
STATUTORY INSTRUMENTS

1978 No. 1045

Matrimonial Causes (Northern Ireland) Order 1978

PART III

**FINANCIAL RELIEF FOR PARTIES TO
MARRIAGE AND CHILDREN OF FAMILY**

Ancillary relief in connection with divorce proceedings, etc.

Maintenance pending suit

24. On a petition for divorce, nullity of marriage or judicial separation, the court may make an order for maintenance pending suit, that is to say, an order requiring either party to the marriage to make to the other such periodical payments for his or her maintenance and for such term, being a term beginning not earlier than the date of the presentation of the petition and ending with the date of the determination of the suit, as the court thinks reasonable.

Financial provision orders in connection with divorce proceedings, etc.

25.—(1) On granting a decree of divorce, a decree of nullity of marriage or a decree of judicial separation or at any time thereafter (whether, in the case of a decree of divorce or of nullity of marriage, before or after the decree is made absolute), the court may make any one or more of the following orders, that is to say—

- (a) an order that either party to the marriage shall make to the other such periodical payments, for such term, as may be specified in the order;
- (b) an order that either party to the marriage shall secure to the other to the satisfaction of the court such periodical payments, for such term, as may be so specified;
- (c) an order that either party to the marriage shall pay to the other such lump sum or sums as may be so specified;
- (d) an order that a party to the marriage shall make to such person as may be specified in the order for the benefit of a child of the family, or to such a child, such periodical payments, for such term, as may be so specified;
- (e) an order that a party to the marriage shall secure to such person as may be so specified for the benefit of such a child, or to such a child, to the satisfaction of the court, such periodical payments, for such term, as may be so specified;
- (f) an order that a party to the marriage shall pay to such person as may be so specified for the benefit of such a child, or to such a child, such lump sum as may be so specified;

subject, however, in the case of an order under sub-paragraph (*d*), (*e*) or (*f*), to the restrictions imposed by Article 31(1) and (3) on the making of financial provision orders in favour of children who have attained the age of 18.

(2) The court may also, subject to those restrictions, make any one or more of the orders mentioned in paragraph (1)(*d*), (*e*) and (*f*)—

- (a) in any proceedings for divorce, nullity of marriage or judicial separation, before granting a decree; and
- (b) where any such proceedings are dismissed after the beginning of the trial, either forthwith or within a reasonable period after the dismissal.

(3) Without prejudice to the generality of paragraph (1)(*c*) or (*f*)—

- (a) an order under this Article that a party to a marriage shall pay a lump sum to the other party may be made for the purpose of enabling that other party to meet any liabilities or expenses reasonably incurred by him or her in maintaining himself or herself or any child of the family before making an application for an order under this Article in his or her favour;
- (b) an order under this Article for the payment of a lump sum to or for the benefit of a child of the family may be made for the purpose of enabling any liabilities or expenses reasonably incurred by or for the benefit of that child before the making of an application for an order under this Article in his favour to be met; and
- (c) an order under this Article for the payment of a lump sum may provide for the payment of that sum by instalments of such amount as may be specified in the order and may require the payment of the instalments to be secured to the satisfaction of the court.

(4) The power of the court under paragraph (1) or (2)(*a*) to make an order in favour of a child of the family shall be exercisable from time to time; and where the court makes an order in favour of a child under paragraph (2)(*b*), it may from time to time, subject to the restrictions mentioned in paragraph (1), make a further order in his favour of any of the kinds mentioned in paragraph (1) (*d*), (*e*) or (*f*).

(5) Without prejudice to the power to give a direction under Article 32 for the settlement of an instrument by conveyancing counsel, where an order is made under paragraph (1)(*a*), (*b*) or (*c*) on or after granting a decree of divorce or nullity of marriage, neither the order nor any settlement made in pursuance of the order shall take effect unless the decree has been made absolute.

(6) Where the court makes an order under any provision of paragraph (1), (2) or (4) it may give such consequential directions as it thinks fit for giving effect to the order (including directions requiring the disposal of any property).

