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STATUTORY INSTRUMENTS

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1990 No. 1509 (N.I. 13)

NORTHERN IRELAND

**The Pensions (Miscellaneous Provisions)  
(Northern Ireland) Order 1990**

*Made* 24th July 1990

*Laid before Parliament* 9th August 1990

*Coming into operation in accordance with Article 1*

ARRANGEMENT OF ORDER

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At the Court at Buckingham Palace, the 24th day of July 1990

Present,

The Queen's Most Excellent Majesty in Council

1990 c. 7 Whereas this Order is made only for purposes corresponding to those of the Pensions (Miscellaneous Provisions) Act 1990:

1974 c. 28 Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (as modified by section 12 of the said Act of 1990) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

*Introductory*

*Title and commencement*

1.—(1) This Order may be cited as the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990.

(2) Except as provided by paragraph (3), this Order shall come into operation on the expiration of two months from the day on which it is made.

(3) Article 3(2)(b) and (4) shall come into operation on 1st January 1993.

*Interpretation*

1954 c. 33 (N.I.) 2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

1971 c. 35 (N.I.) “the Increase Act” means the Pensions (Increase) Act (Northern Ireland) 1971;

1975 NI 15 “the Pensions Order” means the Social Security Pensions (Northern Ireland) Order 1975;

1972 NI 10 “the Superannuation Order” means the Superannuation (Northern Ireland) Order 1972.

*Pensions increase*

*Qualifying conditions*

3.—(1) In section 3 of the Increase Act, in subsection (1) (increases subject to satisfaction of qualifying conditions, except in the case of a widow's pension) for the words “widow's pension” there shall be substituted the words “derivative or substituted pension or a relevant injury pension”.

(2) In subsection (2) of that section (no increase for pension in respect of pensioner's own services unless a qualifying condition is satisfied)—

- (a) after the words "own services" there shall be inserted the words ", other than a relevant injury pension,"; and
- (b) at the beginning of paragraph (c) (which provides for certain women with dependants to receive increases and which accordingly discriminates against men) there shall be inserted the words "subject to subsections (9) to (11),".

(3) In consequence of paragraph (1)—

- (a) subsection (3) for that section (conditions for increase of certain derivative and substituted pensions) is hereby repealed;
- (b) in subsection (6) of that section, for the words "as mentioned in subsection (3)(d)" there shall be substituted the words "for a trade, profession or vocation in such circumstances that he is required to devote the whole of his time to that training for a period of not less than two years"; and
- (c) in subsection (8) of that section, the words "or (3)(a), or in both," are hereby repealed.

(4) At the end of that section there shall be added the following subsections—

"(9) On and after 1st January 1993 paragraph (c) of subsection (2) shall have effect only to the extent provided by subsections (10) and (11).

(10) Where, immediately before 1st January 1993, a woman is in receipt of a pension which has been increased under this Part by virtue of paragraph (c) of subsection (2), that paragraph shall continue to have effect in relation to that woman and that pension until such time as the pension falls to be increased under this Part in consequence of any other provision of that subsection.

(11) In any case where—

- (a) a woman's pension commences on or after 1st January 1993, and
- (b) on the day on which the pension commences she has not attained the age of 55,

paragraph (c) of subsection (2) shall have effect in relation to that woman and so much of the pension as is referable to service rendered before 1st January 1993 until such time as the pension falls to be increased under this Part in consequence of any other provision of that subsection."

(5) In section 8(2) of that Act (date on which a pension "begins"), after paragraph (b) there shall be inserted the following paragraph—

"(bb) a relevant injury pension payable by virtue of the acceptance of less favourable terms and conditions of employ-

ment is to be deemed to begin on the day on which the employment on less favourable terms and conditions begins; and”.

(6) In section 15(1) of that Act (interpretation), after the definition of “qualifying condition” there shall be inserted the following definition—

““relevant injury pension” means—

- (a) a pension paid to a person in respect of his absence from work by reason only of an injury sustained, or disease contracted, by him in the course of the employment by virtue of which his entitlement to the pension arises; or
- (b) a pension paid to a person in respect of his having accepted less favourable terms and conditions of employment by reason of ill-health suffered by him in consequence of an injury so sustained or a disease so contracted;

but does not include any pension the rate of which is periodically recalculated by reference to the rate of the salary which the pensioner could reasonably be expected to have received had he not sustained the injury or contracted the disease in question;”.

(7) In Article 69 of the Pensions Order, in paragraph (1) (increases subject to satisfaction of qualifying conditions, except in the case of a widow’s pension) for the words “widow’s pension” there shall be substituted the words “derivative or substituted pension or a relevant injury pension”.

