



Judicial Pensions Act 1981

1981 CHAPTER 20

PART II

LUMP SUMS AND WIDOWS' AND CHILDREN'S PENSIONS

16 Application of Part II, and interpretation

In this Part of this Act—

"judicial office" means an office in column 1 of the following Table,

"derivative benefit" means any lump sum under this Part of this Act or any widow's or children's pension,

"the personal pension", in relation to any derivative benefit or contribution to the cost of a derivative benefit (the "related" derivative benefit or contribution) means the pension eligibility for which is a condition of the granting of the derivative benefit,

"relevant service", in relation to a pension for service in a judicial office, or in relation to a related benefit or contribution, means the kind of service, under one or more appointments, set out against that judicial office in column 2 of the Table.

TABLE

<i>Judicial office</i>	<i>Relevant service</i>
Lord Chancellor.	Service as Lord Chancellor in the first or any subsequent term of office.
Lord of Appeal in Ordinary.	Service as a Lord of Appeal in Ordinary or as a judge of the Supreme Court, the Court of Session or the Supreme Court of Northern Ireland.
Judge of the Supreme Court.	Service as a Lord of Appeal in Ordinary or as a judge of the Supreme Court.

Status: This is the original version (as it was originally enacted).

<i>Judicial office</i>	<i>Relevant service</i>
Judge of the Court of Session.	Service as a Lord of Appeal in Ordinary or as a judge of the Court of Session.
Judge of the Supreme Court of Northern Ireland.	Service as a Lord of Appeal in Ordinary or as a Judge of the Supreme Court of Northern Ireland.
Circuit judge in England and Wales.	Service as a Circuit judge.
Sheriff principal or salaried sheriff in Scotland.	Pensionable service as a sheriff in Scotland.
Stipendiary magistrate in England and Wales.	Service as a stipendiary magistrate in England or Wales.
Judge Advocate General who has duly elected that section 9 of this Act shall apply to him.	Service as Judge Advocate General.
Member of Lands Tribunal or Lands Tribunal for Scotland.	Service as a member of either of those Tribunals.
Chairman of the Scottish Land Court.	Service as Chairman of the Scottish Land Court.
President of Industrial Tribunals or other office pensionable under section 12 of this Act.	Relevant service as defined by section 12(5) of this Act.
Social Security Commissioner.	Salaried service as a Social Security Commissioner, and any other service which under section 13(4)(b) of this Act counts as service as a Commissioner.
Any office in paragraph 1 of Schedule 1 to this Act, except where under paragraph 3 of that Schedule this Part of this Act does not apply.	Relevant service as defined in paragraph 2 of Schedule 1 to this Act in relation to the office.

17 Lump sum on retirement or death

- (1) Where a person on retirement becomes eligible for a pension for service in any judicial office, he may be granted a lump sum equal to twice the annual amount of that pension.
- (2) Where a person was serving in any judicial office 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 for that service, his legal personal representatives may be granted a lump sum equal to—
 - (a) twice the annual amount of the pension for which he would have been so eligible, or
 - (b) his last annual salary,
 whichever is the greater.
- (3) Where a person on retirement becomes eligible for a pension for service in any judicial office but dies so soon after that the sums paid or payable to him on account of that pension plus an amount equal to twice the annual amount of that pension fall short

of his last annual salary for such service, his legal personal representatives may be granted a lump sum equal to the deficiency.

- (4) In relation to the office of President of Industrial Tribunals, or any other office pensionable under section 12 above, any reference in this section to last annual salary is a reference to last annual remuneration apart from any allowances.