[^{F1}(7) Where the court

- (a) makes an order under this Article for the payment of a lump sum; and
- (b) directs—
 - (i) that payment of that sum or any part of it shall be deferred, or
 - (ii) that that sum or any part of it shall be paid by instalments,

the court may order that the amount deferred or the instalments shall carry interest at such rate as may be specified by the order from such date, not earlier than the date of the order, as may be so specified until the date when payment of it is due.]

F1 1989 NI 4

Property adjustment orders in connection with divorce proceedings, etc.

26.—(1) On granting a decree of divorce, a decree of nullity of marriage or a decree of judicial separation or at any time thereafter (whether, in the case of a decree of divorce or of nullity of marriage, before or after the decree is made absolute), the court may make any one or more of the following orders, that is to say—

- (a) an order that a party to the marriage shall transfer to the other party, to any child of the family or to such person as may be specified in the order for the benefit of such a child such property as may be so specified, being property to which the first-mentioned party is entitled, either in possession or reversion;
- (b) an order that a settlement of such property as may be so specified, being property to which a party to the marriage is so entitled, be made to the satisfaction of the court for the benefit of the other party to the marriage and of the children of the family or either or any of them;
- (c) an order varying for the benefit of the parties to the marriage and of the children of the family or either or any of them any ante-nuptial or post-nuptial settlement (including such a settlement made by will or codicil) made on the parties to the marriage^[F2], other than one in the form of a pension arrangement (within the meaning of Article 27D)];
- (d) an order extinguishing or reducing the interest of either of the parties to the marriage under any such settlement^[F2], other than one in the form of a pension arrangement (within the meaning of Article 27D)];

subject, however, in the case of an order under sub-paragraph (a) to the restrictions imposed by Article 31(1) and (3) on the making of orders for a transfer of property in favour of children who have attained the age of 18.

(2) The court may make an order under paragraph (1)(c) notwithstanding that there are no children of the family.

(3) Without prejudice to the power to give a direction under Article 32 for the settlement of an instrument by conveyancing counsel, where an order is made under this Article on or after granting a decree of divorce or nullity of marriage, neither the order nor any settlement made in pursuance of the order shall take effect unless the decree has been made absolute.

(4) Where the court makes an order under any provision of paragraph (1) it may give such consequential directions as it thinks fit for giving effect to the order (including directions requiring the making of any payments or the disposal of any property).

F2 1999 NI 11

[F3 Pension sharing orders in connection with divorce proceedings, etc.

26A.—(1) On granting a decree of divorce or a decree of nullity of marriage or at any time thereafter (whether before or after the decree is made absolute), the court may, on an application made under this Article, make one or more pension sharing orders in relation to the marriage.

(2) A pension sharing order under this Article is not to take effect unless the decree on or after which it is made has been made absolute.

(3) A pension sharing order under this Article may not be made in relation to a pension arrangement which—

- (a) is the subject of a pension sharing order in relation to the marriage, or
- (b) has been the subject of pension sharing between the parties to the marriage.

(4) A pension sharing order under this Article may not be made in relation to shareable state scheme rights if—

- (a) such rights are the subject of a pension sharing order in relation to the marriage, or
- (b) such rights have been the subject of pension sharing between the parties to the marriage.

(5) A pension sharing order under this Article may not be made in relation to the rights of a person under a pension arrangement if there is in force a requirement imposed by virtue of Article

27B or 27C which relates to benefits or future benefits to which he is entitled under the pension arrangement.]

F3 1999 NI 11

Pension sharing orders: duty to stay

26B.—(1) No pension sharing order may be made so as to take effect before the end of such period after the making of the order as may be prescribed by regulations made by the Lord Chancellor.

(2) Regulations under this Article shall be subject to [^{F4}negative resolution].

F4 Words in art. 26B(2) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 18 para. 114(2)** (with arts. 28-31)

Pension sharing orders: apportionment of charges

26C. If a pension sharing order relates to rights under a pension arrangement, the court may include in the order provision about the apportionment between the parties of any charge under Article 38 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (charges in respect of pension sharing costs), or under section 41 of the Welfare Reform and Pensions Act 1999.

