
STATUTORY RULES OF NORTHERN IRELAND

2000 No. 329

FAMILY PROCEEDINGS

SUPREME COURT

COUNTY COURTS

**The Family Proceedings (Amendment) Rules
(Northern Ireland) 2000**

Made 1st November 2000

Coming into operation 1st December 2000

To be laid before Parliament

We, the Family Proceedings Rules Committee, in exercise of the powers conferred on us by Article 12 of the Family Law (Northern Ireland) Order 1993(a) hereby with the concurrence of the Lord Chancellor make the following Rules:

Citation and commencement

1. These Rules may be cited as the Family Proceedings (Amendment) Rules (Northern Ireland) 2000 and shall come into operation on 1st December 2000.

Transitional provisions

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

Interpretation

3. In these Rules a reference to a rule by number alone is a reference to the rule so numbered in the Family Proceedings Rules (Northern Ireland) 1996(b).

Amendments to the Family Proceedings Rules (Northern Ireland) 1996

4. In Rule 1.3(1):—

(a) after the definition of “the Allocation Order of 1999” there shall be inserted the following—

(a) S.I. 1993/1576 (N.I. 6)

(b) S.R. 1996 No. 322; the relevant amending instrument is S.R. 1999 No. 88

“the Order of 1999” means the Welfare Reform and Pensions (Northern Ireland) Order 1999(a); and

(b) in the definition of “ancillary relief:”—

(i) in sub-paragraph (d), the word “or” shall be omitted; and

(ii) after sub-paragraph (e) there shall be inserted the following:—

”, or

(f) a pension sharing order.”.

5. In rule 2.55(1), after sub-paragraph (c) there shall be inserted the following:—

“(d) a pension sharing order,”

6. In rule 2.72—

(a) in paragraph (1) for the words “Articles 25, 26” there shall be substituted the words “Article 25, 26, 26A”; and

(b) after paragraph 1(d) there shall be inserted the following:—

“(dd) Where the order includes provision to be made under Article 26A, 27B or 27C of the Order of 1978, a statement confirming that the person responsible for the pension arrangement in question has been served with the documents require by rule 2.73(11) or (12) as the case may be and that no objection to such an order has been made by that person within 21 days from such service.”

7. For rule 2.73 there shall be substituted the following:—

“*Pensions*

2.73—(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 has or is likely to have any benefits under a pension arrangement.

(2) Within seven days of the notice in Form M13 or M15, as the case may be, having been filed, the party with pension rights shall request the person responsible for each pension arrangement under which he has or is likely to have benefits to furnish the information referred to in regulation 2(2) and (3)(b) to (f) of the Pensions on Divorce etc. (Provision of Information) Regulations (Northern Ireland) 2000(b).

(3) Within seven days of receiving information under paragraph (2) the party with pension rights shall send a copy of it to the other party, together with the name and address of the person responsible for each pension arrangement.

(4) A request under paragraph (2) above need not be made where the party with pension rights is in possession of, or has requested, a relevant

(a) S.I. 1999/3147 (N.I. 11)

(b) S.R. 2000 No. 142

valuation of the pension rights or benefits accrued under the pension arrangement in question.

(5) In this rule, a relevant valuation means a valuation of pension rights or benefits 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), which has been furnished or requested pursuant to any of the following provisions:—

- (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^(a) and regulation 11 of, and Schedule 1 to, the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996^(b);
- (c) section 89A or 90(1)(a) or (aa) of the Pension Schemes (Northern Ireland) Act 1993^(c);
- (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^(d).

(6) As soon as practicable after making or giving notice of intention to proceed with an application for ancillary relief including provision to be made under Article 26A (pension sharing) of the Order of 1978, or upon adding a request for such provision to an existing application for ancillary relief, the applicant shall send to the person responsible for the pension arrangement concerned a copy of the notice in Form M13 or M15, as the case may be.

(7) As soon as practicable after making or giving notice of intention to proceed with an application for ancillary relief including the provision to be made under Article 27B or 27C (pension attachment) of the Order of 1978, or upon adding a request for such provision to an existing application for ancillary relief, the applicant shall send to the person responsible for the pension arrangement concerned—

- (a) a copy of the notice in Form M13 or M15, as the case may be;
- (b) an address to which any notice which the person responsible is required to serve on the applicant under the Divorce etc. (Pensions) Regulations (Northern Ireland) 2000^(e) is to be sent;
- (c) an address to which any payment which the person responsible is required to make to the applicant is to be sent; and

(a) S.R. 1997 No. 98, the relevant amending instruments are S.R. 1997 No. 160 and S.R. 1999 No. 486

(b) S.R. 1996 No. 619

(c) 1993 c. 49; Section 89A was inserted by Article 149 of the Pensions (Northern Ireland) Order 1995 (S.I. 1995/3213 (N.I. 22)) 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

(d) S.R. 1987 No. 288

(e) S.R. 2000 No. 210

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

(8) A person responsible for a pension arrangement on whom a copy of a notice under paragraph (6) or (7) is served may, within 21 days after service, require the applicant to provide him with an affidavit supporting his application, and the applicant must then provide that person with a copy within 21 days.

(9) A person responsible for a pension arrangement who receives an affidavit as required pursuant to paragraph (8) may within the 21 days after receipt send to the court and the applicant an affidavit in answer.

(10) A person responsible for a pension arrangement who files an affidavit in answer pursuant to paragraph (9) may file therewith a notice to the court requiring an appointment to be fixed, and where such a notice is filed—

(i) 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 applicant, the respondent and the person responsible for the pension arrangement; and

(ii) the person responsible for the pension arrangement shall be entitled to be represented at such hearing.