#### *Periods of further service*

4.—(1) Section 4 of the Increase Act (effect of periods of further service on rate of pension) shall have effect, and be taken always to have had effect, with the amendments made by paragraphs (2) to (4).

(2) In subsection (2) (termination of earlier service by person who is or may become eligible for pension), after the word “may” there shall be inserted the words “(without rendering further reckonable service)”.

(3) After that subsection there shall be inserted the following subsection—

“(2A) In subsection (2) “reckonable service”, in relation to a person and his official pension, means service which falls to be taken into account in calculating the basic rate of the pension.”.

(4) In subsection (3) (derivative pensions which fall to be calculated by reference to the rate of principal pension), after the words “falls to be calculated” there shall be inserted “(a)” and after the word “retirement” there shall be inserted the words “or

(b) by reference to a rate of emoluments (whether actual emoluments or not and whether final or average emolu-

ments) and a period of service of the person who was or, had he survived, would have been the pensioner in relation to such a principal pension.”.

(5) Section 2 of the Pensions (Increase) Act (Northern Ireland) 1966 (which first made provision corresponding to section 4(2) of the Increase Act and which was repealed by that Act) shall be taken to have had effect as originally enacted—

(a) with the insertion after the word “may” in paragraph (b) of subsection (1) of the words “(without rendering further reckonable service)”, and

(b) with the addition after that paragraph of the words—  
“and in paragraph (b) “reckonable service”, in relation to a person and his pension, means service which falls to be taken into account in calculating the basic rate of the pension”.

*No increase for additional lump sums arising from recalculation*

5. At the end of section 9 of the Increase Act (gratuities and lump sums) there shall be added the following subsection—

“(7) In any case where—

(a) a lump sum beginning after the coming into force of this subsection, or an instalment of such a lump sum, is paid, but

(b) the amount of that lump sum or instalment is subsequently recalculated, and

(c) in consequence of the recalculation, an additional amount becomes payable by way of lump sum,

the additional amount shall not be increased under this Part in respect of the whole or any part of the period beginning with the day on which the lump sum or instalment became payable and ending with the day on which the additional amount is paid.”.

*Employers' contributions towards cost of pensions increase for teachers and persons engaged in health services, etc.*

6.—(1) In Article 11 of the Superannuation Order (teachers), after paragraph (3) there shall be inserted the following paragraph—

“(3A) Notwithstanding anything in the Pensions (Increase) Act (Northern Ireland) 1971, regulations under this Article may provide that the cost of increases under that Act of such of the pensions, allowances or gratuities payable under the regulations as may be prescribed by the regulations, or such part of those increases as may be so prescribed, shall be defrayed—

(a) by contributions from employers of teachers or from such other persons or classes of person (apart from teachers) as the Department of Education may consider appropriate and may specify in the regulations; or

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(b) by contributions from such of those employers or other persons as may be so specified;

and any provisions of the said Act of 1971, or of regulations made under section 5 thereof, relating to liability for the cost of increases under that Act of pensions, allowances or gratuities payable under the regulations shall have effect subject to the provisions of any regulations made by virtue of this paragraph and for the time being in force.”.

(2) In Article 12 of that Order (persons engaged in health services, etc.), in paragraph (1), after the words “as may be so prescribed” there shall be inserted the words “(in this Article referred to as “health staff”)” and after paragraph (3) there shall be inserted the following paragraph—

“(3A) Notwithstanding anything in the Pensions (Increase) Act (Northern Ireland) 1971, regulations under this Article may provide that the cost of increases under that Act of such of the pensions, allowances or gratuities payable under the regulations as may be prescribed by the regulations, or such part of those increases as may be so prescribed, shall be defrayed—

(a) by contributions from employers of health staff or from such other persons or classes of person (apart from health staff) as the Department of Health and Social Services may consider appropriate and may specify in the regulations; or

(b) by contributions from such of those employers or other persons as may be so specified;

and any provisions of the said Act of 1971, or of regulations made under section 5 thereof, relating to liability for the cost of increases under that Act of pensions, allowances or gratuities payable under the regulations shall have effect subject to the provisions of any regulations made by virtue of this paragraph and for the time being in force.”.

