
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations implement the provisions of Chapter 1 and (in part) Chapter 2 of Part 3 of the Pensions (No. 2) Act (Northern Ireland) 2008 (“the Act”), which permit the courts to make pension compensation sharing orders and attachment orders in relation to Pension Protection Fund compensation in proceedings related to divorce, dissolution of a civil partnership, or in cases of annulment. Pension compensation sharing and attachment orders may be made in relation to the shareable rights to pension compensation of a Pension Protection Fund member (“member”) by the Board of the Pension Protection Fund (“the Board”) in accordance with Chapter 1 of Part 3 of the Act, Chapter 3 of Part III of the Pensions (Northern Ireland) Order 2005 (“the 2005 Order”) and, in Great Britain, any corresponding provision.

Part 1 provides for citation, commencement and interpretation.

Part 2 specifies rights to pension compensation which may not be shared.

Part 3 specifies the information which the Board must supply, on request or pursuant to an order of the court, before the court makes a pension compensation sharing or attachment order. Regulation 6 and the Schedule set out information which must be supplied to a person entitled to pension compensation by virtue of a pension credit (“a pension compensation credit member”).

Part 4 prescribes the information which must be supplied to the Board before the implementation period can begin, and the circumstances in which the implementation period (see section 93 of the Act) is extended, postponed or ceases to operate. Regulations 11 and 12 make provision, respectively, for calculation of the cash equivalent of the member’s entitlement to pension compensation and the pension compensation credit member’s entitlement by virtue of a pension compensation credit. Regulation 13 provides for discharge of the Board’s liability for a pension compensation credit where the transferee has died before the Board has discharged its liability.

Part 5 specifies the costs in respect of which the Board may charge the parties to proceedings in relation to divorce or dissolution of a civil partnership, and specifies the circumstances in which, and the methods by which, the Board may recover the charges from the parties. This Part also allows a party to pension compensation sharing who has paid charges which were owed by the other party to recover the money from the party who owed the charges.

Part 6 deals with pension compensation for survivors of a deceased transferee. Regulation 18 provides that a widow, widower or civil partner of a deceased transferee (“a surviving partner”) is not entitled to pension compensation when the deceased transferee has nominated a relevant partner (see regulation 1(2)) as beneficiary in the event of their death, or where the rules of the scheme from which the pension compensation credit was derived did not make provision for a survivor’s pension. Regulation 19 sets out the annual rate and duration of pension compensation payable to a surviving partner. Regulations 20 to 23 specify the circumstances in which a relevant partner and a surviving dependant of a deceased transferee may be entitled to pension compensation, the duration of payment and the method by which the amount payable to a surviving dependant is to be calculated. Regulation 24 deals with payment of pension compensation where there are changes in the circumstances of a surviving dependant.

Part 7 sets out the circumstances in which periodic compensation may be commuted for a lump sum, the circumstances in which the portion commuted may exceed 25% of the value of the pension compensation and the manner in which an option to commute may be exercised.

Changes to legislation: *There are currently no known outstanding effects for the The Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc.) Regulations (Northern Ireland) 2011. (See end of Document for details)*

Part 8 specifies the conditions under which a transferee may become entitled to early payment of pension compensation.

Part 9 provides that, for the purpose of determining the annual increase in periodic compensation, the Board may determine (in cases where this is unclear) how much of the service or notional service of the transferor should be treated as having occurred before 6th April 1997 and how much on or after that date.

Part 10 sets out the circumstances in which the compensation payable to the transferee may be subject to the compensation cap (see regulation 1(2)) and the method by which the amount payable is to be determined.

Part 11 inserts paragraphs 16C to 16F into Schedule 8 to the 2005 Order so as to enable review and reconsideration of determinations about entitlement to pension compensation under Chapter 1 of Part 3 of the Act and certain other determinations made by the Board in relation to pension compensation sharing. This Part also amends the Pension Protection Fund (Review and Reconsideration of Reviewable Matters) Regulations (Northern Ireland) 2005 so as to provide that a person who is directly affected by a reviewable decision of the Board is an “interested person” for the purposes of an application for a review of a decision made by the Board.

The [Pensions \(2008 No. 2 Act\) \(Commencement No. 5\) Order \(Northern Ireland\) 2011 \(S.R. 2011 No. 108 \(C. 7\)\)](#) provides for the coming into operation of section 99 of the Act, which inserts Article 152A into the 2005 Order, one of the enabling provisions under which these Regulations are made, for the purpose only of conferring power to make regulations, on 16th March 2011. It also provides for the coming into operation of sections 86 to 97 and 99 of, and Schedule 4 (except paragraph 11) to, the Act, in so far as they are not already in operation, on 6th April 2011.

As these Regulations, in so far as they are made under the 2005 Order, make in relation to Northern Ireland only provision corresponding to provision contained in regulations made by the Secretary of State for Work and Pensions in relation to Great Britain, the requirement to consult under Article 289(1) of the 2005 Order does not apply by virtue of paragraph (2)(e) of that Article.

An assessment of the impact of the legislative changes made by Part 3 of the Act is included in the Regulatory Impact Assessment which accompanied the Act, a copy of which has been laid in the Business Office and the Library of the Northern Ireland Assembly. Copies of that assessment are available from the Department for Social Development, Social Security Policy and Legislation Division, Level 1, James House, 2-4 Cromac Avenue, Gasworks Business Park, Ormeau Road, Belfast BT7 2JA or from the website: <http://www.dsdni.gov.uk/index/ssa/ssani-publications/ssani-pensions-publications.htm>.

Changes to legislation:

There are currently no known outstanding effects for the The Pension Protection Fund (Pension Compensation Sharing and Attachment on Divorce etc.) Regulations (Northern Ireland) 2011.