means, for example, a change to normal retirement age in the pension scheme.

Changes which occur after the date of the decree are not taken into account when calculating the **designated benefit**. In other words, the **designated benefit** is calculated in accordance with the rules of the scheme in force as at the date of the decree.

## Defined contribution

If you are a member of a **defined contribution scheme**, the **relevant percentage** of the contributions paid into the **member spouse's/member civil partner's/member qualified cohabitant's** fund during the **relevant period** are worked out. The value of these contributions at the payment date is calculated after taking account of the investment returns in the meantime. That amount is then multiplied by the **relevant percentage** to work out the **non-member spouse's/non-member civil partner's/non-member qualified cohabitant's** total of the member's fund.

**Example – PAO in a defined contribution pension scheme (the same basis of calculation applies to PRSAs)**

On 1 January 2010 a decree of divorce (after ten years of marriage) is granted and a PAO is made in favour of the **non-member spouse** which specifies:

- The **relevant period** is from 1 January 2000 to 1 January 2010 = 10 years
- The **relevant percentage** is 35%

For the purposes of this example, the **trustees** or insurance company calculate the value of the contributions paid into the defined contribution pension during the **relevant period** as €50,000.

When the member ultimately retires at age 65 on 1 January 2030 (20 years later) the value of these contributions has increased, due to investment returns to €140,000.

Therefore, the **non-member spouse's** share of the member's fund is:

- $€140,000 \times 35\% = €49,000$

Therefore, following the PAO:

- The **non-member spouse** will receive €49,000 when the member retires.

## Hybrid schemes

Where a spouse is a member of a **hybrid scheme**, the **designated benefit** for the defined benefit and defined contribution segments of the scheme are calculated separately.

## AVCs and notional service

### AVCs

A member of a company pension scheme may make **AVCs** to try and enhance their **retirement benefits** or their tax-free lump sum when they retire. Members of **defined benefit schemes** and **defined contribution schemes** may make **AVCs** by:

- joining a nominated **AVC** arrangement which provides defined contribution benefits by investment through a financial institution, or
- taking out a **PRSA** (acting as an **AVC**) which works by providing defined contribution benefits by investment through a financial institution.

Where **AVCs** have been made by a member during the **relevant period** these must be taken into account in calculating the **designated benefit**. The corresponding **designated benefit** associated with the **AVCs** listed above are calculated using the general approach for **defined contribution schemes**.

*Notional service also known as ‘buying back years’*

If a member of a **defined benefit scheme** purchases notional service, it will increase the years’ service they have in the pension scheme which in turn increases their **retirement benefits**. The dependent person’s share of the **retirement benefits** and any corresponding **designated benefit** is calculated by using the defined benefit approach.

### **Transfer of accrued rights from another scheme**

Where a member is provided with additional **retirement benefits** in respect of pension rights transferred from another scheme prior to the date of the PAO and within the **relevant period** these must be taken into account in calculating the **designated benefit**.

Where a member’s rights have been transferred after the date of the PAO or where the rights relate to benefits accrued before the **relevant period**, no **designated benefit** arises in relation to the rights transferred.

## 6. How is the non-member person's share of the retirement benefits paid?

Payment of the **designated benefit** will generally commence when the **retirement benefit** starts to be paid to the **member spouse/member civil partner/member qualified cohabitant**. Alternatively, if the PAO is made in favour of the **non-member spouse/non-member civil partner/non-member qualified cohabitant** they may elect to establish an independent benefit in lieu of retaining the **designated benefit** in its original form.

### Establishment of independent benefit

If the PAO is made in favour of the **non-member spouse/non-member civil partner/non-member qualified cohabitant** then, subject to the criteria set out below, they may request the **trustees** of the scheme to establish an independent benefit instead of retaining the **designated benefit** as is. In this way, the benefit payable to the **non-member spouse/non-member civil partner/non-member qualified cohabitant** is no longer affected by decisions taken by the **member spouse/member civil partner/member qualified cohabitant**. This option is only available where the **member spouse/member civil partner/member qualified cohabitant** has not commenced receiving **retirement benefits**. No such option is available if the order is made for the benefit of a dependent child.

To facilitate the establishment of independent benefits, a 'transfer amount' is calculated which represents the value of the **designated benefit** which might otherwise be payable. The transfer amount is then applied (in either the same scheme or another pension arrangement) to provide independent benefits for the **non-member spouse/non-member civil partner/non-member qualified cohabitant**. The independent benefits must be of the same value as the transfer amount.