[^{F5}Pension compensation sharing orders in connection with divorce proceedings

26D.—(1) On granting a decree of divorce or a decree of nullity of marriage or at any time thereafter (whether before or after the decree is made absolute), the court may, on an application made under this Article, make a pension compensation sharing order in relation to the marriage.

(2) A pension compensation sharing order under this Article is not to take effect unless the decree on or after which it is made has been made absolute.

(3) A pension compensation sharing order under this Article may not be made in relation to rights to PPF compensation that—

- (a) are the subject of pension attachment,
- (b) derive from rights under a pension scheme that were the subject of pension sharing between the parties to the marriage,
- (c) are the subject of pension compensation attachment, or
- (d) are or have been the subject of pension compensation sharing between the parties to the marriage.

(4) For the purposes of paragraph (3)(a), rights to PPF compensation “are the subject of pension attachment” if any of the following three conditions is met.

(5) The first condition is that—

- (a) the rights derive from rights under a pension scheme in relation to which an order was made under Article 25 imposing a requirement by virtue of Article 27B(4), and
- (b) that order, as modified under Article 27E(3), remains in force.

(6) The second condition is that—

- (a) the rights derive from rights under a pension scheme in relation to which an order was made under Article 25 imposing a requirement by virtue of Article 27B(7), and
- (b) that order—

- (i) has been complied with, or
 - (ii) has not been complied with and, as modified under Article 27E(5), remains in force.
- (7) The third condition is that—
- (a) the rights derive from rights under a pension scheme in relation to which an order was made under Article 25 imposing a requirement by virtue of Article 27C, and
 - (b) that order remains in force.
- (8) For the purposes of paragraph (3)(b), rights under a pension scheme “were the subject of pension sharing between the parties to the marriage” if the rights were at any time the subject of a pension sharing order in relation to the marriage or a previous marriage between the same parties.
- (9) For the purposes of paragraph (3)(c), rights to PPF compensation “are the subject of pension compensation attachment” if there is in force a requirement imposed by virtue of Article 27F relating to them.
- (10) For the purposes of paragraph (3)(d), rights to PPF compensation “are or have been the subject of pension compensation sharing between the parties to the marriage” if they are or have ever been the subject of a pension compensation sharing order in relation to the marriage or a previous marriage between the same parties.

F5 Arts. 26D-26F inserted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), s. 118(1), [Sch. 5 para. 3](#) (with s. 73) (as amended by S.I. 2010/976, art. 1(2), [Sch. 18 para. 173](#) (with arts. 28-31)); S.R. 2011/108, art. 2(2), [Sch.](#)

Pension compensation sharing orders: duty to stay

26E.—(1) No pension compensation sharing order may be made so as to take effect before the end of such period after the making of the order as may be prescribed by regulations made by the Department of Justice.

- (2) Regulations under this Article shall be subject to negative resolution.

F5 Arts. 26D-26F inserted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), s. 118(1), [Sch. 5 para. 3](#) (with s. 73) (as amended by S.I. 2010/976, art. 1(2), [Sch. 18 para. 173](#) (with arts. 28-31)); S.R. 2011/108, art. 2(2), [Sch.](#)

Pension compensation sharing orders: apportionment of charges

26F The court may include in a pension compensation sharing order provision about the apportionment between the parties of any charge under section 95 of the Pensions (No. 2) Act (Northern Ireland) 2008 (charges in respect of pension compensation sharing costs), or under section 117 of the Pensions Act 2008.]

F5 Arts. 26D-26F inserted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), s. 118(1), [Sch. 5 para. 3](#) (with s. 73) (as amended by S.I. 2010/976, art. 1(2), [Sch. 18 para. 173](#) (with arts. 28-31)); S.R. 2011/108, art. 2(2), [Sch.](#)

[^{F6}Matters to which court is to have regard in deciding how to exercise its powers under Articles 25 [^{F7}, 26, 26A and 26D]

27.—(1) It shall be the duty of the court in deciding whether to exercise its powers under [^{F8}Article 25, or 26 [^{F9}, 26A or 26D]] and, if so, in what manner, to have regard to all the circumstances of the case, first consideration being given to the welfare while a minor of any child of the family who has not attained the age of 18.

