
STATUTORY INSTRUMENTS

1995 No. 3213

The Pensions (Northern Ireland) Order 1995

PART V

MISCELLANEOUS AND GENERAL

Pensions on divorce, etc.

Pensions on divorce, etc.

162.—(1) In the Matrimonial Causes (Northern Ireland) Order 1978^{F1}, after Article 27A insert—

“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 scheme 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 scheme 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 scheme, Article 27(2)(a) shall have effect as if “in the foreseeable future” were omitted.

(2) In any proceedings for a financial provision order under Article 25 in a case where a party to the marriage has, or is likely to have, any benefit under a pension scheme, the court shall, in addition to considering any other matter which it is required to consider apart from this paragraph, consider—

- (a) whether having regard to any matter to which it is required to have regard in the proceedings by virtue of paragraph (1), such an order (whether deferred or not) should be made; and
- (b) where the court determines to make such an order, how the terms of the order should be affected, having regard to any such matter.

(3) The following provisions apply where, having regard to any benefits under a pension scheme, 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 scheme, the order may require the trustees or managers of the pension scheme in question, if at any time any payment in respect of any benefits under the scheme becomes due to the party with pension rights, to make a payment for the benefit of the other party.

(5) The amount of any payment which, by virtue of paragraph (4), the trustees or managers are required to make under the order at any time shall not exceed the amount of the payment which is due at that time to the party with pension rights.

(6) Any such payment by the trustees or managers—

Changes to legislation: *The Pensions (Northern Ireland) Order 1995, Cross Heading: Pensions on divorce, etc. is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) shall discharge so much of the trustees' or managers' 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 may require any benefits which he has or is likely to have under the scheme to be commuted, the order may require him to commute the whole or part of those benefits; and this Article applies to the payment of any amount commuted in pursuance of the order as it applies to other payments in respect of benefits under the scheme.

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 scheme 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 trustees or managers of the pension scheme in question have power to determine the person to whom the sum, or any part of it, is to be paid, require them 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 trustees or managers of the pension scheme 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 trustees or managers under an order made under Article 25 by virtue of this Article shall discharge so much of the trustees', or managers', liability in respect of the party with pension rights as corresponds to the amount of the payment.

Pensions: supplementary

- 27D.**—(1) Where—
- (a) an order made under Article 25 by virtue of Article 27B or 27C imposes any requirement on the trustees or managers of a pension scheme (“the first scheme”) and the party with pension rights acquires transfer credits under another pension scheme (“the new scheme”) which are derived (directly or indirectly) from a transfer from the first scheme of all his accrued rights under that scheme (including transfer credits allowed by that scheme); and
 - (b) the trustees or managers of the new scheme have been given notice in accordance with regulations,

the order shall have effect as if it had been made in respect of the trustees or managers of the new scheme; and in this paragraph “transfer credits” has the same meaning as in the Pension Schemes (Northern Ireland) Act 1993.

- (2) Regulations may—
 - (a) in relation to any provision of Article 27B or 27C which authorises the court making an order under Article 25 to require the trustees or managers of a pension scheme 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;

- (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;
- (c) make provision for the trustees or managers of any pension scheme to provide, for the purposes of orders under Article 25, information as to the value of any benefits under the scheme;
- (d) make provision for the recovery of the administrative expenses of—
 - (i) complying with such orders, so far as they include provision made by virtue of Articles 27B and 27C; and
 - (ii) providing such information, from the party with pension rights or the other party;
- (e) make provision for the value of any benefits under a pension scheme to be calculated and verified, for the purposes of orders under Article 25, in a prescribed manner;

and regulations made by virtue of sub-paragraph (e) may provide for that value to be calculated and verified in accordance with guidance which is prepared and revised by a prescribed person and approved by the Department of Health and Social Services.

(3) In this Article and Articles 27B and 27C—

- (a) references to a pension scheme include—
 - (i) a retirement annuity contract; or
 - (ii) an annuity, or insurance policy, purchased or transferred for the purpose of giving effect to rights under a pension scheme;
- (b) in relation to such a contract or annuity, references to the trustees or managers shall be read as references to the provider of the annuity;
- (c) in relation to such a policy, references to the trustees or managers shall be read as references to the insurer;

and in Article 27B(1) and (2), references to benefits under a pension scheme include any benefits by way of pension, whether under a pension scheme or not.

(4) In this Article and Articles 27B and 27C—

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

“pension scheme” means an occupational pension scheme or a personal pension scheme (applying the definitions in section 1 of the Pension Schemes (Northern Ireland) Act 1993, but as if the reference to employed earners in the definition of “personal pension scheme” were to any earners);

“prescribed” means prescribed by regulations; and

“regulations” means regulations made by the Lord Chancellor;

and regulations made 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.”

(2) In Article 27(2)(h) of that Order (loss of chance to acquire benefits), omit “(for example, a pension)”.