(11) Where the parties to the marriage have agreed on terms of an order including provision under Article 26A (pension sharing) of the Order of 1978, then, unless service has been effected under paragraph (6), they shall serve on the person responsible for the pension arrangement concerned 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.

(12) Where the parties have agreed on the terms of an order including provision under Article 27B or 27C (pension attachment) of the Order of 1978, then unless service has already been effected under paragraph (7), they shall serve on the person responsible for the pension arrangement concerned—

(a) the notice of 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 (b), (c) and (d) of paragraph (7).

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

(a) the person responsible for the pension arrangement has not made any objection within 21 days after the service on him 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 person responsible to attend before it or to furnish written details of his objection.

(14) An order for ancillary relief, whether by consent or not, including provision under Article 26A (pension sharing), 27B or 27C (pension attachment) of the Order of 1978, shall—

- (a) in the body of the order, state that there is to be provision by way of pension sharing or pension 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 more than one pension arrangement there shall be one annexe for each pension arrangement.

(15) Where provision is made under Article 26A (pension sharing) of the Order of 1978, 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 sharing order made under Part III of the Order of 1978;
- (c) the names of the transferor and the transferee;
- (d) the national insurance number of the transferor;
- (e) sufficient details to identify the pension arrangement concerned and the transferor's rights or benefits from it (for example a policy reference number);
- (f) the specified percentage, or where appropriate the specified amount, required in order to calculate the appropriate amount for the purposes of Article 26(1) of the Order of 1999 (creation of pension debits and credits);
- (g) how the pension sharing charges are to be apportioned between the parties or alternatively that they are to be paid in full by the transferor;
- (h) that the person responsible for the pension arrangement has furnished the information required by regulation 4 of the Pensions on Divorce (Provision of Information) Regulations (Northern Ireland) 2000 and that it appears from that information that there is power to make an order including provision under Article 26A of the Order of 1978;
- (i) the day on which the order or provision takes effect; and
- (j) that the person responsible for the pension arrangement concerned must discharge his liability in respect of the pension credit within a period of 4 months beginning with the day on which the order or provision takes effect or, if later, with the first day on which the person responsible for the pension arrangement concerned is in receipt of—

- (i) the order for ancillary relief, including the annexe;
- (ii) the decree of divorce or nullity of marriage; and
- (iii) the information prescribed by regulation 5 of the Pensions on Divorce etc. (Provision of Information) Regulations (Northern Ireland) 2000;

provided that if the court knows that the implementation period is different from that stated in sub-paragraph (j) by reason of regulations under Article 31(4) or 38(2)(a) of the Order of 1999, the annexe shall contain details of the implementation period as determined by those regulations instead of the statement in sub-paragraph (j);

- (k) where the order is made by consent, that no objection has been made by the person responsible for the pension arrangement, or that an objection has been received and considered by the court, as the case may be.

(16) Where provision is made under Article 27B or 27C (pension attachment) of the Order of 1978, 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 an order making provision under Article 27B or 27C, as the case may be, of the Order of 1978;
- (c) the names of the party with pension rights and the other party;
- (d) the national insurance number of the party with pension rights;
- (e) sufficient details to identify the pension arrangement concerned and the rights or benefits from it to which the party with pension rights is or may become entitled (for example a policy reference number);
- (f) in the case of an order including provision under Article 27B(4) of the Order of 1978, what percentage of any payment due to the party with pension rights is to be paid for the benefit of the other party;
- (g) in the case of an order including any other provision under Article 27B or 27C of the Order of 1978, what the person responsible is required to do;
- (h) the address to which any notice which the person responsible for the pension arrangement is required to serve on the other party under the Divorce etc. (Pensions) Regulations 2000 is to be sent, if not notified under paragraph (7)(b);
- (i) an address to which any payment which the person responsible is required to make to the other party is to be sent, if not notified under paragraph (7)(c); and
- (j) where the address in sub-paragraph (i) is that of a bank, a building society or the Department of National Savings, sufficient details to enable payment to be made into the account of the other party, if not notified under paragraph (7)(d);

(k) where the order is made by consent, that no objection has been made by the person responsible for the pension arrangement, or that an objection has been received and considered by the court, as the case may be.

(17) A court which makes, varies or discharges an order including provision under Article 26A, 27B or 27C of the Order of 1978, shall send to the person responsible for the pension arrangement concerned—

(a) a copy of the decree of divorce, nullity of marriage or judicial separation;

(b) in the case of divorce or nullity of marriage, a copy of the certificate under rule 2.54 that the decree has been made absolute; and

(c) a copy of that order, or as the case may be of the order varying or discharging that order, including any annexe to that order relating to that pension arrangement but no other annexe to that order.

(18) The documents referred to in paragraph (17) shall be sent within 7 days after the making of the relevant order or within 7 days of the decree absolute of divorce or nullity or decree of judicial separation, whichever is the later.

(19) In this rule—

(a) all words and phrases defined in Article 27D(3) and (4) of the Order of 1978 have the meanings assigned by those paragraphs; and

(b) all words and phrases defined in Article 43 of the Order of 1999 have the meanings assigned by that Article”.

Dated 25th October 2000

R. D. Carswell
M. J. Higgins
F. Brian Hall
M. McReynolds
Barry Malcolm
Hilary Keegan
K. Finlay

I concur

Irvine of Lairg, C.

Dated 1st November 2000

EXPLANATORY NOTE

(This note is not part of the Rules.)

These Rules amend the Family Proceedings Rules (Northern Ireland) 1996 to prescribe the procedure for applications for pension sharing and pension attachment orders. The Rules come into operation on 1st December 2000, to coincide with the introduction of pension sharing.

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