(2) As regards the exercise of the powers of the court under Article 25(1)(a), (b) or (c) [^{F8}, 26 [^{F10}, 26A or 26D]] in relation to a party to the marriage, the court shall in particular have regard to the following matters—

- (a) the income, earning capacity, property and other financial resources which each of the parties to the marriage has or is likely to have in the foreseeable future, including in the case of earning capacity any increase in that capacity which it would in the opinion of the court be reasonable to expect a party to the marriage to take steps to acquire;
- (b) the financial needs, obligations and responsibilities which each of the parties to the marriage has or is likely to have in the foreseeable future;
- (c) the standard of living enjoyed by the family before the breakdown of the marriage;
- (d) the age of each party to the marriage and the duration of the marriage;
- (e) any physical or mental disability of either of the parties to the marriage;
- (f) the contributions which each of the parties has made or is likely in the foreseeable future to make to the welfare of the family, including any contribution by looking after the home or caring for the family;
- (g) the conduct of each of the parties, if that conduct is such that it would in the opinion of the court be inequitable to disregard it;
- (h) in the case of proceedings for divorce of nullity of marriage, the value to each of the parties to the marriage of any benefit ^{F11}. . . which, by reason of the dissolution or annulment of the marriage, that party will lose the chance of acquiring.

(3) As regards the exercise of the powers of the court under Article 25(1)(d), (e) or (f), (2) or (4) or 26 in relation to a child of the family, the court shall in particular have regard to the following matters—

- (a) the financial needs of the child;
- (b) the income, earning capacity (if any), property and other financial resources of the child;
- (c) any physical or mental disability of the child;
- (d) the manner in which he was being and in which the parties to the marriage expected him to be educated or trained;
- (e) the considerations mentioned in relation to the parties to the marriage in sub#paragraphs (a), (b), (c) and (e) of paragraph (2).

(4) As regards the exercise of the powers of the court under Article 25(1)(d), (e) or (f), (2) or (4) or 26 against a party to a marriage in favour of a child of the family who is not the child of that party, the court shall also have regard—

- (a) to whether that party assumed any responsibility for the child's maintenance, and , if so, to the extent to which, and the basis upon which, that party assumed such responsibility and to the length of time for which that party discharged such responsibility;
- (b) to whether in assuming and discharging such responsibility that party did so knowing that the child was not his or her own;
- (c) to the liability of any other person to maintain the child.]

- F6** 1989 NI 4
- F7** Words in art. 27 heading heading substituted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), s. 118(1), **Sch. 5 para. 4(2)** (with s. 73); S.R. 2011/108, art. 2(2), Sch.
- F8** 1999 NI 11
- F9** Words in art. 27(1) substituted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), s. 118(1), **Sch. 5 para. 4(3)** (with s. 73); S.R. 2011/108, art. 2(2), Sch.
- F10** Words in art. 27(2) substituted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), s. 118(1), **Sch. 5 para. 4(3)** (with s. 73); S.R. 2011/108, art. 2(2), Sch.
- F11** 1995 NI 22

Exercise of court's powers in favour of party to marriage on decree of divorce or nullity of marriage

27A.—(1) Where on or after the grant of a decree of divorce or nullity of marriage the court decides to exercise its powers under Article 25(1)(a), (b) or (c)^[F12], 26^[F13], 26A or 26D]] in favour of a party to the marriage, it shall be the duty of the court to consider whether it would be appropriate so to exercise those powers that the financial obligations of each party towards the other will be terminated as soon after the grant of the decree as the court considers just and reasonable.

(2) Where the court decides in such a case to make a periodical payments or secured periodical payments order in favour of a party to the marriage, the court shall in particular consider whether it would be appropriate to require those payments to be made or secured only for such term as would in the opinion of the court be sufficient to enable the party in whose favour the order is made to adjust without undue hardship to the termination of his or her financial dependence on the other party.

