STATUTORY RULES OF NORTHERN IRELAND

2011 No. 113

PENSIONS

The Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc.) Regulations (Northern Ireland) 2011

Made - - - -	*16th March 2011*
Coming into operation	*6th April 2011*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 152A, 188(4)(a), 189 and 287(1) to (3) of the Pensions (Northern Ireland) Order 2005(**1**) and sections 86(2), 90, 92(3), 93(1)(b)(ii) and (4), 94(6) and (8)(b), 95(1), (2)(b) and (c), 96, 97 and 113(2) of, and paragraphs 5(4), 7(5), 9(1), (2) and (6), 10(1), 17(6), 18 and 19 of Schedule 4 to, the Pensions (No. 2) Act (Northern Ireland) 2008(**2**).

PART 1

General

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc.) Regulations (Northern Ireland) 2011 and shall come into operation on 6th April 2011.

(2) In these Regulations—

"the Act" means the Pensions (No. 2) Act (Northern Ireland) 2008;

"the 2005 Order" means the Pensions (Northern Ireland) Order 2005;

"admissible rules" has the same meaning as in paragraph 35(**3**) of Schedule 6 to the 2005 Order;

"child of the family" means—

(a) a child of the transferee, or

(**1**) S.I. 2005/255(N.I. 1); Article 152A is inserted by section 99 of the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13 (N.I.))
(**2**) 2008 c. 13 (N.I.)
(**3**) Paragraph 35(2) and (3) was amended by paragraphs 17 and 18 of Schedule 6 to the Pensions (No. 2) Act (Northern Ireland) 2008

(b) any other child who has been treated by the transferee as a child of the family, other than a child placed with the transferee as a foster parent in accordance with Part II of the Foster Placement (Children) Regulations (Northern Ireland) 1996(**4**);

"compensation cap" has the same meaning as in paragraph 26(7) of Schedule 6 to the 2005 Order;

"member" means the party who is entitled to present or future payment of PPF compensation under the pension compensation provisions and includes a pension compensation credit member;

"pension compensation attachment order" means an order made under any of the provisions specified in regulation 15(1)(a) to (e);

"pension compensation credit member" means a person who has rights to PPF compensation which are attributable to a pension compensation credit;

"pension compensation debit" means a debit of the appropriate amount, to be applied to the transferor's shareable rights to PPF compensation, on the taking effect of a pension compensation sharing order or provision (see section 89);

"PPF" means the Pension Protection Fund;

"qualifying course" means a full time educational or vocational course at a recognised educational establishment where, in pursuit of that course, the time spent receiving instruction or tuition, undertaking supervised study, examination or practical work or taking part in any exercise, experiment or project for which provision is made in the curriculum of the course, exceeds 12 hours per week in normal term time, and includes any gaps between the ending of one course and the commencement of another, where the person is enrolled on and commences the latter course;

"relevant compensation" means the payments to which the member is entitled (or will become entitled on attaining normal pension age) under the pension compensation provisions by virtue of the member's shareable rights to PPF compensation that derive from rights under a specified scheme;

"relevant partner" means a person of either sex who was not married to, or in a civil partnership with, the transferee and who was living with the transferee—

(a) as if that person and the transferee were husband and wife, or

(b) in the case of two adults of the same sex, as if they were civil partners;

"surviving dependant" means—

(a) a child of the family who was financially dependent on the transferee at the time of the transferee's death and who is aged less than 18;

(b) a child of the family who was financially dependent on the transferee at the time of the transferee's death, who is aged less than 23 and who is—

(i) attending a qualifying course, or

(ii) incapable of engaging in full time paid employment due to a condition that falls within the definition of a disability under section 6 of the Equality Act 2010(**5**), or

(c) a child of the transferee who is born after the transferee's death;

"surviving partner" means the surviving widow, widower or civil partner of a deceased transferee;

"valid nomination" means a signed written notice.

(**4**) S.R. 1996 No. 467
(**5**) 2010 c. 15

(3) "Day", in regulations 3, 5, 7, 9, 10, 15 and 16, means any day other than—

(a) Christmas Day or Good Friday, or

(b) a day which is, or is to be observed as, a bank holiday under Schedule 1 to the Banking and Financial Dealings Act 1971(**6**),

and where the Board receives a request or order to provide information, an order or provision, a notification or other documents on a day which falls on one of the days specified in paragraph (a) or (b), any period of time specified in regulation 3, 5, 7, 9, 10, 15 or 16 is to run from the next day after the day of receipt which is not a day specified in sub-paragraph (a) or (b).

(4) Without prejudice to any other method of service authorised under section 24 of the Interpretation Act (Northern Ireland) 1954(**7**), the requirement to send any document under these Regulations may be met by sending it by ordinary post.

(5) In these Regulations—

(a) any reference to a numbered section is a reference to the section of the Act bearing that number, and

(b) any reference to Schedule 4 is a reference to Schedule 4 to the Act.

PART 2

Shareable rights

Rights to PPF compensation which are not shareable

2. Any right of a person to PPF compensation is not shareable if—

(a) the compensation is in payment, and

(b) the compensation is derived directly or indirectly from the rights of a deceased person by virtue of being the surviving partner or surviving dependant of that person.

PART 3

Supply of information about pension compensation in relation to divorce etc.

Basic information about pension compensation and divorce or dissolution of a civil partnership

3.—(1) The requirements imposed on the Board for the purposes of section 96(1)(a) (supply of information about pension compensation in relation to divorce etc.) are that the Board must supply—

(a) on request from a member, the information specified in paragraphs (2) and (3)(b) and (c);

(b) on request from the spouse or civil partner of the member, the information specified in paragraph (3), and

(c) pursuant to an order of the court, the information specified in paragraph (2), (3), or (4),

to the member, the spouse or civil partner of the member, or, as the case may be, to the court.

