

1995 No. 389

PENSIONS

**The Judicial Pensions (Guaranteed Minimum Pension) Order
(Northern Ireland) 1995**

Made 10th October 1995

Coming into operation 1st November 1995

The Lord Chancellor, as the appropriate authority designated by the Treasury as having responsibility for the public service pension scheme established under the Judicial Pensions and Retirement Act 1993(a) for the purposes of section 137 of the Pension Schemes (Northern Ireland) Act 1993(b), in exercise of the powers conferred by the said section 137, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Judicial Pensions (Guaranteed Minimum Pension) Order (Northern Ireland) 1995 and shall come into operation on 1st November 1995.

Interpretation

2. In this Order—

“the Act” means the Pension Schemes (Northern Ireland) Act 1993;

“the 1993 Act” means the Judicial Pensions and Retirement Act 1993;

“office-holder” means a person who holds, or has held, scheduled office;

“pensionable age” has the meaning given to it in the Act;

“qualifying judicial office” has the meaning given to it in section 1(6) of the 1993 Act;

“scheduled office” means an office listed in the Schedule;

“the scheme” means the occupational pension scheme constituted by Part I of the 1993 Act.

Application

3. This Order shall apply in relation to an office-holder who is a member of the scheme by virtue of section 1 of the 1993 Act.

(a) 1993 c. 8

(b) 1993 c. 49; section 137(1) provides that an Order under section 137 shall be made by the “appropriate authority” which, by virtue of section 137(2), shall be the Minister of the Crown or government department designated by the Treasury or the Department of Finance and Personnel as having responsibility for the pension scheme in question

Entitlement to a pension

4.—(1) An office-holder who attains pensionable age and who has ceased to hold scheduled office shall be entitled to receive, from that age, not less than the guaranteed minimum pension, the weekly rate of which shall be calculated in accordance with section 10, section 12(1) and (5) and section 14 of the Act, unless his accrued rights have been extinguished under section 56 of the Act.

(2) The commencement of the office-holder's guaranteed minimum pension may be postponed—

- (a) for a period, not exceeding five years, for which he continues to hold scheduled office after attaining pensionable age;
- (b) with his consent, for a period exceeding five years for which he continues to hold scheduled office after attaining pensionable age; or
- (c) with his consent, for a period for which he continues in employment after attaining pensionable age otherwise than in scheduled office;

and in such a case section 11 of the Act shall apply to the calculation of the guaranteed minimum pension.

(3) An office-holder—

- (a) who attains pensionable age;
- (b) who has ceased to hold scheduled office;
- (c) to whom section 9(2) of the Act applies; and

(d) who does not have a guaranteed minimum under sections 10 to 12 of the Act,

shall be entitled to receive, from that age, a pension not less than the amount which would be determined as the office-holder's guaranteed minimum, calculated in accordance with paragraph (1), were section 10(3)(b) not to apply to that office-holder.

(4) An office-holder shall be treated as not ceasing to hold office for the purpose of this Order where he moves from one qualifying judicial office to another.

(5) The pension payable under this Article shall continue for the life of the office-holder.

Surviving spouse's guaranteed minimum pension

5.—(1) As from the date of death of an office-holder, whether before or after attaining pensionable age, his surviving spouse shall be entitled to receive a guaranteed minimum pension the weekly rate of which shall be no less than the guaranteed minimum ascertained in accordance with section 13(2) and (3) or (4) of the Act as appropriate.

(2) Paragraph (1) shall apply, in the case of a widow for the period mentioned in section 13(5) of the Act and in the case of a widower, in the circumstances prescribed under section 13(6) of that Act.

(3) Paragraph (1) shall not apply if—

- (a) at the date of his death the office-holder's accrued rights to a guaranteed minimum pension have been extinguished under section 56 of the Act; or
- (b) the surviving spouse's accrued rights are extinguished under that section.

Contribution in the event of marriage during retirement

6.—(1) Where an office-holder is unmarried on the date that he ceases to hold office, he may be required to undertake that, in return for payment of a lump sum to him under the scheme, he will on his first marriage afterwards pay a contribution in respect of the benefits that may become payable to his surviving spouse by virtue of Article 5.