### Important Notice

Where the **member spouse/member civil partner/member qualified cohabitant** is a continuing member of a **defined benefit scheme**, it is important to appreciate that:

- (a) If the **non-member spouse/non-member civil partner/non-member qualified cohabitant** establishes an independent benefit then the transfer amount is calculated by reference to the **designated benefit** based on the **member spouse's/member civil partner's/member qualified cohabitant's** salary at the date of receipt of the transfer application. This means that the **non-member spouse/non-member civil partner/non-member qualified cohabitant** does not get the benefit of any salary increases (and equally does not suffer any salary decreases) which the **member spouse/member civil partner/member qualified cohabitant** may receive between the date of the transfer amount and the date the **member spouse/member civil partner/member qualified cohabitant** retires, dies or leaves service (whichever is the earlier).
- (b) If the **non-member spouse/non-member civil partner/non-member qualified cohabitant** does not establish an independent benefit, depending on the rules of the scheme they may get the benefit of any salary increases (and may suffer the impact of any salary decreases) the **member spouse/member civil partner/member qualified cohabitant** received between the date of the PAO and the date the **member spouse/member civil partner/member qualified cohabitant** retires, dies or leaves service (whichever is the earlier).

### The process for establishing an independent benefit

The **non-member spouse/non-member civil partner/non-member qualified cohabitant** in whose favour the PAO is made may establish an independent benefit by making an application in writing to the **trustees** of the scheme from which the **designated benefit** arises. The application must relate to the full **designated benefit** from the scheme (i.e., it is not possible to elect a transfer amount in respect of part of the **designated benefit**). The application may be made at any time after the making of the PAO providing payment of the **designated benefit** has not started. The application must be accompanied by whatever information is reasonably required by the **trustees**.

This may include:

- **non-member spouse's/non-member civil partner's/non-member qualified cohabitant's** date of birth (if relevant),
- name of occupational pension scheme to which the transfer amount is to be applied, (if relevant) and the written agreement of the **trustees** thereof to accept such payment,
- name of life assurance company to which the transfer amount should be applied (if relevant).

Following the receipt of a valid application, the **trustees** of the scheme must apply the transfer amount in the manner directed within three months of receiving the application.

The alternative methods of establishing an independent benefit are as follows:

### **Independent benefit in the same scheme**

An independent benefit may be established in the same scheme of which the **member spouse/member civil partner/member qualified cohabitant** is a member with the agreement of the **trustees** of the pension scheme.

In order to comply with the requirements of Revenue, the alternative benefit must be a pension payable for life and commencing not earlier than the earliest date on which the **member spouse's/member civil partner's/member qualified cohabitant's retirement benefits** could have commenced. When the pension is due to commence, part of it may be exchanged as a cash lump sum, subject to Revenue limits. Ancillary benefits (such as any **dependants'** pensions) may also be incorporated. The **trustees** of the scheme must ensure that the actuarial value of the alternative benefits is equivalent to the actuarial value of the transfer amount and must inform the **non-member spouse/non-member civil partner/non-member qualified cohabitant** of the nature and amount of the alternative benefit as soon as practical after the transfer has taken place.

### **Independent benefit in another occupational pension scheme**

If the **non-member spouse/non-member civil partner/non-member qualified cohabitant** is a member of a company pension scheme then, subject to the agreement of the **trustees** of that scheme, they may request that the transfer amount be paid to it from the scheme of which the **member spouse/member civil partner/member qualified cohabitant** is a member. This option is only available if the **designated benefit** arises due to the **member spouse's/member civil partner's/member**

**qualified cohabitant's** participation in a company pension scheme.

The independent benefit established in the receiving scheme must comply with Revenue requirements. The **trustees** of the receiving scheme must ensure that the alternative benefits are of the same actuarial value as the transfer amount and must inform the **non-member spouse/non-member civil partner/non-member qualified cohabitant** of the nature and amount of the alternative benefits as soon as practical after the transfer has taken place.

## **Independent benefit in an approved insurance policy or PRSA**

The **non-member spouse/non-member civil partner/non-member qualified cohabitant** may request the **trustees** of the **member spouse's/member civil partner's/member qualified cohabitant's** pension scheme to pay the transfer amount to an approved insurance policy or a **PRSA** and the **trustees** must comply with that request. Separate insurance policies have been approved by Revenue which are authorised to receive transfers from company pension schemes and pension policies for the self-employed.

The **trustees** of the scheme from which the **designated benefit** arises must pay the transfer amount directly to the insurance company in question. The nature of the independent benefit must comply with Revenue requirements.

