



County Courts Act (Northern Ireland) 1959

1959 CHAPTER 25

Part I (ss. 1#2) rep. by 1980 NI 3

Part II (ss. 3#8) rep. by 1978 c. 23; 1980 NI 3

Part III (ss. 9#20) rep. by 1964 c. 33 (NI); 1969 c. 30 (NI); 1978 c. 23; 1980 NI 3

Part IV (ss. 21#38) rep. by 1962 c. 30; 1964 c. 3 (NI); 1978 c. 23; 1980 NI 3

Part V (ss. 39#42) rep. by 1978 c. 23

Part VI (ss. 43#44) rep. by 1964 c. 21 (NI); 1980 NI 3

Part VII (ss. 45#46) rep. by 1962 c. 30; 1964 c. 3 (NI); 1978 c. 23

Part VIII (ss. 47#72) rep. by 1969 c. 30 (NI); 1978 c. 23; SR 1979/103; 1980 NI 3

Part IX (ss. 73#94) rep. by 1969 c. 30 (NI)

Part X (ss. 95#101) rep. by 1978 c. 23; 1980 NI 3

Status: Point in time view as at 01/04/2013. This version of this Act contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the County Courts Act (Northern Ireland) 1959. (See end of Document for details)

PART XI

JUDGES AND DEPUTY JUDGES

102 Appointment and assignment of judges.

- [^{F1}(1) Her Majesty may appoint a qualified person to be a judge.]
- (2) A judge shall sit in the county court in accordance with directions given by the [^{F2}Lord Chief Justice].
- (3) A judge may, in accordance with such directions, sit as a judge for any division.
- (4) Subject to sub-sections (2) and (3), the [^{F2}Lord Chief Justice] shall assign [^{F3}one or more judges] to each division and may from time to time vary any such assignment.
- (5) The judge [^{F4}, or (if more than one) one of the judges,] assigned to the division which is or includes—
- (a) the area of the city of Belfast shall be styled the Recorder of Belfast;
 - (b) the area of the city of Londonderry shall be styled the Recorder of Londonderry.]
- ^{F5}(6) In this Act “judge” means a county court judge, that is to say a judge appointed under this section.]

- F1** S. 102(1) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(4), 5(7)(a), **Sch. 5 para. 1**; S.I. 2010/812, **art. 2**
- F2** Words in s. 102(2)(4) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 5 para. 8; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)
- F3** Words in s. 102(4) substituted (16.4.2007) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 85, 87, Sch. 12 para. 4(2); S.R. 2007/237, **art. 2**, Sch. para. 6(a)
- F4** Words in s. 102(5) inserted (16.4.2007) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 85, 87, Sch. 12 para. 4(3); S.R. 2007/237, **art. 2**, Sch. para. 6(a)
- F5** 1980 NI 3

[^{F6}102A Presiding judge

- (1) The Lord Chief Justice must appoint one of the judges to be the Presiding judge with responsibility for the county courts and the other judges and the deputy judges.
- (2) The person appointed as Presiding judge holds that office in accordance with the terms of his appointment.
- (3) If the office of Presiding judge becomes vacant, the Lord Chief Justice may appoint a judge to act as Presiding judge, pending a new appointment.]

- F6** S. 102A inserted (3.4.2006) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 13, 87; S.R. 2006/124, **art. 2**, Sch. para. 2

103 Qualifications and disqualifications of judges.

- (1) A person shall not be qualified to be appointed a judge [^{F7} unless [^{F8} he is—
- (a) a member of the Bar of Northern Ireland of at least ten years' standing; or

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- (b) a solicitor of the^{F9}Court of Judicature] of at least ten years' standing.]
- (2) A judge, so long as he holds office as such, shall not practise at the bar or be directly or indirectly concerned as a conveyancer, notary public or solicitor.

F7 1978 c. 23
F8 2002 c. 26
F9 Words in art. 103(1)(b) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, art. 2

S. 104 rep. by 1964 c. 21 (NI)

105 Tenure and oaths of office and retirement of judges.

- (1)^{F10}
- (1A)^{F10}

Subs. (3) rep. by 2002 c. 26

^{F11}(4) Every judge shall vacate his office on the day on which he attains the age of seventy years; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (^{F12} . . . power to authorise continuance in office up to the age of 75).]

F10 S. 105(1)(1A) repealed (3.4.2006) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 86, 87, Sch. 13; S.R. 2006/124, art. 2, Sch. para. 11(b)
F11 1993 c. 8
F12 Words in s. 105(4) repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss.15, 148, 146, Sch. 5 para. 9, Sch. 18 Pt. 3; S.I. 2006/1014, art. 2, Sch. 1 para. 12(a)

^{F13}106 Salaries and allowances of judges.

- (1) There shall be paid to each judge such salary as may be determined by the Lord Chancellor with the consent of^{F14} the Treasury].
- (2) The salary payable to any judge shall begin from the date on which the judge takes the^{F15} required oath or makes the required affirmation and declaration].
- (3) The Lord Chancellor with the approval of^{F14} the Treasury] may allow to any judge, for the purpose of defraying his travelling and subsistence expenses, such sum as appears reasonable.]

