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28th June 2011

STATUTORY RULES OF NORTHERN IRELAND

2011 No. 244

FAMILY LAW

PENSIONS

**The Divorce and Dissolution etc. (Pension Protection Fund)
Regulations (Northern Ireland) 2011**

Made - - - -

27th June 2011

Coming into operation -

25th July 2011

The Department of Justice makes the following Regulations in exercise of the powers conferred by Article 26B(1), 27D(2)(a) to (ba), 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) and paragraphs 14E(2), 29B(1)(a) to (d), and 50(3) of Schedule 15 and paragraph 14(4) of Schedule 17 to the Civil Partnership Act 2004(c).

Citation and commencement

1. These Regulations may be cited as the Divorce and Dissolution etc (Pension Protection Fund) Regulations (Northern Ireland) 2011 and shall come into operation on 25th July 2011.

Interpretation

2.—(1) In these Regulations—

- (a) the “1978 Order” means the Matrimonial Causes (Northern Ireland) Order 1978;
- (b) the “1989 Order” means the Matrimonial and Family Proceedings (Northern Ireland) Order 1989;
- (c) the “2004 Act” means the Civil Partnership Act 2004;
- (d) “the other party” means the party to the marriage or the civil partnership (as the case may be) who is not the party with compensation rights or civil partner with compensation rights.

(2) Unless these Regulations provide otherwise, expressions defined in—

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- (a) 1978 (N.I. 15) to which the most recent relevant amendments were made by the Welfare Reform and Pensions (NI) Order 1999 (N.I. 11) and the Pensions (No.2) Act (NI) 2008 (c.13). Article 26B(1) was inserted by Article 18 of and paragraph 5 of Schedule 3 to the Welfare Reform and Pensions (NI) Order 1999 (N.I. 11). Article 27D(2)(a) to (ba) was amended by Article 19 of and paragraph 3(3) of Schedule 4 to the 1999 Order. Article 33(4C) was inserted by Article 18 of and paragraph 8(3) of Schedule 3 to the 1999 Order.
 - (b) 1989 (N.I. 4) to which the most recent relevant amendments were made by the Pensions (No. 2) Act (NI) 2008 (c.13). Article 25(4) was inserted by Article 20(5) of the Welfare Reform and Pensions (NI) Order 1999 and amended by section 98 of and Part 2, paragraph 13(6) of Schedule 5 to the Pensions (No.2) Act (NI) 2008 (c.13).
 - (c) 2004 c.33. Paragraphs 14E(2) and 29B(1)(a) to (d) were inserted by section 98 of and Part 3, paragraphs 15 and 17(3) of Schedule 15 to the Pensions (No.2) Act (NI) 2008 (c.13). Paragraph 50(3) was amended by section 98 of and Part 3, paragraph 18(5)(e) of Schedule 5 to the Pensions (No.2) Act (NI) 2008 (c.13).

- (a) Articles 23B, 23C and 27G(4) of the 1978 Order^(a) have the meanings assigned by those Articles; and
- (b) paragraphs 14B, 14F and 32(1) of Schedule 15 to the 2004 Act^(b) have the meanings assigned by those paragraphs.

Attachment of PPF compensation: change in circumstances

3.—(1) In this regulation, a relevant order means—

- (a) an order under Article 25 of the 1978 Order or under Article 21 of the 1989 Order^(c) making provision under Article 27F of the 1978 Order^(d); or
- (b) an order under Part 1 of Schedule 15 or under paragraph 9 of Schedule 17 to the 2004 Act^(e) making provision under Part 6, paragraph 29A of Schedule 15 to that Act^(f),

imposing any requirement on the Board.

(2) In this regulation, a relevant event occurs when—

- (a) the information or particulars referred to in paragraph (3) cease to be accurate; or
- (b) a relevant order ceases to have effect—
 - (i) in the case of a relevant order within paragraph (1)(a), by reason of the other party remarrying or entering into a civil partnership or otherwise; and
 - (ii) in the case of a relevant order within paragraph (1)(b), by reason of the other party marrying or entering into a subsequent civil partnership or otherwise.

(3) The information or particulars referred to in paragraph (2)(a) are those supplied by the other party under rule 2.73B(7) of the Family Proceedings Rules (Northern Ireland) 1996^(g) for the purpose of enabling the Board—

- (a) to provide information, documents or representations to the court to enable it to decide what if any requirement should be imposed on the Board; or
- (b) to comply with any relevant order imposing such a requirement.

(4) Where—

- (a) a relevant order has been made; and
- (b) a relevant event occurs,

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

(5) Where it is not reasonably practicable for the Board to make a payment to the other party as required by the relevant order because of the inaccuracy of information or particulars referred to in paragraph (3) or because the other party fails to notify it in accordance with paragraph (4) of a relevant event within paragraph (2)(a), the Board—

- (a) may instead make that payment to the party with compensation rights or the civil partner with compensation rights; and
- (b) shall then be discharged of liability to the other party to the extent of that payment.

(a) Articles 23B, 23C and 27G(4) of the Matrimonial Causes (NI) Order 1978 were inserted by section 98 of and Part 1, paragraphs 2 and 7 of Schedule 5 to the Pensions (No.2) Act (NI) 2008 (c.13).