## **Can a transfer amount be made without consent?**

There are two circumstances under which the **trustees** of the pension scheme from which the **designated benefit** arises may choose to transfer the rights to another scheme without obtaining the consent of the person in whose favour the PAO has been made. These are:

- where the **designated benefit** arises from the **member spouse's/member civil partner's/member qualified cohabitant's** participation in a **defined contribution scheme**; or
- where the **member spouse/member civil partner/member qualified cohabitant** ceases to be a member other than on death (usually on leaving the employment to which the pension scheme relates) and has not elected to transfer, the **trustees** can choose to transfer the **designated benefit** without obtaining the **non-member spouse's/non-member civil partner's/non-member qualified cohabitant's** consent to the transfer to another occupational pension scheme of which they are a member (subject to the consent of the **trustees** of the receiving scheme), to a buy-out-bond or where permitted a **PRSA**. The following conditions apply:

- (a) If the **member spouse/member civil partner, member qualified cohabitant** is a continuing member of a defined contribution company pension scheme, the transfer amount must include the accumulated value of the relevant percentage of the contributions made by the sponsoring employer prior to 1991 where the rules in force as at the date of application of the transfer amount allows for this.
- (b) Written notice must be given to the person in whose favour the order is made at least 30 days before the proposed transfer. This would enable the person to consider making an application for a transfer to another pension scheme.
- (c) There must be no outstanding valid request from the **non-member spouse/non-member civil partner/non-member qualified cohabitant** for a transfer to be made to another occupational pension scheme, **PRSA** or to an approved insurance policy.
- (d) The **trustees** must be satisfied that, allowing for reasonable charges, fees and costs of the receiving scheme, the value of alternative benefits provided under that scheme is equivalent to the actuarial value of the **designated benefit**.
- (e) The **trustees** must notify the person in whose favour the order is made, and the registrar or clerk of the court, of the amount transferred, and provide details of the insurance policy or pension scheme to which the transfer amount has been applied.

## Payment of designated benefit

If the **non-member spouse/non-member civil partner/non-member qualified cohabitant** in whose favour the PAO is made takes no action, the payment of the **designated benefit** will generally commence at the same time as the **retirement benefits** start to be paid to the **member spouse/member civil partner/member qualified cohabitant** (see also 'Can a transfer amount be made without consent?'). As a result, any decision taken by the **member spouse/member civil partner/member qualified cohabitant** to retire earlier or later than their normal retirement age will affect the payment of the **designated benefit** to the **non-member spouse/non-member civil partner/non-member qualified cohabitant**.

## Options at retirement

The rules of many pension schemes permit members to take a cash lump sum at the time of retirement. If the rules applying at the date of the decree contain such a

provision, an equivalent option must be made available to the person named in the PAO. This option may be exercised regardless of whether the **member spouse/member civil partner/member qualified cohabitant** chooses to exercise their option to exchange a segment of the pension for cash. Any option exercised by the **member spouse** in relation to a third party (i.e., surrender of pension for a **dependant**) must be ignored for the purposes of calculating the corresponding **designated benefit**.

The pension element of the **designated benefit** will be payable to the **non-member spouse/non-member civil partner/non-member qualified cohabitant** for so long as both they and the **member spouse/member civil partner/member qualified cohabitant** are alive.

## 7. What happens to the non-member person's share of the retirement benefit if the member spouse/civil partner/qualifying cohabitant dies?

### Death prior to the commencement of the designated benefit

If a **member spouse/member civil partner/member qualified cohabitant** dies before the **designated benefit** becomes payable, and the pension has not already been split, the **trustees** must within three months make a payment to the **non-member spouse/non-member civil partner/non-member qualified cohabitant**, being the actuarial value of what otherwise would have been payable.

### Death following the commencement of the designated benefit

If the **member spouse/member civil partner/member qualified cohabitant** dies after the benefits have come into payment, then the rules of the scheme determine whether there is any further payment due to the **non-member spouse/non-member civil partner/non-member qualified cohabitant**.

### Order in favour of a dependent child

Under the Family Law Acts, if the PAO is made for the benefit of a dependent child, the pension element of the **designated benefit** will be payable for so long as they remain a dependent member of the family. A dependent child is defined in the Family Law Acts as a child under the age of 18, or 23 if in full-time education, or any age if suffering from a mental or physical disability.

## 8. What happens to the non-member person's share of the retirement benefits if they die?

### Death prior to the commencement of designated benefit

If a PAO has been made in favour of the **non-member spouse/non-member civil partner/non-member qualified cohabitant** and they die prior to the commencement of the **designated benefit** (and prior to any decision to transfer the **designated benefit** to another scheme or policy) an amount must be paid to their personal representative (for the benefit of the estate) within three months of the date of death.

It is important that the **non-member spouse/non-member civil partner/non-member qualified cohabitant** maintains contact with the **trustees** of the scheme during their lifetime (i.e., by notifying of changes in address etc.) and that arrangements are made for the **trustees** to be notified in the event of death.

The amount paid on death is calculated as the transfer amount that would otherwise have been available to the **non-member spouse/non-member civil partner/non-member qualified cohabitant**, for the purposes of establishing an independent benefit, immediately prior to their death (see section 6).

If, prior to their death, the **non-member spouse/non-member civil partner/non-member qualified cohabitant** had chosen to, or the **trustees** had decided to, apply a transfer amount in lieu of receiving the **designated benefit**, death benefits will be paid in accordance with the benefit terms granted in the receiving scheme or insurance policy.

