



Judicial Pensions Act (Northern Ireland) 1951

1951 CHAPTER 20

PART II ^{F1}

LUMP SUMS AND WIDOWS' AND CHILDREN'S PENSIONS

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

F1 SI 2005/3325

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

[^{F2}(1)] Subject to the provisions of this Part of this Act, on the death after the commencement of this Act of a person (in this Act 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 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 Part 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 relevant 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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- [^{F2}(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.]

F2 SI 2005/3325

[^{F3}6A Widowers' [^{F4} and surviving civil partners] pensions .

- (1) Section 6 shall have effect in relation to the death of a female person [^{F4} who has, or has had, a husband or civil partner] as it has effect in relation to the death of a male person [^{F4} 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 the Fourth Schedule to this Act shall have effect in relation to widowers' pensions.

[The transitional provisions set out in Schedule 4A shall have effect in relation to ^{F4}(3) surviving civil partners' pensions.]]

F3 1991 NI 24
F4 SI 2005/3325

[^{F5}7 [^{F6}Widows', widowers' and surviving civil partners' pensions]

- (1) No [^{F6} widow's, widower's or surviving civil partner's] pension may be granted if the marriage [^{F6} or formation of the civil partnership] with the deceased took place after he or she retired from relevant service.
- [A surviving civil partner's pension may not be granted in respect of a person's service ^{F7}(1A) if—
- (a) the person retired from relevant service before 13th January 2020, and
 - (b) power to grant the pension relies on the Marriage (Same-sex Couples) and Civil Partnership (Opposite-sex Couples) (Northern Ireland) Regulations 2019.]
- (2) A [^{F6} widow's, widower's or surviving civil partner's] pension shall come to an end on the death of the [^{F6} widow, widower or surviving civil partner].
- (3) Where a [^{F6} widow's, widower's or surviving civil partner's] pension is payable the Treasury may, on or at any time after ^{F6}
- [the remarriage of, or formation of a civil partnership by, the widow or ^{F6}(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.

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- (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^{F6} widow's, widower's or surviving civil partner's] pension may be one half of the annual amount of the personal pension.]

<p>F5 1991 NI 24 F6 SI 2005/3325 F7 S. 7(1A) 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), 54(2) (with regs. 6-9)</p>
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8 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 six of this Act who are for the time being in their period of childhood and full-time education.
- (3)^{F8} A children's pension cannot enure for the benefit of any person conceived, or adopted by the deceased, after the end of his relevant service.
- (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^{F9} 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^{F9} or a person forms a civil partnership], she^{F9} or he] shall thereupon cease to be a person for whose benefit a children's pension can enure.

<p>F8 Mod., 1966 c. 27 (NI) F9 SI 2005/3325</p>

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

- (1) A person shall be deemed for the purposes of the last preceding section 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,^{F10} 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 (

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c) of this sub-section, 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 1950, shall be ignored for the purposes of this proviso.

- (2) In the preceding sub-section 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 the said 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.

[^{F10}(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) 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) of this section is satisfied in relation to a person, the Ministry of Finance 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) of this section; 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 the last preceding section.

F10 1993 c. 8

10 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 the Ministry of Finance 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 the Ministry of Finance from time to time directs.

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- (2)^{F11} Where the deceased^{F12} leaves no widow^{F13}, widower or surviving civil partner] and, if he or she leaves a widow^{F13}, 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)^{F11} Subject to the provisions of the succeeding sub-section, where the deceased leaves a widow^{F13}, widower or surviving civil partner], the annual amount of a children's pension during her^{F12} 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^{F13}
- ^{F13}(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^{F13} or civil partner]^{F12} or he has a wife]^{F13} or civil partner] unless the Ministry of Finance specially directs that such a pension shall be so payable, but, if the Ministry of Finance does specially so direct, it may, if it thinks fit, further direct that sub-section (2) of this section shall apply as respects any such period notwithstanding that the^{F13} widow, widower or surviving civil partner is] alive.

<p>F11 1973 c. 15 F12 1991 NI 24 F13 SI 2005/3325</p>
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