
STATUTORY INSTRUMENTS

2003 No. 291

**PROCEEDS OF CRIME
PENSIONS**

**The Proceeds of Crime Act 2002 (Recovery
from Pension Schemes) Regulations 2003**

Made - - - - *12th February 2003*
Laid before Parliament *17th February 2003*
Coming into force - - *17th March 2003*

The Secretary of State, in exercise of the powers conferred on him by sections 273(2)(a), 275(1) to (3) and 459(2) of the Proceeds of Crime Act 2002⁽¹⁾, and after consultation with the Scottish Ministers, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Proceeds of Crime Act 2002 (Recovery from Pension Schemes) Regulations 2003 and shall come into force on 17th March 2003.

(2) In these Regulations—

“the Act” means the Proceeds of Crime Act 2002;

“destination arrangement” means a pension arrangement under which some or all of the rights are derived, directly or indirectly, from a pension sharing transaction;

“pension recovery order” means a recovery order made by virtue of section 273(2) of the Act;

“pension sharing transaction” means an order or provision falling within section 28(1) of the Welfare Reform and Pensions Act 1999⁽²⁾ (activation of pension sharing) or article 25(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999⁽³⁾ (activation of pension sharing);

“relevant person” means the person whose rights under a pension scheme are the subject of a pension recovery order; and

(1) 2002 c. 29. (Section 275(3) is cited because of the meaning ascribed to the words “regulations” and “prescribed”).

(2) 1999 c. 30.

(3) S.I. 1999/3147 (N.I. 11).

“valuation date” means a date within the period prescribed by regulation 5 in respect of which the trustees or managers of the pension scheme decide to value the relevant person’s pension rights in accordance with regulation 2 or 3.

Calculation and verification of the value of rights under pension schemes

2.—(1) This regulation applies where the High Court or the Court of Session makes a pension recovery order, other than in respect of rights derived from a pension sharing transaction under a destination arrangement in a pension scheme.

(2) The trustees or managers of the pension scheme in respect of which the pension recovery order has been made must calculate and verify the cash equivalent of the value at the valuation date of the rights which are the subject of the pension recovery order and must pay to the trustee for civil recovery a sum equal to that cash equivalent.

(3) In relation to the calculation and verification by the trustees or managers of the cash equivalent referred to in paragraph (2)—

- (a) in the case of a pension scheme wholly or mainly administered in England and Wales, regulation 3 of the Pensions on Divorce etc. (Provision of Information) Regulations 2000⁽⁴⁾ (information about pensions and divorce: valuation of pension benefits), except paragraph (2) thereof, shall have effect as it has effect for the valuation of benefits in connection with the supply of information in connection with domestic and overseas divorce etc. in England and Wales, with the modification that, for “the date on which the request for the valuation was received” in each case where it appears in that regulation, there shall be substituted “the valuation date for the purposes of the Proceeds of Crime Act 2002 (Recovery from Pension Schemes) Regulations 2003”;
- (b) in the case of a pension scheme wholly or mainly administered in Scotland, regulation 3 of the Divorce etc. (Pensions) (Scotland) Regulations 2000⁽⁵⁾ (valuation), except paragraph (11) thereof, shall have effect as it has effect for the valuation of benefits in connection with the supply of information in connection with divorce in Scotland, with the modification that, for “the relevant date” in each case where it appears in that regulation, there shall be substituted “the valuation date for the purposes of the Proceeds of Crime Act 2002 (Recovery from Pension Schemes) Regulations 2003”; and
- (c) in the case of a pension scheme wholly or mainly administered in Northern Ireland, regulation 3 of the Pensions on Divorce etc. (Provision of Information) Regulations (Northern Ireland) 2000⁽⁶⁾ (information about pensions on divorce: valuation of pension benefits), except paragraph (2) thereof, shall have effect as it has effect for the valuation of benefits in connection with the supply of information in connection with domestic and overseas divorce etc. in Northern Ireland, with the modification that, for “the date on which the request for the valuation was received” in each case where it appears in that regulation, there shall be substituted “the valuation date for the purposes of the Proceeds of Crime Act 2002 (Recovery from Pension Schemes) Regulations 2003”.

Calculation and verification of the value of rights under destination arrangements

3.—(1) This regulation applies where the High Court or the Court of Session makes a pension recovery order in respect of rights derived from a pension sharing transaction under a destination arrangement in a pension scheme.

(2) The trustees or managers of the pension scheme in respect of which the pension recovery order has been made must calculate and verify the cash equivalent of the value at the valuation date

(4) S.I. 2000/1048.

(5) S.S.I. 2000/112; to which there are amendments not relevant to these Regulations.