### Death following commencement of designated benefit

If a PAO has been made in favour of the **non-member spouse/non-member civil partner/non-member qualified cohabitant** and they die before the **member spouse/member civil partner/member qualified cohabitant** but after the commencement of the **designated benefit**, an amount equal to the actuarial value of the part of the **designated benefit** which was due must be paid to the personal representative of that person (for the benefit of the estate) within three months of the date of death.

In other words, the value of the **designated benefit** which may otherwise have been payable following the death of the **member spouse/member civil partner/member qualified cohabitant** is not taken into account.

## **Order made in favour of a dependent child**

Under the Family Law Acts, where a PAO has been made in favour of a dependent child and they die either before or after the commencement of the **designated benefit**, no payment is made and the order ceases to have effect.

## 9. What happens to death in service benefits (contingent benefits) payable under the pension scheme?

**Contingent benefits** refer to lump sums and/or **dependants'** pensions which are payable under the rules of a pension scheme following the death of the member during relevant employment (or self-employment) before reaching normal retirement age under the scheme rules. If the **non-member spouse/non-member civil partner/non-member qualified cohabitant** wishes to seek a PAO in relation to **contingent benefits**, this must be made separately from any application in relation to **retirement benefits**.

As mentioned previously, in the case of qualified cohabitants, for an order to be made in respect of the **contingent benefits** of a **member qualified cohabitant**, the rules of the scheme must expressly allow for payments of **contingent benefits** to **qualified cohabitants**. A PAO over **contingent benefits** cannot be made under the Civil Partnership and Cohabitants Act for the benefit of a dependent child. Only the **non-member civil partner/non-member qualified cohabitant** may apply for the order.

The procedure of applying for a PAO is outlined in section 4. Most importantly, in the context of an order in relation to **contingent benefits**, the application must be made at the time of the granting of the decree or within 12 months after the granting of the decree of judicial separation, divorce or dissolution of the civil partnership. Where a **non-member qualified co-habitant** seeks a PAO order in relation to **contingent benefits**, this must be done within two years of the ending of the relationship.

The court will determine whether a PAO should be made and the provisions of the order. Specifically, the order will detail the person or persons in whose favour it is made (this may be the **non-member spouse/non-member civil partner/non-member qualified cohabitant**, any dependent of the **member spouse** and/or a person representing the **member spouse**) and the percentage of each element of the **contingent benefits** that is to be payable to such person(s). On the death of the **member spouse/member civil partner** during relevant employment (or self-employment), the percentage of **contingent benefits** as specified in the order must be paid to the appropriate person(s). The **contingent benefits** in question are those applying based on the rules of the scheme at the date of the judicial separation or divorce or dissolution of civil partnership (i.e. subsequent improvements or reductions in **contingent benefits** are ignored) and, if relevant, the **member spouse's/member civil partner's/member qualified cohabitant's** salary (or **pensionable salary**) at the date of death.

### **Example – death in service benefit (contingent benefit)**

The rules of a pension scheme provide for a lump sum death benefit. The maximum allowed under Revenue rules is four times the member's salary at the date of death to be paid on the death of the member during employment. The member's salary at date of death is €50,000.

A PAO is made in relation to the **member spouse's contingent benefits**, in favour of the **non-member spouse**, which specifies:

- **Contingent benefit** = Lump sum of 4 times salary at date of death
- Percentage of **contingent benefit** to be paid to **non-member spouse** = 70%

Therefore, the amount of benefit paid to the **non-member spouse**, in accordance with the order, is calculated as:

- $4 \times €50,000 = €200,000 \times 70\% = €140,000$

### **Cessation of the PAO in relation to contingent benefits**

An order in relation to **contingent benefits** ceases to have effect if the **member spouse** no longer qualifies for **contingent benefits** due to the termination of their relevant employment (or self-employment) to which the scheme applies. In this eventuality, the **trustees** of the scheme in question are required to notify the dependent family, and the registrar or clerk of the court, of such cessation.

Furthermore, the PAO will cease to have effect for that person in the event of:

- where the order was made in favour of the **non-member spouse, non-member civil partner or non-member qualified cohabitant**, the remarriage, or marriage of that spouse, **civil partner** or qualified cohabitant,
- the ending of dependency in the case of a dependent child,
- the death of the dependent person named in the order.

If the order ceases to have effect in relation to one person it may continue to apply to others. For example, once a dependent child has attained age 18 (assuming they are not in full-time education) the order will cease to have effect for that person. However, the same order may continue to apply to the **non-member spouse/non-member civil**

**partner/non-member qualified cohabitant** (based on the percentage of **contingent benefits** specified in the order).

### Important Notice

In many ways an order in relation to **contingent benefits** may be a limited form of protection for the dependent family because:

- it ceases to have effect if the **member spouse/member civil partner/member qualified cohabitant** leaves the scheme or changes employment, and
- if the **non-member spouse/non-member civil partner/non-member qualified cohabitant** remarries or gets married, they are no longer entitled to the benefits of the order.

