1989 No. 121

PENSIONS

Pensions (Preservation of 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 (Preservation of Benefits) Order (Northern Ireland) 1989 and shall come into operation on 6th April 1989.

Interpretation

2.—(1) In this Order "the Act of 1951" means the Judicial Pensions Act (Northern Ireland) 1951(**c**);

"relevant department" in relation to any office-holder means the department specified in column 2 of the Schedule opposite the scheduled office he holds or has held;

"full rate" means the rate at which a pension might have been granted to an office-holder if his service had continued to normal pension age, but calculated by reference to the annual salary attaching, at the date he ceased (within the meaning of Article 4(1)) to hold office, to—

(*a*) his last office; or

(*b*) an earlier office of his where the amount of pension would have been based on that salary, but if that office had ceased to exist before the date on which he ceased to hold his last office, the annual 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**) 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
(**c**) 1951 c. 20 (N.I.)

"normal pension age" means the earliest age at which, if his service had continued until retirement at that age, an office-holder might have been granted a pension under a relevant enactment;

"office-holder" means a person who holds, or has held, a scheduled office;

"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 4(2);

"schedule office" means an office listed in column 1 of the Schedule.

(2) References in this Order to eligibility for a pension are, in relation to an office, service in which carries entitlement to a pension, references to such entitlement, and references to the grant of a pension or to the rate at which a pension might be payable shall be construed accordingly.

PART II

GENERAL

Office-holders to whom Order applies

3. This Order shall apply to, but only to, an office-holder who ceases to hold office after 5th April 1989.

Ceasing to hold office and relevant service

4.—(1) An office-holder does not cease to hold office for the purposes of this Order if, after ceasing to hold a scheduled office but before reaching normal pension age, he starts to hold another office service in which may, under any relevant enactment, be reckoned on any basis together with service in the earlier office for the purpose of superannuation benefits (or which might have been so reckoned but for his having left that other, or a subsequent, office before reaching compulsory retirement age).

(2) 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 in accordance with paragraph (1) together with service of his in a scheduled office.

(3) For the purposes of paragraphs (1) and (2) it is immaterial whether—

(*a*) 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);

(*b*) the earlier and the later offices are the same;

(*c*) any election available in respect of an office-holder has been made; or

(*d*) the superannuation benefits payable under the relevant enactment relating to one office would, in the circumstances, be unaffected by adding the other service into the reckoning.

PART III

PRESERVED BENEFITS

Office-holder's pension

5.—(1) An office-holder who has completed two years of relevant service, but who has ceased to hold office before normal pension age, becomes eligible for a pension when he reaches that age or the age of 60 whichever is the later.

(2) The annual rate at which that pension may be paid shall bear to the full rate the same proportion as the number of completed years of relevant service bears to the number of completed years which the office-holder would have served if his service had continued to normal pension age.

Lump sum and widow's and children's pension

6.—(1) Except as provided by paragraph (3), sections 5 (other than sub-sections (2)(*b*) and (3)), 6 to 11 and 14 to 16 of the Act of 1951 (lump sums and widows' and children's pensions) shall apply in relation to an office-holder who becomes eligible for a pension by virtue of this Order or who dies before becoming so eligible but could have become so eligible had he survived to normal pension age, as they apply in relation to an office-holder who becomes eligible for a pension on retirement at normal pension age or who dies in service.

(2) The references in paragraph (1) to sections 5, 6 to 11 and 15 of the Act of 1951 include those sections as applied—

(*a*) by section 2(6) of the Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969(**a**) (President of the Industrial Court or Industrial Tribunals and Chairman of Industrial Tribunals);

(*b*) by Article 6 of the Parliamentary Commissioner for Administration and Commissioner for Complaints (Pension) Order (Northern Ireland) 1973(**b**); and

(*c*) by determination of the Department of Health and Social Services made under paragraph 1A(9) of Schedule 10 to the Social Security (Northern Ireland) Act 1975(**c**) (President of Social Security Appeal Tribunals and Medical Appeal Tribunals).

(3) In relation to a person who has held office as a member of the Lands Tribunal, regulations 5(1) and (2) and 6 to 12 of the Lands Tribunal (Salaries and Superannuation) Order (Northern Ireland) 1964(**d**) shall apply in place of the relevant provisions of the Act of 1951, so however that any lump sum granted under regulation 5(2) shall not exceed twice the annual amount of the pension for which he would have been eligible.

(**a**) 1969 c. 7 (N.I.). Section 2 was amended by S.I. 1980 No. 1959 (N.I. 17) Art. 7(1)
(**b**) S.R. & O. (N.I.) 1973 No. 455
(**c**) 1975 c. 15 as amended by S.I. 1983 No. 1524 (N.I. 17) Art. 3 Sch. 1
(**d**) S.R. & O. (N.I.) 1964 No. 191 (p. 867)