Widows' and children's pensions

18 Conditions of grant

- (1) Subject to the provisions of this Part of this Act, on the death of a male person (hereinafter in this Part of this Act referred to as " the deceased ") who—
- (a) had become eligible for a pension for service in any judicial office, or
 - (b) was serving in any judicial office 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 that service,

there may be granted in respect of his service—

- (i) where he leaves a widow, a pension to that widow (hereafter in this Part of this Act referred to as a " widow's pension "), and
 - (ii) where he had a wife at any time during his relevant 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 (hereafter in this Part of this Act referred to as a " children's pension ").
- (2) If the Minister is satisfied that a person (" the child ") excluded from subsection (1)(ii) above because adopted after the termination of the marriage was before the termination of the marriage wholly or mainly dependent on the deceased person, and that the deceased person had before the termination of the marriage formed the intention of adopting the child, the Minister may direct that the said exclusion in subsection (1) (ii) above shall not apply to the child.
- (3) Subject to the provisions of this Part of this Act, on the death of a female person (hereafter in this Part of this Act referred to as " the deceased "), who—
- (a) had become eligible for a pension for service in any judicial office, or
 - (b) was serving in any judicial office at the time of her death and would, if she had then retired on the ground of permanent infirmity, have become eligible for a pension for that service,

there may be granted in respect of her service a pension for the benefit of children of any marriage of hers and of children adopted by her (hereafter in this Part of this Act referred to as a " children's pension ").

19 Widow's pension

- (1) No widow's pension may be granted if the marriage with the deceased took place after he retired from relevant service.
- (2) The widow's pension shall determine on her death or remarriage but may, if the Minister specially directs, be paid in respect of any period after re-marriage when she has no husband.

Status: This is the original version (as it was originally enacted).

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

20 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 subsection (1) or subsection (3) of section 18 above, as the case may be, 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 a person conceived after the end of the deceased's relevant service.
- (4) A children's pension cannot enure for the benefit of any person who was adopted by the deceased after the end of his relevant service:

Provided that if the Minister is satisfied that a person (" the child ") falling within this subsection was before the end of the relevant service wholly or mainly dependent on the deceased person, and that the deceased person had, before the termination of the relevant service, formed the intention of adopting the child the Minister may direct that this subsection shall not apply to the child.

- (5) 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.
- (6) A children's pension in respect of a woman's service cannot enure for the benefit of a child of any marriage of hers whose father is alive when the woman retires, or, as the case may be, dies while serving, unless the Minister specially directs that it shall enure.

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

- (1) A person shall be deemed for the purposes of section 20 above 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, do not exceed £808 a year, exclusive of any emoluments receivable or payable by way of return of any premium paid in respect of the training.
- (2) 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 (c) of subsection (1)

above, 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.

- (3) In subsection (1) above " emoluments " 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 paragraph (c)(ii) of that subsection, 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.
- (4) As respects any period during which neither of the conditions specified in paragraphs (b) and (c) of subsection (1) above is satisfied in relation to a person, the Minister may, if he 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 subsection (2) above, 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 section 20 above.
- (5) The Minister may by order vary the sum of £808 in subsection (1)(c)(ii) above. An order under this subsection shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) An order under subsection (5) above—
 - (a) shall not authorise the payment, or increase, of any instalment of a pension in respect of a period falling before the date when the order takes effect, and
 - (b) if it increases or further increases the sum mentioned in subsection (1)(c)(ii) above, shall for the purposes of subsection (2) above apply to periods before the date when the order takes effect, as well as to later periods.

22 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 Minister 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 Minister 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 two or more in number, may amount to two-thirds of the annual amount of the personal pension,
 - (b) while there is only one such person, may amount to one-third of the annual amount of the personal pension.

Status: This is the original version (as it was originally enacted).

- (3) Subject to the provisions of subsection (4) below, 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 two or more in number, may amount to one half the annual amount of the personal pension,
 - (b) while there is only one such person, may amount to one quarter of the annual amount of the personal pension.
- (4) Notwithstanding anything in the preceding provisions of this section, 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 Minister specially directs that such a pension shall be so payable, but, if the Minister does specially so direct, he may, if he thinks fit, further direct that subsection (2) above shall apply as respects any such period notwithstanding that the widow is alive.
- (5) Where the deceased was a woman, subsection (2) above shall apply as it applies where the deceased was a man leaving no widow and subsections (3) and (4) above shall not apply.