The court is required to consider the question of whether adequate and reasonable financial provision exists or can be made for the **dependants** by means of any of the other orders that are available under the Acts prior to making a PAO. Depending on individual circumstances, consideration might be given by the **dependants** to apply for another form of protection (e.g., a financial compensation order which would require the **member spouse/member civil partner/member qualified cohabitant** to effect and continue paying premiums to a life assurance policy for the benefit of their **dependants**).

## 10. What if the non-member spouse/non-member civil partner/non-member qualified cohabitant remarries or gets married?

One of the conditions which must be met before the court will consider granting a PAO is that the **non-member spouse/non-member civil partner/non-member qualified cohabitant** has not re-married or got married.

Thereafter, where a PAO in relation to **retirement benefits** has been made, the PAO will be unaffected by a subsequent change in the marital status of **the non-member spouse/non-member civil partner/non-member qualifying cohabitant**.

On the other hand, a PAO in relation to **contingent benefits** ceases to have effect in relation to the **non-member spouse/non-member civil partner/non-member qualifying cohabitant** in the event of a change to their marital status. The order may, however, continue to apply to others where this is permitted under the legislation (see 'Cessation of the PAO').

## 11. Who pays for the costs incurred by the trustees?

The legislation provides that costs incurred by the **trustees** in complying with a PAO, or a direction of the court, shall be borne by the **member spouse/member civil partner/member qualified cohabitant** and the other person concerned, in such proportions as the court may determine. Similarly, costs incurred by the **trustees** where they choose to make representations to the court, following notice of an application for an order, shall be borne by the parties to the proceedings, as the court may determine.

If the court does not determine the basis of apportionment of such costs, these shall be borne equally between the parties.

If a person fails to reimburse the **trustees** for such costs, the **trustees** may, on application to the court, seek an order that the costs may be recovered by deduction from any benefits due to that person under the scheme or pursuant to the PAO, as appropriate.

## 12. Can the terms of a PAO be varied?

Unless the PAO provides otherwise, a PAO made in relation to either spouse's/**civil partner's retirement benefits** may, on application to the court, be varied or discharged by a subsequent order. However, there is no power under the Family Law Acts or the Civil Partnership and Cohabitants Act to vary a PAO order in relation to **contingent benefits** made in favour of a **non-member spouse/non-member civil partner**.

As regards qualified cohabitants, the court may on application to it vary or discharge PAOs in relation to both **retirement benefit** and **contingent benefit** orders.

## 13. How are the remaining pension benefits calculated following the making of a PAO?

### Retirement benefits

Following the making of a PAO in relation to **retirement benefits**, the residual benefits payable to the **member spouse/member civil partner/member qualified cohabitant** are calculated by reducing the **retirement benefits**, payable under the rules of the pension scheme by the amount of the **designated benefit**.

### Example – calculating the remaining retirement benefits

In the earlier defined benefit example on page 16, the residual retirement pension payable to the **member spouse** was calculated as:

- €33,333 (**pensionable service**) - €6,250 per year (allocated to **non-member spouse** under the PAO) = €27,083 per year (the residual benefit payable to the **member spouse**).

The approach described above applies regardless of any decision to transfer the **designated benefit** to another scheme or policy and is also unaffected by the payment of an amount following the death of the **non-member spouse**.

In other words, in such cases, residual **retirement benefits** payable to the **member spouse/member civil partner/member qualified cohabitant** are calculated by reducing the benefits payable in accordance with the scheme rules by the amount of the **designated benefit** which would have been payable had the transfer or death not taken place.

### Cessation of the PAO: Retirement benefits

Following the cessation of the PAO, **retirement benefits** are payable to the **member spouse/member civil partner/member qualified cohabitant** under the rules of the pension scheme without any reduction in respect of the **designated benefit**.

The circumstances under which a PAO may cease are:

- if the order is made in favour of a dependent child, either at (i) the ending of dependency of that child or (ii) death of the dependent child,
- if the order is made in favour of the **non-member spouse/non-member civil**

**partner/non-member qualified cohabitant** and the **designated benefit** has commenced, following both their death and the death of the **member spouse/member civil partner/member qualified cohabitant**.

## Contingent benefits

Following the making of a PAO in relation to **contingent benefits**, the residual benefits payable to the **member spouse's/member civil partner's/member qualified cohabitant's** estate are calculated by reducing the death benefits payable under the scheme in accordance with the rules of the scheme by the amount of death benefit allocated under the order. If a benefit has been allocated to the **non-member spouse/non-member civil partner/non-member qualified cohabitant** under a **retirement benefits** order the residual **contingent benefit** is further reduced by the amount of the lump sum payable in respect of the **retirement benefits** order.

