1989 No. 122

PENSIONS

Pensions (Requisite Benefits) Order (Northern Ireland) 1989

Made	*31st March 1989*
Coming into operation . .	*6th April 1989*

The Department of Finance and Personnel, in exercise of the powers conferred by Article 61 of the Social Security Pensions (Northern Ireland) Order 1975(**a**), as read with Article 60 of that Order, and now vested in it as the appropriate authority designated for that purpose(**b**), hereby makes the following Order:—

PART I

INTRODUCTORY

Citation and commencement

1. This Order may be cited as the Pensions (Requisite Benefits) Order (Northern Ireland) 1989 and shall come into operation on 6th April 1989.

Interpretation

2.—(1) In this Order—

"the Order of 1975" means the Social Security Pensions (Northern Ireland) Order 1975;

"final salary" has the meaning given by Article 11;

"normal pension age", in relation to member of an occupational pension scheme, means the earliest age at which that member can become entitled to receive a pension under the scheme, apart from any special provision as to early retirement on grounds of ill-health or otherwise;

"office-holder" means a person who is or has been the holder of any scheduled office;

"pensionable age" means the age of 65 for a man and 60 for a woman;

"relevant enactment" means an enactment under or in accordance with which an office-holder might be granted a pension in respect of any relevant service and, in the case of a person who has held more than one office, includes any enactment relating to the payment of superannuation benefits to or in respect of such a person;

"relevant service" has the meaning given by Article 5(2) and (3);

"scheduled office" means an office listed in column 1 of Schedule 1;

(**a**) S.I. 1975/1503 (N.I. 15)

(**b**) Functions transferred from the Department of the Civil Service by S.I. 1982/338 (N.I. 6) Art. 4

"scheme" means, in relation to any office-holder, the public service pension scheme established by a relevant enactment; and

other expressions have the same meanings as in the Social Security (Northern Ireland) Act 1975(a).

PART II

GENERAL

General effect of Order

3.—(1) This Order applies in relation to any such office-holder as is mentioned in Article 4 so as to modify, or further modify, any relevant enactment in respect of him and, accordingly, the scheme which is applicable in relation to him shall make provision for his benefit or otherwise in relation to him which accords with the following provisions of this Order.

(2) Articles 8, 9 and 10 (which relate to guaranteed minimum pensions) shall apply in relation to any such office-holder as is mentioned in Article 4 notwithstanding any other provision in any enactment, including the other provisions of this Order.

Office-holders to whom the order applies

4. This Order shall have effect in relation to a person under pensionable age who holds a scheduled office on 6th April 1989, or who is appointed to such an office when under pensionable age on or after that date:—

Provided that neither Article 6 nor Article 7 shall entitle an office-holder appointed to a scheduled office on or after 6th April 1989, or his widow, to a pension other than the minimum guaranteed under Article 8 or 9, unless his service in that office may be reckoned, for the purpose of superannuation benefits, together with service of his in an earlier office wholly or partly before that date (or might have been so reckoned but for his having left the later office before reaching compulsory retirement age).

Ceasing to hold office and relevant service

5.—(1) An office-holder does not cease to hold office for the purpose of this Order so long as he holds any scheduled office or an office service in which may, under any enactment, be reckoned on any basis together with earlier service of his in a scheduled office for the purpose of superannuation benefits.

(2) Subject to paragraph (3), an office-holder's service in a scheduled office is relevant service for the purposes of this Order and his relevant service may include any earlier service of his which may, under any enactment, be reckoned on any basis together with service of his in a scheduled office.

(3) Service is not relevant service for the purposes of this Order if it is service before 6th April 1978.

(4) For the purposes of paragraphs (1) and (2):—

(*a*) it is immaterial whether—

(a) 1975 c. 15

(i) the office-holder has served at any time in any other office (including an office in relation to which he ceases to hold office for the purposes of this Order);

(ii) the earlier and the later offices are the same;

(iii) any election in respect of the office-holder is available, or, if available, has been made; and

(iv) the superannuation benefits payable under the relevant enactment relating to one office would, in the circumstances of the case, be unaffected by adding the other service into the reckoning; and

(*b*) service in an earlier office shall be treated as reckonable with service in a later scheduled office if it would have been so reckonable but for the office-holder's having left the later (or a subsequent) office before reaching compulsory retirement age.

PART III

REQUISITE BENEFITS

Office-holder's benefit

6.—(1) As from his attainment of pensionable age, an office-holder shall be entitled for the purposes of this Order to a pension under a scheme for his life.

(2) Subject to paragraphs (3) and (4), the annual rate of the office-holder's pension under paragraph (1) shall be 1¼ per cent. of his final salary multiplied by the number of years of relevant service completed by him before he attained pensionable age.

(3) Paragraph (2) above shall not apply in relation to an office-holder who—

(*a*) ceases to hold office before normal pension age; and

(*b*) has completed less than five years' qualifying service for the purposes of Schedule 3 to the Order of 1975 (preservation)(**a**).

(4) Any part of the pension under paragraph (1) in excess of the office-holder's guaranteed minimum pension shall be postponed for any period for which he continues in employment (whether or not employment to which the scheme relates) after attaining pensionable age.

