1989 No. 144

PENSIONS

The Judicial Pensions (Widows' and Children's Benefits) Regulations (Northern Ireland) 1989

Made	*5th April 1989*
Coming into operation . .	*6th April 1989*

The Department of Health and Social Services for Northern Ireland, in exercise of the powers conferred on it by section 10(8) of , and Schedule 3 to, the Administration of Justice Act 1973(**a**) and of all other powers enabling it in that behalf, and with the concurrence of the Treasury(**b**), hereby makes the following regulations:

PART I

GENERAL

Citation, commencement and interpretation

1.—(1) These regulations may be cited as the Judicial Pensions (Widows' and Children's Benefits) Regulations (Northern Ireland) 1989 and shall come into operation on 6th April 1989.

(2) In these regulations, unless the context otherwise requires—

"the Act of 1951" means the Judicial Pensions Act (Northern Ireland) 1951(**c**);

"the Act of 1973" means the Administration of Justice Act 1973;

"contribution" means a contribution towards the cost of a widow's or children's pension;

"lump sum" means the lump sum payable under section 5(1) or (2) of the Act of 1951 on the retirement or death of an office-holder;

"office-holder" means a person serving after 17th April 1973 in an office, specified in Schedule 1 to these regulations, in respect of which office a widow's or children's pension may be granted under or by virtue of Part II of the Act of 1951(**d**);

"periodical payment" means a contribution in the form of a deduction from the office-holder's salary;

(**a**) 1973 c. 15; section 10 was repealed in part by Schedule 4 to the Judicial Pensions Act 1981 c. 20

(**b**) *See* Article 5 of S.I. 1973/2163 for transfer of functions from the Ministry of Finance for Northern Ireland to the Minister for the Civil Service and Article 2 of S.I. 1981/1670 for transfer of functions from the Minister for the Civil Service to the Treasury

(**c**) 1951 c. 20 (N.I.)

(**d**) *See* section 2(6) of the Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969 c. 7 (N.I.) and Article 6 of S.R. & O. (N.I.) 1973 No. 455

"personal pension" means the pension for which an office-holder becomes eligible on retirement (or, if he dies in office, would have become eligible had he retired on the ground of infirmity at the time of his death);

"relevant service" means service in an office in respect of which service a widow's or children's pension may be granted under or by virtue of Part II of the Act of 1951;

"responsible authority" means, in relation to an office-holder, the person or body responsible for paying his salary;

"standard rate" in relation to periodical payments has the meaning given in regulation 8(2);

"15-year office" and "20-year office" mean an office, service in which for 15 or 20 years, as the case may be, is a condition of eligibility for an annual personal pension at the rate of one half of the last annual salary payable in respect of that office;

any reference to service in a 15-year or 20-year office includes a reference to successive periods of service in two or more such offices, being periods which are aggregable for the purposes of eligibility for personal pension;

any reference to a numbered regulation is a reference to the regulation bearing that number in these regulations, and any reference in a regulation to a numbered paragraph is a reference to the paragraph of that regulation bearing that number.

(3) The Interpretation Act 1978(**a**) shall apply to the interpretation of these regulations as it applies to the interpretation of an Act of Parliament.

Application of regulations

2.—(1) These regulations do not apply in respect of an office-holder whose relevant service was wholly before 6th April 1989.

(2) Subject to paragraphs (3) and (4), contributions towards the cost of the liability for any pension under Part II of the Act of 1951, as modified by Schedule 3 to the Act of 1973, for the benefit of a man's wife and children in respect of relevant service shall be made in accordance with Parts II and III of these regulations.

(3) Parts II and III of these regulations do not apply in relation to an office-holder in respect of whom there is in force an election under section 10(4)(*b*) of the Act of 1973(**b**) (election by person serving on 18th April 1973 against up-rating of widow's and children's pension), in which case the contribution will, where section 11 of the Act of 1951 applies, be the amount prescribed by that section.

(4) No contribution shall be made by an office-holder for any period of service during which an election under section 2A of the Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969(**c**) is in force in respect of him.

(**a**) 1978 c. 30
(**b**) *See* regulation 3(1)(*b*) of S.R 1978 No. 15
(**c**) Section 2A was inserted by paragraph 3 of the Schedule to S.R. 1989 No. 123 with effect from 6 April 1989

Extension of time

3. The responsible authority may, if satisfied in any particular case that it would be reasonable so to do, extend the time for giving any notice under these regulations or for making any election under section 10(4) of the Act of 1973.

PART II

CONTRIBUTION MADE ENTIRELY OUT OF LUMP SUM

Application of Part II

4.—(1) This Part 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 an office-holder who has made no periodical payments.

(2) 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 relevant service had a wife.