*Guaranteed minimum pensions: abolition of double indexation for surviving spouses*

7.—(1) In Article 69 of the Pensions Order (increase of official pensions), after paragraph (5) (deduction of guaranteed minimum pension for purpose of calculating increase) there shall be inserted the following paragraph—

“(5ZA) In the application of paragraph (5) in relation to a widow’s or widower’s pension in a case where the pensioner becomes entitled on the death of the deceased spouse to such a guaranteed minimum pension as is there mentioned—

(a) the pensioner shall be treated as having been entitled to that guaranteed minimum pension at all times during the period beginning with the date on which the deceased spouse became entitled to a guaranteed minimum pension

and ending with the date of the death;

- (b) the rate of the guaranteed minimum pension to which the pensioner is treated as so entitled at any time during that period shall be taken to be one half of the rate of the deceased spouse's guaranteed minimum pension at that time; and
- (c) the amount by reference to which any increase in the widow's or widower's pension is to be calculated shall, subject to any directions under Article 69A (whether made before or after the coming into operation of this paragraph), be accordingly reduced under that paragraph by an amount equal to the rate, as determined under sub-paragraph (b), of the guaranteed minimum pension to which the pensioner is treated as entitled;

but this paragraph does not apply to a widow's or widower's pension in respect of any service of the deceased spouse if the deceased spouse's pension in respect of that service became payable before the coming into operation of this paragraph."

(2) In paragraph (7) of that Article (interpretation), after the definition of "lump sum" there shall be inserted the following definition—

"“widower's pension” means a pension payable in respect of the services of the pensioner's deceased wife;”.

*Correction of section 1 of the Increase Act as reproduced under section 2*

8. The Schedule to the Pensions Increase (Annual Review) Order (Northern Ireland) 1978 (which reproduces section 1 of the Increase Act with the effect of increase orders under section 2 incorporated in it) shall have effect, and be taken always to have had effect, with the insertion of the word "beginning" after the words "any period" in subsection (1) of section 1 as so reproduced.

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*Additional voluntary contributions*

*No increase for benefits deriving from additional voluntary contributions*

9.—(1) In section 8 of the Increase Act (meaning of "pension", etc.), after paragraph (c) of subsection (1) there shall be added the words—

"but does not include any money purchase benefits".

(2) In section 9 of that Act (application of pensions provisions to lump sum payments, etc. other than the return of contributions with or without interest), in subsection (1), after the word "interest" there shall be inserted the words "(or any money purchase benefits)".

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(3) In section 15(1) of that Act (interpretation), after the definition of "local government service" there shall be inserted the following definition—

"“money purchase benefits” has the meaning given by Article 2(2) of the Social Security (Northern Ireland) Order 1986;”.

*Member's right to elect for the purchase of benefits from any authorised provider he may specify*

**10.—(1)** In Article 3 of the Superannuation Order (civil servants, etc.), after paragraph (1) there shall be inserted the following paragraph—

“(1A) Where a money purchase scheme under this Article includes provision enabling a member to elect for the benefits which are to be provided to or in respect of him to be purchased from any authorised provider whom he may specify, then—

(a) notwithstanding paragraph (1)(a), the scheme may make provision for the making of such an election to have the effect, in such cases as the scheme may specify, of discharging any liability of the Department to pay those benefits to or in respect of that member; but

(b) the scheme shall not be so framed as to have the effect that benefits under it may only be provided in a manner which discharges that liability of the Department.”.

(2) At the end of that Article there shall be added the following paragraph—

“(8) In this Article—

“authorised provider”, in relation to any benefit, means a person authorised under Chapter III of Part I of the Financial Services Act 1986 to provide that benefit;

“money purchase scheme” means a scheme under which all the benefits that may be provided are money purchase benefits, as defined in Article 2(2) of the Social Security (Northern Ireland) Order 1986.”.

(3) In Article 11 of that Order (teachers), after paragraph (2) there shall be inserted the following paragraph—

“(2A) Where regulations under this Article make provision with respect to money purchase benefits, they may also—

(a) include provision enabling a person to elect for such money purchase benefits as are to be provided to or in respect of him under the regulations to be purchased from any authorised provider whom he may specify; and

(b) notwithstanding paragraph (1), provide that the making of such an election shall have the effect, in such cases as may be specified in the regulations, of discharging any liability of the Department of Education to pay those benefits to or in respect of that person;



but no regulations under this Article shall be so framed as to have the effect that any money purchase benefits to be provided under them may only be provided in a manner which discharges that liability of that Department.”.

(4) In paragraph (6) of that Article (definition of “teachers”), after the words “In this Article” there shall be inserted the following definitions—

““authorised provider”, in relation to any benefit, means a person authorised under Chapter III of Part I of the Financial Services Act 1986 to provide that benefit;

“money purchase benefits” has the meaning given by Article 2(2) of the Social Security (Northern Ireland) Order 1986;”.

