



# Resident Magistrates' Pensions Act (Northern Ireland) 1960

## 1960 CHAPTER 2

### GENERAL AND FINANCIAL

#### 12 Allocation of part of pension to dependants.

- (1) [<sup>F1</sup>The Treasury] may make rules for securing that, in such circumstances and subject to such conditions as to proof of good health and other matters as may be specified in the rules, a retiring resident magistrate who retires from office otherwise than on the ground of ill-health, after the passing of this Act, shall be allowed to surrender, as from the date of his retirement, in return for the benefits allowed under the rules such part, not exceeding one-third of his personal pension, as may be specified in the rules, and for enabling [<sup>F1</sup> the Treasury] to grant to the [<sup>F2</sup>spouse or civil partner] or to a dependant of the retiring resident magistrate a pension of such value as, according to tables to be prepared from time to time by [<sup>F1</sup> the Treasury], is actuarially equivalent, at that date, to the value of that part of the personal pension which is surrendered.
- (2) Any such pension as aforesaid for the benefit of a dependant (not being a [<sup>F3</sup>spouse or civil partner] ) of a retiring resident magistrate shall be payable in respect of the period, if any, for which the dependant survives the resident magistrate, and any such pension as aforesaid for the benefit of the [<sup>F3</sup>spouse or civil partner] of a resident magistrate shall, according as the resident magistrate may, in conformity with the rules under this section, elect, be payable—
  - (a) in respect of the period, if any, for which the [<sup>F3</sup>spouse or civil partner] survives the resident magistrate; or
  - (b) in respect both of the period of their joint lives subsequent to the retirement and of the period, if any, for which the [<sup>F3</sup>spouse or civil partner] survives the resident magistrate;

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and the rules may provide that a pension payable thereunder in respect of the periods mentioned in paragraph (b) shall be paid at one rate in respect of the first of those periods and at a higher rate in respect of the second.

- (3) If a resident magistrate has, in accordance with rules made under this section, surrendered part of his pension, any lump sum or widow's [<sup>F4</sup>, widower's, surviving civil partner's] or children's pension payable under this Act apart from this section shall be calculated as if that surrender had not been made.

[<sup>F5</sup>(3A) Rules under this section, or section 13, may make different provision for different purposes.]

- (4) Rules made under this section shall be subject to negative resolution.

**F1** 1991 NI 24

**F2** Words in s. 12(1) substituted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **56(6)(a)** (with regs. 6-9)

**F3** Words in s. 12(2) substituted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **56(6)(a)** (with regs. 6-9)

**F4** Words in s. 12(3) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **56(6)(b)** (with regs. 6-9)

**F5** S. 12(3A) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **56(6)(c)** (with regs. 6-9)

### **13 Allocation by certain retired resident magistrates of part of their pensions to their wives.**

- (1) [<sup>F6</sup>The Treasury] may make rules for securing that, in such circumstances and subject to such conditions as to proof of good health and other matters as may be specified in the rules, a retired resident magistrate under the age of seventy who has retired from office (otherwise than on the ground of ill-health) after the passing of this Act, and who has married [<sup>F7</sup>or formed a civil partnership] since his retirement shall, subject to sub-section (2), be allowed to surrender, as from the date of his marriage [<sup>F8</sup>or of the formation of the civil partnership] , in return for the benefits allowed under the rules such part of his personal pension as may be specified in the rules, and for enabling [<sup>F6</sup> the Treasury] to grant to his [<sup>F9</sup>spouse or civil partner] a pension of such value as, according to tables prepared from time to time by [<sup>F6</sup> the Treasury], is actuarially equivalent, at that date, to the value of that part of the personal pension which is surrendered.
- (2) The part of a personal pension surrendered by a person under this section, together with any part thereof surrendered under section twelve, shall not exceed one-third of that pension.
- (3) Sub-sections (2) and (3) of section twelve, so far as they apply to surrenders made for the benefit of [<sup>F10</sup>spouses and civil partners] and pensions granted to [<sup>F10</sup>spouses and civil partners] , shall apply also to surrenders under this section and pensions granted by virtue thereof, but as if any reference to the date of retirement was a reference to the date of the marriage [<sup>F11</sup>or of the formation of the civil partnership] .

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(4) Rules made under this section shall be subject to negative resolution.