^{F16}(4) Sums payable under subsection (3) are to be paid by the Department of Justice.]

F13 1978 c. 23
F14 1991 NI 24
F15 Words in s. 106(2) substituted (16.4.2007) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 85, 87, Sch. 12 para. 5; S.R. 2007/237, art. 2, Sch. para. 6(a)
F16 S. 106(4) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), Sch. 18 para. 104 (with arts. 28-31); S.I. 2010/977, art. 1(2)

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[^{F17}107 Deputy judges.

- (1) The [^{F18}Northern Ireland Judicial Appointments Commission] may appoint as deputy judge [^{F19} a person who is—
- (a) a member of the Bar of Northern Ireland of at least ten years' standing; or
 - (b) a solicitor of the [^{F20}Court of Judicature] of at least ten years' standing.]

[^{F21}(1A) The term for which a person is appointed as a deputy judge is to be determined by the Commission with the agreement of the [^{F22}Department of Justice].]

- (2) The appointment of a person as a deputy judge shall specify the term for which he is appointed [^{F23}as determined under subsection (1A)].

[^{F24}(3) Subject to subsection (4), the Commission may, with the agreement of a deputy judge and the [^{F25}Department of Justice], from time to time extend, for such period as it thinks appropriate, the term for which the deputy judge is appointed.]

[^{F26}(4) Neither the initial term for which a deputy judge is appointed nor any extension of that term under subsection (3) shall be such as to continue his appointment as a deputy judge after the day on which he attains the age of seventy; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (^{F27} . . . power to authorise continuance in office up to the age of 75).]

- (5) A deputy judge shall, while he is so acting, have the like authority, jurisdiction, powers and privileges as a judge in all respects [^{F28} and a reference in any statutory provision to, or which is to be construed as a reference to, a county court judge shall, for the purposes of or in relation to any proceedings in a county court, be construed as including a reference to a deputy judge appointed under this section].

- (6) Where the hearing of any proceedings duly commenced before any deputy judge is adjourned or judgment is reserved therein, that deputy judge shall, notwithstanding anything in sub-section (2) or (4), have power to resume the hearing and determine the proceedings or, as the case may be, to deliver the judgment so reserved.

- (7) [^{F29}The Department of Justice shall pay] to every deputy judge, except a resident magistrate, such remuneration and allowances as the Lord Chancellor may, with the concurrence of [^{F30} the Treasury], determine.]

F17 1978 c. 23

F18 Words in s. 107(1) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), **Sch. 4 para. 3(2)** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**

F19 2002 c. 26

F20 Words in s. 107(1)(b) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59(5), 148(1), Sch. 11 para. 6; S.I. 2009/1604, **art. 2**

F21 S. 107(1A) inserted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), **Sch. 4 para. 3(3)** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**

F22 Words in s. 107(1A) substituted (12.4.2010) by Department of Justice Act (Northern Ireland) 2010 (c. 3), ss. 1(5), 3(2), **Sch. para. 2**; S.R. 2010/147, **art. 2(2)**

F23 Words in s. 107(2) inserted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), **Sch. 4 para. 3(4)** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**

F24 S. 107(3) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(3), 5(7)(a), **Sch. 4 para. 3(5)** (with Sch. 5 para. 16); S.I. 2010/812, **art. 2**

F25 Words in s. 107(3) substituted (12.4.2010) by Department of Justice Act (Northern Ireland) 2010 (c. 3), ss. 1(5), 3(2), **Sch. para. 2**; S.R. 2010/147, **art. 2(2)**

F26 1993 c. 8

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| F27 | Words in s. 107(4) repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 146, 148, Sch. 5 para. 10, Sch. 18 Pt. 3; S.I. 2006/1014, art. 2(a), Sch. 1 |
| F28 | 1980 NI 3 |
| F29 | Words in s. 107(7) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), Sch. 18 para. 105 (with arts. 28-31); S.I. 2010/977, art. 1(2) |
| F30 | 1991 NI 24 |

Part XII (ss. 108#115) rep. by 1964 c. 21 (NI); 1969 c. 30 (NI); SI 1973/2163; 1978 c. 23; 1980 NI 3

PART XIII

SUPERANNUATION

PENSIONS OF COUNTY COURT JUDGES

116 Pensions of judges.

- (1) [^{F31}The Treasury] may on the recommendation of the [^{F32} Lord Chancellor] grant to any judge an annual sum by way of pension calculated in accordance with the provisions of Part I of the Second Schedule—
- if his office is vacated in pursuance of sub-section (4) of section one hundred and five; or
 - if the [^{F32} Lord Chancellor] is satisfied by means of a medical certificate that, by reason of infirmity of mind or body, he is incapable of discharging the duties of his office, and that the incapacity is likely to be permanent; or
 - if he retires after fifteen years' service, and at the time of retirement has attained the age of sixty-five.

