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FAMILY LAW, ENGLAND AND WALES

PENSIONS, ENGLAND AND WALES

**The Divorce and Dissolution etc. (Pension Protection Fund)
Regulations 2011**

<i>Made</i>	- - - -	<i>9th March 2011</i>
<i>Laid before Parliament</i>		<i>15th March 2011</i>
<i>Coming into force</i>	- -	<i>6th April 2011</i>

The Lord Chancellor makes the following Regulations in exercise of the powers conferred by sections 24F(1), 25G(1)(a) to (d) and 31(4C) of the Matrimonial Causes Act 1973(a), section 21(4) of the Matrimonial and Family Proceedings Act 1984(b) and paragraphs 19E(2), 34B(1)(a) to (d) and 57(3) of Schedule 5 and paragraph 14(4) of Schedule 7 to the Civil Partnership Act 2004(c):

Citation and commencement

1. These Regulations may be cited as the Divorce and Dissolution etc. (Pension Protection Fund) Regulations 2011 and come into force on 6th April 2011.

Interpretation

2.—(1) In these Regulations—

- (a) “the 1973 Act” means the Matrimonial Causes Act 1973;
- (b) “the 1984 Act” means the Matrimonial and Family Proceedings Act 1984;

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- (a) 1973 c.18. Sections 24F(1) and 25G(1)(a) to (d) were inserted by section 120 of and Part 1, paragraphs 1, 3 and 7 of Schedule 6 to the Pensions Act 2008 (c.30). Section 24F(1) applies to an order under section 17(1)(c) of the Matrimonial and Family Proceedings Act 1984 (c.42) by virtue of section 21(1)(bcb) of that Act. Section 17(1)(c) was inserted by section 120 of and Part 2, paragraphs 10 and 11 of Schedule 6 to the Pensions Act 2008. Section 21(1)(bcb) was inserted by section 120 of and Part 2, paragraphs 10, 13(1) and (2) of Schedule 6 to the 2008 Act. Section 31(4C) was inserted by paragraph 7 of Schedule 3 to the Welfare Reform and Pensions Act 1999 (c.30) and amended by section 120 of and Part 1, paragraphs 1, 8(1) and (5) of Schedule 6 to the Pensions Act 2008. Section 31(4C) applies to an order under section 17(1)(c) of the 1984 Act by virtue of section 21(1)(f) of that Act.
 - (b) Section 21(4) was inserted by section 22(5) of the Welfare Reform and Pensions Act 1999 and amended by section 120 of and Part 2, paragraphs 10, 13(1) and (6) of Schedule 6 to the Pensions Act 2008.
 - (c) 2004 c.33. Paragraphs 19E(2) and 34B(1)(a) to (d) were inserted by section 120 of and Part 3, Paragraphs 14, 15 and 17(1) and (4) of Schedule 6 to the Pensions Act 2008. Paragraph 19E(2) applies to an order under paragraph 9(2) of Schedule 7 to the Civil Partnership Act 2004 by virtue of paragraph 14(1)(ca) of Schedule 7 to that Act. Paragraph 9(2) was amended by section 120 of and Part 3, paragraphs 14 and 20(2)(b) of Schedule 6 to the Pensions Act 2008. Paragraph 14(1)(ca) was inserted by section 120 of and Part 3, paragraphs 14 and 20(4)(a) of Schedule 6 to the 2008 Act. Paragraph 57(3) was amended by section 120 of and Part 3, paragraphs 14, 18(1) and (7)(e) of Schedule 6 to the Pensions Act 2008. Paragraph 57(3) applies to an order under paragraph 9(2) of Schedule 7 by virtue of paragraph 14(1)(g) of Schedule 7 to the 2004 Act. Paragraph 14(4) of Schedule 7 to the 2004 Act was amended by section 120 of and Part 3, paragraphs 14 and 20(4)(g) of Schedule 6 to the Pensions Act 2008.

- (c) “the 2004 Act” means the Civil Partnership Act 2004;
 - (d) “the other party” means the party to the marriage or the civil partnership (as the case may be) who is not the party with compensation rights or civil partner with compensation rights.
- (2) Unless these Regulations provide otherwise, expressions defined in—
- (a) sections 21B,21C,25E and 25G(5) of the 1973 Act(a) have the meanings assigned by those sections; and
 - (b) paragraphs 19B,19F and 37(1) of Schedule 5 to the 2004 Act(b) have the meanings assigned by those paragraphs.

