STATUTORY RULES OF NORTHERN IRELAND

2011 No. 243

FAMILY PROCEEDINGS
COURT OF JUDICATURE

COUNTY COURTS

The Family Proceedings (Amendment No. 2) Rules (Northern Ireland) 2011

Made - - - -	*27th June 2011*
Coming into operation	*25th July 2011*

The Family Proceedings Rules Committee makes the following Rules in exercise of the powers conferred by Article 12 of the Family Law (Northern Ireland) Order 1993(**1**).

Citation, commencement and interpretation

1. These Rules may be cited as the Family Proceedings (Amendment No.2) Rules (Northern Ireland) 2011 and shall come into operation on 25th July 2011.

2. In these Rules, a reference to an Order, rule, Appendix or Form is a reference to that Order, rule, Appendix or Form so numbered in the Family Proceedings Rules (Northern Ireland) 1996(**2**) ("the 1996 Rules").

Amendments to the Family Proceedings Rules (Northern Ireland) 1996

3. The Family Proceedings Rules (Northern Ireland) 1996 are amended as follows.

4. In rule 1.3(1) in the definition of "ancillary relief"—

(a) in sub-paragraph (e) omit "or";

(b) after sub-paragraph (f) insert—

"or

(g) a pension compensation sharing order,".

5. In rule 2.55(1) after sub-paragraph (d) insert—

(**1**) S.I. 1993/1576 (N.I. 6) to which the most recent relevant amendment was made by the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (No. 976).

(**2**) S.R. 1996 No. 322 to which the most recent amendments were made by S.R. 2010 No. 379, S.R. 2010 No. 1064 and S.R. 2011 No. 64.

"(e) a pension compensation sharing order,".

6. In rule 2.72(1)—

(a) after "Articles 25, 26, 26A" insert ", 26D";

(b) after "Parts 1, 2, 3" insert ", 3A"; and

(c) for sub-paragraph (dd) substitute—

"(dd) Where the order includes provision to be made under Article 26A, 26D, 27B or 27C of the Order of 1978 or under paragraphs 10, 14A, 20 and 21 of Schedule 15 to the Act of 2004, a statement confirming that the person responsible for the pension arrangement or the Board that has assumed responsibility for the pension arrangement in question has been served with the documents required by rule 2.73(11) or (12) or rule 2.73B(11) or (12) as the case may be and that no objection to such an order has been made by that person or by that Board within 21 days from such service."

7. After rule 2.73A insert—

"**Pension Protection Fund Compensation**

2.73B.—(1) This rule applies where an application for ancillary relief has been made, or notice of intention to proceed with an application has been given, in Form M13 or M15, as the case may be, and the applicant or respondent is the party with compensation rights.

(2) In this rule—

(a) "party with compensation rights"—

(i) in proceedings under the Order of 1978 and the Order of 1989, has the meaning given to it by Article 27G(4) of the Order of 1978;

(ii) in proceedings under the Act of 2004, has the meaning given to "civil partner with compensation rights" by paragraph 32(1) of Schedule 15 to the Act of 2004;

(b) in a matrimonial cause, all words and phrases defined in Article 23C and 27G(4) of the Order of 1978 have the meanings assigned by those Articles;

(c) in a civil partnership cause, all the words and phrases defined in paragraphs 14F and 32 of Schedule 15 to the Act of 2004 have the meanings assigned by those paragraphs;

(d) pension compensation sharing order means—

(i) in a matrimonial cause, an order making provision under Article 23B of the Order of 1978; and

(ii) in a civil partnership cause, an order making provision under paragraph 14B of Schedule 15 to the Act of 2004;

(e) pension compensation attachment order means—

(i) in a matrimonial cause, an order making provision under Article 27F of the Order of 1978; and

(ii) in a civil partnership cause, an order making provision under paragraph 29A of Schedule 15 to the Act of 2004.

(3) Within seven days of the notice in Form M13 or M15, as the case may be, having been filed the party with compensation rights, shall request the Board of the Pension

Protection Fund ("the Board") to provide the information about the valuation of entitlement to Pension Protection Fund ("PPF") compensation referred to under regulation 4 of the Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc.) Regulations (Northern Ireland) 2011(**3**).

(4) Within seven days of receiving information under paragraph (3) the party with compensation rights shall send a copy of it to the other party together with the name and address of the person responsible for each pension scheme.

