1978 No. 307

PENSIONS

The Pensions (Requisite Benefits) Order (Northern Ireland) 1978

Made . . . . . 11*th October* 1978

Coming into operation . . . 9*th November* 1978

The Department of the Civil Service(a), in exercise of the powers conferred on it by Article 61(1) of the Social Security Pensions (Northern Ireland) Order 1975(b), as read with Article 60 of that Order, as the appropriate authority designated for that purpose by the Department of the Civil Service in accordance with the said provisions, hereby makes the following Order:—

Introductory

Citation and commencement

1.—(1) This Order may be cited as the Pensions (Requisite Benefits) Order (Northern Ireland) 1978.

(2) This Order shall come into operation on 9th November 1978 and shall have effect from 6th April 1978.

Interpretation

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

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

"final salary" has the meaning given by Article 10;

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

"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;

"relevant service" has the meaning given by Article 5(3) and (4);

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

"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 Order of 1975 or the Social Security (Northern Ireland) Act 1975(c).

(a) Formerly the Department of Finance: *see* 1973 c. 36 Sch. 5 para. 8(1) and S.R. 1976 No. 281 Art. 3(1)(*a*), Sch. 1 (II, p. 1339)
(b) S.I. 1975/1503 (N.I. 15)
(c) 1975 c. 15

GENERAL

General effect of Order

3.—(1) This Order shall apply 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 and 9 of this Order (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 Order applies

4. This Order shall have effect in relation to any office holder who was under pensionable age and who was holding a scheduled office on 6th April 1978 or who has been or is appointed to such an office when under that age on or after that date.

Ceasing to hold office and relevant service

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

(2) 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 pensionable 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.

(3) Subject to paragraph (4), 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.

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

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

(*a*) whether 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*) whether the earlier and the later offices are the same;

(*c*) whether any election in respect of the office holder is available, or, if available, has been made; or

(*d*) whether 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.

REQUISITE BENEFITS

Office holder's requisite benefits

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) shall not apply in relation to an office holder—

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

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

(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 requisite 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 ⅝ 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.

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

(4) Paragraph (2) 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).

Office holder's guaranteed minimum pension

8.—(1) As from his attainment of pensionable age any 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 attaining 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) of this Article 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) 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) of this Article shall apply as if it contained a reference to Article 37(6) of the Order of 1975.