Subs. (2)(3) rep. by 1978 c. 23

- (4) A person to whom, in consequence of such incapacity as aforesaid, a pension has been granted under this section shall, until the date on which that person could have been granted a pension under paragraph (a) or paragraph (c) of sub-section (1), be liable to be required by the [^{F32} Lord Chancellor] to resume the duties of a judge with the salary attached thereto, and, if (being in a competent state of health) he declines when so required to resume those duties, or declines or neglects to execute those duties, he shall forfeit his right to the pension so granted to him.
- (5) Where a person resumes his duties as aforesaid, the payment of the pension granted to him shall be suspended during the period of his resumed service, but, subject to the provisions of sub-section (4), at the end of that period the pension shall again be payable and be recalculated in accordance with the provisions of Part I of the Second Schedule, and for that purpose the period of his resumed service shall be added to the period of his former service.

[^{F33}(5A) The Lord Chancellor must consult the Lord Chief Justice before—

- making a recommendation in a case that falls within subsection (1)(b), or

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(b) requiring a person to resume the duties of judge in accordance with subsection (4).

(5B) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (5A)—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

Subs. (6) rep. by 1993 c. 8

[^{F34}(7) This Part shall not have effect in relation to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.]

F31 1991 NI 24

F32 1978 c. 23

F33 S. 116(5A)(5B) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 5 Pt. 1 para. 11; S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(a)

F34 1993 c. 8

[^{F35}**116A**

(1) The provisions regulating the pensions which may be received under section 116 and Part I of the Second Schedule are to take effect subject to the modifications contained in this section.

(2) In this section—

“election” means an election made under sub#section (3);

“judges' pension scheme” means the occupational pension scheme constituted by this Act;

Definition rep. by SR 2003/482

(3) A person who is eligible for a pension in respect of his office as a judge shall while in that office;

(a) be deemed to be a member of the judges' pension scheme except during such time as an election is in force in respect of him; and

[^{F36}(b) be entitled at any time to serve on the Lord Chancellor a written notice of election not to be a member of the judges' pension scheme, to take effect on a date not less than one month after the date on which it was served.]

(4) At any time after a person has made an election and while he continues to hold office as a judge:

(a) he may make a written application to the Lord Chancellor requesting admission to membership of the judges' pension scheme; and

(b) the Lord Chancellor may, if satisfied that the applicant is in good health, admit him to that scheme on a date not less than three months after the date on which the application was served; and

(c) upon the date of the applicant's admission to the judges' pension scheme, his election shall cease to be in force.

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- (5) An applicant under sub#section (4) shall supply such evidence relating to his health as the Lord Chancellor may reasonably require and shall submit to any medical examination reasonably specified by the Lord Chancellor.
- (6) The Lord Chancellor shall notify an applicant under sub#section (4) of his decision in writing within three months after the date on which the application was served.
- (7) Subject to the provisions of sub#section (4), an election shall be irrevocable.
- (8) An election shall not affect its maker's eligibility for a pension which accrued under a judicial pension scheme before that election came into force.
- (9) While an election remains in force in respect of a person, his service shall not be counted as service in computing the pension for which he is eligible under any judicial pension scheme.]

F35 SR 1989/100

F36 SR 2003/482

S. 117 rep. by SI 1973/2163; SR 1979/103

S. 118 rep. by 1978 c. 23

LUMP SUMS AND^{F37} WIDOWS', SURVIVING CIVIL PARTNERS' AND CHILDRENS' PENSIONS] FOR OR IN RESPECT OF JUDGES AND CLERKS OF THE CROWN AND PEACE

F37 SI 2005/3325

119 Application of succeeding provisions of this Part.

The succeeding provisions of this Part shall ...^{F38} apply in relation to service—

- (a) as a county court judge;

Para. (b) rep. by SR 1979/103

and in those provisions the expression “serve” shall have effect accordingly.

F38 1980 NI 3

^{F39}**119A**

For the purpose of the calculation of any derivative benefit under the succeeding provisions of this Part, in respect of a person who is eligible for a pension for service in any judicial office, there shall be left out of account any period of service during which an election under section 116A was in force in respect of that person.]

F39 SR 1989/100

S. 120 rep. by 1980 NI 3

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121 Lump sum on retirement or death.

- (1) Where a person on retirement becomes eligible for a pension for service, he may be granted a lump sum equal to twice the annual amount of that pension.
- (2) Where a person was serving at the time of his death and, if he had then retired on the ground of permanent infirmity, would have become eligible for a pension for that service, his representative may be granted a lump sum equal to—
 - (a) twice the annual amount of the pension for which he would have been so eligible; or
 - (b) his last annual salary;
 whichever is the greater.
- (3) Where a person on retirement becomes eligible for a pension for service but dies so soon thereafter that the sums paid or payable to him on account of that pension plus an amount equal to twice the annual amount of that pension fall short of his last annual salary for such service, there may be granted to his representatives a lump sum equal to the deficiency.