### Example – calculating the residual contingent benefit

On the death of a member in service an amount equal to the designated **contingent benefit** is payable to the **non-member spouse** as follows:

- Death in service lump sum payable under the scheme rules = 4 x salary  
Member's salary at date of death = €45,000
- **Contingent benefit** under PAO = 50%  
On the member's death a lump sum equal to €90,000 (4 x €45,000 x 50%) is payable to the **non-member spouse**.

If a PAO had also been made in relation to **retirement benefits** an additional amount is also payable to the **non-member spouse** on the death of the member in service. This amount is equal to the actuarial value of the **retirement benefit** that would have been payable to the **non-member spouse**.

For example, the member above dies in service with 35 years' service in a pension scheme and the **non-member spouse** has been granted a PAO in respect of 50% of the benefit earned by the member during the 15 years of marriage, an additional sum is payable to the **non-member spouse** calculated as follows:

- At the date of death, the member's pension would have been (35 years of earning pension) x 1/60th x €45,000 = €26,250.
- Separately, the PAO gives the **non-member spouse** 50% of (15 years of marriage/35 years of earning pension) X €26,250 = €5,625 per year.

The residual **contingent benefits** payable under the rules of the scheme (usually paid to the estate of the member) are calculated as:

- €180,000,
- less €90,000 (paid to the **non-member spouse**),
- less €88,000 (the actuarial value of €5,625 per year).

Therefore, the residual **contingent benefits** = €2,000 (This sum is usually paid to the estate of the member).

### **Cessation of PAO: Contingent benefits**

Following the cessation of an order in relation to **contingent benefits** (see section 9) death benefits are payable in accordance with the rules of the pension scheme (except that a reduction may continue to apply in relation to death benefits payable under a separate order relating to **retirement benefits**).

## 14. How are benefits taxed?

Pension payments made under a PAO are treated as income and, subject to any tax-free allowance, are chargeable to income tax under the Pay As You Earn (PAYE) system in the same way as the member's pension. Separated spouses/**civil partners** will be assessed to income tax as single persons unless they elect for joint assessment. Where a divorce or dissolution of civil partnership has been obtained, each spouse/**civil partner** will automatically be assessed to income tax as a single person unless they remarry.

As joint assessment can only be claimed if a couple are married or in a civil partnership, qualified cohabitants are assessed as single individuals and continue to be assessed as single individuals in the event that the relationship comes to an end.

Under current Revenue practice, lump sum payments on retirement, which are part of either a **designated benefit** or an independent benefit established following transfer, are tax free subject to certain Revenue limits.

Where part, or all, of the **designated benefit** consists of a refund of part of the contributions made by the **member spouse/member civil partner/member qualified cohabitant**, such refunds are currently chargeable to tax at the rate of 20%.

Payments made under a PAO in relation to **retirement benefits** following the death of either the **non-member spouse/non-member civil partner** or the **member spouse/member civil partner** are not subject to income tax. They may, however, attract a liability for **capital acquisitions tax**. Similar criteria apply to payments made under an order in relation to **contingent benefits**.

Where a decree has been obtained, any payment on the death of the **member spouse/member civil partner** to the **non-member spouse/non-member civil partner** in relation to a PAO is exempt from **capital acquisitions tax**.

## 15. Glossary of terms

**Additional voluntary contributions (AVCs):** Additional contributions paid by a member of an occupational pension scheme in order to secure benefits over and above those set out in the rules of the scheme. Where an occupational pension scheme does not provide access to an AVC facility, a standard PRSA must be offered for this purpose.

**Capital Acquisitions Tax:** A tax on benefits either from (i) gifts from a living person or (ii) inheritances (received from a deceased person).

**Civil partner:** Has the meaning it has under the Civil Partnership and Cohabitants Act but for the purpose of this guidance also includes a person who is party to a civil partnership that has been dissolved.

**Contingent benefits:** Benefits payable from a pension scheme in the event of the death of the member during the period of employment (or self-employment) to which the scheme relates.

**Defined benefit scheme (also known as ‘final salary scheme’):** Defined benefit schemes provide members with retirement and death benefits based on formulae set out in the rules of the scheme. Benefits are often based on a members’ salary close to retirement (or earlier leaving service) and on their completed pensionable service. For this reason, these schemes are sometimes known as ‘final salary’ schemes. However defined benefit schemes may also be ‘career average’ schemes in which the pension calculation is typically based on the member’s average earnings while a member of the scheme.

**Defined contribution scheme (also known as ‘money purchase plan’):** Defined contribution schemes provide retirement benefits based on the accumulated value of contributions paid to a pension scheme by or on behalf of a member, including the investment returns earned on those contributions less any charges. As such, it is the contributions that are ‘defined’ or known, as opposed to the benefits that the member will receive at retirement.

