

1976 No. 43

LANDS TRIBUNAL

Lands Tribunal (Superannuation) Order (Northern Ireland) 1976

Made 10th February 1976*Coming into operation* 24th March 1976*To be laid before Parliament under paragraph 3(3) of
Schedule 1 to the Northern Ireland Act 1974*

In exercise of the powers conferred by section 2(5) of the Lands Tribunal and Compensation Act (Northern Ireland) 1964(a) and section 18 of the Administrative and Financial Provisions Act (Northern Ireland) 1962(b) and now vested in me(c) I hereby make the following Order:—

Title and commencement

1. This Order may be cited as the Lands Tribunal (Superannuation) Order (Northern Ireland) 1976 and shall come into operation on 24th March 1976.

Interpretation

2.—(1) In this Order—

“the principal order” means the Lands Tribunal (Salaries and Superannuation) Order (Northern Ireland) 1964(d);

“service” means service as the President or other member of the Lands Tribunal.

(2) Expressions defined in the principal order have the same meanings in this Order as in that order.

Increase of widows' and children's pensions

3.—(1) The annual amount of the widow's pension that may be granted under the principal order wholly or partly in respect of service after 17th April 1973 and the annual amount of the children's pension that may be so granted, shall be increased in accordance with this Article; and where the widow's pension or children's pension (if any) that may be granted in respect of a member's service is so increased, there shall be made towards the cost of the liability therefor the contributions mentioned in Article 5.

(2) In the case of pensions attributable wholly to service after 17th April 1973:

(a) the annual amount of a widow's pension may be one-half of the annual amount of the personal pension of the deceased; and

(b) subject to Article 10(4) of the principal order (which makes provision for the case of a widow remarrying), the annual amount of a children's pension, while there is only one person for whose benefit it can enure, may amount—

(i) where the deceased was a man who left a widow and she is still alive, to one-quarter of the annual amount of the personal pension; and

(a) 1964 c. 29 (N.I.)

(b) 1962 c. 7 (N.I.)

(c) By 1973 c. 36 Sch. 5 para. 4(2)

(d) S.R. & O. (N.I.) 1964 No. 191 (p. 867)

(ii) in any other case, to one-third of the annual amount of the personal pension;

and while there are two or more persons for whose benefit it can enure, may amount to twice the figure given by whichever is applicable of sub-paragraphs (i) and (ii).

(3) In Article 10(4) of the principal order the reference to paragraph (2) of that Article shall include a reference to paragraph (2)(b)(ii) of this Article.

(4) Subject to paragraph (5) in the case of pensions payable partly in respect of service after 17th April 1973 but not attributable wholly to that service, the annual value of the widow's pension or children's pension that may be granted shall be determined by reference to the proportions which the service before and after that time bear to the whole of the service, and shall be the amount obtained by adding—

(a) the part proportionate to the service before that time of the annual amount of the pension that might have been granted if this Article had not been made; and

(b) the part proportionate to the service after that time of the annual amount of the pension that might have been granted if this Article had always had effect.

(5) Where a member's service is partly before 18th April 1973 and partly after 17th April 1973, then for the purposes of this Article any widow's or children's pension payable in respect of that service is to be regarded as attributable wholly to the service after 17th April 1973 if the service before 18th April 1973 does not add to the annual rate of the personal pension, and for the purposes of paragraph (4) there shall be left out of account so much (if any) of the service before 18th April 1973 as does not add to the annual amount of the personal pension.

Elections by persons serving before 18th April 1973

4.—(1) A member who was serving before 18th April 1973 may elect

(a) that paragraph (2) of Article 3 shall apply to him as if the whole of his service were service after 17th April 1973; or

(b) that paragraphs (1) to (4) of Article 3 shall not apply to him and that the principal order shall continue to apply to him as if Article 3 had not been made.

(2) An election under paragraph (1) may be made by notice in writing given to the Department of Finance not later than three months after the commencement of this Order.

(3) If a member to whom paragraph (1) applies dies without having made an election, his widow may, not later than four months after the commencement of this Order, exercise any right her husband might have exercised under paragraph (1).

Contributions

5.—(1) Where the annual amount of the pension of the widow or children of a member is to be increased in accordance with Article 3, there shall be made by the member, towards the cost of the liability thereby assumed, contributions in the form of a reduction in his lump sum, or in the form of periodical payments, or partly in the one of those forms and partly in the other.

(2) Where contributions are made under paragraph (1), Article 11 of the principal order shall not apply, and accordingly the following paragraph shall be added to that Article:—

“(3A) The foregoing provisions of this Article shall not apply in the case of a member continuing to serve after 17th April 1973 unless, in pursuance of Article 4 of the Lands Tribunal ((Superannuation) Order (Northern Ireland) 1976, he elects that this Order shall continue to apply to him as if Article 3 of that order had not been made.”.

(3) The Schedule shall have effect for determining—

- (a) the amounts of any contributions;
- (b) the conditions subject to which contributions may be made in the form of periodical payments; and
- (c) the circumstances in, and the conditions subject to, which contributions made in the form of periodical payments may be refunded in whole or in part.