[^{F40}WIDOWS', SURVIVING CIVIL PARTNERS' AND CHILDRENS' PENSIONS]

F40 SI 2005/3325

122 [^{F41}Power to grant widows', surviving civil partners' and children's pensions].

- [^{F41}(1)] Subject to the provisions of sections one hundred and twenty-one to one hundred and thirty-three, on the death after the commencement of this Part of a person (in this Part referred to as “the deceased”) who—
- (a) had become eligible for a pension for service; or
 - (b) was serving 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 such service;
- there may be granted in respect of his service—
- (i) where he leaves a widow, a pension to that widow (in this Part referred to as a “widow's pension”);
 - [^{F41}(ia) where he leaves a surviving civil partner, a pension to that surviving civil partner (in this Part referred to as a “surviving civil partner's pension”); and]
 - [^{F41}(ii) where he had a wife or a civil partner at any time during his service (whether or not the marriage or civil partnership continued until his death and whether or not a widow's pension or surviving civil partner's pension is or can be granted), a pension for the benefit of any relevant children (in this Part referred to as a “children's pension”)]
- [^{F41}(2) In subsection (1)(ii), “relevant children” means
- (a) in relation to a marriage, any children of the marriage, and
 - (b) in relation to a civil partnership, any children of the family,
- and in paragraph (b) “children of the family” is to be construed in accordance with Article 2(2) of the Children (Northern Ireland) Order 1995[9].]

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F41 SI 2005/3325

[^{F42}122A Widowers' [^{F43} and surviving civil partners'] pensions.

[Section 122 shall have effect in relation to the death of a female person [^{F43} who has, ^{F43}(1) or has had, a husband or civil partner] as it has effect in relation to the death of a male person [^{F43} who has, or has had, a wife or civil partner] but as if—

- (a) for the words “widow”, “widows' pension” and “wife” there were substituted “ widower ”, “ widower's pension ” and “ husband ”;
- (b) for the words “his” and “him” there were substituted “ her ”; and
- (c) for the word “he” there were substituted “ she ”.

[The transitional provisions set out in Schedule 2B shall have effect in relation to ^{F43}(2) surviving civil partners' pensions.]]

F42 1991 NI 24

F43 SI 2005/3325

[^{F44}123 [^{F45}Widows', widowers' and surviving civil partners' pensions].

- (1) No [^{F45} widow's, widower's, or surviving civil partner's] pension may be granted if the marriage [^{F45} or formation of the civil partnership] with the deceased took place after he or she retired from relevant service.
- (2) A [^{F45} widow's, widower's, or surviving civil partner's] pension shall come to an end on the the death of the [^{F45} widow, widower or surviving civil partner].
- (3) Where a [^{F45} widow's, widower's or surviving civil partner's] pension is payable the Treasury may, on or at any time after
 - [the remarriage of, or formation of a civil partnership by, the widow or ^{F45}(a) widower, or
 - (b) the formation of a subsequent civil partnership by, or the marriage of, the surviving civil partner,]direct that it shall cease to be payable.
- (4) Where such a direction has been given the Treasury may at any time direct that payment of the pension is to be resumed.
- (5) The annual amount of a [^{F45} widow's, widower's or surviving civil partner's] pension may be one half of the annual amount of the personal pension.]

F44 1991 NI 24

F45 SI 2005/3325

124 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 section one hundred

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and twenty-two who are for the time being in their period of childhood and full-time education.

- (3) ^{F46} A children's pension cannot enure for the benefit of any person conceived, or adopted by the deceased, after the end of the service of the deceased.
- (4) 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^[F47] or a person who at the time of the death of the deceased was a civil partner] and if, after the death of the deceased, a female person marries^[F47] or a person forms a civil partnership], she^[F47] or he] shall thereupon cease to be a person for whose benefit a children's pension can enure.

F46 Mod., 1966 c. 27 (NI)

F47 SI 2005/3325

125 Meaning of “period of childhood and full-time education” .

- (1) A person shall be deemed for the purposes of section one hundred and twenty-four 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,^[F48] do not exceed the maximum allowable remuneration], exclusive of any emoluments receivable or payable by way of return of any premium paid in respect of the training:

Provided that 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), 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. Any period of whole-time service in the armed forces of the Crown under the National Service Acts, 1948 to 1955, shall be ignored for the purposes of this proviso.

- (2) In sub-section (1) the expression “emolument” 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 sub-paragraph (ii) of paragraph (c) of that sub-section, 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.

^[F48](2A) For the purposes of subsection (1)(c)(ii), the “maximum allowable remuneration” at any time is an annual rate (£1,614 a year, at the passing of the Judicial Pensions and Retirement Act 1993) equal to that at which a pension of £250 a year—

- (a) first awarded under the principal civil service pension scheme (within the meaning of that Act) on 1st June 1972, and

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- (b) increased from time to time by the amount of increase that would be applied under the Pensions (Increase) Act 1971 to such a pension, would (as so increased) be payable at that time, rounding any resulting fraction of £1 up to the next whole £1.]
- (3) As respects any period during which neither of the conditions specified in paragraphs (b) and (c) of sub-section (1) is satisfied in relation to a person, the [^{F49} Minister for the Civil Service] may, if it 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 the proviso to sub-section (1); 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 one hundred and twenty-four.

