



# County Courts Act (Northern Ireland) 1959

## 1959 CHAPTER 25

### PART XIII

#### SUPERANNUATION

##### [<sup>F1</sup>WIDOWS', SURVIVING CIVIL PARTNERS' AND CHILDRENS' PENSIONS]

F1 SI 2005/3325

#### 122 [<sup>F2</sup>Power to grant widows', surviving civil partners' and children's pensions].

[<sup>F2</sup>(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” );
- [<sup>F2</sup>(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]
- [<sup>F2</sup>(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”)]

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[<sup>F2</sup>(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].]

**F2** SI 2005/3325

**[<sup>F3</sup>122A Widowers' [<sup>F4</sup> and surviving civil partners'] pensions.**

[ Section 122 shall have effect in relation to the death of a female person [<sup>F4</sup> who has, or <sup>F4</sup>(1) has had, a husband or civil partner] as it has effect in relation to the death of a male person [<sup>F4</sup> 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 <sup>F4</sup>(2) surviving civil partners' pensions.]]

**F3** 1991 NI 24

**F4** SI 2005/3325

**[<sup>F5</sup>123 [<sup>F6</sup>Widows', widowers' and surviving civil partners' pensions].**

- (1) No [<sup>F6</sup> widow's, widower's, or surviving civil partner's] pension may be granted if the marriage [<sup>F6</sup> or formation of the civil partnership] with the deceased took place after he or she retired from relevant service.
- (2) A [<sup>F6</sup> widow's, widower's, or surviving civil partner's] pension shall come to an end on the the death of the [<sup>F6</sup> widow, widower or surviving civil partner].
- (3) Where a [<sup>F6</sup> 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 <sup>F6</sup>(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 [<sup>F6</sup> widow's, widower's or surviving civil partner's] pension may be one half of the annual amount of the personal pension.]

**F5** 1991 NI 24

**F6** SI 2005/3325

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## 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 and twenty-two who are for the time being in their period of childhood and full-time education.
- (3) <sup>F7</sup> 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<sup>[F8]</sup> 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<sup>[F8]</sup> or a person forms a civil partnership], she<sup>[F8]</sup> or he] shall thereupon cease to be a person for whose benefit a children's pension can enure.

**F7** Mod., 1966 c. 27 (NI)

**F8** 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,<sup>[F9]</sup> 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,

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unless and except to the extent that the amount thereof exceeds in the aggregate the amount of the premium.

[<sup>F9</sup>(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
- (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 [<sup>F10</sup> 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.

**F9** 1993 c. 8

**F10** 1978 c. 23

## **126<sup>F11</sup> 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 [<sup>F12</sup> 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 [<sup>F12</sup> the Treasury] from time to time directs.

(2) Where the deceased [<sup>F12</sup> leaves no widow [<sup>F13</sup>, widower or surviving civil partner] and, if he or she leaves a widow [<sup>F13</sup>, 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.

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- (3) Subject to the provisions of sub-section (4), where the deceased leaves a widow<sup>F13</sup>, widower or surviving civil partner], the annual amount of a children's pension during her<sup>F12</sup> 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;
  - (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
- <sup>F13</sup>(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<sup>F13</sup> or civil partner]<sup>F12</sup> or he has a wife]<sup>F13</sup> or civil partner] unless<sup>F12</sup> the Treasury] specially directs that such a pension shall be so payable, but, if<sup>F12</sup> the Treasury] does specially so direct, it may, if it thinks fit, further direct that sub-section (2) shall apply as respects any such period notwithstanding that the<sup>F13</sup> widow, widower or surviving civil partner is] alive.

**F11** Children's pensions increased, 1973 c. 15

**F12** 1991 NI 24

**F13** SI 2005/3325

*S. 127 rep. by 1980 NI 3*

#### **[<sup>F14</sup>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<sup>F15</sup> whether under the scheme or otherwise; or]
  - <sup>F16</sup>(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.]
- <sup>F17</sup>(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.

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(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—
  - (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<sup>[F18F19]</sup> . . . —]
  - <sup>[F20]</sup>(i) such upper limit as may be imposed by virtue of subsection (1A)(b);  
<sup>F21</sup> . . . ]
  - (ii) <sup>F21</sup> . . . . .
- (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
  - <sup>[F22]</sup>(iii) the general value of benefits available to a person under any contract of life insurance entered into by him with an insurer;]

<sup>[F23]</sup>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;<sup>F24</sup> . . .
- (b) prescribe the manner in which it is to be determined in any case whether the amount of a person's contributions exceed any<sup>[F25]</sup> such limit as is mentioned in] subsection (2)(b).
- <sup>[F26]</sup>(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

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- (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;
- (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*

[<sup>F27</sup>(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.

[<sup>F28</sup>(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 Part 4 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

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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<sup>F29</sup> Pension Schemes (Northern Ireland) Act 1993] (and accordingly includes employment as a self-employed earner, within the meaning of<sup>F30</sup> section 2 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992];

<sup>F31</sup>“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<sup>F32</sup> section 1 of the Pension Schemes (Northern Ireland) Act 1993];

“personal pension scheme” has the meaning given by<sup>F33</sup> section 1 of the Pension Schemes (Northern Ireland) Act 1993];

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

<sup>F34</sup>

“retained benefits”, in the case of any person, means any rights retained by him to<sup>F35</sup> . . . benefits under any occupational or personal pension scheme which [<sup>F36</sup>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);

<sup>F37</sup>

“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.



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- [<sup>F38</sup>(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 [<sup>F39</sup>B of Annex I to the Markets in Financial Instruments Directive]; and
  - (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.

**F14** 1991 NI 24

**F15** 1993 c. 8

**F16** 1993 c. 8

**F17** 1993 c. 8

**F18** 1993 c. 8

**F19** 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\(a\)](#)

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- F20** 1993 c. 8
- F21** 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)**
- F22** SI 2001/3649
- F23** 1993 c. 8
- F24** 1993 c. 8
- F25** 1993 c. 8
- F26** 1993 c. 8
- F27** 1993 c. 8
- F28** 1993 c. 8
- F29** 1993 c. 49
- F30** 1993 c. 49
- F31** SI 2001/3649
- F32** 1993 c. 49
- F33** 1993 c. 49
- F34** 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)**
- F35** 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)**
- F36** 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)**
- F37** 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)**
- F38** SI 2001/3649
- F39** 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**

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