

2006 No. 310

FAMILY LAW

PENSIONS

**The Divorce etc. (Pension Protection Fund) Regulations
(Northern Ireland) 2006**

Made - - - - *19th July 2006*
Coming into operation - *14th August 2006*
To be laid before Parliament

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by Article 27E (5), (8) and (9) of the Matrimonial Causes (Northern Ireland) Order 1978(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Divorce etc. (Pension Protection Fund) Regulations (Northern Ireland) 2006 and shall come into operation on 14th August 2006.

(2) In these Regulations—

- (a) a reference to “the Order” is a reference to the Matrimonial Causes (Northern Ireland) Order 1978;
- (b) a reference to an Article by number alone is a reference to the Article so numbered in the Order; and
- (c) “a modified pension attachment order” means an order—
 - (i) to which Article 27E(2) applies which has effect in accordance with Article 27E(3);
or
 - (ii) which includes provision made by virtue of Article 27B(4), as modified by regulation 4 of these Regulations, in relation to entitlement to PPF compensation.

Modification of Article 27B(6)

2. Article 27B(6)(b) is modified so that, in relation to a modified pension attachment order, it applies as if—

- (a) the reference to payment by the person responsible for the arrangement is a reference to payment by the Board; and

(a) S.I. 1978/1045 (N.I.15); Article 27E was inserted by the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I.1)) Article 290 and Schedule 10, paragraph 1.
(b) Article 27B was inserted by the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I.22)) Article 162(1) and amended by the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I.11)) Schedule 4, paragraph 1.

- (b) a reference to the party with pension rights is a reference to the party entitled to PPF compensation.

Modification of orders made in pursuance of Article 27B(7)

- 3.—(1) This regulation applies in relation to an order under Article 25 if—
 - (a) it includes provision made by virtue of Article 27B(7) which requires the party with pension rights to exercise his right of commutation under an occupational pension scheme to any extent; and
 - (b) before the requirement is complied with the Board has assumed responsibility for the scheme as mentioned in Article 27E(2)(a).
- (2) The order is to have effect from the time when the trustees or managers of the scheme receive the transfer notice as if—
 - (a) references in the order to the trustees or managers of the scheme were references to the Board; and
 - (b) references in the order to any pension or lump sum to which the party with pension rights is or may become entitled under the scheme were references to any PPF compensation to which that person is or may become entitled in respect of the pension or lump sum.

Variation and appeal of pension sharing or pension attachment orders

- 4.—(1) This regulation applies where—
 - (a) the court makes—
 - (i) a pension sharing order in respect of a person’s shareable rights under an occupational pension scheme; or
 - (ii) an order which includes provision made by virtue of Article 27B(4) or (7) in relation to such a scheme;
 - (b) the Board subsequently assumes responsibility for the scheme as mentioned in Article 27E(2)(a); and
 - (c) the court intends to exercise any of the powers referred to in Article 27E(7).
- (2) Where this regulation applies, the following provisions of Part III of the Order (Financial Relief for Parties to Marriage and Children of Family) are modified so that they apply as if—
 - (a) after Article 23A(1) there were inserted—
 - “(1A) Where Article 27E(7) applies, the reference in paragraph (1)—
 - (a) to shareable rights under a specified pension arrangement shall include a reference to entitlement to PPF compensation (as defined in Article 27E(9)); and
 - (b) to pension sharing shall include a reference to sharing of that compensation.”; and
 - (b) in Article 27B(3) to (8)—
 - (i) a reference to benefits under a pension arrangement includes a reference to entitlement to PPF compensation;
 - (ii) a reference to the person responsible for the pension arrangement includes a reference to the Board; and
 - (iii) a reference to the party with pension rights includes a reference to the party entitled to PPF compensation.

Modification of the Divorce etc. (Pensions) Regulations (Northern Ireland) 2000

5. The Divorce etc. (Pensions) Regulations (Northern Ireland) 2000(a) are modified so that, in relation to a modified pension attachment order, they apply as if—

- (a) after regulation 7 there were inserted—

“Pension attachment: discharge of liability of the Board

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

- (a) the Board has assumed responsibility for a pension arrangement as mentioned in Article 27E(2)(a); and
- (b) the Board has given notice that it has so assumed responsibility to members and beneficiaries of the pension arrangement in compliance with regulation 3(6) of the Pension Protection Fund (Provision of Information) Regulations (Northern Ireland) 2005(b).

(2) Where—

- (a) any of the events set out in regulation 6(2) have occurred; and
- (b) the other party has not, before receiving the notice referred to in paragraph (1)(b) above, given notice of that event to the person responsible for the pension arrangement in accordance with regulation 6(3),

the other party shall, within 14 days of the event, give notice of it to the Board.

(3) Paragraph (4) applies where it is not reasonably practicable for the Board to make a payment to the other party as required by the order because—

- (a) 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
- (b) the other party has failed to give notice that the particulars have ceased to be accurate.

(4) Where this paragraph applies, the Board—

- (a) may instead make the payment due to the other party to the party entitled to PPF compensation; and
- (b) shall then be discharged of liability to the other party to the extent of that payment.

(5) Where an event set out in regulation 6(2)(b) has occurred and, because the other party has failed to give notice in accordance with paragraph (2), the Board makes a payment to the other party as required by the order—

- (a) its liability to the party entitled to PPF compensation 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 entitled to PPF compensation to the extent of that payment.

(6) In this regulation “the Board” and “PPF compensation” have the meanings given in Article 27E(9).”; and

- (b) in regulation 8, for “or 7” there were substituted “, 7 or 7A”.

(a) S.R. 2000 No. 210.

(b) S.R. 2005 No. 129 as amended by S.R. 2005 No. 357, S.R. 2005 No. 381 and S.R. 2006 No. 140.

Signed by the authority of the Lord Chancellor

Bridget Prentice
Parliamentary Under-Secretary of State
Department for Constitutional Affairs

Dated 19th July 2006

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for—

- (a) modification of Part III of the Matrimonial Causes (Northern Ireland) Order 1978 (S.I. 1978/1045 (N.I.15)) (“the Order”) to allow for cases where a pension attachment order has been made and the Board of the Pension Protection Fund (“the Board”) becomes involved with the pension arrangement in question;
- (b) modification of orders including provision made by virtue of Article 27B(7) of the Order (order requiring a party to exercise a right of commutation) to enable the order to be enforced in respect of compensation paid by the Board;
- (c) modification of Part III of the Order to allow the court to exercise certain of its powers on an application to vary or an appeal in relation to a pension attachment or a pension sharing order notwithstanding the fact that the Board has assumed responsibility for the pension arrangement in question;
- (d) modification of the Divorce etc. (Pensions) Regulations (Northern Ireland) 2000 (S.R. 2000 No. 210) to provide for notices of change of circumstances in relation to pension attachment orders to be given to the Board where appropriate and for the Board to be discharged from liability in circumstances where payments cannot be made to the correct party or are made in error due to lack of or incorrect information.

The Pension Protection Fund was established by the Pensions Act 2004 (c.35) (“the Pensions Act”). The Board pays compensation to members of certain pension schemes when a qualifying insolvency event in relation to the employer occurs and where there are insufficient assets in the pension scheme to cover the levels of compensation which would be payable by the Board under the Pensions Act or the Pensions (Northern Ireland) Order 2005 (S.I. 2005/255 (N.I.1)).