

Your Legal Questions

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Q I have been married to my husband for 30 years. We have two grown up children. I worked when we first married as a shop assistant, gave up work when I had the children so I could bring them up and now work part-time in a small shop. My husband has always worked and I believe, will have a good pension when he retires. My husband has now told me that he is going to leave me and wants a divorce. I am very worried that I will not have any income apart from my State Pension when I retire.

A When considering financial settlement, on a divorce, all family assets are considered. Included in the assets are the pensions of either or both parties.

If and when a divorce takes place the Court can as part of resolving the financial aspects of the case make a Pension Sharing order. This involves the splitting of any pensions between the couple. If you were to benefit from a Pension Sharing Order then a percentage of what is known as the Cash Equivalent Transfer Value of your husband's pension would be transferred to you. You would have to use that sum to put in a pension scheme in your own name to provide a pension for yourself on retirement. It would be completely separate from your husband's pension scheme. You would not be able to use that sum for anything else.

Pension sharing is only possible by an order of the Court in divorce proceedings and is only implemented when Decree Absolute has been pronounced and it cannot be varied. Although there has to be an order of the Court if you and your husband are able to reach an agreement as to how his pension is to be shared you can ask the Court to make the order, within the divorce proceedings, by consent, ie there doesn't have to be a Court hearing to resolve how much should be transferred.

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