(2) The contribution referred to in paragraph (1) shall be calculated in accordance with the formula $((A \times B)/200) \times 3.4$ where—

- (a) A is the number of years and days of actual and notional relevant service in the scheme (expressed in years and fractions of a year) which were—
 - (i) completed by him before he obtained pensionable age, and
 - (ii) not years—
 - (1) during any part of which he was married, or
 - (2) preceding a marriage of his contracted before he ceased to hold scheduled office; and
 - (b) B is such amount of the office-holder's final annual salary which, expressed as a weekly rate, exceeds the lower earnings limit but does not exceed the upper earnings limit at the date he ceases to hold scheduled office.
- (3) Service is not relevant service for the purposes of this Article if—
- (a) in the case of a male office-holder, it is service before 6th April 1978;
 - (b) in the case of a female office-holder, it is service before 6th April 1988.
- (4) In this Article—
- (a) "final annual salary" in relation to an office-holder means the annual rate of salary he was receiving immediately before he ceased to hold scheduled office;
 - (b) "notional service" means the period of service credited to an office-holder who transfers in to the scheme from another judicial pension scheme, on the date of his transfer in to that scheme, calculated in accordance with the Judicial Pensions (Transfer Between Judicial Pension Schemes) Regulations 1995(a).

Time of payment

7. Any pension to which there is an entitlement by virtue of this Order shall be payable at intervals of not more than three months.

Relationship to other benefits

8. Any pension to which there is an entitlement by virtue of this Order shall be reckoned towards and treated as part of any pension paid in relation to the office-holder under the scheme.

Dated 10th October 1995

Mackay of Clashfern, C.

The Scheduled Offices

JUDGES

Lord Chief Justice of Northern Ireland

Lord Justice of Appeal in Northern Ireland

High Court Judge in Northern Ireland

County Court Judge in Northern Ireland

Resident Magistrate appointed under the Magistrates' Courts Act (Northern Ireland) 1964(a)

Other Appointments

COURT OFFICERS

Any of the offices from time to time specified in column 1 of Schedule 3 to the Judicature (Northern Ireland) Act 1978(b), other than—

- (a) Principal Secretary to the Lord Chief Justice;
- (b) Legal Secretary to the Lord Chief Justice; and
- (c) Official Solicitor

MEMBERS OF TRIBUNALS

Chief or other Social Security Commissioner for Northern Ireland, excluding appointments in pursuance of section 50(2) of the Social Security Administration (Northern Ireland) Act 1992(c)

Chief or other Child Support Commissioner for Northern Ireland, excluding appointments in pursuance of paragraph 4 of Schedule 4 to the Child Support Act 1991(d) as that paragraph has effect by virtue of paragraph 8 of that Schedule

President of social security appeal tribunals, medical appeal tribunals, disability appeal tribunals and child support appeal tribunals for Northern Ireland

Chairman of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals in Northern Ireland

Chairman of child support appeal tribunals in Northern Ireland

President or Vice-President of the Industrial Tribunals and the Fair Employment Tribunal, appointed under section 3 of the Fair Employment (Northern Ireland) Act 1989(e)

Chairman of industrial tribunals or of the Fair Employment Tribunal appointed in pursuance of regulations under Article 30 of the Industrial Training (Northern Ireland) Order 1984(f) or appointed under section 3(1)(c) of the Fair Employment (Northern Ireland) Act 1989

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- (a) 1964 c. 21 (N.I.)
 - (b) 1978 c. 23
 - (c) 1992 c. 8
 - (d) 1991 c. 48
 - (e) 1989 c. 32
 - (f) S.I. 1984/1159 (N.I. 9)

President or other member of the Lands Tribunal for Northern Ireland

OTHER OFFICES WHOSE HOLDERS ARE APPOINTED
BY THE LORD CHANCELLOR

President of the Industrial Court appointed in pursuance of Article 91 of the Industrial Relations (Northern Ireland) Order 1992(a)

(a) S.I. 1992/807 (N.I. 5)

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order modifies the scheme constituted under Part I of the Judicial Pensions and Retirement Act 1993 in respect of holders of the judicial offices listed in the Schedule, in order to enable it to meet the contracting-out requirements laid down by the Pension Schemes (Northern Ireland) Act 1993. It confers on an office-holder and his surviving spouse the right to receive a pension being not less than the guaranteed minimum pension calculated in accordance with the Pension Schemes (Northern Ireland) Act 1993. It provides for the payment of contributions in respect of a surviving spouse's pension that may become payable by virtue of the Order where the office-holder marries after retirement.