

**Pensions & Compensation
Policy Instruction**

**The Armed
Forces Pension
Schemes**

PCPI 07/14

2014

Reference: CDP Remuneration – AFPS - Pensions – Pension Sharing on Divorce

Pension Sharing on Divorce – Period of Appeal

Which schemes are affected:	All pension schemes
Who should read this:	DBS Veterans UK
Date of Issue	3 August 2014
When it takes effect:	Immediate
Review date:	-
Contact points:	CDP Rem AFPS Pol 4 – 9621 87573

INTRODUCTION / ISSUE

1. Change to the period of appeal allowed when a Pension Sharing Order is issued by the Court.

POLICY INTENT

2. The period of appeal has increased from 21 days (14 days plus 7 days) to 28 days (21 days plus 7 days). The Pension Sharing Order cannot take effect until after this appeal period has expired

RISK

3. This change is in line with the requirements of the Court. Failure to apply the change may lead to complaints from parties to a divorce that the legal requirements imposed by the Court have not been complied with.

COMMUNICATIONS

4. The Pension Sharing on Divorce and Dissolution of Civil Partnerships booklet will be updated in due course. A copy of this PCPI will be sent to GAD for information.

BACKGROUND

5. The period allowed for appeal was changed by the Court Procedure Rules - 'Practice Direction 30a – Appeals – Part 30' – see Annex A. This practice direction changed the appeal period from 21 days to 28 days; this was made effective from 1 April 2011. The period allowed for appeal is also on the Pension Sharing Order.

ACTION REQUIRED

6. DBS Veterans UK is required to note this change and amend any communications / standard letters that include a reference to the appeal period.

Distribution:

CDP Remuneration - AF Pensions AHd

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COURT PROCEDURE RULES

1. Extract from – Procedure Rules Part 30 - Appeals

http://www.justice.gov.uk/courts/procedure-rules/family/parts/part_30

Appellant's notice

30.4

(1) Where the appellant seeks permission from the appeal court it must be requested in the appellant's notice.

(2) Subject to paragraph (3), the appellant must file the appellant's notice at the appeal court within -

(a) such period as may be directed by the lower court (which may be longer or shorter than the period referred to in sub-paragraph (b)); or

(b) where the court makes no such direction, 21 days after the date of the decision of the lower court against which the appellant wishes to appeal.

(3) Where the appeal is against –

(a) a case management decision; or

(b) an order under section 38(1) of the 1989 Act,

the appellant must file the appellant's notice within 7 days beginning with the date of the decision of the lower court.

(4) Unless the appeal court orders otherwise, an appellant's notice must be served on each respondent and the persons referred to in paragraph (5) –

(a) as soon as practicable; and

(b) in any event not later than 7 days,
after it is filed.

(5) The persons referred to in paragraph (4) are –

(a) any children's guardian, welfare officer, or children and family reporter;

(b) a local authority who has prepared a report under section 14A(8) or (9) of the 1989 Act;

(c) an adoption agency or local authority which has prepared a report on the suitability of the applicant to adopt a child;

(d) a local authority which has prepared a report on the placement of the child for adoption; and

Respondent's notice

30.5

(1) A respondent may file and serve a respondent's notice.

(2) A respondent who –

(a) is seeking permission to appeal from the appeal court; or

(b) wishes to ask the appeal court to uphold the order of the lower court for reasons different from or additional to those given by the lower court,

must file a respondent's notice.

- (3) Where the respondent seeks permission from the appeal court it must be requested in the respondent's notice.
- (4) Subject to paragraph (4A), a respondent's notice must be filed within –
- (a) such period as may be directed by the lower court; or
 - (b) where the court makes no such direction, 14 days beginning with the date referred to in paragraph (5).
- (4A) Where the appeal is against a case management decision, a respondent's notice must be filed within –
- (a) such period as may be directed by the lower court; or
 - (b) where the court makes no such direction, 7 days beginning with the date referred to in paragraph (5).
- (5) The date referred to in paragraph (4) is –
- (a) the date on which the respondent is served with the appellant's notice where –
 - (i) permission to appeal was given by the lower court; or
 - (ii) permission to appeal is not required;
 - (b) the date on which the respondent is served with notification that the appeal court has given the appellant permission to appeal; or
 - (c) the date on which the respondent is served with notification that the application for permission to appeal and the appeal itself are to be heard together.
- (6) Unless the appeal court orders otherwise, a respondent's notice must be served on the appellant, any other respondent and the persons referred to in rule 30.4(5) –
- (a) as soon as practicable; and
 - (b) in any event not later than 7 days, after it is filed.
- (7) Where there is an appeal against an order under section 38(1) of the 1989 Act –
- (a) a respondent may not, in that appeal, bring an appeal from the order or ask the appeal court to uphold the order of the lower court for reasons different from or additional to those given by the lower court; and
 - (b) paragraphs (2) and (3) do not apply.

Grounds of appeal

30.6

The appeal notice must state the grounds of appeal.

Variation of time

30.7

- (1) An application to vary the time limit for filing an appeal notice must be made to the appeal court.
- (2) The parties may not agree to extend any date or time limit set by –
- (a) these rules;

(b) Practice Direction 30A; or

(c) an order of the appeal court or the lower court.

(Rule 4.1(3)(a) provides that the court may extend or shorten the time for compliance with a rule, practice direction or court order (even if an application for extension is made after the time for compliance has expired).)

(Rule 4.1(3)(c) provides that the court may adjourn or bring forward a hearing).

2. Extract from - Practice Direction 30a – Appeals

http://www.justice.gov.uk/courts/procedure-rules/family/practice_directions/pd_part_30a

Appeals against pension orders and pension compensation sharing orders

11.1

Paragraph 11.2 below applies to appeals against –

(a) a pension sharing order under section 24B of the Matrimonial Causes Act 1973 or the variation of such an order under section 31 of that Act;

(b) a pension sharing order under Part 4 of Schedule 5 to the Civil Partnership Act 2004 or the variation of such an order under Part 11 of Schedule 5 to that Act;

(c) a pension compensation sharing order under section 24E of the Matrimonial Causes Act 1973 or a variation of such an order under section 31 of that Act; and

(d) a pension compensation sharing order under Part 4 of Schedule 5 to the Civil Partnership Act 2004 or a variation of such an order under Part 11 of Schedule 5 to that Act.

11.2

Rule 4.1(3)(a) (court's power to extend or shorten the time for compliance with a rule, practice direction or court order) does not apply to an appeal against the making of the orders referred to in paragraph 11.1 above in so far as that rule gives the court power to extend the time set out in rule 30.4 for filing and serving an appellant's notice after the time for filing and serving that notice has expired.

11.3

In so far as rule 30.7 (Variation of time) may permit any application for variation of the time limit for filing an appellant's notice after the time for filing the appellant's notice has expired, that rule shall not apply to an appeal made against the orders referred to in paragraph 11.1 above.