(3) Where on or after the grant of a decree of divorce or nullity of marriage an application is made by a party to the marriage for a periodical payments or secured periodical payments order in his or her favour, then, if the court considers that no continuing obligation should be imposed on either party to make or secure periodical payments in favour of the other, the court may dismiss the application with a direction that the applicant shall not be entitled to make any further application in relation to that marriage for an order under Article 25(1)(a) or (b).

- F12** 1999 NI 11
- F13** Words in art. 27A(1) substituted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), s. 118(1), **Sch. 5 para. 5** (with s. 73); S.R. 2011/108, art. 2(2), Sch.

^[F14]Pensions

27B.—(1) The matters to which the court is to have regard under Article 27(2) include—

- (a) in the case of sub-paragraph (a), any benefits under a pension^[F15] arrangement] which a party to the marriage has or is likely to have; and
- (b) in the case of sub-paragraph (h), any benefits under a pension^[F15] arrangement] which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring,

and, accordingly, in relation to benefits under a pension^[F15] arrangement], Article 27(2)(a) shall have effect as if "in the foreseeable future" were omitted.

Para. (2) rep. by 1999 NI 11

(3) The following provisions apply where, having regard to any benefits under a pension^[F15] arrangement], the court determines to make an order under Article 25.

(4) To the extent to which the order is made having regard to any benefits under a pension^{F15} arrangement], the order may require the^{F15} person responsible for] the pension^{F15} arrangement] in question, if at any time any payment in respect of any benefits under the^{F15} arrangement] becomes due to the party with pension rights, to make a payment for the benefit of the other party.

[^{F15}(5) The order must express the amount of any payment required to be made by virtue of paragraph (4) as a percentage of the payment which becomes due to the party with pension rights.]

(6) Any such payment by the^{F15} person responsible for the arrangement]

- (a) shall discharge so much of^{F15} his] liability to the party with pension rights as corresponds to the amount of the payment; and
- (b) shall be treated for all purposes as a payment made by the party with pension rights in or towards the discharge of his liability under the order.

(7) Where the party with pension rights^{F15} has a right of commutation under the arrangement, the order may require him to exercise it to any extent]; and this Article applies to^{F15} any payment due in consequence of commutation] in pursuance of the order as it applies to other payments in respect of benefits under the^{F15} arrangement].

[^{F15}(8) The power conferred by paragraph (7) may not be exercised for the purpose of commuting a benefit payable to the party with pension rights to a benefit payable to the other party.

(9) The power conferred by paragraph (4) or (7) may not be exercised in relation to a pension arrangement which—

- (a) is the subject of a pension sharing order in relation to the marriage, or
- (b) has been the subject of pension sharing between the parties to the marriage.

(10) In paragraph (1), references to benefits under a pension arrangement include any benefits by way of pension, whether under a pension arrangement or not.]]

F14 1995 NI 22

F15 1999 NI 11

Modifications etc. (not altering text)

C1 Art. 27B(6) modified (14.8.2006) by Divorce etc. (Pension Protection Fund) Regulations (Northern Ireland) 2006 (S.R. 2006/310), **reg. 2**

Pensions: lump sums

27C.—(1) The power of the court under Article 25 to order a party to a marriage to pay a lump sum to the other party includes, where the benefits which the party with pension rights has or is likely to have under a pension^{F16} arrangement] include any lump sum payable in respect of his death, power to make any of the following provision by the order.

(2) The court may—

- (a) if the^{F16} person responsible for the pension arrangement in question has] power to determine the person to whom the sum, or any part of it, is to be paid, require^{F16} him] to pay the whole or part of that sum, when it becomes due, to the other party;
- (b) if the party with pension rights has power to nominate the person to whom the sum, or any part of it, is to be paid, require the party with pension rights to nominate the other party in respect of the whole or part of that sum;

- (c) in any other case, require the^[F16] person responsible for the pension arrangement] in question to pay the whole or part of that sum, when it becomes due, for the benefit of the other party instead of to the person to whom, apart from the order, it would be paid.