(**6**) 1971 c. 80; paragraph 2 of Schedule 1 was amended by section 1 of the St Andrew's Day Bank Holiday (Scotland) Act 2007 (asp 2)

(**7**) 1954 c. 33 (N.I.)

(2) The information specified in this paragraph is a valuation of the member's rights to PPF compensation and (if not the same as the member's rights to PPF compensation) a valuation of the member's rights to relevant compensation.

(3) The information specified in this paragraph is—

(a) a statement that on request from the member, or pursuant to an order of the court, a valuation of the member's rights to PPF compensation and to relevant compensation (if not the same as the member's rights to PPF compensation), will be supplied to the member, or, as the case may be, to the court;

(b) a statement summarising the way in which the valuations referred to in paragraph (2) and sub-paragraph (a) are calculated;

(c) a schedule of the charges that the Board will impose in accordance with regulation 16, and the method by which those charges may be recovered;

(d) a statement that a person entitled to a pension compensation credit against the Board will be entitled to periodic compensation calculated in accordance with Schedule 4 (pension compensation payable on discharge of pension compensation credit).

(4) The information specified in this paragraph is any other information about the calculation and payment of PPF compensation relevant to any power exercisable under the provisions specified in section 96(1)(a).

(5) Where the member's request or the court order for the provision of information includes a request or an order for provision of a valuation under paragraph (2), the Board must supply all the information in that request or order within—

(a) 3 months, beginning with the day that the Board receives the request or order for the provision of information;

(b) 6 weeks, beginning with the day that the Board receives the request or order for the provision of information, where the member or the court has notified the Board on the date of the request or order that the information is needed in connection with proceedings commenced under any of the provisions specified in section 96(1)(a), or

(c) any shorter period where the court specifies such a period in an order requiring the Board to supply a valuation in accordance with paragraph (2).

(6) Where—

(a) the member's request or the court order for supply of information does not include a request or an order for provision of a valuation under paragraph (2), or

(b) the member's spouse or civil partner requests the information specified in paragraph (3),

the Board must supply that information within one month beginning with the day that the Board receives the request or the court order for the provision of the information.

Valuation of relevant compensation for the purposes of an application for financial relief or financial provision

4.—(1) Where the Board is notified that—

(a) an application for financial relief or financial provision under any of the provisions specified in section 96(1)(a) (supply of information about pension compensation in relation to divorce etc.) has been made or is in contemplation, or

(b) a qualifying agreement containing provision corresponding to provision which may be made by an order under section 8 of the Family Law (Scotland) Act 1985(**8**) (orders for financial provision) is to be made or is in contemplation,

the value of the PPF compensation or relevant compensation to which the member is entitled or will become entitled must be calculated and verified for the purposes of section 96(1)(b), or of regulation 3(2), in accordance with paragraphs (2) and (3).

(2) The value of the PPF compensation or relevant compensation is the cash equivalent of the amount that would be required to make provision for the member's entitlement to PPF compensation or relevant compensation under the pension compensation provisions.

(3) The cash equivalent of the PPF compensation or relevant compensation must be calculated and verified—

(a) in accordance with actuarial assumptions approved by the Board, and

(b) on the assumption that the date on which the valuation is carried out is the date that the Board received the request for the valuation.

Provision of information in response to a notification that a pension compensation sharing order etc. may be made

5.—(1) On a direction from the court or a request from the member, the Board must supply the information specified in paragraph (2) to the member or to the court, as the case may be—

(a) within 21 days beginning with the day that the Board received the notification that a pension compensation sharing order, a pension compensation attachment order, or a qualifying agreement containing provision equivalent to such orders, may be made, or

(b) if the court has specified a date which is before or after the 21 day period specified in sub-paragraph (a), by that date.

(2) The information referred to in paragraph (1) is—

(a) the full name and address of the person to whom any order or provision specified in section 88 (activation of pension compensation sharing) should be sent;

(b) whether the Board is aware that the member's rights to PPF compensation are subject to any, and if so, which, of the following—

(i) any order or provision specified in section 88;

(ii) any order or provision specified in Article 25(1) of the Welfare Reform and Pensions (Northern Ireland) Order 1999)(**9**) (activation of pension sharing);

(iii) an order under Article 25 of the Matrimonial Causes (Northern Ireland) Order 1978(**10**) (financial provision orders in connection with divorce proceedings, etc.), which includes provision made by virtue of Article 27B(**11**) (pensions) or 27C (pensions: lump sums) of that Order;

(iv) an order under Part 1 of Schedule 15 to the Civil Partnership Act 2004(**12**) (financial provision in connection with dissolution, nullity or separation), which includes

(**8**) 1985 c. 37; section 8 is amended for the purposes of pension compensation on divorce etc. by paragraphs 1 and 2 of Schedule 7 to the Pensions Act 2008 (c. 30)

(**9**) S.I. 1999/3147 (N.I. 11); Article 25(1) was amended by paragraph 110 of Schedule 29 to the Civil Partnership Act 2004 (c. 33)

(**10**) S.I. 1978/1045 (N.I. 15); Article 25 was amended by Article 5 of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989 (S.I. 1989/677 (N.I. 4))

(**11**) Articles 27B and 27C were inserted by Article 162(1) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)); Article 27B was amended by paragraph 1 of Schedule 4 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)) and is modified, in cases where the Board becomes involved with or assumes responsibility for a scheme, by S.R. 2006 No. 310; Article 27C was amended by paragraph 2 of Schedule 4 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(**12**) 2004 c. 33