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DIVORCE ORDERS

Previous Legislation

Since 1989, a court granting a decree of divorce can order that a portion of one spouse's pension savings is allocated to the other spouse. The court usually orders the relevant pension fund to endorse its records accordingly.

The Divorce Act provides that this payment must occur when a benefit accrues in terms of the rules of the pension fund, by way of a deduction from the benefit. This resulted in the ex-spouse often having to wait many years, until the member spouse withdrew, retired or passed away, before receiving his/her allocation. The situation was further aggravated by the fact that no interest or growth accrued to the ex-spouse between the date of divorce and the date of payment.

Amended Legislation

Amendments to the Pension Funds Act take effect on 13 September 2007, and provide that where a divorce order is made in future, the allocation to an ex-spouse from pension savings will accrue on the date of the court order, provided that the relevant retirement fund is notified accordingly. The ex-spouse can also elect to take his/her allocation in cash or transfer it to an approved retirement fund.

Other Implications

The above amended legislation will clearly have a greater impact on divorced members' retirement planning than was previously the case. Members are reminded of the income tax implications on divorce allocations and are advised to obtain accurate information before a final divorce agreement is reached.

For more information you may contact the Legal Department of the Funds on: (011) 481 8000.