(3) Any payment by the^[F16] person responsible for the arrangement] under an order made under Article 25 by virtue of this Article shall discharge so much of^[F16] his] liability in respect of the party with pension rights as corresponds to the amount of the payment.

^[F16](4) The powers conferred by this Article may not be exercised in relation to a pension arrangement which—

- (a) is the subject of a pension sharing order in relation to the marriage, or
(b) has been the subject of pension sharing between the parties to the marriage.]

F16 1999 NI 11

Pensions: supplementary

27D.—^[F17](1) Where—

- (a) an order made under Article 25 by virtue of Article 27B or 27C imposes any requirement on the person responsible for a pension arrangement (“the first arrangement”) and the party with pension rights acquires rights under another pension arrangement (“the new arrangement”) which are derived (directly or indirectly) from the whole of his rights under the first arrangement, and
(b) the person responsible for the new arrangement has been given notice in accordance with regulations made by the Lord Chancellor,

the order shall have effect as if it had been made instead in respect of the person responsible for the new arrangement.]

(2) ^[F17]The Lord Chancellor may by regulations]

- (a) in relation to any provision of Article 27B or 27C which authorises the court making an order under Article 25 to require the^[F17] person responsible for a pension arrangement] to make a payment for the benefit of the other party, make provision as to the person to whom, and the terms on which, the payment is to be made;

^[F17](aa) make, in relation to payment under a mistaken belief as to the continuation in operation of a provision included by virtue of Article 27B or 27C in an order under Article 25, provision about the rights or liabilities of the payer, the payee or the person to whom the payment was due;]

- (b) require notices to be given in respect of changes of circumstances relevant to such orders which include provision made by virtue of Articles 27B and 27C;

^[F17](ba) make provision for the person responsible for a pension arrangement to be discharged in prescribed circumstances from a requirement imposed by virtue of Article 27B or 27C;]

Sub#paras. (c), (d) rep. by 1999 NI 11

^[F17](e) 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 the court's functions in connection with the exercise of any of its powers under this Part.]

F17 . . .

[^{F17}(2A) Regulations under paragraph (2)(e) may include—

- (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person, and
- (b) provision by reference to regulations under Article 27 or 46(4) of the Welfare Reform and Pensions (Northern Ireland) Order 1999.

(2B) Regulations under this Article shall be subject to [^{F18}negative resolution].]

[^{F17}(3) In this Article and Articles 27B and 27C—

“occupational pension scheme” has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993;

“the party with pension rights” means the party to the marriage who has or is likely to have benefits under a pension arrangement and “the other party” means the other party to the marriage;

“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) of the Welfare Reform and Pensions (Northern Ireland) Order 1999 or under section 29(1)(b) of the Welfare Reform and Pensions Act 1999;

“personal pension scheme” has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993;

“prescribed” means prescribed by regulations;

“retirement annuity contract” means a contract or scheme approved under Chapter III of Part XIV of the Income and Corporation Taxes Act 1988;

“shareable state scheme rights” has the same meaning as in Article 23A(1); and

“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.

(4) In this Article and Articles 27B and 27C, 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.]

F18 Words in art. 27D(2B) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 18 para. 114\(3\)](#) (with arts. 28-31)

[^{F19}The Pension Protection Fund

27E.—(1) The matters to which the court is to have regard under Article 27(2) include—

- (a) in the case of sub-paragraph (a), any PPF compensation to which a party to the marriage is or is likely to be entitled, and
- (b) in the case of sub-paragraph (h), any PPF compensation which, by reason of the dissolution or annulment of the marriage, a party to the marriage will lose the chance of acquiring entitlement to,

and, accordingly, in relation to PPF compensation, Article 27(2)(a) shall have effect as if “in the foreseeable future” were omitted.

