STATUTORY RULES OF NORTHERN IRELAND

2000 No. 210

FAMILY LAW PENSIONS

The Divorce etc. (Pensions) Regulations (Northern Ireland) 2000

To be laid before Parliament

Made - - - -	*27th May 2000*
Coming into operation	*1st December 2000*

The Lord Chancellor, in exercise of the powers conferred on him by Articles 26B, 27D(1)(*b*), (2) and (3) and Article 33(4C) of the Matrimonial Causes (Northern Ireland) Order 1978(**1**) and Article 25(4) of the Matrimonial and Family Proceedings (Northern Ireland) Order 1989(**2**), hereby makes the following Regulations:

Citation, commencement and transitional provisions

1.—(1) These Regulations may be cited as the Divorce etc. (Pensions) Regulations (Northern Ireland) 2000 and shall come into operation on 1st December 2000.

(2) These Regulations shall apply to any proceedings for divorce, judicial separation or nullity of marriage commenced on or after 1st December 2000, and any such proceedings commenced before that date shall be treated as if these Regulations had not come into operation.

Interpretation

2. In these Regulations—

(a) a reference to an Article by number alone is a reference to the Article so numbered in the Matrimonial Causes (Northern Ireland) Order 1978;

(**1**) S.I.1978/1045 (N.I. 15). Article 26B was inserted by paragraph 5 of Schedule 3 to the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)). Articles 27B, 27C and 27D were inserted by Article 162(1) of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213) (N.I. 22) and amended by Schedule 4 to the Welfare Reform and Pensions (Northern Ireland) Order 1999. Article 33(4C) was inserted by paragraph 8 of Schedule 3 to the Welfare Reform and Pensions (Northern Ireland) Order 1999

(**2**) S.I. 1989/677 (N.I. 4). Article 25(4) was inserted by Article 20(5) of the Welfare Reform and Pensions (Northern Ireland) Order 1999

(b) "the 1989 Order" means the Matrimonial and Family Proceedings (Northern Ireland) Order 1989;

(c) expressions defined in Article 23A(**3**) and 27D(3) have the meanings assigned by those Articles;

(d) a reference to a rule by number alone is a reference to the rule so numbered in the Family Proceedings Rules (Northern Ireland) 1996(**4**).

Valuation

3.—(1) For the purpose of the court's functions in connection with the exercise of any of its powers under Part III of the Matrimonial Causes (Northern Ireland) Order 1978, benefits under a pension arrangement shall be calculated and verified in the manner set out in regulation 3 of the Pensions on Divorce etc. (Provision of Information) Regulations (Northern Ireland) 2000(**5**), and—

(a) the benefits shall be valued as at a date to be specified by the court (being not earlier than one year before the date of the petition and not later than the date on which the court is exercising its power);

(b) in determining that value the court may have regard to information furnished by the person responsible for the pension arrangement pursuant to any of the provisions set out in paragraph (2); and

(c) in specifying a date under sub-paragraph (*a*) the court may have regard to the date specified in any information furnished as mentioned in sub-paragraph (*b*).

(2) The relevant provisions for the purpose of paragraph (1)(*b*) are:

(a) the Pensions on Divorce etc. (Provision of Information) Regulations (Northern Ireland) 2000;

(b) regulation 5 of, and Schedule 2 to, the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1997(**6**) and regulation 11 of, and Schedule 1 to, the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996(**7**);

(c) section 89A or 90(1)(*a*) or (*aa*) of the Pension Schemes (Northern Ireland) Act 1993(**8**);

(d) section 90(1)(*b*) of the Pension Schemes (Northern Ireland) Act 1993 or paragraph 2(1) (or, where applicable, 2(2)) of Schedule 2 to the Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987(**9**).

Pension attachment: notices

4.—(1) This regulation applies in the circumstances set out in Article 27D(1)(*a*) (transfers of pension rights).

(2) Where this regulation applies, the person responsible for the first arrangement shall give notice in accordance with the following paragraphs of this regulation to—

(a) the person responsible for the new arrangement; and

(**3**) Article 23A was inserted by paragraph 3 of Schedule 3 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**4**) S.R. 1996 No. 322 to which the most recent relevant amendments were effected by S.R. 1999 No. 88
(**5**) S.R. 2000 No. 142
(**6**) S.R. 1997 No.98, to which the most recent relevant amendments were effected by S.R. 1997 No. 160 and S.R.1999 No. 486
(**7**) S.R. 1996 No. 619
(**8**) 1993 c. 49; section 89A was inserted by Article 149 of the Pensions (Northern Ireland) Order 1995 and is amended by paragraph 23 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999. Section 90 was amended by Article 150 of the Pensions (Northern Ireland) Order 1995 and paragraph 24 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999
(**9**) S.R. 1987 No. 288

(b) the other party.

(3) The notice to the person responsible for the new arrangement shall include copies of the following documents—

(a) every order made under Article 25 imposing any requirement on the person responsible for the first arrangement in relation to the rights transferred;

(b) any order varying such an order;

(c) all information or particulars which the other party has been required to supply under any provision of rule 2.73 for the purpose of enabling the person responsible for the first arrangement:—

(i) to provide information, documents or representations to the court to enable it to decide what if any requirements should be imposed on that person; or

(ii) to comply with any order imposing such a requirement.

(d) any notice given by the other party to the person responsible for the first arrangement under regulation 6;

(e) where the pension rights under the first arrangement were derived wholly or partly from rights held under a previous pension arrangement, any notice given to the person responsible for the previous arrangement under paragraph (2) on the occasion of that acquisition of rights.

(4) The notice to the other party shall contain the following particulars—

(a) the fact that the pension rights have been transferred;

(b) the date on which the transfer takes effect;

(c) the name and address of the person responsible for the new arrangement;

(d) the fact that the order made under Article 25 is to have effect as if it had been made in respect of the person responsible for the new arrangement.

(5) Both notices shall be given:

(a) within the period provided by section 95 of the Pension Schemes (Northern Ireland) Act 1993(**10**) for the person responsible for the first arrangement to carry out what the member requires; and

(b) before the expiry of 21 days after the person responsible for the first arrangement has made all required payments to the person responsible for the new arrangement.

Pension attachment: reduction in benefits

5.—(1) This regulation applies where—

(a) an order under Article 25 or under Article 21(**11**) of the 1989 Order has been made by virtue of Article 27B or 27C imposing any requirement on the person responsible for a pension arrangement;

(b) an event has occurred which is likely to result in a significant reduction in the benefits payable under the arrangement, other than—

(i) the transfer from the arrangement of all the rights of the party with pension rights in the circumstances set out in Article 27D(1)(*a*); or

(ii) a reduction in the value of assets held for the purposes of the arrangement by reason of a change in interest rates or other market conditions.

(**10**) 1993 c. 49; section 95 was amended by paragraph 8 of Schedule 4 to the Pensions (Northern Ireland) Order 1995
(**11**) Article 21 was substituted by paragraph 2 of Schedule 9 to the Welfare Reform and Pensions (Northern Ireland) Order 1999