F48 1993 c. 8

F49 1978 c. 23

126 ^{F50} 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—
- (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 [^{F51} the Treasury] 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 [^{F51} the Treasury] from time to time directs.
- (2) Where the deceased [^{F51} leaves no widow [^{F52}, widower or surviving civil partner] and, if he or she leaves a widow [^{F52}, widower or surviving civil partner], after his or her death], the annual amount of a children's pension—
- (a) while the persons for whose benefit it can enure are three or more in number, may amount to one-third of the annual amount of the personal pension;
 - (b) while the said persons are two in number, may amount to one-quarter of the annual amount of the personal pension;
 - (c) while there is only one such person, may amount to one-sixth of the annual amount of the personal pension.
- (3) Subject to the provisions of sub-section (4), where the deceased leaves a widow [^{F52}, widower or surviving civil partner], the annual amount of a children's pension during her [^{F51} or his] life—
- (a) while the persons for whose benefit it can enure are four or more in number, may amount to one-third of the annual amount of the personal pension;
 - (b) while the said persons are three in number, may amount to one-quarter of the annual amount of the personal pension;
 - (c) while the said persons are two in number, may amount to one-sixth of the annual amount of the personal pension;

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- (d) while there is only one such person, may amount to one-twelfth of the annual amount of the personal pension.
- (4) Notwithstanding anything in the foregoing provisions of this section, where the deceased
- [^{F52}(a) leaves a widow or widower who remarries or forms a civil partnership, or
 (b) leaves a surviving civil partner who forms a subsequent civil partnership or marries,]

no children's pension shall be payable as respects any period when she has a husband[^{F52} or civil partner][^{F51} or he has a wife][^{F52} or civil partner] unless[^{F51} the Treasury] specially directs that such a pension shall be so payable, but, if[^{F51} the Treasury] does specially so direct, it may, if it thinks fit, further direct that subsection (2) shall apply as respects any such period notwithstanding that the[^{F52} widow, widower or surviving civil partner is] alive.

F50 Children's pensions increased, 1973 c. 15

F51 1991 NI 24

F52 SI 2005/3325

S. 127 rep. by 1980 NI 3

[^{F53}**127A** **Voluntary contributions.**

- (1) The Lord Chancellor shall by regulations, made with the consent of the Treasury, make provision entitling any member of a judicial pension scheme constituted by this Act to make voluntary contributions towards the cost of the provision
- (a) of additional benefits[^{F54} whether under the scheme or otherwise; or]
 [^{F55}(b) imposing conditions with respect to the exercise by any such person of any entitlement (whether or not under paragraph (a)) which he may have to make any such voluntary contributions.]
- [^{F56}(1A) The regulations may make provision for the purpose of imposing, in a case where a member makes voluntary contributions, upper limits with respect to—
- (a) the aggregate value of the aggregable benefits which may be paid to or in respect of any such member; and
- (b) the amount which any such member may pay by way of such contributions;
- and, without prejudice to the generality of paragraph (b), the regulations may, in particular, impose such an upper limit on the amount which a member may pay by way of voluntary contributions as will, so far as reasonably practicable, secure that the aggregate value referred to in paragraph (a) will not exceed the limit prescribed under that paragraph.
- (1B) The regulations may—
- (a) prescribe the manner in which aggregable benefits are to be valued for the purpose of any such aggregation as is mentioned in subsection (1A);
- (b) confer on the administrators of a judicial pension scheme power to require a member who is making, or who wishes to make, voluntary contributions to provide such information as they may require concerning any retained benefits of his;
- (c) permit the disclosure by those administrators of any information which they may obtain concerning any such retained benefits—

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- (i) to, or to any officers of, the Commissioners of Inland Revenue; or
- (ii) to, or to any servants or agents of, any authorised provider who is, or may be, concerned in the investment of the voluntary contributions or the provision of the additional benefits in question.]

(2) The regulations—

- (a) may not prohibit the payment of voluntary contributions;
- (b) may not impose any limit on the amount which any member may pay by way of voluntary contributions other than^{F57} [F58 . . . —]
[F59(i) such upper limit as may be imposed by virtue of subsection (1A)(b);
^{F60} . . .]
(ii) ^{F60}
- (c) must secure that any voluntary contributions paid by a member of a scheme are used to provide prescribed additional benefits for or in respect of him; and
- (d) must secure that the value of such additional benefits is reasonable, having regard to—
 - (i) the amount paid by way of voluntary contributions;
 - (ii) the value of the other benefits provided under the scheme; and
 - [F61(iii) the general value of benefits available to a person under any contract of life insurance entered into by him with an insurer;]

[F62]but paragraphs (c) and (d) have effect only in relation to a voluntary contributions scheme constituted by or under this Act.]