**Dependant:** A person who depends financially on a scheme member or pensioner. Children are generally regarded as dependants until they reach the age of 18 or leave full-time education or vocational training, if later. A spouse/civil partner is always regarded as a dependant and a cohabiting partner is generally considered a dependant also. The definition of a dependant for any particular scheme is typically set out in the rules of the scheme, available from the trustees.

**Designated benefit:** The part of a member's retirement benefit which is allocated for payment to their former spouse/civil partner/qualified cohabitant or children under a pension adjustment order. See the Pensions Authority's 'Pensions on separation and divorce checklist' available [here](#).

**Hybrid scheme:** A scheme which combines features of two or more types of pension design e.g., a defined benefit scheme with a defined contribution element.

**Member civil partner:** In the context of a PAO granted under the Civil Partnership and Cohabitants Act, the civil partner who is a member of the pension scheme or arrangement from which the order is being sought.

**Member qualified cohabitant:** In the context of a PAO granted under the Civil Partnership and Cohabitants Act, the qualified cohabitant who is a member of the pension scheme or arrangement from which the order is being sought.

**Member spouse:** In the context of a PAO made under the Family Law Acts, the spouse who is the member of the pension scheme from which the order is being sought.

**Non-member civil partner:** In the context of a PAO made under the Civil Partnership and Cohabitants Act, the civil partner who is not a member of the pension scheme or arrangement from which the order is being sought.

**Non-member qualified cohabitant:** In the context of a PAO made under the Civil Partnership and Cohabitants Act, the qualified cohabitant who is not the member of the scheme from which the order is being sought.

**Non-member person:** When this guidance refers to a 'non-member person' that includes a non-member spouse, non-member civil partner and non-member qualified cohabitant as defined for the purposes of this guidance.

**Non-member spouse:** In the context of a PAO made under the Family Law Acts, the spouse who is not a member of the pension scheme or arrangement from which the order is being sought.

**Pensionable earnings/Pensionable salary:** The earnings or salary on which contributions, pensions and lump sum benefits are typically calculated in a pension scheme.

**Pensionable service:** The period of service which is taken into account in calculating the pension benefit.

**Personal Retirement Savings Account (PRSA):** A PRSA is a personal pension contract that you take out with an authorised PRSA provider. It is an investment account that you use to save for your retirement. Your savings can be accessed at retirement. PRSAs are a type of defined contribution arrangement. You get tax relief on your contributions to your account within Revenue limits. A register of authorised PRSA providers and their approved PRSA products is available [here](#).

**Relevant percentage:** The proportion of the member spouse's/member civil partner's/member qualified cohabitant's retirement benefits earned during the relevant period, as specified by the court, which must be paid to the non-member dependent spouse/non-member civil partner/non-member qualified cohabitant or other dependents of the member (where permitted under the legislation) under a PAO.

**Relevant period:** The period during which the member spouse's/member civil partner's/member qualified cohabitant's retirement benefits were earned, as specified by the court, which must be taken into account in determining the designated benefit.

**Retirement benefits:** This means any payment arising under a pension scheme, payable to the member spouse/member civil partner/member qualified cohabitant or to others, at and following retirement.

**Trustee(s):** An individual or a company which alone or jointly becomes the legal owner of assets to be administered for the benefit of someone else (the beneficiaries), in accordance with the provisions of the document creating the trust and the provisions of trust law generally and the Pensions Act, 1990, as amended.

## 16. Appendix – Disclosure of information

The Act and the Disclosure Regulations advise on what information must be disclosed by **trustees** of company pension schemes when dealing with PAOs.

The following table sets out the information that you may be entitled to where you are applying for or have obtained a PAO.

PAO disclosure requirements		
Event	Contents	Disclosure
Once <b>trustees</b> are notified of PAO.	<ul style="list-style-type: none"> <li>• Details of amount and nature of the benefit under the PAO.</li> <li>• Statement that the <b>non-member spouse/non-member civil partner/non-member qualified cohabitant</b> is advised to notify <b>trustees</b> of any change of address.</li> <li>• The name and address of the person to whom enquiries should be sent.</li> <li>• A note that further information may be obtained from the Pensions Authority.</li> </ul>	As soon as practicable to persons specified in the PAO but no later than two months of notification of the PAO.
Member's relevant employment terminates.	<ul style="list-style-type: none"> <li>• Statement that any <b>contingent benefit</b> awarded ceases.</li> <li>• Statement of options available to the <b>non-member spouse/non-member civil partner/non-member qualified cohabitant</b>.</li> <li>• The name and address of the person to whom enquiries should be sent.</li> <li>• A note that further information may be obtained from the Pensions Authority.</li> </ul>	As soon as practicable to <b>non-member spouse/non-member civil partner/non-member qualified cohabitant</b> but no later than two months of notice to <b>trustees</b> that the member's relevant employment has terminated.
Member leaves the scheme otherwise than on death.	<ul style="list-style-type: none"> <li>• A statement that the member has ceased to be a member of the scheme.</li> </ul>	As soon as practicable to <b>non-member spouse/non-member</b>

