

# Divorce: Is Your Pension Your Biggest Asset?

*Keeping your pension could be your top priority in the division of marital assets during a divorce, writes Solicitor David Higgins.*

Often when discussions about divorce arise, there is an assumption that the family home is the biggest asset and parties to a divorce may place a major focus on the family home. However, in reality, and certainly given property market values of the past few years, a pension may be the most valuable asset.

Typically the parties and the courts will deal with the pension itself, the pension lump sum, spousal death in service benefits and spousal death in retirement benefits. It should be noted that if one spouse has a substantial pension and the other spouse has none, perhaps because he or she worked in the home, the court can order that part of the spouse's pension be paid to the other spouse or to a dependent child. Alternatively, part of the pension fund could be split and put into another pension fund in the name of the second spouse. This is known as a pension adjustment order.

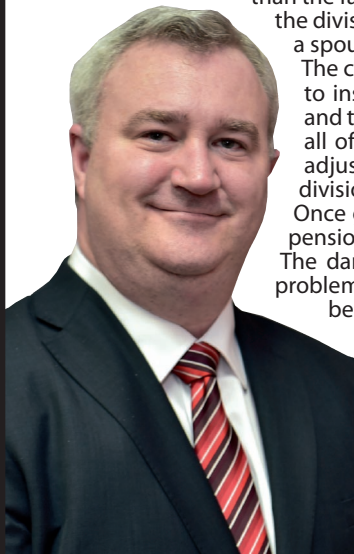
Some clients, particularly those working for government organisations or large companies where there are often good pension plans in existences, may find that they have sizeable pensions worth significantly more than the family home. In such cases, those clients may look to protect their pension in the division of assets. Indeed, there are cases where, as part of a divorce settlement, a spouse has kept the pension and given the other spouse the family home.

The courts attempt to separate the parties in as fair a manner as possible and try to insure that proper financial provision has been made for both the children and the parents. Before making a pension adjustment order, a court will consider all of the finances available to the parties and if it refuses to make a pension adjustment order, it may decide to reflect the value of the pension fund in the division of other marital assets.

Once granted, a pension adjustment order is then served on the trustees of the pension scheme who will then amend the pension in favour of the other spouse. The danger in not dealing properly with pensions during a divorce is that the problem may not become apparent until such time as someone retires. There have been cases where parties have divorced and remarried yet when one party retires, it transpires that their former spouse and not their new spouse is the person entitled to the pension or the death in retirement benefit.

As pensions are very complex, it is strongly advised to consult with a solicitor and a pension specialist before negotiating any family law settlement.

**David Higgins is a partner with Berwick Solicitors  
working in family and employment law.  
For more information email [davidhiggins@berwick.ie](mailto:davidhiggins@berwick.ie)**



**berwick**  
SOLICITORS

16 Eyre Square, Galway  
091 567545 / 086 8152932

Suite 615, The Capel Building,  
St. Mary's Abbey, Dublin 7  
01 4883322  
[www.berwick.ie](http://www.berwick.ie)