(6) S.R. 2000/142 to which there are amendments not relevant to these Regulations.

of the rights which are the subject of the pension recovery order and must pay to the trustee for civil recovery a sum equal to that cash equivalent.

(3) In relation to the calculation and verification by the trustees or managers of the cash equivalent referred to in paragraph (2)—

- (a) in the case of a pension arrangement in a scheme that is wholly or mainly administered in either England and Wales or Scotland, regulation 24 of the Pension Sharing (Pension Credit Benefit) Regulations 2000⁽⁷⁾ (manner of calculation and verification of cash equivalents) shall have effect as it has effect for the calculation and verification of pension credit for the purposes of those regulations; and
- (b) in the case of a pension arrangement in a scheme that is wholly or mainly administered in Northern Ireland, regulation 24 of the Pension Sharing (Pension Credit Benefit) Regulations (Northern Ireland) 2000⁽⁸⁾ (manner of calculation and verification of cash equivalents) shall have effect as it has effect for the calculation and verification of pension credit for the purposes of those regulations.

Approval of manner of calculation and verification of the value of rights

4.—(1) This regulation applies where the relevant person is also a trustee or manager of the pension scheme in respect of which the pension recovery order has been made.

(2) When the trustees or managers of the pension scheme have, under regulation 2 or 3, calculated and verified the value of the rights which are the subject of a pension recovery order, the manner in which the trustees or managers have calculated and verified the value of the rights must be approved by—

- (a) a Fellow of the Institute of Actuaries⁽⁹⁾; or
- (b) a Fellow of the Faculty of Actuaries⁽¹⁰⁾.

(3) Where the person referred to in paragraph (2) is not able to approve the manner in which the trustees or managers have calculated and verified the value of the rights which are the subject of a pension recovery order, he must give notice in writing of that fact to the trustee for civil recovery and the trustees or managers of the scheme.

(4) Where the trustees or managers of the scheme have been given notice under paragraph (3), they must re-calculate and re-verify the value of the rights which are the subject of a pension recovery order for the purposes of regulation 2 or 3.

Time for compliance with a pension recovery order

5.—(1) In this regulation, “the prescribed period” means the period prescribed for the purposes of section 273(2)(a) of the Act.

(2) Subject to paragraphs (3) and (4), the prescribed period is the period of 60 days beginning on the day on which the pension recovery order is made.

(3) Where an application for permission to appeal the pension recovery order is made within the period referred to in paragraph (2), the prescribed period is the period of 60 days beginning on—

- (a) the day on which permission to appeal is finally refused;
- (b) the day on which the appeal is withdrawn; or
- (c) the day on which the appeal is dismissed,

(7) S.I. 2000/1054.

(8) S.R. 2000/146 as amended by S.R. 2000/335.

(9) The Institute of Actuaries is at Staple Inn Hall, High Holborn, London WC1V 7QJ.

(10) The Faculty of Actuaries is at Maclaurin House, 18 Dublin Street, Edinburgh EH1 3PP.

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as the case may be.

(4) Where the person referred to in regulation 4(2) gives notice, in accordance with regulation 4(3) and within the period referred to in paragraph (2), to the trustee for civil recovery and trustees or managers of the scheme that he is unable to approve the manner in which the trustees or managers have calculated the value of the rights which are the subject of the pension recovery order, the prescribed period is the period of 60 days beginning on the day on which such notice is given.

Home Office
12th February 2003

Bob Ainsworth
Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision as to the exercise by trustees or managers of pension schemes of their powers when a civil recovery order made under section 273(2) of the Proceeds of Crime Act 2002 (c. 29) (“the Act”) requires them to make a payment to the trustee for civil recovery in respect of the rights of a member of that scheme.

Regulation 1 provides for citation, commencement and interpretation.

Regulation 2 provides for the calculation and verification of the cash equivalent of the value of pension rights which are recoverable property under a recovery order made under the Act. This is by reference to the method applying for the purposes of the provision of information in respect of pensions on divorce, separation and nullity under the Pensions on Divorce etc. (Provision of Information) Regulations 2000 (S.I.2000/1048) and the equivalent regulations applying in Scotland and Northern Ireland.

Regulation 3 makes similar provision to regulation 2 where the pension rights are derived directly or indirectly from a pension sharing transaction.

Regulation 4 makes provision for the circumstances where the person with the pension rights which are recoverable property is a trustee or manager of the scheme in question. In these circumstances, an actuary must approve the method of calculation and verification of the cash equivalent value. The actuary must be a member of the Faculty or Institute of Actuaries.

Regulation 5 prescribes the period for paying the amount of those pension rights to the trustee for civil recovery.

These Regulations have only a negligible cost for business: a regulatory impact assessment is therefore not necessary.