(3) The regulations may, in particular—

- (a) provide that the value of additional benefits offered on payment of voluntary contributions shall be determined in accordance with prescribed rules based on tables prepared for the purposes of the regulations by the Government Actuary,^{F63}
- (b) prescribe the manner in which it is to be determined in any case whether the amount of a person's contributions exceed any[F64 such limit as is mentioned in] subsection (2)(b).
- [F65(c) provide for any administrative expenses incurred by any person by virtue of this section to be defrayed out of sums received by way of voluntary contributions;
- (d) provide for the manner in which voluntary contributions are to be made;
- (e) make provision for, and in connection with, the valuation of a person's accrued rights—
 - (i) under any occupational or personal pension scheme, which are to be transferred into a voluntary contributions scheme, or
 - (ii) under any voluntary contributions scheme, which on termination of his membership of that scheme may fall to be transferred into another scheme;
- (f) prescribe the additional benefits which are to be available under a voluntary contributions scheme and the rates and times at which those benefits are to be payable;
- (g) make provision for and in connection with the making of elections between different benefits available under voluntary contributions schemes;
- (h) provide for the terms on which a person may terminate his membership of a voluntary contributions scheme;

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- (i) provide for the terms on which surplus funds may be refunded to a person who has made payments by way of voluntary contributions to a voluntary contributions scheme;
- (j) specify any authorised providers—
 - (i) who are to invest any prescribed voluntary contributions, or
 - (ii) who are to provide any prescribed additional benefits,
 and, if two or more authorised providers are so specified, may make provision entitling any person who makes prescribed payments by way of voluntary contributions to elect between those authorised providers.]

Subs. (4) rep. by 1993 c. 8

[^{F66}(4A) The regulations may provide for such additional benefits arising under or by virtue of this section as may be prescribed—

- (a) to be charged on, and paid out of, the Consolidated Fund of the United Kingdom; or
- (b) to be paid out of money provided by the Parliament of the United Kingdom.]

(5) Regulations made under this section may make provision for consequential and incidental matters, including, in particular, consequential provision as to any statutory provision referring to or relating to lump sums payable under this Act.

(6) Regulations made under this section shall be subject to annulment in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

[^{F67}(7) In this section—

“administrators”, in relation to any scheme, means the persons entrusted with the administration of that scheme;

“aggregable benefits” means—

- (a) any pensions or other benefits under a judicial pension scheme, other than such additional benefits as are mentioned in subsection (1);
- (b) such additional benefits so mentioned as may be prescribed; and
- (c) such retained benefits as may be prescribed;

“authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means—

- (a) a person who has permission under [^{F68}Part 4A] of the Financial Services and Markets Act 2000 to invest such sums or, as the case may be, to provide that benefit;
- (b) an EEA firm of a kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit and which satisfies the conditions applicable to it which are specified in subsection (7B), (7C) or (7D); or
- (c) an EEA firm of a kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit.]

“employment” has the same meaning as it has in the [^{F69} Pension Schemes (Northern Ireland) Act 1993] (and accordingly includes employment as a self-

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employed earner, within the meaning of^[F70] section 2 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992];

^[F71]“insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;]

“judicial pension scheme” means a scheme constituted by this Act;

“member” means member of a judicial pension scheme;

“occupational pension scheme” has the meaning given by^[F72] section 1 of the Pension Schemes (Northern Ireland) Act 1993];

“personal pension scheme” has the meaning given by^[F73] section 1 of the Pension Schemes (Northern Ireland) Act 1993];

“prescribed” means specified in, or determined in accordance with, the regulations;

^{F74}

“retained benefits”, in the case of any person, means any rights retained by him to^{F75} . . . benefits under any occupational or personal pension scheme which ^[F76]is registered under Part 4 of the Finance Act 2004], being rights which accrued during some previous employment;

“surplus funds”, in relation to a person and any voluntary contributions scheme, means any funds which are, or have been, held for the purposes of that voluntary contributions scheme and which fall to be returned to him in consequence of any such limit as is mentioned in subsection (2)(b);

^{F77}

“voluntary contributions”, in relation to any member of a judicial pension scheme, means voluntary contributions towards the provision of additional benefits, whether under that scheme or otherwise;

“voluntary contributions scheme” means any occupational pension scheme if and to the extent that it is a scheme under which such additional benefits as are mentioned in subsection (1) are, or are to be, provided;

and, where a person's voluntary contributions are made by deduction from salary, any reference to payment of, or by way of, voluntary contributions shall be taken to include a reference to the making of voluntary contributions by deduction or, as the case may require, to any voluntary contributions so made.

^[F78](7A) In subsection (7), the definitions of “authorised provider” and “insurer” must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.

