
STATUTORY INSTRUMENTS

1997 No. 2667

PENSIONS

The Judicial Pensions (Requisite Surviving Spouses' Benefits etc) Order 1997

Made - - - - 4th November 1997
Laid before Parliament 6th November 1997
Coming into force - - 1st December 1997

The Lord Chancellor (in relation to holders of qualifying judicial office in England and Wales) and the Secretary of State (in relation to holders of qualifying judicial office in Scotland), as the appropriate authorities designated for the purposes of section 72 of the Pensions Act 1995⁽¹⁾ as having responsibility for judicial pension schemes, in exercise of the powers conferred on them by that section, hereby make the following Order—

Title and Commencement

1. This Order may be cited as the Judicial Pensions (Requisite Surviving Spouses' Benefits etc) Order 1997 and shall come into force on 1st December 1997.

Interpretation

2. In this Order—

“judicial pension scheme” means a public service pension scheme under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices (whether or not in respect of service in such offices alone);

“qualifying judicial office” means a judicial office listed in Schedule 1 to the Judicial Pensions and Retirement Act 1993⁽²⁾ whose jurisdiction is exercised in England and Wales or Scotland.

Entitlement of surviving spouse to a pension

3. Subject to article 4, in any case—

(a) where a member of a judicial pension scheme dies leaving a surviving spouse; and

(1) 1995 c. 26. Section 72 provides that an Order under section 72 shall be made by the “appropriate authority” which, by virtue of section 72(2), shall be the Minister of the Crown or government department designated by the Treasury as having responsibility for the pension scheme in question.
(2) 1993 c. 8.

- (b) where the deceased member has retired from qualifying judicial office, the marriage took place before his retirement;

the surviving spouse shall be entitled to receive a pension under the scheme.

4.—(1) Article 3 does not apply where, in relation to a reference scheme, a surviving spouse's pension need not be paid by virtue of regulations made under section 12B(4)(a) of the Pension Schemes Act 1993(3).

(2) In this article "reference scheme" has the meaning given to it in the Pension Schemes Act 1993.

Annual rate of surviving spouse's pension

5. The annual rate of a surviving spouse's pension payable under a judicial pension scheme shall be no less than the amount specified in section 12B(4) of the Pension Schemes Act 1993 and shall be assessed by reference to the service of the member of the scheme on and after 6th April 1997.

Relationship to other benefits

6. Any pension to which a surviving spouse is entitled by virtue of this Order shall be reckoned towards and treated as part of any pension paid to the surviving spouse under the judicial pension scheme.

Entitlement to have effect notwithstanding other enactments

7. The entitlement to a surviving spouse's pension under this Order shall have effect notwithstanding the terms of any enactment relating to the judicial pension scheme.

The Judicial Pensions (Guaranteed Minimum Pension etc) Order 1995(4)

8.—(1) The Judicial Pensions (Guaranteed Minimum Pension etc) Order 1995 shall be amended in accordance with paragraph (2) below.

(2) In article 6(2), for "the formula $(A \times B) / 200 \times 3.4$ " substitute "the formula $([A \times (B \times 52)] / 200) \times 3.4$ ".

Dated 4th November 1997

Irvine of Lairg, C.

Donald C. Dewar

One of Her Majesty's Principal Secretaries of State

Dated 31st October 1997

(3) 1993 c. 48. Section 12B was inserted by the Pensions Act 1995 (c. 26), section 136.

(4) S.I.1995/2647.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides that, except in circumstances prescribed by regulations made under the Pension Schemes Act 1993, a surviving spouse shall be entitled to a pension on the death of a member of a judicial pension scheme providing the marriage took place before the member retired. This is to comply with the provisions of the Pension Schemes Act 1993 as amended by the Pensions Act 1995 which provide that a pension scheme must entitle a surviving spouse to a pension in order for a contracting-out certificate to be granted in relation to that scheme.

The Order also amends the Judicial Pensions (Guaranteed Minimum Pension etc) Order 1995 in order to clarify the calculation of the contribution to a surviving spouse's guaranteed minimum pension payable in the event of marriage during retirement.