- F6** 1991 NI 24
- F7** Words in s. 13(1) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **56(7)(a)(i)** (with regs. 6-9)
- F8** Words in s. 13(1) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **56(7)(a)(ii)** (with regs. 6-9)
- F9** Words in s. 13(1) substituted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **56(7)(a)(iii)** (with regs. 6-9)
- F10** Words in s. 13(3) substituted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **56(7)(b)(i)** (with regs. 6-9)
- F11** Words in s. 13(3) inserted (13.1.2020) by [The Marriage \(Same-sex Couples\) and Civil Partnership \(Opposite-sex Couples\) \(Northern Ireland\) Regulations 2019 \(S.I. 2019/1514\)](#), regs. 1(2), **56(7)(b)(ii)** (with regs. 6-9)

*S. 14 rep. by 1993 c. 8*

## **[<sup>F12</sup>15 Effect 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 this Part 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.]

**F12** SI 2005/3325

## **16 Evidence as to health.**

- (1) Subject to sub-sections (2) to (4), a person about to be appointed a resident magistrate shall, before being so appointed, furnish to the Minister satisfactory evidence that his health is suitable for the discharge of the duties of that office.
- (2) A person about to be appointed a resident magistrate may elect that he shall not, before being so appointed, furnish evidence as to his health, and where a person is appointed as a resident magistrate after having made such an election, then, subject to sub-section (3), as respects him, the specified provisions shall not have effect until he has completed ten years' service.
- (3) Where the Minister is satisfied that the health of a resident magistrate who has made an election under sub-section (2) has throughout his service been such that it has enabled him duly to discharge the duties of his office, the Minister may, after the completion of ten years' service by that resident magistrate, direct that the specified provisions shall have effect as if he had not made that election.
- (4) A resident magistrate who has made an election under sub-section (2) may at any time during his tenure of office furnish to the Minister satisfactory evidence that his health is suitable for the discharge of the duties of his office, and the Minister may thereupon

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direct that for the purposes of the specified provisions that resident magistrate shall be treated as if he had not made that election.

- (5) In this section “the specified provisions” means sub-sections (1) and (2) of section two, sections three to ten and section twelve.

## 17 Application of Superannuation Acts.

- (1) The Superannuation Acts shall not apply to—

- (a) resident magistrates appointed after the passing of this Act;
- (b) resident magistrates who have elected under section eleven that this Act shall apply to them;

and, accordingly, sub-section (5) (except paragraph (b)) of section six of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland), 1935 (which applies the Superannuation Acts to resident magistrates), is hereby repealed in so far as it applies to any such resident magistrates.

- (2) Where a person appointed as a resident magistrate is a person referred to in paragraph (b) of sub-section (6) of section two, the Superannuation Acts shall cease to apply to him and, accordingly,<sup>F13</sup> the Treasury] shall not grant any superannuation benefits under those Acts in respect of his service in whole-time employment to which those Acts apply.

**F13** 1991 NI 24

## 18 Persons receiving other superannuation benefits.

- (1) Where a person (other than a person referred to in paragraph (b) of sub-section (6) of section two) appointed as a resident magistrate has received or become eligible for any superannuation benefits under the Superannuation Acts, he may be treated, for the purposes of this Act, as a person to whom paragraph (b) of sub-section (2) of section two applies if, at the time of his appointment as a resident magistrate or within three months thereof—

- (a) he pays to<sup>F14</sup> the Treasury]
  - (i) an amount equal to the lump sum or gratuity, if any, granted to him under the Superannuation Acts; and
  - (ii) an amount equal to the sums, if any, paid to him under those Acts in respect of his pension for the period after the time of his appointment as a resident magistrate; and
- (b) he releases, in such manner as<sup>F14</sup> the Treasury] may approve, any superannuation benefits payable to or in respect of him under those Acts.

- (2) Where at the time of his retirement from the office of resident magistrate, a resident magistrate is receiving any superannuation allowances under the Superannuation Acts or the Superannuation Acts, 1834 to 1950, and the aggregate of—

- (a) the annual amounts of those allowances; and
- (b) the annual amount of the pension for which, but for this sub-section, he would be eligible under this Act;

exceeds the greatest of the following amounts, that is to say—

- (i) one-half of his retiring salary as a resident magistrate; or

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- (ii) one-half of his retiring salary in the employment by virtue of which he became eligible for an allowance under the Superannuation Acts; or
- (iii) one-half of his retiring salary in the employment by virtue of which he became eligible for an allowance under the Superannuation Acts, 1834 to 1950;

his pension under this Act shall be abated by the amount of the excess.

