1988 No. 294

PENSIONS

The Judicial Pensions (Requisite Benefits) Order (Northern Ireland) 1988

Made . . . . . *29th July 1988*

Coming into operation . . *1st September 1988*

The Lord Chancellor, as the appropriate authority designated by the Treasury(**a**) for the purposes of Article 61(1) of the Social Security Pensions (Northern Ireland) Order 1975(**b**) as having responsibility for the public service pension schemes established under the enactments listed in Schedule 1, in exercise of the powers conferred by the said Article 61(1), hereby makes the following Order:—

PART I

INTRODUCTORY

Citation and commencement

1. This Order may be cited as the Judicial Pensions (Requisite Benefits) Order (Northern Ireland) 1988 and shall come into operation on 1st September 1988.

Interpretation

2.—(1) In this Order, unless the context otherwise requires—

"the Principal Order" 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 by virtue of 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;

(**a**) Substituted for the Minister for the Civil Service by S.I. 1981/1670
(**b**) S.I. 1975/1503 (N.I. 15)

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

"scheduled office" means an office listed in Schedule 2;

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

other expressions used in the Principal Order have the same meanings in this Order as in the Principal Order.

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, the scheme which is applicable in relation to him to 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 of this Order (which relate to guaranteed minimum pensions) 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 Order applies

4. This Order shall have effect in relation to, but only to, an office-holder who is holding a scheduled office on 1st September 1988, 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 1st April 1987, 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) below, 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) above:—

(*a*) it is immaterial whether—

(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) below, 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 Principal Order (Preservation) as originally enacted(**a**).

(4) Any part of the pension under paragraph (1) above 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) below, 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 purpose 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 Principal Order.

(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 Principal Order (preservation) as originally enacted(**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) Below, be entitled to receive 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 Principal Order, 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) below, be entitled to receive not less than the guaranteed minimum pension, the weekly rate of which shall be calculated in the manner provided by paragraph (1) above and Article 37(6) of the Principal Order.

(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 Principal Order is in force and not revoked, and, when the pension which has accordingly been postponed commences, paragraph (1) above shall apply as if it contained a reference to Article 37(6) of that Order.

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 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 Principal Order.

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

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

(*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 Principal Order; or

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

(a) For the purpose 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)