

1964. No. 191

[C]

## LANDS TRIBUNAL

## Salaries and Superannuation

ORDER IN COUNCIL, DATED 18TH NOVEMBER, 1964, MADE UNDER SECTION 2(5) OF THE LANDS TRIBUNAL AND COMPENSATION ACT (NORTHERN IRELAND) 1964.

BY THE GOVERNOR IN THE PRIVY COUNCIL OF NORTHERN IRELAND

WAKEHURST

Whereas a draft of this Order was laid before Parliament and approved by resolution of each House of Parliament:\*

Now, therefore, I, John de Vere, Baron Wakehurst, Knight of the Most Noble Order of the Garter, Knight Commander of the Most Distinguished Order of Saint Michael and Saint George, Governor of Northern Ireland, by and with the advice and consent of Her Majesty's Privy Council in Northern Ireland, in exercise of the powers conferred on me by Section 2(5) of the Lands Tribunal and Compensation Act (Northern Ireland) 1964(a) and of all other powers in that behalf, do hereby order as follows:—

## PART I

## GENERAL

*Citation*

1. This Order may be cited as the Lands Tribunal (Salaries and Superannuation) Order (Northern Ireland) 1964.

*Interpretation*

2.—(1) In this Order—

“the Act” means the Lands Tribunal and Compensation Act (Northern Ireland) 1964;

“the Ministry” means the Ministry of Finance for Northern Ireland;

“the Tribunal” means the Lands Tribunal for Northern Ireland;

“member” means the President of the Tribunal or other member thereof, appointed under Section 1 of the Act;

“the personal pension” in relation to the provision of pensions for the widow or children of a member and the contribution payable therefor means the pension payable under this Order to the member or, if he dies in service, the pension for which he would have been eligible had he retired on the date of his death on the ground of permanent infirmity.

(2) Any reference in this Order to a person's adopting a child shall be construed as a reference to his adopting a child (whether alone or jointly with any other person) in pursuance of an adoption order made under the Adoption of Children Act (Northern Ireland) 1950(b), or under any corresponding enact-

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

(b) 1950. c. 6.

\*A resolution approving the draft of this Order was passed by both Houses of Parliament on the 17th November, 1964.

ment of the Parliament of the United Kingdom or to his adopting a child (whether alone or jointly with any other person) in accordance with the law of the place where he was domiciled at the time of the adoption.

## PART II

### SALARIES

3. There shall be paid—

- (a) to the President of the Tribunal a salary of £5,600 a year; and
- (b) to each other member a salary of £5,300 a year.

## PART III

### SUPERANNUATION

#### PENSIONS AND LUMP SUMS

##### *Annual pension*

4.—(1) The Ministry may grant to a member an annual sum by way of pension—

- (a) if, after he has completed not less than five years' service—
  - (i) he retires after attaining the age of seventy-two years; or
  - (ii) his office is declared vacant under Section 2(4) of the Act; or
  - (iii) the Ministry is satisfied by means of a medical certificate that, by reason of infirmity of mind or body, he is incapable of discharging the duties of his office, and that the incapacity is likely to be permanent; or
- (b) if he retires after he has completed not less than fifteen years' service and attained the age of sixty-five years.

(2) The rate at which a pension may be granted under paragraph (1) shall be—

- (a) for the first five completed years of service fifteen-eightieths of the last annual salary; and
- (b) for each completed year of service in excess of five and up to fifteen two-eightieths of the last annual salary; and
- (c) subject to paragraph (3), for each completed year of service in excess of fifteen one-eightieth of the last annual salary.

(3) The total amount of the pension shall not exceed one half of the last annual salary.

##### *Lump sum on retirement or death*

5.—(1) Where a person on retirement becomes eligible for a pension, the Ministry may, subject to the provisions of this Order, in addition grant to him a lump sum equal to twice the annual amount of that pension.

(2) Where a person was serving at the time of his death and, if he had then retired on the ground of permanent infirmity, would have become eligible for a pension, the Ministry may, subject to the provisions of this Order, grant to his representatives a lump sum equal to his last annual salary.

(3) Where a person on retirement becomes eligible for a pension and lump sum but dies so soon thereafter that the aggregate of sums paid or payable to him on account of that pension and the said lump sum falls short of his last annual salary, the Ministry may grant to his representatives a lump sum equal to the deficiency.

## WIDOWS' AND CHILDREN'S PENSIONS

*Power to grant widows' and children's pensions*

6. Subject to the provisions of this Order on the death of a person (in this Order referred to as "the deceased") who—

- (a) had become eligible for a pension; 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;

the Ministry may grant—

- (i) where he leaves a widow, a pension to that widow (in this Order referred to as a "widow's pension"); and
- (ii) where he had a wife at any time during his service (whether or not the marriage continued until his death and whether or not a widow's pension is or can be granted), a pension for the benefit of the children of the marriage and of children adopted by him during the marriage (in this Order referred to as a "children's pension").

*Widow's pension*

7.—(1) A widow's pension may not be granted if the marriage with the deceased took place after his retirement.