(3) Where a resident magistrate has received any lump sum—

- (a) under the Superannuation Acts; or
- (b) under the Superannuation Acts, 1834 to 1950;

and he has not paid to<sup>F14</sup> the Treasury] an amount equal to the lump sum paid to him under the Superannuation Acts, the amount of the lump sum, if any, granted under sub-section (2) of section three to his representatives shall be equal to—

- (i) twice the annual amount of the pension for which he would have been eligible if, at the time of his death, he had retired on the ground of permanent infirmity; or
- (ii) the amount, if any, by which his last annual salary exceeds the lump sum received by him under the Superannuation Acts or the Superannuation Acts, 1834 to 1950;

whichever is the greater.

(4) In this section “retiring salary” in relation to any employment to which the Superannuation Acts or the Superannuation Acts, 1834 to 1950, apply, means the amount of the average salary payable to a person during the three years immediately preceding the date of his retirement from that employment.

**F14** 1991 NI 24

## 19 Reckoning of unestablished service.

For the purposes of reckoning a person's service in relation to any provision of this Act, service in an unestablished capacity in whole-time employment to which the Superannuation Acts apply shall be taken into account only as to one-half of the period thereof in so far as that service was rendered before the eleventh day of August, nineteen hundred and forty-nine.

<sup>F15</sup>

**F15** prosp. inserted by 1991 NI 24

## 20 Construction of certain superannuation enactments.

(1) It is hereby declared that for the purposes of section twenty of the Superannuation Act, 1834<sup>F16</sup>, the office of resident magistrate is an office in a public department within the meaning of that section.

*Subs. (2) spent*

**F16** 1967 c. 24 (NI), see now ss. 38, 39 of that Act

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## 21 Financial provisions.

- (1) All sums payable under this Act shall be [<sup>F17</sup> charged on and paid out of the Consolidated Fund of the United Kingdom].
- (2) Any refund of a lump sum or any part thereof shall be paid into the [<sup>F17</sup> Consolidated Fund of the United Kingdom].

<b>F17</b> SI 1973/2163
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### [<sup>F18</sup>21A 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[<sup>F19</sup>, 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;

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

**F18** 1993 c. 8

**F19** SI 2005/3325

## 22 Interpretation.

(1) In this Act—

“aggregated service” has the meaning assigned to it by section two;

“Minister” and “Ministry” have the meanings respectively assigned to them by section two;

“personal pension” in relation to a resident magistrate or to the widow<sup>F20</sup>, widower or surviving civil partner] or children of a deceased resident magistrate, means the pension payable under this Act to that resident magistrate or for which he would have been eligible had he retired on the date of his death;

“resident magistrate” means (except in section one)—

(a) any resident magistrate appointed after the passing of this Act;

(b) any resident magistrate who elects, pursuant to section eleven, that this Act shall apply to him;

“retiring salary” means the amount of the ...<sup>F21</sup> salary (excluding sums payable by way of additional salary under sub-section (1) of section one of the Resident Magistrates (Belfast) Act, 1911) payable to a resident magistrate [<sup>F22</sup> immediately before his retirement];

“Superannuation Acts” means the Superannuation Acts (Northern Ireland), 1921 to 1958, and includes any enactments thereby applied to the civil service of Northern Ireland.

*Subs. (2) rep. by 1987 NI 22*

**F20** SI 2005/3325

**F21** 1973 c. 15

**F22** 1973 c. 15

## 23 Short title.

(1) This Act may be cited as the resident Magistrates' Pensions Act (Northern Ireland), 1960.

*Subs. (2) rep. by SLR 1973*

### Modifications etc. (not altering text)

**C1** Act may be cited (2.6.2008) as the District Judges (Magistrates' Courts) Pensions Act (Northern Ireland) 1960 by [District Judge \(Magistrates' Courts\) Order \(Northern Ireland\) 2008 \(S.R. 2008/154\)](#), [art. 3\(2\)](#)

**Changes to legislation:**

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