(b) Paragraphs 14B and 14F of Schedule 15 to the Civil Partnership Act 2004 were inserted by section 98 and Part 3, paragraph 15 of Schedule 5 to the Pensions (No. 2) Act (NI) 2008. Paragraph 32(1) of Schedule 15 was amended by section 98 of and Part 3, paragraph 17(5) of Schedule 5 to the Pensions (No.2) Act (NI) 2008.

(c) Article 21 of the 1989 Order was amended by section 98 of and Part 2, paragraph 11 of Schedule 5 to the Pensions (No.2) Act (NI) 2008.

(d) Article 27F was inserted by section 98 of and Part 1, paragraph 7 of Schedule 5 to the Pensions (No.2) Act (NI) 2008.

(e) Paragraph 9 of Schedule 17 to the Civil Partnership Act 2004 was amended by section 98 of and Part 3, paragraph 20 of Schedule 5 to the Pensions (No.2) Act (NI) 2008.

(f) Paragraph 29A was inserted by section 98 of and Part 3, paragraph 17(3) of the Pensions (No.2) Act (NI) 2008.

(g) 1996 No.322.

(6) Where a relevant event within paragraph (2)(b) occurs and, because the other party fails to notify the Board in accordance with paragraph (4), the Board makes a payment to the other party as required by the relevant order—

- (a) the liability of the Board to the party with compensation rights or civil partner with compensation 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 compensation rights or civil partner with compensation rights to the extent of that payment.

Service

4. A notice under regulation 3(4) 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 compensation sharing order not to take effect pending appeal

5.—(1) No pension compensation sharing order under the provisions listed in paragraph (2), or a variation of a pension compensation sharing order under the provisions listed in paragraph (3), shall take effect earlier than 7 days after the end of the period for filing notice of appeal against the order.

(2) The provisions referred to in paragraph (1) in relation to pension compensation sharing orders are—

- (a) Article 26A of the 1978 Order(a);
- (b) Article 21(1)(c) of the 1989 Order(b);
- (c) paragraph 14A of Schedule 15 to the 2004 Act(c);
- (d) paragraph 9(2) of Schedule 17 to the 2004 Act.

(3) The provisions referred to in paragraph (1) in relation to variation of pension compensation sharing orders are—

- (a) Article 33 of the 1978 Order(d);
- (b) paragraph 50 of Schedule 15 to the 2004 Act(e).

(4) 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.

Sealed with the Official Seal of the Department of Justice on 27th June 2011



David Ford
Minister of Justice

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- (a) Article 26A of the 1978 Order was inserted by Article 18 of and paragraph 5 of Schedule 3 to the Welfare Reform and Pensions (NI) Order 1999.
 - (b) Article 21(1)(c) of the 1989 Order was inserted by section 98 and Part 2, paragraph 11 of Schedule 5 to the Pensions (No.2) Act (NI) 2008.
 - (c) Paragraph 14A of Schedule 15 to the Civil Partnership Act 2004 was inserted by section 98 and Part 3, paragraph 15 of Schedule 5 to the Pensions (No.2) Act (NI) 2008.
 - (d) Article 33(2)(f) was inserted by Article 18 of and paragraph 8(2) of Schedule 3 to the Welfare Reform and Pensions (NI) Order 1999 and amended by section 98 of and Part 1, paragraph 8(3) of Schedule 5 to the Pensions (No.2) Act (NI) 2008.
 - (e) Paragraph 50 was amended by section 98 of and Part 3, paragraph 18(5) of Schedule 5 to the Pensions (No.2) Act (NI) 2008.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to orders under the Matrimonial Causes (Northern Ireland) Order 1978 Act (N.I.18) (“the 1978 Order”) and the Civil Partnership Act 2004 (c.33) (“the 2004 Act”), including those made after proceedings overseas, made in connection with proceedings for divorce or dissolution of a civil partnership, nullity of marriage or nullity of a civil partnership or separation which relate to the pension compensation rights of a party to the marriage (described in section 27G(4) of the 1978 Order as the “party with compensation rights”) or a party to a civil partnership (described in paragraph 32(1) of Schedule 15 to the 2004 Act as the “civil partner with compensation rights”). In particular, in so far as attachment of PPF compensation is concerned, they provide for:

- notices of change of circumstances to be provided to the Board by the “other party” (defined in regulation 2(1)(d) as the party to the marriage or the civil partnership (as the case may be) who is not the party with compensation rights or civil partner with compensation rights);
- the Board to make a payment to the party with compensation rights or the civil partner with compensation rights where information or particulars provided by the other party under the Family Proceedings Rules (Northern Ireland) 1996 (S.I.1996/322) are inaccurate or the other party has not notified the Board about a change to that information or particulars such as a change of details of a bank account into which the payment is made;
- the Board to be discharged of liability from a requirement in a relevant order (defined in regulation 3(1)) to make a payment to the other party in the circumstances outlined in paragraph (b);
- the other party to make a payment to the party with compensation rights or the civil partner with compensation rights to the extent of the payment the other party has received from the Board after the relevant order has ceased to have effect (because, for example, of the other party’s remarriage or entering into a subsequent civil partnership), where the other party’s remarriage or entering into a subsequent civil partnership), where the other party has failed to give the required notice to the Board of the order ceasing to have effect; and
- the Board to be discharged of liability to the party with compensation rights or the civil partner with compensation rights as a result of making a payment to the other party in the circumstances outlined in paragraph (d).

Regulation 5 provides for the stay period pending appeal during which a pension compensation sharing order or a variation of such an order cannot take effect.