(2) Paragraph (3) applies in relation to an order under Article 25 so far as it includes provision made by virtue of Article 27B(4) which—

- (a) imposed requirements on the trustees or managers of an occupational pension scheme for which the Board has assumed responsibility in accordance with Chapter 3 of Part III of the Pensions (Northern Ireland) Order 2005 (pension protection) or any provision in force in Great Britain corresponding to that Chapter, and
- (b) was made before the trustees or managers of the scheme received the transfer notice in relation to the scheme.

(3) The order is to have effect from the time when the trustees or managers of the scheme receive the transfer notice—

- (a) as if, except in prescribed descriptions of case—
 - (i) references in the order to the trustees or managers of the scheme were references to the Board, and
 - (ii) references in the order to any pension or lump sum to which the party with pension rights is or may become entitled under the scheme were references to any PPF compensation to which that person is or may become entitled in respect of the pension or lump sum, and
- (b) subject to such other modifications as may be prescribed.

(4) Paragraph (5) applies to an order under Article 25 if—

- (a) it includes provision made by virtue of Article 27B(7) which requires the party with pension rights to exercise his right of commutation under an occupational pension scheme to any extent, and
- (b) before the requirement is complied with the Board has assumed responsibility for the scheme as mentioned in paragraph (2)(a).

(5) From the time the trustees or managers of the scheme receive the transfer notice, the order is to have effect with such modifications as may be prescribed.

(6) Regulations may modify Article 27C as it applies in relation to an occupational pension scheme at any time when there is an assessment period in relation to the scheme.

(7) Where the court makes a pension sharing order in respect of a person's shareable rights under an occupational pension scheme, or an order which includes provision made by virtue of Article 27B(4) or (7) in relation to such a scheme, the Board subsequently assuming responsibility for the scheme as mentioned in paragraph (2)(a) does not affect—

- (a) the powers of the court under Article 33 to vary or discharge the order or to suspend or revive any provision of it, or
- (b) on an appeal, the powers of the appeal court to affirm, reinstate, set aside or vary the order.
- (8) Regulations may make such consequential modifications of any provision of, or made by virtue of, this Part as appear to the Lord Chancellor necessary or expedient to give effect to the provisions of this Article.
- (9) In this Article—
- “assessment period” means an assessment period within the meaning of Part III of the Pensions (Northern Ireland) Order 2005 (pension protection) (see Articles 116 and 143 of that Order) or an equivalent period under any provision in force in Great Britain corresponding to that Part;
- “the Board” means the Board of the Pension Protection Fund;
- “occupational pension scheme” has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993;
- “prescribed” means prescribed by regulations;
- ^{F20} ...
- “regulations” means regulations made by the Lord Chancellor;
- “shareable rights” are rights in relation to which pension sharing is available under Chapter 1 of Part V of the Welfare Reform and Pensions (Northern Ireland) Order 1999 or any provision in force in Great Britain corresponding to that Chapter;
- “transfer notice” has the same meaning as in Article 144 of the Pensions (Northern Ireland) Order 2005 or any corresponding provision in force in Great Britain.
- (10) Regulations under this Article shall be subject to [^{F21}negative resolution].]

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F20 Words in art. 27E(9) repealed (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), s. 118\(1\), Sch. 5 para. 6, Sch. 10 Pt. 4](#) (with s. 73); S.R. 2011/108, art. 2(2), Sch.

F21 Words in art. 27E(10) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\), art. 1\(2\), Sch. 18 para. 114\(4\)](#) (with arts. 28-31)

[^{F22}Attachment of pension compensation

27F.—(1) This Article applies where, having regard to any PPF compensation to which a party to the marriage is or is likely to be entitled, the court determines to make an order under Article 25.

(2) To the extent to which the order is made having regard to such compensation, the order may require the Board of the Pension Protection Fund, if at any time any payment in respect of PPF compensation becomes due to the party with compensation rights, to make a payment for the benefit of the other party.

(3) The order must express the amount of any payment required to be made by virtue of paragraph (2) as a percentage of the payment which becomes due to the party with compensation rights.

