STATUTORY INSTRUMENTS

1999 No. 3147

The Welfare Reform and Pensions (Northern Ireland) Order 1999

PART IV

PENSIONS ON DIVORCE ETC.

Pension sharing orders

18. Schedule 3 (which amends the Matrimonial Causes Order for the purpose of enabling the court to make pension sharing orders in connection with proceedings in Northern Ireland for divorce or nullity of marriage, and for supplementary purposes) shall have effect.

Amendments of Articles 27B to 27D of the Matrimonial Causes Order

19. Schedule 4 (which amends the Articles about pensions inserted in the Matrimonial Causes Order by Article 162 of the Pensions Order) shall have effect.

Extension to overseas divorces etc.

20.—(1) Part IV of theMatrimonial and Family Proceedings (Northern Ireland) Order 1989 (financial relief in Northern Ireland after overseas divorce etc.) shall be amended as follows.

(2) In Article 22 (matters to which the court is to have regard in exercising its powers to make orders for financial relief), after paragraph (3) there shall be inserted—

"(3A) The matters to which the court is to have regard under paragraph (3)—

(a) so far as relating to sub-paragraph (a) of Article 27(2) of the principal Order, include any benefits under a pension arrangement which a party to the marriage has or is likely to have (whether or not in the foreseeable future), and

(b) so far as relating to sub-paragraph (h) of that provision, include any benefits under a pension arrangement which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring.".

(3) In that Article, at the end there shall be added—

"(7) In this Article—

(a) "pension arrangement" has the meaning given by Article 27D(3) of the principal Order, and

(b) references to benefits under a pension arrangement include any benefits by way of pension, whether under a pension arrangement or not.".

(4) In Article 25 (application of provisions of Part III of the Matrimonial Causes Order), the existing provision shall become paragraph (1) and, in that paragraph, after sub-paragraph (b) there shall be inserted—

"(bd) Article 27B(3) to (9) (power, by financial provision order, to attach payments under a pension arrangement, or to require the exercise of a right of commutation under such an arrangement);

(be) Article 27C (extension of lump sum powers in relation to death benefits under a pension arrangement);".

(5) In that Article, after paragraph (1) there shall be added—

"(2) Paragraph (1)(bd) and (be) shall not apply where the court has jurisdiction to entertain an application for an order for financial relief by reason only of the situation in Northern Ireland of a dwelling-house which was a matrimonial home of the parties.

(3) Article 27D(1) of the principal Order (effect of transfers on orders relating to rights under a pension arrangement) shall apply in relation to an order made under Article 21 by virtue of paragraph (1)(bd) or (be) as it applies in relation to an order made under Article 25 of the principal Order by virtue of Article 27B or 27C of that Order.

(4) The Lord Chancellor may by regulations make for the purposes of this Part provision corresponding to any provision which may be made by him under paragraphs (2) and (2A) of Article 27D of the principal Order.

(5) Regulations under this Article shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.".

Miscellaneous

Supply of pension information in connection with divorce etc.

21.—(1) The Department may by regulations—

(a) make provision imposing on the person responsible for a pension arrangement, or on the Department, requirements with respect to the supply of information relevant to any power with respect to—

(i) financial relief under Part III of the Matrimonial Causes Order or Part IV of theMatrimonial and Family Proceedings (Northern Ireland) Order 1989 (powers in relation to domestic and overseas divorce etc.),

(ii) financial relief under Part II of theMatrimonial Causes Act 1973 or Part III of theMatrimonial and Family Proceedings Act 1984 (corresponding England and Wales powers), or

(iii) financial provision under theFamily Law (Scotland) Act 1985 or Part IV of theMatrimonial and Family Proceedings Act 1984 (corresponding Scottish powers),

(b) make provision about calculation and verification in relation to the valuation of—

(i) benefits under a pension arrangement, or

(ii) shareable state scheme rights, for the purposes of regulations under sub-paragraph (a)(i) or (ii),

(c) make provision about calculation and verification in relation to—

(i) the valuation of shareable rights under a pension arrangement or shareable state scheme rights for the purposes of regulations under sub-paragraph (a)(iii), so far as relating to the making of orders for financial provision (within the meaning of the Family Law (Scotland) Act 1985), or

(ii) the valuation of benefits under a pension arrangement for the purposes of such regulations, so far as relating to the making of orders under section 12A of that Act,

(d) make provision for the purpose of enabling the person responsible for a pension arrangement to recover prescribed charges in respect of providing information in accordance with regulations under sub-paragraph (a).

(2) Regulations under paragraph (1)(b) or (c) may include provision for calculation or verification in accordance with guidance from time to time prepared by a person prescribed by the regulations.

(3) Regulations under paragraph (1)(d) may include provision for the application in prescribed circumstances, with or without modification, of any provision made by virtue of Article 38(2).

(4) In paragraph (1)—

(a) the reference in sub-paragraph (c)(i) to shareable rights under a pension arrangement is to rights in relation to which pension sharing is available under Chapter I of Part V, or under Chapter I of Part IV of the Welfare Reform Act, and

(b) the references to shareable state scheme rights are to rights in relation to which pension sharing is available under Chapter II of Part V, or under Chapter II of Part IV of the Welfare Reform Act.

Charges by pension arrangements in relation to earmarking orders

22. The Department may by regulations make provision for the purpose of enabling the person responsible for a pension arrangement to recover prescribed charges in respect of complying with—

(a) an order under Article 25 of the Matrimonial Causes Order (financial provision orders in connection with divorce etc.), so far as it includes provision made by virtue of Article 27B or 27C of that Order (powers to include provisions about pensions),

(b) an order under section 23 of theMatrimonial Causes Act 1973, so far as it includes provision made by virtue of section 25B or 25C of that Act (England and Wales powers corresponding to those mentioned in paragraph (a)), or

(c) an order under section 12A(2) or (3) of theFamily Law (Scotland) Act 1985 (powers in relation to pensions lump sums when making a capital sum order).

Interpretation of Part IV

23.—(1) In this Part—

"occupational pension scheme" has the same meaning as in the Pension Schemes Act;

"pension arrangement" means—

(a) an occupational pension scheme,

(b) a personal pension scheme,

(c) a retirement annuity contract,

(d) an annuity or insurance policy purchased, or transferred, for the purpose of giving effect to rights under an occupational pension scheme or a personal pension scheme, and

(e) an annuity purchased, or entered into, for the purpose of discharging liability in respect of a pension credit under Article 26(1)(b) or under section 29(1)(b) of the Welfare Reform Act;

"personal pension scheme" has the same meaning as in the Pension Schemes Act;

"prescribed" means prescribed by regulations made by the Department;

"retirement annuity contract" means a contract or scheme approved under Chapter III of Part XIV of theIncome and Corporation Taxes Act 1988;

"trustees or managers", in relation to an occupational pension scheme or a personal pension scheme, means—

(a) in the case of a scheme established under a trust, the trustees of the scheme, and

(b) in any other case, the managers of the scheme.

(2) References to the person responsible for a pension arrangement are—

(a) in the case of an occupational pension scheme or a personal pension scheme, to the trustees or managers of the scheme,

(b) in the case of a retirement annuity contract or an annuity falling within paragraph (d) or (e) of the definition of

"pension arrangement", the provider of the annuity, and

(c) in the case of an insurance policy falling within paragraph (d) of the definition of that expression, the insurer.