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STATUTORY RULES OF NORTHERN IRELAND

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**2000 No. 210**

**FAMILY LAW**

**PENSIONS**

**The Divorce etc. (Pensions) Regulations (Northern Ireland) 2000**

*Made* . . . . . 27th May 2000

*Coming into operation* . . . . . 1st December 2000

*To be laid before Parliament*

The Lord Chancellor, in exercise of the powers conferred on him by Articles 26B, 27D(1)(b), (2) and (3) and Article 33(4C) of the Matrimonial Causes (Northern Ireland) Order 1978(a) and Article 25(4) of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989(b), hereby makes the following Regulations:

*Citation, commencement and transitional provisions*

**1.**—(1) These Regulations may be cited as the Divorce etc. (Pensions) Regulations (Northern Ireland) 2000 and shall come into operation on 1st December 2000.

(2) These Regulations shall apply to any proceedings for divorce, judicial separation or nullity of marriage commenced on or after 1st December 2000, and any such proceedings commenced before that date shall be treated as if these Regulations had not come into operation.

*Interpretation*

**2.** In these Regulations—

- (a) a reference to an Article by number alone is a reference to the Article so numbered in the Matrimonial Causes (Northern Ireland) Order 1978;
- (b) “the 1989 Order” means the Matrimonial and Family Proceedings (Northern Ireland) Order 1989;

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(a) S.I. 1978/1045 (N.I. 15). Article 26B was inserted by paragraph 5 of Schedule 3 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)). Articles 27B, 27C and 27D were inserted by Article 162(1) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213) (N.I. 22) and amended by Schedule 4 to the Welfare Reform and Pensions (Northern Ireland) Order 1999. Article 33(4C) was inserted by paragraph 8 of Schedule 3 to the Welfare Reform and Pensions (Northern Ireland) Order 1999.

(b) S.I. 1989/677 (N.I. 4). Article 25(4) was inserted by Article 20(5) of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

- (c) expressions defined in Article 23A(a) and 27D(3) have the meanings assigned by those Articles;
- (d) a reference to a rule by number alone is a reference to the rule so numbered in the Family Proceedings Rules (Northern Ireland) 1996(b).

*Valuation*

**3.**—(1) For the purpose of the court’s functions in connection with the exercise of any of its powers under Part III of the Matrimonial Causes (Northern Ireland) Order 1978, benefits under a pension arrangement shall be calculated and verified in the manner set out in regulation 3 of the Pensions on Divorce etc. (Provision of Information) Regulations (Northern Ireland) 2000(c), and—

- (a) the benefits shall be valued as at a date to be specified by the court (being not earlier than one year before the date of the petition and not later than the date on which the court is exercising its power);
  - (b) in determining that value the court may have regard to information furnished by the person responsible for the pension arrangement pursuant to any of the provisions set out in paragraph (2); and
  - (c) in specifying a date under sub-paragraph (a) the court may have regard to the date specified in any information furnished as mentioned in sub-paragraph (b).
- (2) The relevant provisions for the purpose of paragraph (1)(b) are:
- (a) the Pensions on Divorce etc. (Provision of Information) Regulations (Northern Ireland) 2000;
  - (b) regulation 5 of, and Schedule 2 to, the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997(d) and regulation 11 of, and Schedule 1 to, the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(e);
  - (c) section 89A or 90(1)(a) or (aa) of the Pension Schemes (Northern Ireland) Act 1993(f);
  - (d) section 90(1)(b) of the Pension Schemes (Northern Ireland) Act 1993 or paragraph 2(1) (or, where applicable, 2(2)) of Schedule 2 to the Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987(g).

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(a) Article 23A was inserted by paragraph 3 of Schedule 3 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(b) S.R. 1996 No. 322 to which the most recent relevant amendments were effected by S.R. 1999 No. 88

(c) S.R. 2000 No. 142

(d) S.R. 1997 No.98, to which the most recent relevant amendments were effected by S.R. 1997 No. 160 and S.R.1999 No. 486

(e) S.R. 1996 No. 619

(f) 1993 c. 49; section 89A was inserted by Article 149 of the Pensions (Northern Ireland) Order 1995 and is amended by paragraph 23 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999. Section 90 was amended by Article 150 of the Pensions (Northern Ireland) Order 1995 and paragraph 24 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(g) S.R. 1987 No. 288

*Pension attachment: notices*

4.—(1) This regulation applies in the circumstances set out in Article 27D(1)(a) (transfers of pension rights).

