

2006 No. 282

PENSIONS

**The Pension Protection Fund (Pension Sharing) Regulations
(Northern Ireland) 2006**

Made - - - - - *27th June 2006*

Coming into operation - *1st August 2006*

The Department for Social Development makes the following Regulations in exercise of the powers conferred by Articles 199 and 287(2) and (3) of the Pensions (Northern Ireland) Order 2005(a).

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Pension Protection Fund (Pension Sharing) Regulations (Northern Ireland) 2006 and shall come into operation on 1st August 2006.

(2) In these Regulations “the 2005 Order” means the Pensions (Northern Ireland) Order 2005.

Modification of the 1999 Order

2.—(1) Paragraph (2) applies in relation to any case specified in Article 199(2) of the 2005 Order (pension sharing).

(2) In a case in relation to which this paragraph applies, Chapter I of Part V of the 1999 Order (pension sharing) shall be modified so that it applies as if—

(a) in Article 24 (scope of mechanism)—

(i) after paragraph (2) there were inserted the following paragraph—

“(2A) Where paragraphs (4) and (5) apply, a person’s shareable rights under a pension arrangement include any entitlement to PPF compensation brought within the remit of a pension sharing order or provision by virtue of those paragraphs.”;

(ii) after paragraph (3) there were added the following paragraphs—

“(4) Subject to paragraph (6), paragraph (5) applies where a pension sharing order or provision—

(a) imposes 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 or Chapter 3 of Part 2 of the Pensions Act 2004(b) (pension protection), and

(a) S.I. 2005/255 (N.I. 1); Part III is modified in its application to partially guaranteed schemes by S.R. 2005 No. 55, in its application to hybrid schemes by S.R. 2005 No. 84 and in its application to multi-employer schemes by S.R. 2005 No. 91 (as amended by S.R. 2005 Nos. 194 and 357) and S.R. 2006 No. 84

(b) 2004 c.35; Part 2 is modified in its application to partially guaranteed schemes by S.I. 2005/277, in its application to multi-employer schemes by S.I. 2005/441 (as amended by S.I. 2005/993 and 2113) and S.I. 2006/566, and in its application to hybrid schemes by S.I. 2005/449

(b) was made before the trustees or managers of the scheme received the transfer notice in relation to the scheme.

(5) A pension sharing order or provision is, from the time when the trustees or managers of the scheme receive the transfer notice, to be applied as if references in that order or provision to—

- (a) the trustees or managers of the scheme were references to the Board, and
- (b) any pension to which the party with pension rights is, or may be, entitled under the scheme were references to PPF compensation to which that person is, or may be, entitled in respect of the pension.

(6) Paragraph (5)(b) does not apply in the case of liabilities that fall to be discharged by the Board under Article 154 of the Pensions (Northern Ireland) Order 2005 or section 170 of the Pensions Act 2004 (discharge of liabilities in respect of money purchase benefits).

(7) In this Article “transfer notice” has the meaning given by Article 144 of the Pensions (Northern Ireland) Order 2005 or, as the case may be, section 160 of the Pensions Act 2004.”;

(b) in Article 27 (cash equivalents) after paragraph (2) there were added the following paragraph—

“(3) In the case of shareable rights to which Article 24(2A) applies, the cash equivalent shall be calculated and verified in such manner as may be approved by the Board.”;

(c) in Article 43(1) (interpretation of Chapter I)—

(i) in the definition of “pension arrangement” after paragraph (e) there were added the following paragraph—

“(f) the Pension Protection Fund;”;

(ii) after the definition of “personal pension scheme” there were inserted the following definition—

““PPF compensation” means compensation payable under the pension compensation provisions as specified in Article 146(2) of the Pensions (Northern Ireland) Order 2005 or section 162(2) of the Pensions Act 2004;”;

(d) in Schedule 5 (pension credits: mode of discharge) after paragraph 3 (other unfunded occupational pension schemes) there were inserted the following paragraphs—

“Pension Protection Fund: compensation

3A.—(1) This paragraph applies to a pension credit which derives from an occupational pension scheme for which the Board has assumed responsibility.