Dated this 10th day of February 1976.

Merlyn Rees

One of Her Majesty's Principal
Secretaries of State

SCHEDULE

Contributions towards increased widow's or children's pension*Contribution made entirely out of lump sum*

1.—(1) This paragraph shall have effect for determining the amount of the contribution (if any) to be made, by way of reduction in his lump sum, in the case of a member who has made no periodical payments.

(2) If, for the purpose of his widow's pension, the whole of a member's service is (or, by virtue of an election made under Article 4(1)(a), is treated as being) service after 17th April 1973, the amount of the contribution shall be three-quarters of the lump sum.

(3) If, in the case of a member who has not made an election under Article 4(1)(a) or (b), a widow's pension is (in accordance with paragraphs (4) and (5) of Article 3) or is to be regarded as attributable partly to a period of service before 18th April 1973 and partly to a period of service after 17th April 1973, the amount of the contribution shall depend on the proportions those periods bear to the whole period of service to which the widow's pension is attributable and shall be determined by applying the formula—

$$C = L \times \frac{2P + 3Q}{4S}, \text{ where}$$

“C” represents the amount of the contribution;

“L” represents the member's lump sum;

“P” represents the number of months of service before 18th April 1973;

“Q” represents the number of months of service after 17th April 1973;

“S” represents the total number of months of service.

(4) Where a member last had a wife at a time before the end of his service, the amount of the contribution shall, instead of being the amount arrived at by applying sub-paragraph (2) or (if appropriate) sub-paragraph (3), be—

(a) if either he made an election under Article 4(1)(a) or none of his service was service before 18th April 1973, that amount multiplied by the number of months of his service before the time at which he last had a wife and divided by the total number of months of his service; or

(b) in any other case, that amount multiplied by the sum of—

(i) the number of months of his service before the time he last had a wife and before 18th April 1973; and

(ii) one and a half times the number of months (if any) of his service before that time and after 17th April 1973;

and divided by the sum of—

(i) the total number of months of his service before 18th April 1973; and

(ii) one and a half times the total number of months of his service after 17th April 1973.

(5) No contribution by way of reduction in his lump sum shall be made in the case of a man who at no time during his service had a wife.

(6) For the purpose of determining the amount of any contribution payable under this paragraph in the form of a reduction in a member's lump sum, there shall be disregarded any amount by which (in consequence of the operation of Article 5(2) of the principal order) that sum may exceed twice the annual amount of the personal pension.

Election to make periodical payments

2.—(1) Subject to the following provisions of this paragraph, a member may elect to make periodical payments.

(2) A member who elects to make periodical payments shall do so by notice in writing given to the Department of Finance not later than five months after the commencement of this Order or, if he is first appointed to his office after that time, not later than six months after the date of his appointment;

Provided that a members who marries (or remarries) while in office and who is not then making periodical payments may elect to do so by giving notice in writing to the Department of Finance not later than six months after the date of his marriage or re-marriage, as the case may be.

(3) An election made under this paragraph shall be irrevocable, save that a member who ceases to be married after having made such an election may revoke his election by notice in writing given to the Department of Finance not later than six months after the date of his so ceasing.

(4) Nothing in this paragraph shall be construed as preventing a member who is not married from electing to make periodical payments.

(5) An election made under this paragraph shall, so long as it is in force, constitute an instruction to the Department of Finance to make deductions at the standard rate (as defined in paragraph 3) from the member's salary.

(6) Deductions made in pursuance of an election under this paragraph shall be made from each instalment of the member's salary as it becomes due: Provided that, if the member so requests, deductions at the appropriate rate may also be made in respect of salary paid between the beginning of the income tax year of assessment in which the relevant election was made and the date of that election, and for this purpose the Department of Finance may require the member to repay such sum, if any, as may be necessary to make up the total deduction for that year.

Rate of periodical payments

3.—(1) In this paragraph—

“back service” means—

(a) service before the commencement of this Order and

(b) in the case of a member who marries or remarries after the commencement of this Order service after that time for any period during which he made no periodical payments;

“previous service” means back service before 18th April 1973.

(2) Without prejudice to sub-paragraphs (3) to (5) or to paragraph 4(6), periodical payments may be made only at the standard rate of 3% of the member's salary for the time being.

(3) A member who has back service and who elects to make periodical payments at the standard rate may also elect to make, in respect of that service, additional payments at the rate of 3 per cent., 6 per cent., 9 per cent. or 12 per cent. of his salary for the time being (that is to say, at the standard rate, or at twice, three times or four times that rate).

(4) An election under sub-paragraph (3) may be made by notice in writing given to the Department of Finance—

(a) not later than five months after the commencement of this Order; or

(b) in the case of a member marrying (or remarrying) after the commencement of this Order and while still serving, not more than six months after the date of his marriage or remarriage, as the case may be.

(5) A member who has made an election under sub-paragraph (3) may at any time, by notice in writing given to the Department of Finance, either—

(a) revoke his election; or

(b) vary its effect by specifying a different rate of additional payments, being one of the rates mentioned in sub-paragraph (3).

