

1995 No. 388

PENSIONS

**The Judicial Pensions (Preservation of Benefits) Order
(Northern Ireland) 1995**

Made 10th October 1995

Coming into operation 1st November 1995

The Lord Chancellor, as the appropriate authority designated by the Treasury as having responsibility for the public service pension scheme established under the Judicial Pensions and Retirement Act 1993(a) for the purposes of section 137 of the Pension Schemes (Northern Ireland) Act 1993(b), in exercise of the powers conferred by the said section 137, hereby makes the following Order:—

Citation and commencement

1. This Order may be cited as the Judicial Pensions (Preservation of Benefits) Order (Northern Ireland) 1995 and shall come into operation on 1st November 1995.

Interpretation

2. In this Order—

“the 1993 Act” means the Judicial Pensions and Retirement Act 1993;

“full rate” means the rate at which a pension might have been paid to an office-holder if his service had continued until normal pension age, but calculated by reference to—

(a) the pensionable pay (as defined by section 3(3)(a) of the 1993 Act), or

(b) in respect of a pension payable under section 19 of the 1993 Act, the pensionable pay if the pension-capped salary had fallen to be determined under section 3(3)(b) of the 1993 Act without the limit imposed by reference to the permitted maximum there mentioned, attaching to the office of the office-holder at the date he ceased (within the meaning of Article 4 below) to hold office;

“normal pension age” means the earliest age at which an office-holder would have been able to retire with a pension immediately payable under section 2(1) of the 1993 Act;

(a) 1993 c. 8

(b) 1993 c. 49; section 137(1) provides that an Order under section 137 shall be made by the “appropriate authority” which, by virtue of section 137(2), shall be the Minister of the Crown or government department designated by the Treasury or the Department of Finance and Personnel as having responsibility for the pension scheme in question

- “office-holder” means a person who holds, or has held, scheduled office;
“qualifying judicial office” has the meaning given to it in section 1(6) of the 1993 Act;
“relevant service” means service in qualifying judicial office;
“scheduled office” means an office listed in the Schedule.

Application

3. This Order shall apply to an office-holder with a pension payable under the scheme constituted by Part I of the 1993 Act and to an office-holder with a pension payable under section 19 of that Act.

Ceasing to hold office

4. An office-holder shall be treated as not ceasing to hold office for the purpose of this Order where—

- (a) he moves from one qualifying judicial office to another; or
- (b) at the time that he ceases to hold scheduled office he is entitled to a pension under section 2(2), 2(3), or 2(4) of the 1993 Act; or
- (c) he holds scheduled office on the last day of service but has made no election under section 1(2) of the 1993 Act for Part I of the 1993 Act to apply to him.

Preserved pension

5.—(1) An office-holder who has completed two years of relevant service, but who ceases to hold scheduled office before normal pension age, shall be eligible for a pension when he reaches normal pension age.

(2) The annual rate at which that pension shall be paid shall be calculated in accordance with the formula $(A/B) \times C$ where—

- (a) A is the number of years and days of completed relevant service (expressed in years and fractions of years as appropriate) of the office-holder;
- (b) B is the number of years and days of completed relevant service (expressed in years and fractions of years as appropriate) which the office-holder would have served if that service had continued until normal pension age; and
- (c) C is the full rate.

(3) Where the office-holder has entered into one or more contracts to purchase added years under the Judicial Added Years Scheme constituted under Part IV of the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995(a), then for the purposes of the calculation in paragraph (2), the number of years included in A in paragraph (2)(a) shall be increased by the result of the calculation of the formula $(D/E) \times F$ applied to each contract entered into where—

- (a) D is the number of years and days (expressed in years and fractions of years as appropriate) during which added years were purchased by the office-holder;
- (b) E is the number of years and days (expressed in years and fractions of years as appropriate) during which added years would have been purchased if the office-holder had continued in service until normal pension age; and
- (c) F is the number of added years that the office-holder contracted to purchase.

Preserved lump sum and derivative benefits

6.—(1) Sections 4(1), 5(1) to (4) and sections 6 to 9 (except section 8(4)) of the 1993 Act shall apply in relation to an office-holder whose pension has been preserved by virtue of this Order, including, where appropriate, any officer who dies before payment of the preserved pension, as they apply in relation to an office-holder who becomes entitled to a pension on retirement at normal pension age or who dies in service.

(2) For the purposes of sections 5 and 8 of the 1993 Act, “the annual rate of the deceased’s judicial pension” shall mean the annual rate of the reduced judicial pension as set out in Article 5(2).

Inalienability

7. Any assignment of, or charge on, or any agreement to assign or charge, any pension or lump sum which may be granted by virtue of this Order shall (unless made by an office-holder in favour of his surviving spouse or eligible children as defined by section 6 of the 1993 Act) be void.

Dated 10th October 1995

Mackay of Clashfern, C.

The Scheduled Offices

JUDGES

Lord Chief Justice of Northern Ireland
Lord Justice of Appeal in Northern Ireland
High Court Judge in Northern Ireland
County Court Judge in Northern Ireland
Resident Magistrate appointed under the Magistrates' Courts Act (Northern Ireland) 1964(a)

OTHER APPOINTMENTS

COURT OFFICERS

Any of the offices from time to time specified in column 1 of Schedule 3 to the Judicature (Northern Ireland) Act 1978(b), other than—

- (a) Principal Secretary to the Lord Chief Justice;
- (b) Legal Secretary to the Lord Chief Justice; and
- (c) Official Solicitor

MEMBERS OF TRIBUNALS

Chief or other Social Security Commissioner for Northern Ireland, excluding appointments in pursuance of section 50(2) of the Social Security Administration (Northern Ireland) Act 1992(c)

Chief or other Child Support Commissioner for Northern Ireland, excluding appointments in pursuance of paragraph 4 of Schedule 4 to the Child Support Act 1991(d) as that paragraph has effect by virtue of paragraph 8 of that Schedule

President of social security appeal tribunals, medical appeal tribunals, disability appeal tribunals and child support appeal tribunals for Northern Ireland

Chairman of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals in Northern Ireland

Chairman of child support appeal tribunals in Northern Ireland

President or Vice-President of the Industrial Tribunals and the Fair Employment Tribunal, appointed under section 3 of the Fair Employment (Northern Ireland) Act 1989(e)

Chairman of industrial tribunals or of the Fair Employment Tribunal appointed in pursuance of regulations under Article 30 of the Industrial Training (Northern

(a) 1964 c. 21 (N.I.)
(b) 1978 c. 23
(c) 1992 c. 8
(d) 1991 c. 48
(e) 1989 c. 32

Ireland) Order 1984(a) or appointed under section 3(1)(c) of the Fair Employment (Northern Ireland) Act 1989

President or other member of the Lands Tribunal for Northern Ireland

OTHER OFFICES WHOSE HOLDERS ARE APPOINTED
BY THE LORD CHANCELLOR

President of the Industrial Court appointed in pursuance of Article 91 of the Industrial Relations (Northern Ireland) Order 1992(b)

(a) S.I. 1984/1159 (N.I. 9)

(b) S.I. 1992/807 (N.I. 5)

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order makes provision, in respect of holders of the judicial offices listed in the Schedule, for a reduced pension and derivative benefits (lump sums, surviving spouses' and children's pensions) to be preserved and become payable in the case of a member of the pension scheme constituted by Part I of the Judicial Pensions and Retirement Act 1993 who ceases to hold scheduled office before reaching normal pension age.

Provision for preservation of benefits in respect of holders of qualifying judicial office in England and Wales and Scotland is made in the Judicial Pensions (Preservation of Benefits) Order 1995.