(7B) If the EEA firm concerned is of the kind mentioned in paragraph 5(a) of Schedule 3 to the Financial Services and Markets Act 2000, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on a service falling within section A or ^[F79]B of Annex I to the Markets in Financial Instruments Directive]; and

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- (b) that the firm is authorised by its home state authorisation to carry on that service.
- (7C) If the EEA firm concerned is of the kind mentioned in paragraph 5(b) of that Schedule, the conditions are—
- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive; and
 - (b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions.
- (7D) If the EEA firm concerned is of the kind mentioned in paragraph 5(c) of that Schedule, the conditions are—
- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive;
 - (b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions; and
 - (c) that the firm also carries on the activity in question in its home State.
- (7E) Expressions used in subsections (7B) to (7D) which are also used in Schedule 3 to the Financial Services and Markets Act 2000 have the same meaning in those subsections as they have in that Schedule.]
- (8) Without prejudice to subsections (3)(c) and (d) and (4A), there may be paid out of money provided by the Parliament of the United Kingdom—
- (a) any sums required for or in connection with the operation or administration of any prescribed voluntary contributions scheme; or
 - (b) any administrative expenses incurred under or by virtue of this section by a Minister of the Crown or government department.
- (9) Any sums received under this section may be paid into the Consolidated Fund of the United Kingdom.

F53 1991 NI 24

F54 1993 c. 8

F55 1993 c. 8

F56 1993 c. 8

F57 Words in s. 127A(2)(b) omitted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), art. 7, **Sch. para. 6(a)**

F58 1993 c. 8

F59 1993 c. 8

F60 S. 127A(2)(b)(ii) and preceding word omitted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), art. 7, **Sch. para. 6(a)**

F61 SI 2001/3649

F62 1993 c. 8

F63 1993 c. 8

F64 1993 c. 8

F65 1993 c. 8

F66 1993 c. 8

F67 1993 c. 8

F68 Words in s. 127A(7) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), **Sch. 18 para. 141** (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, [Sch.](#)

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- F69** 1993 c. 49
- F70** 1993 c. 49
- F71** SI 2001/3649
- F72** 1993 c. 49
- F73** 1993 c. 49
- F74** In s. 127A(7) definition of "relevant benefits" omitted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), art. 7, **Sch. para. 6(b)(i)**
- F75** S. 127A(7) in definition of "retained benefits" words omitted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), art. 7, **Sch. para. 6(b)(ii)**
- F76** S. 127A(7): in definition of "retained benefits" words substituted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), art. 7, **Sch. para. 6(b)(ii)**
- F77** In s. 127A(7) definitions of "tax-exemption" and "tax-approval" omitted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), art. 7, **Sch. para.6(b)(iii)**
- F78** SI 2001/3649
- F79** Words in s. 127A(7B)(a) substituted (1.4.2007 for certain purposes, otherwise 1.11.2007) by [Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2)(3)(4), 3(6), **Sch. 6 para. 2**

SPECIAL CIRCUMSTANCES

128 Persons serving again after retirement.

Where any person after retirement resumes^{F80} . . . service, that retirement shall be left out of account for all the purposes of sections one hundred and twenty-one to one hundred and thirty-three except that—

- (a) if a lump sum was granted on that retirement without any contribution being made, then unless that person on resumption of^{F80} . . . service, or within three months of^{F80} . . . marrying^{F81} or forming a civil partnership] while again serving, refunds [^{F82} to the Consolidated Fund of the United Kingdom] by way of contribution one-half of the lump sum, no pension shall be granted to any^{F80} widow, widower^{F81}, surviving civil partner] or child of that person]; and
- (b) any lump sum granted on that retirement, less any refund, shall be set off against any lump sum to be granted in respect of^{F80} that person's] service.

- F80** 1991 NI 24
- F81** SI 2005/3325
- F82** 1980 NI 3

SUPPLEMENTAL AND GENERAL

129 Saving for allocation of pension.

The fact that this Part applies to a person shall not affect any rights of his under [^{F83} section 44 of the Superannuation Act (Northern Ireland) 1967^{M1}] (which provides for the partial allocation of superannuation benefits to wives and dependants) and any

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calculations to be made under this Part shall be made as if any surrender under that section of a part of a pension had not been made.

F83 1967 c. 24 (NI)

Marginal Citations

M1 1967 c. 24

130 Saving for reduction in respect of national insurance pension.

In making any calculation under this Part any abatement of a pension falling to be made under regulations made under sub-section (4) of section sixty-six of the National Insurance Act (Northern Ireland), 1946^{M2} (which authorises the modification of any pensions scheme in connection with the passing of that Act) shall be left out of account.

Marginal Citations

M2 1946 c. 23

PROSPECTIVE

130A^{F84} {*prosp. insertion of s. 130A by 1991 NI 24*}

F84 prosp. inserted by 1991 NI 24

[^{F85} **131 Effect under this Act of certain nullity decrees**

Where a marriage or civil partnership which is voidable, but not void from the beginning, is annulled by any court, the same results shall follow under sections one hundred and twenty-two to one hundred and thirty-three as would have followed if the marriage or the civil partnership had not been voidable but had been dissolved at the date of the annulment.]

