STATUTORY RULES OF NORTHERN IRELAND

1996 No. 296

FAMILY LAW PENSIONS

The Divorce etc. (Pensions) Regulations (Northern Ireland) 1996

Made - - - -	*18th July 1996*
To be laid before Parliament	
Coming into operation	*10th August 1996*

The Lord Chancellor, in exercise of the powers conferred on him by Article 27D(2) and (4) of the Matrimonial Causes (Northern Ireland) Order 1978(**1**), hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Divorce etc. (Pensions) Regulations (Northern Ireland) 1996 and shall come into operation on 10th August 1996.

Interpretation

2. In these Regulations—

(a) an Article referred to by a number means the Article so numbered in the Matrimonial Causes (Northern Ireland) Order 1978;

(b) all words and phrases defined in Article 27D(3) and (4) have the meanings assigned by those paragraphs;

(c) "active member" and "deferred member" have the meanings assigned by Article 121 of the Pensions (Northern Ireland) Order 1995(**2**).

Valuation

3.—(1) The value of any benefits which a party has under a pension scheme shall be calculated and verified, for the purposes of orders under Article 25, in accordance with this regulation; and

(**1**) S.I.1978/1045 (N.I. 15); 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)). Article 27D(4) is recited because of the meaning assigned to the words "prescribed" and "regulations"

(**2**) S.I. 1995/3213 (N.I. 22)

in calculating that value the court may have regard to any information furnished by the trustees or managers of the pension scheme pursuant to—

(a) regulation 6 of and Schedule 2 to the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1986(**3**);

(b) paragraph 2(1) (or, where applicable, 2(2)) of Schedule 2 to the Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987(**4**); or

(c) regulation 4.

(2) The value mentioned in paragraph (1) shall be calculated as at a date to be specified by the court ("the specified date"), being not earlier than the date of the petition and not later than the date of the order; and in specifying a date the court may have regard to the date specified in any information furnished as mentioned in paragraph (1).

(3) Where the party with pension rights is an active member of an occupational pension scheme, the value of the benefits which he has under that scheme shall be taken to be the cash equivalent to which he would have acquired a right under section 90(1)(*a*) of the Pension Schemes (Northern Ireland) Act 1993(**5**) if his pensionable service had terminated at the specified date.

(4) Where the party with pension rights is a deferred member of an occupational pension scheme, the value of the benefits which he has under that scheme shall be taken to be the cash equivalent to which he acquired a right under section 90(1)(*a*) of that Act on the termination of his pensionable service.

(5) Where the party with pension rights a member of a personal pension scheme, the value of the benefits which he has under that scheme shall be taken to be the cash equivalent to which he would have acquired a right under section 90(1)(*b*) of that Act if he had made an application under section 91(1) of that Act on the specified date.

(6) Except as provided in paragraphs (3), (4) and (5) the court shall calculate the value of any benefits under the scheme which a party has or is likely to have by such method as it shall see fit.

4.—(1) The trustees or managers of any occupational pension scheme shall furnish in writing the information mentioned in regulation 6(7) of, and paragraphs 8 and 9 of Schedule 2 to the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1986 to a member of the scheme in the circumstances specified in paragraph (4).

(2) The trustees or managers of any personal pension scheme shall furnish in writing the information mentioned in paragraph 2(1) (or, where applicable, 2(2)) of Schedule 2 to the Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987 to a member of the scheme in the circumstances specified in paragraph (4).

(3) For the purposes of any information to be furnished under paragraph (1) or (2)—

(a) the estimated cash equivalent or value of the member's rights shall be calculated as at a date ("the valuation date") to be chosen by the trustees or managers of the pension scheme, which shall be within the period of three months beginning with the date of the request for information;

(b) the information shall be furnished to the member not more than 10 working days after the valuation date;

(c) the estimated cash equivalent or value mentioned in sub-paragraph (*a*) shall be calculated in accordance with paragraphs (3) to (5) of regulation 3, but as if the valuation date were substituted for the date specified by the court.

(**3**) S.R. 1986 No. 225; as amended by S.R. 1992 No. 304 and S.R. 1994 No. 300
(**4**) S.R. 1987 No. 288; as amended by S.R. 1992 No. 304 and S.R. 1994 No. 300
(**5**) 1993 c. 49

(4) The trustees or managers of a pension scheme shall furnish the information described in the preceding paragraphs of this regulation where the member is the petitioner or respondent in proceedings for divorce, nullity of marriage or judicial separation and—

(a) has requested the information and has not previously received information under this paragraph for the purpose of those proceedings; or

(b) has been required by the court to request the information;

and shall in either case be entitled to recover from the member the reasonable cost of furnishing the information.

(5) When furnishing information pursuant to the preceding paragraphs of this regulation, the trustees or managers of the pension scheme shall notify the member of the date chosen by them to be the valuation date.

(6) For the purpose of any information to be furnished under this regulation, the value of any rights which a person has under a pension scheme shall be calculated and verified in accordance with any guidance for the time being in force which has been prepared or from time to time revised by the Institute and Faculty of Actuaries for the purpose of—

(a) the calculation or estimation of transfer values for the purposes of section 90 of the Pension Schemes (Northern Ireland) Act 1993;

(b) the furnishing of information under the Occupational Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1986, or the Personal Pension Schemes (Disclosure of Information) Regulations (Northern Ireland) 1987 as appropriate; or

(c) the furnishing of information under this regulation

and approved by the Department of Health and Social Services for the purposes of this regulation.

5. Where the trustees or managers of a pension scheme have been requested to furnish or have furnished information under the preceding paragraph, they shall, if so requested by the member, state in writing what proportion of the estimated cash equivalent or value of the member's rights is in their opinion attributable to any pension or other periodical payment under the scheme to which a spouse of the member would be or might become entitled in the event of the member's death.

Notices

6.—(1) This regulation applies in the circumstances set out in Article 27D(1)(*a*).

(2) Where this regulation applies, the trustees or managers of the first scheme shall, within 14 days after the date of the transfer, give notice in accordance with the following paragraphs to—

(a) the trustees or managers of the new scheme or schemes, and

(b) the other party.

(3) The notice to the trustees or managers of the new scheme or schemes shall consist of a copy of every order made under Article 25 imposing any requirement on the trustees or managers of the existing scheme and of any order varying such an order.

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

(a) the fact that the accrued rights of the party with pension rights have been transferred;

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

(c) the name and address of the trustees or managers of the new scheme or schemes;

(d) the fact that the order made under Article 25 is to have effect as if it had been made in respect of the trustees or managers of the new scheme or schemes.

7.—(1) This regulations applies where—