Attachment of PPF compensation: change in circumstances

3.—(1) In this regulation, a relevant order means—

- (a) an order under section 23 of the 1973 Act or under section 17 of the 1984 Act(c) making provision under section 25F of the 1973 Act(d); or
- (b) an order under Part 1 of Schedule 5 or under paragraph 9 of Schedule 7 to the 2004 Act(e) making provision under Part 7, paragraph 34A of Schedule 5 to that Act(f),

imposing any requirement on the Board.

(2) In this regulation, a relevant event occurs when—

- (a) the information or particulars referred to in paragraph (3) cease to be accurate; or
- (b) a relevant order ceases to have effect—
 - (i) in the case of a relevant order within paragraph (1)(a), by reason of the other party remarrying or entering into a civil partnership or otherwise; and
 - (ii) in the case of a relevant order within paragraph (1)(b), by reason of the other party marrying or entering into a subsequent civil partnership or otherwise.

(3) The information or particulars referred to in paragraph (2)(a) are those supplied by the other party under rule 9.42 of the Family Procedure Rules 2010(g) for the purpose of enabling the Board—

- (a) to provide information, documents or representations to the court to enable it to decide what if any requirement should be imposed on the Board; or
- (b) to comply with any relevant order imposing such a requirement.

(4) Where—

- (a) a relevant order has been made; and
- (b) a relevant event occurs,

the other party must, within 14 days of the relevant event, give notice of it to the Board.

(a) Sections 21B, 21C, and 25G(5) of the Matrimonial Causes Act 1973 were inserted by section 120 of and Part 1, paragraphs 1, 2, 6 and 7 of Schedule 6 to the Pensions Act 2008. Section 25E was inserted by section 319(1) of and paragraph 3 of Schedule 12 to the Pensions Act 2004.

(b) Paragraphs 19B and 19F of Schedule 5 to the Civil Partnership Act 2004 were inserted by section 120 of and Part 3, paragraphs 14 and 15 of Schedule 6 to the Pensions Act 2008. Paragraph 37(1) of Schedule 5 was amended by section 120 of and Part 3, paragraphs 14 and 17(1) and (5)(a) of Schedule 6 to the Pensions Act 2008.

(c) Section 17 of the 1984 Act was amended by section 84(1) of and paragraph 2 of Schedule 12 to the Welfare Reform and Pensions Act 1999 and section 120 of and Part 2, paragraphs 10 and 11 of Schedule 6 to the Pensions Act 2008.

(d) Section 25F was inserted by section 120 of and Part 1, paragraphs 1 and 7 of Schedule 6 to the Pensions Act 2008. This section applies to an order under section 17 of the Matrimonial and Family Proceedings Act 1984 by virtue of section 21(1)(bg) of the 1984 Act which was inserted by section 120 of and Part 2, paragraphs 10,13(1) and (3) of Schedule 6 to the Pensions Act 2008.

(e) Paragraph 9 of Schedule 7 to the Civil Partnership Act 2004 was amended by section 120 of and Part 3, paragraphs 14, and 20(2)(a) and(b) of Schedule 6 to the Pensions Act 2008.

(f) Paragraph 34A was inserted by section 120 of and Part 3, paragraph 17(3) of the Pensions Act 2008. This paragraph applies to an order under paragraph 9 of Schedule 7 to the Civil Partnership Act 2004 by virtue of paragraph 14(1) (ea) of that Schedule which was inserted by section 120 of and Part 3, paragraph 14 and 20(4)(c) of Schedule 6 to the Pensions Act 2008.

(g) S.I.2010/2955.

(5) Where it is not reasonably practicable for the Board to make a payment to the other party as required by the relevant order because of the inaccuracy of information or particulars referred to in paragraph (3) or because the other party fails to notify it in accordance with paragraph (4) of a relevant event within paragraph (2)(a), the Board—

- (a) may instead make that payment to the party with compensation rights or the civil partner with compensation rights; and
- (b) shall then be discharged of liability to the other party to the extent of that payment.

(6) Where a relevant event within paragraph (2)(b) occurs and, because the other party fails to notify the Board in accordance with paragraph (4), the Board makes a payment to the other party as required by the relevant order—

- (a) the liability of the Board to the party with compensation rights or civil partner with compensation rights shall be discharged to the extent of that payment; and
- (b) the other party shall, within 14 days of the payment being made, make a payment to the party with compensation rights or civil partner with compensation rights to the extent of that payment.

Service

4. A notice under regulation 3(4) may be sent by fax or by ordinary first class post to the last known address of the intended recipient and shall be deemed to have been received on the seventh day after the day on which it was sent.