(5) In Article 12 of that Order (persons engaged in the health services, etc.), after paragraph (2) there shall be inserted the following paragraph—

“(2A) Where regulations under this Article make provision with respect to money purchase benefits, they may also—

(a) include provision enabling a person to elect for such money purchase benefits as are to be provided to or in respect of him under the regulations to be purchased from any authorised provider whom he may specify; and

(b) notwithstanding paragraph (1), provide that the making of such an election shall have the effect, in such cases as may be specified in the regulations, of discharging any liability of the Department of Health and Social Services to pay those benefits to or in respect of that person;

but no regulations under this Article shall be so framed as to have the effect that any money purchase benefits to be provided under them may only be provided in a manner which discharges that liability of that Department.”.

(6) At the end of that Article there shall be added the following paragraph—

“(11) In this Article—

“authorised provider”, in relation to any benefit, means a person authorised under Chapter III of Part I of the Financial Services Act 1986 to provide that benefit;

“money purchase benefits” has the meaning given by Article 2(2) of the Social Security (Northern Ireland) Order 1986.”.

*Changes in the protection against adverse alterations*

*No scheme to make provision reducing accrued rights without the consent of representatives of those affected*

11. In Article 4 of the Superannuation Order, for paragraph (3) (consent of representatives to the inclusion in schemes of provisions which reduce the amount of any benefit calculated by reference to

service rendered before they take effect) there shall be substituted the following paragraph—

“(3) No scheme under Article 3 shall make any provision which would have the effect of reducing the amount of any pension, allowance or gratuity, in so far as that amount is directly or indirectly referable to rights which have accrued (whether by virtue of service rendered, contributions paid or any other thing done) before the coming into operation of the scheme, unless the persons consulted in accordance with Article 3(2) have agreed to the inclusion of that provision.”.

*Restriction on election that regulations shall not apply to persons whose service has terminated*

**12.—(1)** In Article 14 of the Superannuation Order, in paragraph (2)(a) (application of regulations to persons who have previously ceased to serve or died) after the words “have ceased to serve therein” there shall be inserted the words “(whether or not they have subsequently recommenced any such service)”.

(2) At the end of paragraph (3) of that Article (right of person with accrued or contingent pension rights to elect that regulations which would adversely affect him shall not so apply) there shall be added the words “in relation to that pension except as provided by paragraph (3A).”.

(3) After that paragraph there shall be inserted the following paragraph—

“(3A) If, at the coming into operation of the provision mentioned in paragraph (3), a person who makes such an election as is mentioned in that paragraph is serving in an employment or office to which the regulations governing the pension apply, or if he subsequently recommences service in such an employment or office, then—

(a) the election shall have effect in relation to the pension only to the extent that it accrues or has accrued—

(i) by virtue of periods of service rendered before the cessation referred to in paragraph (2) (or, if there has been more than one such cessation, the last of them before the coming into operation of the provision in question); or

(ii) by virtue of contributions paid in respect of any such periods of service; and

(b) in determining entitlement to, or the amount of, the pension to that extent, he shall (without prejudice to the application of this paragraph) be treated as if he had never recommenced service in such an employment or office at any time after the cessation referred to in sub-paragraph (a);

and the provision in question shall apply accordingly.”.

*Injury benefits for teachers*

*Payment of injury benefits to teachers by their employers, etc.*

13.—(1) In Article 11 of the Superannuation Order, in paragraph (1) (which requires benefits for teachers to be paid by the Department of Education) for the words from “by the Department of Education” onwards there shall be substituted the words “to or in respect of teachers by the Department of Education or, in the case of injury benefit, by the Department of Education, an employer of teachers or such other person as the Department of Education may consider appropriate and may specify in the regulations”.

(2) In paragraph (6) of that Article (interpretation), after the definition of “authorised provider” inserted by Article 10(4) there shall be inserted the following definition—

““injury benefit” means a pension, allowance or gratuity payable under the regulations to or in respect of a teacher in consequence of any injury sustained, or disease contracted, by him in the course of his employment in that capacity;”.

G. I. de Deney  
Clerk of the Privy Council

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EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order is made only for purposes corresponding to those of the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).

The Order principally amends the Pensions (Increase) Act (Northern Ireland) 1971 and the Superannuation (Northern Ireland) Order 1972. Among the changes are—

- (a) amendments to the qualifying conditions for pensions increase under Part I of the Act of 1971 to provide for the equal treatment of male and female pensioners in certain respects (Article 3);
- (b) provision for the cost of pensions increase under that Act for teachers and health service employees to be defrayed by contributions from their employers (Article 6);
- (c) amendments of the Order of 1972 connected with additional voluntary contributions (Articles 9 and 10); and
- (d) changes in the protection under the Order of 1972 against adverse alterations (Articles 11 and 12).