F85 SI 2005/3325

132 Recommendation of Lord Chancellor in certain cases.

The grant under the foregoing provisions of this Part of a lump sum or [^{F86} widow's, widower's, surviving civil partner's] or children's pension conditional on eligibility for a pension for service as a judge shall require the recommendation of the [^{F87} Lord Chancellor].

F86 SI 2005/3325

F87 1978 c. 23

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[^{F88}132A Appeals.

- (1) If any person to whom this section applies is aggrieved by any decision taken by the administrators of a relevant pension scheme concerning—
 - (a) the interpretation of the rules of the scheme, or
 - (b) the exercise of any discretion under the scheme,
 he shall have a right of appeal to the Lord Chancellor against that decision.
- (2) On deciding an appeal under this section, the Lord Chancellor may give to the administrators such directions as he considers necessary or expedient for implementing his decision.
- (3) The persons to whom this section applies are the following—
 - (a) any member of the scheme;
 - (b) the widow^{F89}, widower or surviving civil partner], or any surviving dependant, of a deceased member of the scheme;
 - (c) where the decision relates to the question—
 - (i) whether a person who claims to be such a person as is mentioned in paragraph (a) or (b) is such a person, or
 - (ii) whether a person who claims to be entitled to become a member of the scheme is so entitled,
 the person so claiming.
- (4) The Lord Chancellor may by regulations make provision as to the manner in which, and time within which, appeals under this section are to be brought.
- (5) Regulations made under this section shall be subject to annulment in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.
- (6) The administrators shall be entitled to appear and be heard on any appeal under this section.
- (7) In this section—

“the administrators”, in relation to a pension scheme, means the persons entrusted with the administration of the scheme;

“member”, in relation to a pension scheme, means a person whose service in an office is, was or is to be subject to the scheme;

“relevant pension scheme” means any pension scheme constituted under or by virtue of this Act;

“rules”, in relation to a relevant pension scheme, means the provisions of this Act, and of any regulations or orders made under this Act, so far as relating to that scheme.]

F88 1993 c. 8

F89 SI 2005/3325

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[^{F90}134 Evidence of health.

Before selecting any person for recommendation for appointment as a county court judge, the Northern Ireland Judicial Appointments Commission must take steps to satisfy itself that that person's health is satisfactory.]

F90 S. 134 substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), ss. 2(4), 5(7)(a), Sch. 5 para. 2; S.I. 2010/812, art. 2

135 Interpretation of this Part.

(1) In this Part the expression—

“derivative benefit” means any lump sum under this Part or any [^{F91} widow's, widower's, surviving civil partner's] or children's pension;

“service” includes service before the commencement of this Act, and in relation to any derivative benefit or any contribution taking the form of a reduction in a derivative benefit the said expression has the same meaning as it has in relation to the personal pension;

“the personal pension” in relation to any derivative benefit or contribution taking the form of a reduction in a derivative benefit means the pension for which eligibility is a condition of the granting of the derivative benefit.

Subs. (2) rep. by 1980 NI 3

Subs. (3) rep. by 1987 NI 22

F91 SI 2005/3325

PART XIV

FINANCIAL PROVISIONS

136 Charges on Consolidated Fund.

[^{F92} There shall be charged on and paid out of the Consolidated Fund of the United Kingdom]—

- (a) ^{F93}
- (b) the pensions payable under section one hundred and sixteen to persons who have held office as judges;
- (c) any ^{F94}... derivative benefits (as defined in section one hundred and thirty-five) ^{F94}...

Para. (d) rep. by 1980 NI 3

F92 1978 c. 23

F93 S. 136(a) repealed (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 86, 87, Sch. 13; S.R. 2010/113, art. 2, Sch. para. 21(b)

F94 1980 NI 3

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[^{F95} **136A Charges on Northern Ireland Consolidated Fund**

There shall be charged on and paid out of the Consolidated Fund of Northern Ireland the salaries payable to judges under section one hundred and six.]

F95 S. 136A inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 106** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

137 Payments out of voted moneys.

^{F96}

F96 S. 137 omitted (12.4.2010) by virtue of Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(5), **Sch. 18 para. 107** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

S. 138 rep. by 1969 c. 30 (NI); 1978 c. 23

PART XV

MISCELLANEOUS AND GENERAL

Ss. 139#153 rep. by 1969 c. 30 (NI); SI 1973/2163; SLR 1976; 1978 c. 23; 1980 NI 3

154 Short title and construction.

(1) This Act may be cited as the County Courts Act (Northern Ireland), 1959 [^{F97} and shall be construed as one with the County Courts (Northern Ireland) Order 1980].

Subs. (2) rep. by 1978 c. 23

Subs. (3) rep. by SLR 1973

F97 1980 NI 3

Status:

Point in time view as at 01/04/2013. This version of this Act contains provisions that are prospective.

Changes to legislation:

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