

2006 No. 311

FAMILY LAW

PENSIONS

CIVIL PARTNERSHIP

**The Dissolution 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 paragraphs 27, 30 and 31 of Schedule 15 to the Civil Partnership Act 2004(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Dissolution 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 Act” is a reference to the Civil Partnership Act 2004;
- (b) a reference to “Schedule 15” is a reference to Schedule 15 to the Act;
- (c) a reference to a paragraph by number alone is a reference to the paragraph so numbered in Schedule 15;
- (d) “a modified pension attachment order” means an order—
 - (i) to which paragraph 26(1) applies which has effect in accordance with paragraph 26(3); or
 - (ii) which includes provision made by virtue of paragraph 20(2), as modified by regulation 4 of these Regulations, in relation to entitlement to PPF compensation; and
- (e) expressions defined in paragraphs 25(3) and 32 have the meanings given to them in those paragraphs.

(a) 2004 c.33.

Modification of paragraph 20(4)

2. Paragraph 20(4) 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
- (b) a reference to the civil partner with pension rights is a reference to the civil partner entitled to PPF compensation.

Modification of orders made in pursuance of paragraph 20(5)

3.—(1) This regulation applies in relation to an order under Part 1 of Schedule 15 if—

- (a) it includes provision made by virtue of paragraph 20(5) which requires the civil partner 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 paragraph 32(2).

(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 civil partner 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 paragraph 20(2) or (5) in relation to such a scheme;
- (b) the Board subsequently assumes responsibility for the scheme as mentioned in paragraph 32(2); and
- (c) the court intends to exercise any of the powers referred to in paragraph 29(2).

(2) Where this regulation applies, the following provisions of Schedule 15 are modified so that they apply as if—

- (a) after paragraph 11(1) there were inserted—
 - “(1A) Where paragraph 29 applies, the reference in sub-paragraph (1)—
 - (a) to shareable rights under a specified pension arrangement shall include a reference to entitlement to PPF compensation (as defined in paragraph 25(3)); and
 - (b) to pension sharing shall include a reference to sharing of that compensation.”; and
- (b) in paragraph 20(1) to (7)—
 - (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 civil partner with pension rights includes a reference to the civil partner entitled to PPF compensation.

Modification of the Dissolution etc. (Pensions) Regulations (Northern Ireland) 2005

5. The Dissolution etc. (Pensions) Regulations (Northern Ireland) 2005(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 paragraph 32(2) of Schedule 15; 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 civil partner 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 civil partner 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 civil partner as required by the order because—

- (a) of the inaccuracy of the particulars supplied by the other civil partner under rule 2.73 for any purpose mentioned in regulation 4(3)(c); or
- (b) the other civil partner 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 civil partner to the civil partner entitled to PPF compensation; and
- (b) shall then be discharged of liability to the other civil partner to the extent of that payment.

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

- (a) its liability to the civil partner entitled to PPF compensation shall be discharged to the extent of that payment; and
- (b) the other civil partner shall, within 14 days of the payment being made, make a payment to the civil partner entitled to PPF compensation to the extent of that payment.

(6) In this regulation, “the Board” has the meaning given in paragraph 32 of Schedule 15 and “PPF compensation” has the meaning given in paragraph 25(3) of that Schedule.”; and

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

(a) S.R. 2005 No. 484.

(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 Schedule 15 to the Civil Partnership Act 2004 (c.33) 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 paragraph 20(5) of Schedule 15 (order requiring a civil partner to exercise a right of commutation) to enable the order to be enforced in respect of compensation paid by the Board;
- (c) modification of Schedule 15 in 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 Dissolution etc. (Pensions) Regulations (Northern Ireland) 2005 (S.R. 2005 No. 484) 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)).