(6) An election made under sub-paragraph (3) shall, so long as it is in force, constitute an instruction to the Department of Finance to deduct the appropriate amounts from the member's salary and paragraph 2(6) shall apply to such deductions as it applies to deductions made in pursuance of an election under paragraph 2(2).

(7) An election made under sub-paragraph (3) shall, if it has not been previously revoked, cease to have effect when the member has made additional payments for a period equal in length to his back service and, for this purpose, subject to sub-paragraph (8), for any period during which he has made additional payments at a rate higher than the standard rate, he shall be treated as having made such payments for a correspondingly longer period (so that, for example, if he has made additional payments at twice the standard rate for one year, he shall be treated as having made additional payments for two years).

(8) If a member's service includes previous service but he has made no election under Article 4(1)(a), then for any period during which he has made additional payments at the standard rate (or, in accordance with sub-paragraph (3) at twice, three times or four times that rate) he shall be treated for the purpose of sub-paragraph (7)—

(a) as having made those payments for one and a half times, three times, four and one half times, or as the case may be, six times such part of that period as, so multiplied, does not exceed in length his previous service; and

(b) in respect of the remainder (if any) of that period, as having made the payments for the remainder or for twice, three times or four times the remainder of that period, according as the payments were made at the standard rate or at one of the higher rates specified in sub-paragraph (3).

Effect of making periodical payments

4.—(1) In this paragraph—

“appropriate fraction” means $1/320$;

“full period” means 20 years;

“gross reduction” means the amount by which a member's lump sum would, under paragraph 1, be reduced if he had made no periodical payments.

(2) Subject to sub-paragraph (6), a member who makes periodical payments at the standard rate for the full period shall not be liable to make any further contribution, notwithstanding that he continues in service for a further period.

(3) For the purposes of sub-paragraph (2), a member shall be treated, for every period of service during which he has made additional payments in accordance with paragraph 3(3), as having made payments at the standard rate for an additional period equal to the period during which he has made (or is to be treated under paragraph 3(7) or (8) as having made) such additional payments.

(4) If a member retires or dies after having made periodical payments at the standard rate for less than the full period, the deficiency in his contributions shall be made up by a reduction in his lump sum, the amount of such reduction depending on the rate of personal pension he has earned and the length of the period during which he has made (or is to be treated as having made) periodical payments and being calculated in accordance with sub-paragraph (5).

(5) The amount of the reduction referred to in sub-paragraph (4) shall be arrived at by deducting from the gross reduction, for every month in respect of which the member has made (or is to be treated, by virtue of paragraph 3(7) and without regard to paragraph 3(8), as having made) periodical payments at the standard rate, the appropriate fraction of his last annual salary.

(6) A member with previous service who—

(a) has elected to make periodical payments but has made no election under Article 4(1)(a); and

(b) is by virtue of the combined effect of paragraph 3(8) and sub-paragraph (3) entitled to be treated as having made periodical payments at the standard rate for the full period; and

(c) continues in service after having become so entitled, shall, notwithstanding anything in sub-paragraph (2) and without prejudice to any right under paragraph 2(3) to revoke his election to make periodical payments, remain while so serving liable to continue making periodical payments at a rate equivalent to one third of the standard rate until he has completed 20 years' service after 17th April 1973.

Refunds of periodical payments

5.—(1) Periodical payments made by a member shall (subject to sub-paragraph (2)) be refunded, with compound interest added at a rate of 3 per cent. a year, by the Department of Finance to him (or, if he has died, to his personal representatives)—

(a) if his service proves to have been insufficient to earn any widow's pension; or

(b) if and insofar as the payments exceed those required to avoid any deficiency in his contributions being made up by a reduction in the lump sum.

(2) The Department of Finance shall, in making any refund in pursuance of this paragraph, deduct the appropriate amount in respect of tax charged under paragraph 2 of Schedule 5 to the Finance Act 1970(e).

EXPLANATORY NOTE

(This note is not part of the Order but is intended to indicate its general purport.)

This Order provides for an increase in the rate of pensions payable to the widows and for the benefit of the children of the President and other members of the Lands Tribunal for Northern Ireland. By virtue of section 18 of the Administrative and Financial Provisions Act (Northern Ireland) 1962 provision is made for the increases to take effect in respect of service after 17th April 1973.

The general effect of Article 3 is that, instead of the widow's pension being paid at the rate of one-third of that of her husband, it is, in respect of service after 17th April 1973 to be paid at the rate of one-half, and corresponding increases are made in the rate of children's pensions. There is special provision for the case of a widow whose husband served partly before 18th April 1973 and partly after that time so that if her pension rights are attributable partly to service before that date she will (unless her husband has elected under Article 4 either to uprate her pension to one-half rate for all his service or to contract out of the increase altogether) receive a pension of between one-third and one-half of his personal pension depending on the proportion of his service before 18th April 1973. Where widow's pension is increased from one-third rate to one-half rate the Order provides for the payment of increased contributions.

1976 No. 44

This Order has been exempted from printing by the Statutory Rules Act (Northern Ireland) 1958. A summary is given in the List of Statutory Rules and Orders of a Local Character under the heading ROADS.