Contributions

23 Contribution towards cost of widow's and children's pension

- (1) There shall be made towards the cost of the liability for any pension or pensions under sections 16 to 20 above in respect of a man's relevant service such contribution as may be prescribed by regulations made for the purposes of this section.
- (2) The prescribed contributions shall be in the form either of a reduction of the lump sum payable in respect of the relevant service or deductions from the salary payable in respect of the relevant service, or partly in one of those forms and partly in the other.
- (3) Regulations made for the purposes of this section may make provision for consequential and incidental matters, including provision excluding or modifying the operation of this Act or any enactment passed before 18th April 1973 ; and in particular any regulations providing for contributions by deduction from salary may make consequential provision as to any enactment referring or relating to lump sums payable under this Part of this Act.
- (4) Regulations for the purposes of this section may be made, with the concurrence of the Minister, by the Lord Chancellor or, in relation to pensions for service in offices existing only in Scotland, by the Secretary of State.
- (5) Regulations under this section shall be made by statutory instrument which shall be subject to annulment pursuant to a resolution of either House of Parliament.

24 Judicial office held by a woman

- (1) Where the personal pension is or would be payable to a woman—
 - (a) a contribution towards the cost of liabilities for the benefit of the woman's children shall be made, taking the form of a reduction in the lump sum which may be granted under this Part of this Act in respect of that woman's service,
 - (b) the amount of that contribution shall be ascertained from tables prepared for the purposes of this section by the Government Actuary.

- (2) If the woman has at any time during her relevant service so elected, no contribution shall be made, and no children's pension shall be payable for the benefit of her children.
- (3) An election authorised to be made under this section shall be in writing, shall be made to the Minister, and shall be made in the lifetime of the person who makes it.
- (4) Section 23 above shall apply to a woman's relevant service as it applies to a man's relevant service, and the preceding provisions of this section shall have effect subject to any regulations made by virtue of this subsection.

Special cases

25 Persons serving again after retirement

- (1) Where any person after retirement from service in a judicial office resumes his service, that retirement shall be left out of account for all the purposes of this Part of this Act except that—
 - (a) if a lump sum was granted on that retirement without any contribution being made, then unless that person on resumption of his service, or within three months of his marrying while again serving, refunds by way of contribution such sum, not exceeding three quarters of the lump sum granted on the prior retirement as the Minister may determine, no pension shall be granted to any widow or child of his, and
 - (b) any lump sum granted on that retirement, less any refund, shall be set off against any lump sum to be granted in respect of his service.
- (2) Where the person resuming service after retirement is a woman, paragraph (a) of subsection (1) above and the reference to a refund in paragraph (b) shall be omitted.
- (3) Where a refund is made under subsection (1) above, all such adjustments shall be made, including payments out of the Consolidated Fund or out of money provided by Parliament and payments into the Exchequer, as will secure that the position is the same as if the lump sum had been reduced by an amount equal to the refund and no refund had been made.

26 Lord Chancellor

Any reference in this Part of this Act to retirement shall in relation to a Lord Chancellor be taken as a reference to resignation of office.

Supplemental

27 Disregard of abatement of pension under s. 65 of Social Security Act 1973

In making any calculation under this Part of this Act any abatement of a pension falling to be made under any order made under section 65 of the Social Security Act 1973 shall be left out of account.

Status: This is the original version (as it was originally enacted).

28 Effect of certain nullity decrees

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 Part of this Act as would have followed thereunder if the marriage had not been voidable and had been dissolved at the date of the declaration of nullity.

29 Recommendation of a Minister required in certain cases

The grant under this Part of this Act of a lump sum or widow's or children's pension conditional on eligibility for a pension requiring the recommendation to the Minister for the Civil Service or any other Minister shall require the like recommendation.