(2) Where this regulation applies, the person responsible for the first arrangement shall give notice in accordance with the following paragraphs of this regulation to—

- (a) the person responsible for the new arrangement; and
- (b) the other party.

(3) The notice to the person responsible for the new arrangement shall include copies of the following documents—

- (a) every order made under Article 25 imposing any requirement on the person responsible for the first arrangement in relation to the rights transferred;
- (b) any order varying such an order;
- (c) all information or particulars which the other party has been required to supply under any provision of rule 2.73 for the purpose of enabling the person responsible for the first arrangement:—
  - (i) to provide information, documents or representations to the court to enable it to decide what if any requirements should be imposed on that person; or
  - (ii) to comply with any order imposing such a requirement.
- (d) any notice given by the other party to the person responsible for the first arrangement under regulation 6;
- (e) where the pension rights under the first arrangement were derived wholly or partly from rights held under a previous pension arrangement, any notice given to the person responsible for the previous arrangement under paragraph (2) on the occasion of that acquisition of rights.

(4) The notice to the other party shall contain the following particulars—

- (a) the fact that the pension rights have been transferred;
- (b) the date on which the transfer takes effect;
- (c) the name and address of the person responsible for the new arrangement;
- (d) the fact that the order made under Article 25 is to have effect as if it had been made in respect of the person responsible for the new arrangement.

(5) Both notices shall be given:

- (a) within the period provided by section 95 of the Pension Schemes (Northern Ireland) Act 1993<sup>(a)</sup> for the person responsible for the first arrangement to carry out what the member requires; and

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(a) 1993 c. 49; section 95 was amended by paragraph 8 of Schedule 4 to the Pensions (Northern Ireland) Order 1995

- (b) before the expiry of 21 days after the person responsible for the first arrangement has made all required payments to the person responsible for the new arrangement.

*Pension attachment: reduction in benefits*

**5.**—(1) This regulation applies where—

- (a) an order under Article 25 or under Article 21(a) of the 1989 Order has been made by virtue of Article 27B or 27C imposing any requirement on the person responsible for a pension arrangement;
- (b) an event has occurred which is likely to result in a significant reduction in the benefits payable under the arrangement, other than—
  - (i) the transfer from the arrangement of all the rights of the party with pension rights in the circumstances set out in Article 27D(1)(a); or
  - (ii) a reduction in the value of assets held for the purposes of the arrangement by reason of a change in interest rates or other market conditions.

(2) Where this regulation applies, the person responsible for the arrangement shall, within 14 days after the occurrence of the event mentioned in paragraph (1)(b), give notice to the other party of—

- (a) that event; and
- (b) the likely extent of the reduction in the benefits payable under the arrangement.

(3) Where the event mentioned in paragraph (1)(b) consists of a transfer of some but not all of the rights of the party with pension rights from the arrangement, the person responsible for the first arrangement shall, within 14 days of the transfer, give notice to the other party of the name and address of the person responsible for any pension arrangement under which the party with pension rights has acquired rights as a result of that event.

*Pension attachment: change of circumstances*

**6.**—(1) This regulation applies where—

- (a) an order under Article 25 or under Article 21 of the 1989 Order has been made by virtue of Article 27B or 27C imposing any requirement on the person responsible for a pension arrangement; and
- (b) any of the events set out in paragraph (2) has occurred.

(2) Those events are:—

- (a) any of the particulars supplied by the other party under rule 2.73 for any purpose mentioned in regulation 4(3)(c) has ceased to be accurate; or
- (b) by reason of the remarriage of the other party or otherwise, the order has ceased to have effect.

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(a) Article 21 was substituted by paragraph 2 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(3) Where this regulation applies, the other party shall, within 14 days of the event, give notice of it to the person responsible for the pension arrangement.