Pension compensation sharing order not to take effect pending appeal

5.—(1) No pension compensation sharing order under the provisions listed in paragraph (2), or a variation of a pension compensation sharing order under the provisions listed in paragraph (3), shall take effect earlier than 7 days after the end of the period for filing notice of appeal against the order.

(2) The provisions referred to in paragraph (1) in relation to pension compensation sharing orders are—

- (a) section 24E of the 1973 Act(a);
- (b) section 17(1)(c) of the 1984 Act(b);
- (c) paragraph 19A of Schedule 5 to the 2004 Act(c);
- (d) paragraph 9(2) of Schedule 7 to the 2004 Act.

(3) The provisions referred to in paragraph (1) in relation to variation of pension compensation sharing orders are—

- (a) section 31 of the 1973 Act(d);
- (b) paragraphs 57 of Schedule 5 to the 2004 Act(e).

(4) The filing of a notice of appeal within the time allowed for doing so prevents the order taking effect before the appeal has been dealt with.

(a) Section 24E was inserted by section 120 of and Part 1, paragraphs 1 and 3 of Schedule 6 to the Pensions Act 2008.

(b) Section 21(1)(bca) of the Matrimonial and Family Proceedings Act 1984 applies section 24E(3) to (10) of the Matrimonial Causes Act 1973 to an order under section 17(1)(c) of the 1984 Act. Section 21(1)(bca) of the 1984 Act was inserted by section 120 and Part 2, paragraphs 10 and 13(1) and (2) of Schedule 6 to the Pensions Act 2008.

(c) Paragraph 19A of Schedule 5 to the Civil Partnership Act 2004 was inserted by section 120 of and Part 3, paragraphs 14 and 15 of Schedule 6 to the Pensions Act 2008.

(d) Section 31(2)(g) was inserted by section 19 of and paragraphs 1 and 7 (1) and (2) of Schedule 3 to the Welfare Reform and Pensions Act 1999 and amended by section 120 of and Part 1, paragraphs 1, 8(1) and (3) of Schedule 6 to the Pensions Act 2008. Section 31(2) (g) applies to an order under section 17(1)(c) of the Matrimonial and Family Proceedings Act 1984 Act by virtue of section 21(1)(f) of that Act.

(e) Paragraph 57(1)(a) was amended by section 120 of and Part 3, paragraphs 14, and 18(1) and (7)(a) and (b) of Schedule 6 to the Pensions Act 2008. Paragraph 57 (1)(a) applies to an order under paragraph 9 of Schedule 7 to the 2004 Act by virtue of paragraph 14(1)(g) of that Schedule.

Signed by authority of the Lord Chancellor

Jonathan Djanogly
Parliamentary Under Secretary of State
Ministry of Justice

9th March 2011

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision relating to orders under the Matrimonial Causes Act 1973 (c 18) (“the 1973 Act”) and the Civil Partnership Act 2004 (c 33) (“the 2004 Act”), including those made after proceedings overseas, made in connection with proceedings for divorce or dissolution of a civil partnership, nullity of marriage or nullity of a civil partnership or separation which relate to the pension compensation rights of a party to the marriage (described in section 25G(5) of the 1973 Act as the “party with compensation rights”) or a party to a civil partnership (described in paragraph 37(1) of Schedule 5 to the 2004 Act as the “civil partner with compensation rights”). In particular, in so far as attachment of PPF compensation is concerned, they provide for:

- a) notices of change of circumstances to be provided to the Board by the “other party” (defined in regulation 2(1)(d) as the party to the marriage or the civil partnership (as the case may be) who is not the party with compensation rights or civil partner with compensation rights);
- b) the Board to make a payment to the party with compensation rights or the civil partner with compensation rights where information or particulars provided by the other party under the Family Procedure Rules 2010 (S.I.2010/2955) are inaccurate or the other party has not notified the Board about a change to that information or particulars such as a change of details of a bank account into which the payment is made;
- c) the Board to be discharged of liability from a requirement in a relevant order (defined in regulation 3(1)) to make a payment to the other party in the circumstances outlined in paragraph (b);
- d) the other party to make a payment to the party with compensation rights or the civil partner with compensation rights to the extent of the payment the other party has received from the Board after the relevant order has ceased to have effect (because, for example, of the other party’s remarriage or entering into a subsequent civil partnership), where the other party has failed to give the required notice to the Board of that order ceasing to have effect; and
- e) the Board to be discharged of liability to the party with compensation rights or the civil partner with compensation rights as a result of making a payment to the other party in the circumstances outlined in paragraph (d).

Regulation 5 provides for the stay period pending appeal during which a pension compensation sharing order or a variation of such an order cannot take effect.

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