Widow's benefits

7.—(1) As from the death of an office-holder (whether before or after attaining pensionable age) his widow shall be entitled for the purposes of this Order to a pension under a scheme.

(2) Subject to paragraphs (3) and (4), the annual rate of the widow's pension under paragraph (1) shall be ⅝ths per cent. of the final salary (or last salary before death) of the office-holder multiplied by the number of years of relevant service completed by him before he attained pensionable age.

(a) For the purposes of Articles 6 and 7 of this Order not as amended by Article 12 of the Social Security (Northern Ireland) Order 1986 S.I. 1986/1888 (N.I. 18)

(3) Paragraph (2) above shall apply for any such period as is mentioned in Article 38(6) of the Order of 1975.

(4) Paragraph (2) above shall not apply in relation to an office-holder who dies after ceasing to hold office and who has completed less than five years' qualifying service for the purposes of Schedule 3 to the Order of 1975 (preservation)(a).

Office-holder's guaranteed minimum pension

8.—(1) As from his attainment of pensionable age an office-holder who has ceased to hold office shall, subject to paragraph (3), be entitled to receive, in relation to the pension provided for him by a scheme, not less than the guaranteed minimum pension, the weekly rate of which shall be calculated in accordance with Article 37(2), (3), (4), (5) and (9) of the Order of 1975, unless his accrued rights thereto are extinguished under Article 45(7) of that Order.

(2) Where an office-holder continues to serve after pensionable age, then—

(*a*) as from the expiration of five years from the date on which he attains pensionable age, or

(*b*) as from the date (if earlier) when he ceases to hold office,

he shall, subject to paragraph (3), be entitled to receive, in relation to the pension provided for him by a scheme, not less than the guaranteed minimum pension, the weekly rate of which shall be calculated in the manner provided by paragraph (1) and Article 37(6) of the Order of 1975.

(3) Entitlement to payment of a guaranteed minimum pension by virtue of paragraph (1) or (2) above shall not arise in respect of any period during which the consent of the office-holder under Article 35(3)(*a*) or (*b*) of the Order of 1975 is in force and not revoked, and, when the pension which has accordingly been postponed commences, paragraph (1) shall apply as if it contained a reference to Article 37(6) of that Order.

(4) Any entitlement by virtue of this Article shall continue for the life of the office-holder.

Widow's guaranteed minimum pension

9.—(1) As from the death (whether before or after attaining pensionable age) of an office-holder, his widow shall, subject to paragraphs (2) and (3), be entitled to receive, in relation to the pension provided for her by a scheme, a guaranteed minimum pension the weekly rate of which shall be not less than her guaranteed minimum as ascertained in accordance with Article 38(3) of the Order of 1975.

(2) Paragraph (1) above shall apply for any such period as is mentioned in Article 38(6) of the Order of 1975.

(3) Paragraph (1) above shall not apply if—

(a) For the purposes of Articles 6 and 7 of this Order not as amended by Article 12 of the Social Security (Northern Ireland) Order 1986 S.I. 1986/1888 (N.I. 18)

(*a*) at the date of his death the office-holder's accrued rights to a guaranteed minimum pension have been extinguished under Article 45(7) of the Order of 1975; or

(*b*) the widow's accrued rights are extinguished under that Article.

Widower's guaranteed pension

10.—(1) As from the death on or after 6th April 1989 (whether before or after attaining pensionable age) of a female office-holder, her widower shall, subject to paragraphs (2) and (3) be entitled to receive a guaranteed minimum pension the weekly rate of which shall be his guaranteed minimum as ascertained in accordance with Article 38(3) of the Order of 1975.

(2) Paragraph (1) shall apply in the circumstances prescribed under Article 38(7A)(**a**) of the Order of 1975 and for the period so prescribed.

(3) Paragraph (1) shall not apply if—

(*a*) at the date of her death the office-holder's accrued rights to a guaranteed minimum pension have been extinguished under Article 45(7) of the Order of 1975; or

(*b*) the widower's accrued rights are extinguished under that Article.

PART IV

MISCELLANEOUS

Ascertainment of salary for requisite benefits

11.—(1) Subject to paragraphs (2) and (3), for the purposes of this Order the final salary of an office-holder (or his last salary before death) shall be the annual rate of salary which he was receiving immediately before he ceased to hold office together with any sum which is reckoned as an additional part of his salary for pension purposes.

(2) Where—

(*a*) an office-holder has two or more periods of relevant service; and

(*b*) an election is made by or in respect of him, pursuant to an enactment relating to the payment of superannuation benefits in respect of persons who have served continuously in more than one office, in favour of the receipt of benefits payable under the relevant enactment which relates to an office held by him other than the last,

then, for the purposes of this Order, the final salary of that office-holder (or his last salary before death) shall be that which would have been arrived at under paragraph (1) if he had continued to hold the earlier office until the date when he ceased to hold office; and, if that office had ceased to exist at that date, that salary shall be taken to be such as the relevant department with (in the case of the Department of Economic Development or the Department of Health and Social Services) the concurrence of the Department of Finance and Personnel may determine it would have been had the office continued to exist.

(a) Paragraph (7A) was inserted in Article 38 by Article 11(3)(*c*) of the Social Security (Northern Ireland) Order 1986