Relevant service wholly after 17th April 1973

5.—(1) If the whole of the office-holder's relevant service is or, by virtue of an election made under section 10(4)(*a*) of the Act of 1973, is treated as, service after 17th April 1973, the amount of the contribution shall be three quarters of the lump sum.

(2) If the office-holder last had a wife at a time before the end of his relevant service, the amount of the contribution shall (instead of that in paragraph (1)) be three quarters of the lump sum—

(*a*) multiplied by the number of months of his relevant service before the time at which he last had a wife; and

(*b*) divided by the total number of months of his relevant service.

Relevant service partly before 18th April 1973

6.—(1) If the office-holder's relevant service is not, or is not treated as, wholly after 17th April 1973, the amount of the contribution 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 office-holder's lump sum;

"P" represents the number of months of relevant service before 18th April 1973;

"Q" represents the number of months of relevant service after 17th April 1973;

"S" represents the total number of months of relevant service.

(2) If the office-holder last had a wife at a time before the end of his relevant service, the amount of the contribution shall (instead of that in paragraph (1)) be that arrived at under paragraph (1) multiplied by the following fraction—

$$\frac{\text{A + one and a half times B}}{\text{P + one and a half times Q}}, \text{ where—}$$

"A" is the number of months of relevant service before the time he last has a wife and before 18th April 1973;

"B" is the number of months (if any) of relevant service before that time and after 17th April 1973;

"P" and "Q" are the same as in paragraph (1).

Supplemental

7.—(1) For the purpose of determining the amount of any contribution payable under this Part, there shall be disregarded any amount by which (in consequence of the operation of section 5(2) of the Act of 1951) that sum may exceed twice the annual amount of the personal pension.

(2) If, under section 10(5) of the Act of 1973, as applied by Schedule 3 to that Act (widow's or children's pension not wholly attributable to service after 17th April 1973), all or part of an office-holder's service before 18th April 1973 is to be left out of account, that service, or as the case may be, that part of it, shall also be left out of account for the purposes of this Part.

PART III

PERIODICAL PAYMENTS

Election to make periodical payments

8.—(1) Subject to paragraphs (2) to (7), an office-holder may elect to make periodical payments.

(2) Without prejudice to regulation 9 or 11(6), periodical payments may only be made at the standard rate, that is to say—

(*a*) in the case of a 15-year office, 4 per cent.; and

(*b*) in the case of a 20-year office, 3 per cent.,

of the office-holder's salary for the time being.

(3) Subject to paragraph (4), an office-holder who elects to make periodical payments must do so by notice in writing to the responsible authority not later than 6 months after his first appointment to his office.

(4) An office-holder 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 responsible authority not later than 6 months after his marriage or remarriage, as the case may be.

(5) An election made under this regulation shall be irrevocable, save that an office-holder who ceases to be married after having made such an election may revoke his election by notice in writing to the responsible authority not later than 6 months after his so ceasing.

(6) Nothing in this regulation shall be construed as preventing an office-holder who is not married from electing to make periodical payments.

(7) For the purpose of paragraph (3), the appointment of an office-holder to another office shall be treated as a first appointment.

Additional payments for back service

9.—(1) In this regulation—

"back service" means—

(*a*) service before 1st February 1978 (the date of the coming into force of the provisions reproduced in this Part), and

(*b*) in the case of an office-holder who has married on or after that date, service on or after that date for any period during which he has made no periodical payments;

"previous service" means back service before 18th April 1973.

(2) A office-holder who has back service and who elects to make periodical payments at the standard rate may also elect to make, in respect of that back service, additional payments at such one of the following rates as he may specify—

(*a*) if he is serving in a 15-year office, 4 per cent., 8 per cent. or 11 per cent. of his salary for the time being (that is to say, at the standard rate, or at twice, or at two and three quarters times that rate);

(*b*) if he is serving in a 20-year office, 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 or four times that rate).

(3) An election under this regulation must have been made, or be made by notice in writing to the responsible authority—

(*a*) not later than 30th June 1978; or

(*b*) in the case of an office-holder marrying or remarrying after 31st January 1978 and while still serving, not later than 6 months after his marriage or remarriage.

(4) An office-holder who has made an election under this regulation may at any time, by notice in writing to the responsible authority, 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 paragraph (2).

(5) An election made under this regulation shall, if it has not been previously revoked, cease to have effect when the office-holder has made additional payments for a period equal in length to his back service and for this purpose, subject to paragraph (6), 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 2 years).

(6) If an office-holder's back service includes previous service, then, for any period for which he has made additional payments at the standard rate, or at a multiple of that rate in accordance with paragraph (2), he shall be treated for the purpose of paragraph (5)—

(*a*) as having made those payments for one and a half (or one and a half times the said multiple) times such part of that period as, so multiplied, does not exceed in length his previous service; and