(4) Any such payment by the Board of the Pension Protection Fund—

- (a) shall discharge so much of its liability to the party with compensation rights as corresponds to the amount of the payment, and
- (b) shall be treated for all purposes as a payment made by the party with compensation rights in or towards the discharge of that party's liability under the order.

(5) Where the party with compensation rights has a right to commute any PPF compensation, the order may require that party to exercise it to any extent; and this Article applies to any payment due in consequence of commutation in pursuance of the order as it applies to other payments in respect of PPF compensation.

(6) The power conferred by paragraph (5) may not be exercised for the purpose of commuting compensation payable to the party with compensation rights to compensation payable to the other party.

(7) The power conferred by paragraph (2) or (5) may not be exercised in relation to rights to PPF compensation that—

- (a) derive from rights under a pension scheme that were at any time the subject of a pension sharing order in relation to the marriage, or a previous marriage between the same parties, or
- (b) are or have ever been the subject of a pension compensation sharing order in relation to the marriage or a previous marriage between the same parties.

F22 Arts. 27F, 27G inserted (6.4.2011) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\), s. 118\(1\), Sch. 5 para. 7](#) (with s. 73) (as amended by [S.I. 2010/976, art. 1\(2\), Sch. 18 para. 174](#) (with arts. 28-31)); [S.R. 2011/108, art. 2\(2\), Sch.](#)

Pension compensation: supplementary

27G.—(1) The Department of Justice may by regulations—

- (a) make provision, in relation to any provision of Article 27F which authorises the court making an order under Article 25 to require the Board of the Pension Protection Fund to make a payment for the benefit of the other party, as to the person to whom, and the terms on which, the payment is to be made;
 - (b) make provision, in relation to payment under a mistaken belief as to the continuation in force of a provision included by virtue of Article 27F in an order under Article 25, about the rights or liabilities of the payer, the payee or the person to whom the payment was due;
 - (c) require notices to be given in respect of changes of circumstances relevant to orders under Article 25 which include provision made by virtue of Article 27F;
 - (d) make provision for the Board of the Pension Protection Fund to be discharged in prescribed circumstances from a requirement imposed by virtue of Article 27F;
 - (e) make provision about calculation and verification in relation to the valuation of PPF compensation for the purposes of the court's functions in connection with the exercise of any of its powers under this Part.
- (2) Regulations under paragraph (1)(e) may include—
- (a) provision for calculation or verification in accordance with guidance from time to time prepared by a prescribed person;
 - (b) provision by reference to regulations under section 90 of the Pensions (No. 2) Act (Northern Ireland) 2008.
- (3) Regulations under this Article shall be subject to negative resolution.
- (4) In this Article and Article 27F—
- “the party with compensation rights” means the party to the marriage who is or is likely to be entitled to PPF compensation, and “the other party” means the other party to the marriage;
- “prescribed” means prescribed by regulations.]

F22 Arts. 27F, 27G inserted (6.4.2011) by Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13), s. 118(1), **Sch. 5 para. 7** (with s. 73) (as amended by S.I. 2010/976, art. 1(2), **Sch. 18 para. 174** (with arts. 28-31)); S.R. 2011/108, art. 2(2), **Sch.**

Commencement of proceedings for ancillary relief, etc.

28.—(1) Where a petition for divorce, nullity of marriage or judicial separation has been presented, then, subject to paragraph (2), proceedings for maintenance pending suit under Article 24, for a financial provision order under Article 25, or for a property adjustment order may be begun, subject to and in accordance with rules of court, at any time after the presentation of the petition.

(2) Rules of court may provide, in such cases as may be prescribed by the rules,—

- (a) that applications for any such relief as is mentioned in paragraph (1) shall be made in the petition or answer; and
- (b) that applications for any such relief which are not so made, or are not made until after the expiration of such period following the presentation of the petition or filing of the answer as may be so prescribed, shall be made only with the leave of the court.

Changes to legislation:

There are currently no known outstanding effects for the Matrimonial Causes (Northern Ireland) Order 1978, Cross Heading: Ancillary relief in connection with divorce proceedings, etc..