(2) The Board shall discharge its liability in respect of a pension credit in accordance with Chapter 3 of Part III of the Pensions (Northern Ireland) Order 2005 or Chapter 3 of Part 2 of the Pensions Act 2004 (pension protection).

(3) For the purposes of sub-paragraph (2)—

- (a) the person entitled to the pension credit is to be treated as if he had been a member of the scheme from which a pension credit to which this paragraph applies derives immediately before the assessment date in relation to that scheme, and
- (b) the Board shall determine the PPF compensation payable to the person entitled to the pension credit in accordance with the relevant provision specified in sub-paragraph (2) from the effective date of the pension sharing order or provision on which the credit depends.

(4) In sub-paragraph (3), “assessment date” has the meaning given by Article 126(1) of the Pensions (Northern Ireland) Order 2005 or, as the case may be, section 142(1) of the Pensions Act 2004.

Pension Protection Fund: liabilities in respect of money purchase benefits

3B.—(1) This paragraph applies to a pension credit which derives from—

- (a) an occupational pension scheme for which the Board has assumed responsibility, and
- (b) any liabilities in respect of money purchase benefits under that scheme.

(2) The Board shall discharge its liability in respect of a pension credit to which this paragraph applies in accordance with regulations made under Article 154(2) and (3) of the Pensions (Northern Ireland) Order 2005 or section 170(2) and (3) of the Pensions Act 2004 (discharge of liabilities in respect of money purchase benefits).”.

Modification of the 2005 Order

3.—(1) Paragraph (2) applies in relation to any case specified in Article 199(1) of the 2005 Order (pension sharing).

(2) In a case in relation to which this paragraph applies, Schedule 6 to the 2005 Order (pension compensation provisions) shall be modified so that it applies as if after paragraph 2 there were inserted the following paragraphs—

“**2A.** In the case of a person in respect of whose shareable rights under a pension arrangement Article 28 of the 1999 Order (reduction of benefit) applies, any compensation determined in accordance with this Schedule to which he may be entitled shall be reduced by the appropriate percentage, calculated in accordance with the provisions of that Article, including revaluation of the pension debit in accordance with the admissible rules of the scheme.

2B. In paragraph (2A)—

“pension arrangement” has the meaning given by Article 43(1) of the 1999 Order;

“shareable rights” has the meaning given by Article 24 of the 1999 Order, as modified by the Pension Protection Fund (Pension Sharing) Regulations (Northern Ireland) 2006.”.

Sealed with the Official Seal of the Department for Social Development on 27th June 2006.



John O'Neill

A senior officer of the Department for Social Development

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision for the Board of the Pension Protection Fund (“the Board”) to discharge liability in respect of a pension sharing order or provision which has been made prior to the date the trustees or managers of a scheme receive a transfer notice under Article 144 of the Pensions (Northern Ireland) Order 2005 (“the 2005 Order”) or section 160 of the Pensions Act 2004, but which has either not come into effect by that date or in relation to which the liabilities of the trustees or managers have not been discharged by that date.

Regulation 2 modifies Articles 24, 27 and 43 of, and Schedule 5 to, the Welfare Reform and Pensions (Northern Ireland) Order 1999 (“the 1999 Order”) to allow the Board to give effect to an order or provision which remains unimplemented.

Regulation 3 modifies Schedule 6 to the 2005 Order to provide that where a person’s shareable rights under a pension arrangement are subject to a pension debit, any compensation shall be subject to reduction in accordance with the provisions of Article 28 of the 1999 Order.

The Pensions (2005 Order) (Commencement No. 7) Order (Northern Ireland) 2005 (S.R. 2005 No. 543 (C. 37)) provides for the coming into operation of Article 199, one of the enabling provisions under which these Regulations are made, on 1st January 2006.

As these Regulations are made before the end of the period of six months beginning with the coming into operation of the provisions of the 2005 Order by virtue of which they are made, the requirement to consult under Article 289(1) of the 2005 Order does not apply by virtue of paragraph (2)(c) of that Article.

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