



# Judicial Pensions Act 1981

## 1981 CHAPTER 20

### PART II

#### LUMP SUMS AND WIDOWS' AND CHILDREN'S PENSIONS

##### *Widows' and children's pensions*

#### 18 Conditions of grant

- (1) Subject to the provisions of this Part of this Act, on the death of a male person (hereinafter in this Part of this Act referred to as " the deceased ") who—
  - (a) had become eligible for a pension for service in any judicial office, or
  - (b) was serving in any judicial office at the time of his death and would, if he had then retired on the ground of permanent infirmity, have become eligible for a pension for that service,there may be granted in respect of his service—
  - (i) where he leaves a widow, a pension to that widow (hereafter in this Part of this Act referred to as a " widow's pension "), and
  - (ii) where he had a wife at any time during his relevant service (whether or not the marriage continued until his death and whether or not a widow's pension is or can be granted), a pension for the benefit of the children of the marriage and of children adopted by him during the marriage (hereafter in this Part of this Act referred to as a " children's pension ").
- (2) If the Minister is satisfied that a person (" the child ") excluded from subsection (1)(ii) above because adopted after the termination of the marriage was before the termination of the marriage wholly or mainly dependent on the deceased person, and that the deceased person had before the termination of the marriage formed the intention of adopting the child, the Minister may direct that the said exclusion in subsection (1) (ii) above shall not apply to the child.
- (3) Subject to the provisions of this Part of this Act, on the death of a female person (hereafter in this Part of this Act referred to as " the deceased "), who—

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- (a) had become eligible for a pension for service in any judicial office, or
- (b) was serving in any judicial office at the time of her death and would, if she had then retired on the ground of permanent infirmity, have become eligible for a pension for that service,

there may be granted in respect of her service a pension for the benefit of children of any marriage of hers and of children adopted by her (hereafter in this Part of this Act referred to as a " children's pension ").

## **19 Widow's pension**

- (1) No widow's pension may be granted if the marriage with the deceased took place after he retired from relevant service.
- (2) The widow's pension shall determine on her death or remarriage but may, if the Minister specially directs, be paid in respect of any period after re-marriage when she has no husband.
- (3) The annual amount of the widow's pension may be one half of the annual amount of the personal pension.

## **20 Children's pension: beneficiaries**

- (1) A children's pension may be granted if, and be paid so long as and whenever, there are persons for whose benefit it can enure.
- (2) Subject to the provisions of this section, the persons for whose benefit a children's pension can enure are any such children as are referred to in subsection (1) or subsection (3) of section 18 above, as the case may be, who are for the time being in their period of childhood and full-time education.
- (3) A children's pension cannot enure for the benefit of a person conceived after the end of the deceased's relevant service.
- (4) A children's pension cannot enure for the benefit of any person who was adopted by the deceased after the end of his relevant service:

Provided that if the Minister is satisfied that a person (" the child ") falling within this subsection was before the end of the relevant service wholly or mainly dependent on the deceased person, and that the deceased person had, before the termination of the relevant service, formed the intention of adopting the child the Minister may direct that this subsection shall not apply to the child.

- (5) A children's pension cannot enure for the benefit of a female person who at the time of the death of the deceased was married and if, after the death of the deceased, a female person marries, she shall thereupon cease to be a person for whose benefit a children's pension can enure.
- (6) A children's pension in respect of a woman's service cannot enure for the benefit of a child of any marriage of hers whose father is alive when the woman retires, or, as the case may be, dies while serving, unless the Minister specially directs that it shall enure.

## **21 Meaning of "period of childhood and full-time education "**

- (1) A person shall be deemed for the purposes of section 20 above to be in his period of childhood and full-time education while either—
  - (a) he is under the age of sixteen, or
  - (b) he is receiving full-time instruction at any university, college, school or other educational establishment, or
  - (c) he is undergoing training by any person (hereinafter referred to as " the employer ") for any trade, profession or vocation in such circumstances that—
    - (i) he is required to devote the whole of his time to the training for a period of not less than two years, and
    - (ii) while he is undergoing the training, the emoluments receivable by him, or payable by the employer in respect of him, do not exceed £808 a year, exclusive of any emoluments receivable or payable by way of return of any premium paid in respect of the training.
- (2) A person shall not be deemed for the purposes of this section to satisfy the conditions specified in paragraph (b) or the conditions specified in paragraph (c) of subsection (1) above, unless there has up till then been no time since he attained the age of sixteen when he did not satisfy one or other of those conditions.
- (3) In subsection (1) above " emoluments " means any salary, fees, wages, perquisites or profits or gains whatsoever, and includes the value of free board, lodging or clothing, and, for the purposes of paragraph (c)(ii) of that subsection, where a premium has been paid in respect of the training of a person, all emoluments at any time receivable by him, or payable by the employer in respect of him, shall be deemed to be receivable or payable by way of return of the premium, unless and except to the extent that the amount thereof exceeds in the aggregate the amount of the premium.
- (4) As respects any period during which neither of the conditions specified in paragraphs (b) and (c) of subsection (1) above is satisfied in relation to a person, the Minister may, if he thinks fit, and is satisfied that that person's full-time education ought not to be regarded as completed, direct either—
  - (a) that that period shall be ignored for the purposes of subsection (2) above, or
  - (b) that that period shall be so ignored and shall also be treated as part of his period of childhood and full-time education for all the other purposes of section 20 above.
- (5) The Minister may by order vary the sum of £808 in subsection (1)(c)(ii) above. An order under this subsection shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) An order under subsection (5) above—
  - (a) shall not authorise the payment, or increase, of any instalment of a pension in respect of a period falling before the date when the order takes effect, and
  - (b) if it increases or further increases the sum mentioned in subsection (1)(c)(ii) above, shall for the purposes of subsection (2) above apply to periods before the date when the order takes effect, as well as to later periods.

## **22 Children's pension: rate and mode of payment**

- (1) Only one children's pension shall be granted in respect of the service of any one person, but—

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- (a) the rate thereof may vary according to the number of persons for whose benefit it can for the time being enure, and
  - (b) it shall be paid to such person or persons as the Minister may from time to time direct, and different parts thereof may be directed to be paid to different persons, and
  - (c) the person to whom all or any part thereof is paid shall apply the sum paid to him, without distinction, for the benefit of all the persons for whose benefit the pension can for the time being enure or for the benefit of such of them as the Minister from time to time directs.
- (2) Where the deceased leaves no widow and, if he leaves a widow, after her death, the annual amount of a children's pension—
- (a) while the persons for whose benefit it can enure are two or more in number, may amount to two-thirds of the annual amount of the personal pension,
  - (b) while there is only one such person, may amount to one-third of the annual amount of the personal pension.
- (3) Subject to the provisions of subsection (4) below, where the deceased leaves a widow, the annual amount of a children's pension during her life—
- (a) while the persons for whose benefit it can enure are two or more in number, may amount to one half the annual amount of the personal pension,
  - (b) while there is only one such person, may amount to one quarter of the annual amount of the personal pension.
- (4) Notwithstanding anything in the preceding provisions of this section, where the deceased leaves a widow who remarries, no children's pension shall be payable as respects any period when she has a husband unless the Minister specially directs that such a pension shall be so payable, but, if the Minister does specially so direct, he may, if he thinks fit, further direct that subsection (2) above shall apply as respects any such period notwithstanding that the widow is alive.
- (5) Where the deceased was a woman, subsection (2) above shall apply as it applies where the deceased was a man leaving no widow and subsections (3) and (4) above shall not apply.