(4) Where, because of the inaccuracy of the particulars supplied by the other party under rule 2.73 or because the other party has failed to give notice of their having ceased to be accurate, it is not reasonably practicable for the person responsible for the pension arrangement to make a payment to the other party as required by the order:

(a) it may instead make that payment to the party with pension rights; and

(b) it shall then be discharged of liability to the other party to the extent of that payment.

(5) Where an event set out in paragraph (2)(b) has occurred and, because the other party has failed to give notice in accordance with paragraph (3), the person responsible for the pension arrangement makes a payment to the other party as required by the order:

(a) its liability to the party with pension rights shall be discharged to the extent of that payment; and

(b) the other party shall, within 14 days of the payment being made, make a payment to the party with pension rights to the extent of that payment.

*Pension attachment: transfer of rights*

**7.**—(1) This regulation applies where—

(a) a transfer has taken place in the circumstances set out in Article 27D(1)(a);

(b) notice has been given in accordance with regulation 4(2)(a) and (b);

(c) any of the events set out in regulation 6(2) has occurred; and

(d) the other party has not, before receiving notice under regulation 4(2)(b), given notice of that event to the person responsible for the first arrangement in accordance with regulation 6(3).

(2) Where this regulation applies, the other party shall, within 14 days of the event, give notice of it to the person responsible for the new arrangement.

(3) Where, because of the inaccuracy of the particulars supplied by the other party under rule 2.73 for any purpose mentioned in regulation 4(3)(c) or because the other party has failed to give notice of their having ceased to be accurate, it is not reasonably practicable for the person responsible for the new arrangement to make a payment to the other party as required by the order:

(a) it may instead make that payment to the party with pension rights; and

(b) it shall then be discharged of liability to the other party to the extent of that payment.

(4) Subject to paragraph (5), where this regulation applies and the other party within one year from the transfer, gives the person responsible for the

first arrangement notice of the event set out in regulation 6(2) in purported compliance with regulation 7(2), the person responsible for the first arrangement shall:

(a) send that notice to the person responsible for the new arrangement;  
and

(b) give the other party a second notice under regulation 4(2)(b);

and the other party shall be deemed to have given notice under regulation 7(2) to the person responsible for the new arrangement.

(5) Upon complying with paragraph (4), the person responsible for the first arrangement shall be discharged from any further obligation under regulation 4 or 7(4), whether in relation to the event in question or any further event set out in regulation 6(2) which may be notified to that person by the other party.

#### *Service*

**8.** A notice under regulation 4, 5, 6 or 7 may be sent by fax or by ordinary first class post to the last known address of the intended recipient and shall be deemed to have been received on the seventh day after the day on which it was sent.

#### *Pension sharing order not to take effect pending appeal*

**9.—(1)** No pension sharing order under Article 26A, or variation of a pension sharing order under Article 33(a), shall take effect earlier than 7 days after the end of the period for filing notice of appeal against the order.

(2) The filing of a notice of appeal within the time allowed for doing so prevents the order taking effect before the appeal has been dealt with.

#### *Revocation*

**10.** The Divorce etc. (Pensions) Regulations (Northern Ireland) 1996(b) and the Divorce etc. (Pensions) (Amendment) Regulations (Northern Ireland) 1997(c) are hereby revoked.

Dated 27th May 2000

*Irvine of Lairg, C.*

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(a) Article 26A was inserted by paragraph 5 of Schedule 3 to, and Article 33 was amended by paragraph 8 of Schedule 3 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999  
(b) S.R. 1996 No. 296  
(c) S.R. 1997 No. 275

## EXPLANATORY NOTE

*(This note is not part of the Regulations.)*

These Regulations make provision pursuant to orders, including those made after proceedings overseas, for ancillary relief in proceedings for divorce, judicial separation and nullity of marriage which relate to the pension rights of a party to the marriage. In particular, they provide for—

- (a) the valuation of pension rights by the court;
- (b) notices of change of circumstance to be provided by the person responsible for the pension arrangement to the party without pension rights, or by that party to the person responsible for the pension arrangement; and
- (c) the stay period during which pension sharing orders cannot take effect.

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