



Resident Magistrates' Pensions Act (Northern Ireland) 1960

1960 CHAPTER 2

[^{F1}WIDOWS', SURVIVING CIVIL PARTNERS' AND CHILDREN'S PENSIONS]

F1 SI 2005/3325

4 [^{F2}Power to grant widows', surviving civil partners' and children's pensions].

[^{F2}(1)] Subject to the provisions of this Act, on the death after the passing of this Act of a resident magistrate (in this Act referred to as “the deceased”) who—

- (a) had become eligible for a pension; or
- (b) was serving as a resident magistrate 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;

[^{F3}the Treasury] may grant—

- (i) where he leaves a widow, a pension to that widow (in this Act referred to as a “widow's pension”);
- [^{F2}(ia) where he leaves a surviving civil partner, a pension to that surviving civil partner (in this Act referred to as a “surviving civil partner's pension”); and]
- [^{F2}(ii) where he had a wife or a civil partner at any time during his service as a resident magistrate, or, where he was a person to whom paragraph (b) of subsection (2) of section two applied, during his service as a resident magistrate or his service in whole-time employment to which the Superannuation Acts apply (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 Act referred to as a “children's pension”).]

[^{F2}(2) In subsection (1)(ii), “relevant children” means—

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- (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.]

F2 SI 2005/3325

F3 1991 NI 24

[^{F4}4A

For the purpose of the calculation of any widow's]^{F5}, surviving civil partner's] or children's pension under this Act, 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 2A was in force in respect of that person.]

F4 SR 1989/100

F5 SI 2005/3325

[^{F6}4A **Widowers' [^{F7} and surviving civil partners'] pensions.**

- (1) section 4] shall have effect in relation to the death of a female person]^{F7} who has, or has had, a husband or civil partner] as it has effect in relation to the death of a male person]^{F7} who has, or has had, a wife or civil partner] but as if—
 - (a) for the words “widow”, “widow's 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 ”.
- (2) The transitional provisions set out in]^{F7} Part 1 of Schedule 2] to this Act shall effect in relation to widowers' pensions.
- [^{F7}(3) The transitional provisions set out in Part 2 of Schedule 2 shall have effect in relation to surviving civil partners' pensions.]

F6 1991 NI 24

F7 SI 2005/3325

[^{F8}5 [^{F9}Widows', widowers' and surviving civil partners' pensions].

- (1) No]^{F9} widow's, widower's or surviving civil partner's] pension may be granted if the marriage]^{F9} or formation of the civil partnership] with the deceased took place after he or she retired from relevant service.
- (2) A]^{F9} widow's, widower's or surviving civil partner's] pension shall come to an end on the death of the]^{F9} widow, widower or surviving civil partner].
- (3) Where a]^{F9} 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
 - ^{F9}(a) widower, or

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- (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^{F9} widow's, widower's or surviving civil partner's] pension may be one half of the annual amount of the personal pension.]

F8 1991 NI 24
F9 SI 2005/3325

6 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 four who are for the time being in their period of childhood and full-time education.
- (3)^{F10} A children's pension cannot enure for the benefit of any person conceived or adopted by the deceased after the end of his service as a resident magistrate.
- (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^{F11} 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^{F11} or a person forms a civil partnership], she^{F11} or he] shall thereupon cease to be a person for whose benefit a children's pension can enure.
- (5) A children's pension cannot enure for the benefit of any children of a resident magistrate who, by virtue of paragraph (c) of sub-section (5) of section nine, is not required to make any contribution towards the cost of the liabilities assumed under this Act for the benefit of his widow and children.

F10 Mod., 1966 c. 27 (NI)
F11 SI 2005/3325

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

- (1) A person shall, subject to sub-section (2), be deemed for the purposes of section six to be in his period of childhood and full-time education while—
- (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 (in this Act 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,^{F12} do not exceed

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the maximum allowable remuneration], 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 paragraph (c) of sub-section (1) unless there has not up till then been any time since he attained the age of sixteen when he did not satisfy one or other of those conditions.
- (3) 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 sub-section (2).
- (4) In sub-section (1) “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 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.
- [^{F12}(4A) 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.]
- (5) 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, [^{F13} the Treasury] may, if it thinks fit, and is satisfied that a person's full-time education ought not to be regarded as completed, direct—
- (a) that that period shall be ignored for the purposes of sub-section (2); 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 six.

F12 1993 c. 8

F13 1991 NI 24

8 ^{F14} **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 [^{F15} 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

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the pension can for the time being enure or for the benefit of such of them as the Ministry of Finance from time to time directs.

- (2) Where the deceased^{F15} leaves no widow^{F16}, widower or surviving civil partner] and, if he or she leaves a widow^{F16}, 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 those 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 sub-section (4), where the deceased leaves a widow^{F16}, widower or surviving civil partner], the annual amount of a children's pension during her^{F15} 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 those persons are three in number, may amount to one-quarter of the annual amount of the personal pension;
 - (c) while those 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 this section, where the deceased
- ^{F16}(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,]

a children's pension shall not be payable as respects any period when she has a husband^{F16} or civil partner][^{F15} or he has a wife][^{F16} or civil partner] unless^{F15} the Treasury] specially directs that such a pension shall be so payable, but, if^{F15} 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^{F16} widow, widower or surviving civil partner is] alive.

F14 Children's pensions increased, 1973 c. 15

F15 1991 NI 24

F16 SI 2005/3325

Status:

Point in time view as at 01/01/2006.

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