(5) Where the rights to PPF compensation are derived from rights under more than one pension scheme, the party with compensation rights must comply with this rule in relation to each entitlement.

(6) As soon as practicable after making or giving notice of intention to proceed with an application for ancillary relief which includes a request for a pension compensation sharing order or upon adding such a request to an existing application for ancillary relief, the applicant shall send to the Board a copy of the notice in Form M13 or M15, as the case may be.

(7) As soon as is practicable after making or giving notice of intention to proceed with an application for ancillary relief which includes a request for a pension compensation attachment order, or upon adding such a request to an existing application for ancillary relief, the applicant must serve a copy of the notice in Form M13 or M15, as the case may be on the Board and must at the same time send—

(a) an address to which any notice which the Board is required to serve on the applicant is to be sent;

(b) an address to which any payment which the Board is required to make to the applicant is to be sent; and

(c) where the address is sub-paragraph (b) is that of a bank, a building society or the Department of National Savings, sufficient details to enable the payment to be made into the account of the applicant.

(8) A Board on which a copy of a notice under paragraph (6) or (7) is served may, within 21 days after service, require the party with compensation rights to provide it with an affidavit supporting the application and that party must then provide that Board with a copy within 21 days.

(9) A Board which receives an affidavit as required pursuant to paragraph (8) may within 21 days after receipt send to the court and the party with compensation rights an affidavit in answer.

(10) A Board which files an affidavit in answer pursuant to paragraph (9) may file a notice to the court requiring an appointment to be fixed, and where such a notice is filed—

(a) the proper officer or chief clerk shall fix an appointment for the hearing or further hearing of the application and shall give not less than 14 days' notice of that appointment to the party with pension compensation rights, the respondent and the Board; and

(b) the Board shall be entitled to be represented at such hearing.

(11) Where the parties have agreed on terms of an order and the agreement includes a pension compensation sharing order, then, unless service has been effected under paragraph (6) above, they shall serve on the Board the notice of application for a consent order under rule 2.72(1) and a draft of the proposed order complying with paragraph (14) below.

(**3**) 2011 No.113.

(12) Where the parties have agreed on the terms of an order and the agreement includes a pension compensation attachment order, then, unless service has been effected under paragraph (7), they shall serve on the Board—

(a) a copy of the application for a consent order under rule 2.72(1);

(b) a draft of the proposed order, complying with paragraph (14) below; and

(c) the particulars set out in sub-paragraphs (a), (b) and (c) of paragraph (7).

(13) No consent order under paragraph (11) or (12) shall be made unless either—

(a) the Board has not made any objection within 21 days after the service on it of such notice; or

(b) the court has considered any such objection

and for the purpose of considering any objection the court may make such directions as it sees fit for the Board to attend before it or to furnish written details of its objection.

(14) An order for ancillary relief, whether by consent or not, which includes a pension compensation sharing order or a pension compensation attachment order, shall—

(a) in the body of the order, state that there is to be provision by way of pension compensation sharing or pension compensation attachment in accordance with the annexe or annexes to the order; and

(b) be accompanied by an annexe containing the information set out in paragraph (15) or paragraph (16) as the case may require, and if provision is made in relation to entitlement to PPF compensation that derives from rights under more than one pension scheme there must be one annexe for each such entitlement.

(15) Where an order for ancillary relief includes provision by way of pension compensation sharing, the annexe shall state—

(a) the name of the court making the order, together with the case number and the title of the proceedings;

(b) that it is a pension compensation sharing order made under Article 26D of the Order of 1978 or paragraph 14A of Schedule 15 to the Act of 2004;

(c) the names of the transferor and the transferee;

(d) the national insurance numbers of the transferor and the transferee;

(e) the dates of birth of the transferor and transferee;

(f) the addresses of the transferor and transferee;

(g) the name of the pension scheme for which the Board assumed responsibility and to which the pension compensation relates or sufficient details to identify the pension compensation concerned;

(h) the specified percentage of the member's cash equivalent valuation (CEV) to be transferred;

(i) how the pension compensation sharing charges are to be apportioned between the parties or alternatively that they are to be paid in full by the transferor;

(j) that the Board has furnished the information required by regulation 5 of the Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc.) Regulations (Northern Ireland) 2011(**4**) and that it appears from that information that there is power to make an order including provision by way of pension compensation sharing;

(**4**) 2011 No.113.