(3) In Article 33 of that Order (variation, discharge, etc. of orders)—

(a) in paragraph (2), after sub-paragraph (d) insert—

“(dd) any deferred order made by virtue of Article 25(1)(c) (lump sums) which includes provision made by virtue of—

Changes to legislation: *The Pensions (Northern Ireland) Order 1995, Cross Heading: Pensions on divorce, etc. is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (i) Article 27B(4), or
 - (ii) Article 27C,
- (provision in respect of pension rights);” , and
- (b) after paragraph (2A) insert—

“(2B) Where the court has made an order referred to in paragraph (2)(dd)(ii), this Article shall cease to apply to the order on the death of either of the parties to the marriage.” .

(4) Nothing in the provisions mentioned in paragraph (5) applies to a court exercising its powers under Article 25 of that Order (financial provision orders in connection with divorce proceedings, etc.) in respect of any benefits under a pension^[F2] arrangement] (within the meaning of Article 27B(1) of that Order) which a party to the marriage has or is likely to have.

^[F3](4A) Nothing in the provisions mentioned in paragraph (5) applies to a court exercising its powers under Part 5 of Schedule 15 to the Civil Partnership Act 2004 (making of Part 1 orders having regard to pension benefits).]

- (5) The provisions referred to in^[F3] paragraphs (4) and (4A)] are—
- (a) ^[F4]section 356 of the Armed Forces Act 2006] or 155(4) and (4A) of the Pension Schemes Act (which prevent assignment, or orders being made restraining a person from receiving anything which he is prevented from assigning),
 - (b) Article 89,
 - (c) any provision of any enactment (whether passed or made before or after this Order is made) corresponding to any of the enactments mentioned in sub-paragraphs (a) and (b), and
 - (d) any provision of the^[F2] arrangement] in question corresponding to any of those enactments.
- (6) Article 27B(3) to (7) and Article 27C of the Matrimonial Causes (Northern Ireland) Order 1978^{F5}, as inserted by this Article, do not affect the powers of the court under Article 33 of that Order (variation, discharge, etc.) in relation to any order made before the commencement of this Article.

F1 1978 NI 15

F2 1999 NI 11

F3 SR 2005/471

F4 Words in art. 162(5)(a) substituted (28.3.2009 for certain purposes otherwise 31.10.2009) by [Armed Forces Act 2006](#) (c. 52), ss. 378(1), 383(2), [Sch. 16 para. 135](#); [S.I. 2009/812](#), [art. 3\(a\)\(b\)](#); [S.I. 2009/1167](#), [art. 4](#)

F5 1978 NI 15

Changes to legislation:

The Pensions (Northern Ireland) Order 1995, Cross Heading: Pensions on divorce, etc. is up to date with all changes known to be in force on or before 12 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

[View outstanding changes](#)

Changes and effects yet to be applied to :

- Instrument amended by [1998 c. 11 s.23 Sch.5 Pt.IV Ch.II para.72](#)
- power to am. (prosp.) by [1998 c. 47 s.87](#)

Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Sch. 2 para. 18(15)(16) repealed by [2012 c. 3 \(N.I.\) Sch. 2 para. 4\(b\)](#)
- Sch. 2 Pt. 3 para. 18(8) repealed by [2008 c. 1 \(N.I.\) Sch. 6 Pt. 1](#) (Amendment could not be applied - affected provision not available on [legislation.gov.uk](#))
- Sch. 2 Pt. 3 para. 18(18) repealed by [2008 c. 1 \(N.I.\) Sch. 6 Pt. 1](#) (Amendment could not be applied - affected provision not available on [legislation.gov.uk](#))
- art. 37(1A)(a) word inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 7\(a\)](#)
- art. 37(1A)(b) inserted by [2016 c. 1 \(N.I.\) Sch. 2 para. 7\(b\)](#)
- art. 51(5A)-(5C) inserted by [2016 c. 1 \(N.I.\) s. 43\(1\)](#)
- art. 51(7A) inserted by [2016 c. 1 \(N.I.\) s. 41\(1\)\(b\)](#)
- art. 51(9)(10) inserted by [2016 c. 1 \(N.I.\) s. 42\(3\)](#) (This amending provision is itself amended by S.I. 2019/193, reg. 7)
- art. 67A(3)(aa)-(ac) inserted by [2016 c. 1 \(N.I.\) s. 45\(3\)](#)
- art. 67A(9)(b)(viii)-(x) inserted by [2016 c. 1 \(N.I.\) s. 45\(6\)\(b\)](#)
- art. 73(2)(2A) substituted for art. 73(2) by [2016 c. 1 \(N.I.\) Sch. 2 para. 11](#)
- art. 75(1)-(1B) substituted for art. 75(1) by [2016 c. 1 \(N.I.\) Sch. 2 para. 12](#)
- art. 167(3)(aa) inserted by [2016 c. 1 \(N.I.\) s. 43\(2\)](#)