	<ul style="list-style-type: none"> <li>• A statement of options available to the <b>non-member spouse/ non-member civil partner/non-member qualified cohabitant</b>.</li> <li>• The name and address of the person to whom enquiries should be sent.</li> <li>• A note that further information may be obtained from the Pensions Authority.</li> </ul>	<p><b>civil partner/non-member qualified cohabitant</b> but no later than two months of the member ceasing to be a member of the pension scheme.</p>
<p>Member ceases to be in reckonable service and no transfer of the <b>non-member spouse's/ non-member civil partner's/non-member qualified cohabitant's</b> benefit has been made.</p>	<ul style="list-style-type: none"> <li>• Statement of options available to the <b>non-member spouse/ non-member civil partner/ non-member qualified cohabitant</b>.</li> <li>• The name and address of the person to whom enquiries should be sent.</li> <li>• A note that further information may be obtained from the Pensions Authority.</li> </ul>	<p>Within two months of the member or employer notifying <b>trustees</b> that the member is no longer in reckonable service of the pension scheme.</p>
<p><b>Trustees</b> exercise their options to apply the transfer amount.</p>	<ul style="list-style-type: none"> <li>• The date of application of the transfer amount.</li> <li>• Name and address of the scheme/undertaking who will be responsible for the <b>non-member spouse/non-member civil partner/non-member qualified cohabitant</b> transferred benefits.</li> <li>• A note that further information may be obtained from the Pensions Authority.</li> </ul>	<p>As soon as practicable to <b>non-member spouse/ non-member civil partner/non-member qualified cohabitant</b> but no later than two months of notice to <b>trustees</b>.</p>



<p>Information about <b>designated benefits</b> made on request by the <b>non-member spouse/non-member civil partner/non-member qualified cohabitant</b>.</p>	<ul style="list-style-type: none"><li>• Estimate of transfer amount including, in a <b>defined benefit scheme</b>, whether any reduction has been made in calculating the transfer amount due to the scheme being in deficit.</li><li>• A statement of options available.</li><li>• A note that further information may be obtained from the Pensions Authority.</li></ul>	<p>As soon as practicable but no later than two months after the request for information is made.</p>
<p>Information about <b>contingent benefits</b> made on request by <b>non-member spouse/non-member civil partner/non-member qualified cohabitant</b>.</p>	<ul style="list-style-type: none"><li>• Estimate of <b>contingent benefits</b>.</li><li>• A note that further information may be obtained from the Pensions Authority.</li></ul>	<p>As soon as practicable but no later than two months after the request for information is made.</p>



## 17. Useful addresses

### Department of Social Protection

Social Welfare Services

College Road

Sligo

F91 T384

Tel: (071) 915 7100/0818 200 400

Email: [state.con@welfare.ie](mailto:state.con@welfare.ie) (for State Pension (Contributory) queries)

Email: [state.noncon@welfare.ie](mailto:state.noncon@welfare.ie) (for State Pension (Non-Contributory) queries)

Web: [www.welfare.ie](http://www.welfare.ie)

### Family Law Office (Dublin Circuit Court)

Phoenix House

15/24 Phoenix Street North

Smithfield

Dublin 7

D07 X028

Tel: (01) 888 6806/6812/6818

Email: [dublincircuitfamilylaw@courts.ie](mailto:dublincircuitfamilylaw@courts.ie)

Web: [www.courts.ie](http://www.courts.ie)

### Financial Services and Pensions Ombudsman

Lincoln House

Lincoln Place

Dublin 2

D02 VH29

Tel: (01) 567 7000

Email: [info@fspo.ie](mailto:info@fspo.ie)

Web: [www.fspo.ie](http://www.fspo.ie)

### Irish Human Rights and Equality Commission

16-22 Green Street

Dublin 7

D07 CR20

Tel: (01) 858 9601

Email: [info@ihrec.ie](mailto:info@ihrec.ie)

Web: [www.ihrec.ie](http://www.ihrec.ie)



An tÚdarás Pinsean  
The Pensions Authority

### **Legal Aid Board**

Quay Street,

Cahirciveen,

Co. Kerry.

V23 RD36

Tel: (01) 646 9600

Email: [info@legalaidboard.ie](mailto:info@legalaidboard.ie)

Web: [www.legalaidboard.ie](http://www.legalaidboard.ie)

### **The Pensions Authority**

Verschoyle House

28/30 Lower Mount Street

Dublin 2

D02 KX27

Tel: (01) 613 1900/0818 65 65 65

Email: [info@pensionsauthority.ie](mailto:info@pensionsauthority.ie)

Web: [www.pensionsauthority.ie](http://www.pensionsauthority.ie)