(2) The widow's pension shall determine on her death or re-marriage but may, if the Ministry specially directs, be paid in respect of any period after re-marriage when she has no husband.

(3) The annual amount of the widow's pension may be one-third of the annual amount of the personal pension.

*Children's pension: beneficiaries*

8.—(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 article, the persons for whose benefit a children's pension can enure are any such children as are referred to in article 6 who are for the time being in their period of childhood and full-time education.

(3) A children's pension cannot enure for the benefit of any person conceived, or adopted by the deceased, after the end of the service of the deceased.

(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 and if, after the death of the deceased, a female person marries, she shall thereupon cease to be a person for whose benefit a children's pension can enure.

*Meaning of "period of childhood and full-time education"*

9.—(1) A person shall be deemed for the purposes of article 8 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 (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, do not exceed thirteen pounds a year, 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 article to satisfy the conditions specified in sub-paragraph (b) or the conditions specified in sub-paragraph (c), 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.

(2) In paragraph (1) 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 (c)(ii) of that paragraph, 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.

(3) As respects any period during which neither of the conditions specified in sub-paragraphs (b) and (c) of paragraph (1) is satisfied in relation to a person, the Ministry 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 paragraph (1); 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 article 8.

#### *Children's pension: rate and mode of payment*

10.—(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 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 from time to time directs.

(2) Where the deceased leaves no widow and, if he leaves a widow, after 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) Subject to the provisions of paragraph (4), where the deceased leaves a widow, the annual amount of a children's pension during her 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 article, where the deceased leaves a widow who remarries, no children's pension shall be payable as respects any period when she has a husband unless the Ministry specially directs that such a pension shall be so payable, but, if the Ministry does specially so direct, it may, if it thinks fit, further direct that paragraph (2) shall apply as respects any such period notwithstanding that the widow is alive.

#### CONTRIBUTIONS

##### *Contribution towards cost of widow's and children's pension*

11.—(1) A contribution towards the cost of the liabilities assumed under this Order for the benefit of a man's wife and children shall be made, taking the form of a reduction in the lump sum which may be granted under article 5.

(2) The amount of the contribution shall be equal to the annual amount of the personal pension:

Provided that where the man last had a wife at a time before the end of his service (leaving out of account any marriage after the end of that service) the amount of the contribution shall be the annual amount of the personal pension—

(a) multiplied by the number of years of his service completed before that time; and

(b) divided by the number of years of his service completed in all.

(3) No contribution shall be made in the case of a man who at no time during his service had a wife.

#### SUPPLEMENTAL

##### *Effect of certain nullity decrees*

12. Where a marriage which is voidable but not void from the beginning is declared to be null by any court of competent jurisdiction, the same results shall follow under this Order as would have followed thereunder if the marriage had not been voidable and had been dissolved at the date of the declaration of nullity.

##### *Evidence as to health*

13.—(1) Subject to paragraphs (2) to (4) a person about to be appointed a member shall, before being so appointed, furnish to the Ministry satisfactory evidence that his health is suitable for the discharge of the duties of that office.

(2) A person about to be appointed a member may elect that he shall not, before being so appointed, furnish evidence as to his health, and where a person is appointed as a member after having made such an election, then, subject to paragraph (3), as respects him, articles 5 to 11 shall not have effect until he has completed ten years' service.

(3) Where the Ministry is satisfied that the health of a member who has made an election under paragraph (2) has throughout his service been such that it has enabled him duly to discharge the duties of his office, the Ministry may, after the completion of ten years' service by that member, direct that articles 5 to 11 shall have effect as if he had not made that election.

(4) A member who has made an election under paragraph (2) may at any time during his tenure of office furnish to the Ministry satisfactory evidence that his health is suitable for the discharge of the duties of his office, and the Ministry may thereupon direct that for the purposes of articles 5 to 11 he shall be treated as if he had not made that election.

Given at Government House, Hillsborough, this 18th day of November, 1964.

*Ivan Neill*

*R. W. B. McConnell*

*H. V. Kirk*

*Wm. Craig*

#### EXPLANATORY NOTE

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

This Order determines the remuneration of members of the Lands Tribunal and the superannuation allowances payable to or in respect of them.

1964. No. 192

[NC]

#### RESIDENT MAGISTRATES: SALARIES AND ALLOWANCES

ORDER, DATED 25TH NOVEMBER, 1964, MADE BY THE MINISTER OF HOME AFFAIRS WITH THE CONCURRENCE OF THE MINISTER OF FINANCE, UNDER SUB-SECTION (4) OF SECTION SIX OF THE SUMMARY JURISDICTION AND CRIMINAL JUSTICE ACT (NORTHERN IRELAND) 1935.

I, The Right Honourable Robert William Brian McConnell, Minister of Home Affairs for Northern Ireland, in exercise of the powers conferred on me by sub-section (4) of section six of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1935(a) do hereby make the following Order:—

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(a) 25 & 26 Geo. 5: c. 13 (N.I.).