1976 No. 43

LANDS TRIBUNAL

Lands Tribunal (Superannuation) Order (Northern Ireland) 1976

Made . . . . . 10*th February* 1976
Coming into operation . . . 24*th March* 1976
To be laid before Parliament under paragraph 3(3) *of Schedule* 1 *to the Northern Ireland Act* 1974

In exercise of the powers conferred by section 2(5) of the Lands Tribunal and Compensation Act (Northern Ireland) 1964(a) and section 18 of the Administrative and Financial Provisions Act (Northern Ireland) 1962(b) and now vested in me(c) I hereby make the following Order:—

Title and commencement

1. This Order may be cited as the Lands Tribunal (Superannuation) Order (Northern Ireland) 1976 and shall come into operation on 24th March 1976.

Interpretation

2.—(1) In this Order—

"the principal order" means the Lands Tribunal (Salaries and Superannuation) Order (Northern Ireland) 1964(d);

"service" means service as the President or other member of the Lands Tribunal.

(2) Expressions defined in the principal order have the same meanings in this Order as in that order.

Increase of widows' and children's pensions

3.—(1) The annual amount of the widow's pension that may be granted under the principal order wholly or partly in respect of service after 17th April 1973 and the annual amount of the children's pension that may be so granted, shall be increased in accordance with this Article; and where the widow's pension or children's pension (if any) that may be granted in respect of a member's service is so increased, there shall be made towards the cost of the liability therefor the contributions mentioned in Article 5.

(2) In the case of pensions attributable wholly to service after 17th April 1973:

(*a*) the annual amount of a widow's pension may be one-half of the annual amount of the personal pension of the deceased; and

(*b*) subject to Article 10(4) of the principal order (which makes provision for the case of a widow remarrying), the annual amount of a children's pension, while there is only one person for whose benefit it can enure, may amount—

(i) where the deceased was a man who left a widow and she is still alive, to one-quarter of the annual amount of the personal pension; and

(a) 1964 c. 29 (N.I.)
(b) 1962 c. 7 (N.I.)
(c) By 1973 c. 36 Sch. 5 para. 4(2)
(d) S.R. & O. (N.I.) 1964 No. 191 (p. 867)

(ii) in any other case, to one-third of the annual amount of the personal pension;

and while there are two or more persons for whose benefit it can enure, may amount to twice the figure given by whichever is applicable of sub-paragraphs (i) and (ii).

(3) In Article 10(4) of the principal order the reference to paragraph (2) of that Article shall include a reference to paragraph (2)(*b*)(ii) of this Article.

(4) Subject to paragraph (5) in the case of pensions payable partly in respect of service after 17th April 1973 but not attributable wholly to that service, the annual value of the widow's pension or children's pension that may be granted shall be determined by reference to the proportions which the service before and after that time bear to the whole of the service, and shall be the amount obtained by adding—

(*a*) the part proportionate to the service before that time of the annual amount of the pension that might have been granted if this Article had not been made; and

(*b*) the part proportionate to the service after that time of the annual amount of the pension that might have been granted if this Article had always had effect.

(5) Where a member's service is partly before 18th April 1973 and partly after 17th April 1973, then for the purposes of this Article any widow's or children's pension payable in respect of that service is to be regarded as attributable wholly to the service after 17th April 1973 if the service before 18th April 1973 does not add to the annual rate of the personal pension, and for the purposes of paragraph (4) there shall be left out of account so much (if any) of the service before 18th April 1973 as does not add to the annual amount of the personal pension.

Elections by persons serving before 18th April 1973

4.—(1) A member who was serving before 18th April 1973 may elect

(*a*) that paragraph (2) of Article 3 shall apply to him as if the whole of his service were service after 17th April 1973; or

(*b*) that paragraphs (1) to (4) of Article 3 shall not apply to him and that the principal order shall continue to apply to him as if Article 3 had not been made.

(2) An election under paragraph (1) may be made by notice in writing given to the Department of Finance not later than three months after the commencement of this Order.

(3) If a member to whom paragraph (1) applies dies without having made an election, his widow may, not later than four months after the commencement of this Order, exercise any right her husband might have exercised under paragraph (1).

Contributions

5.—(1) Where the annual amount of the pension of the widow or children of a member is to be increased in accordance with Article 3, there shall be made by the member, towards the cost of the liability thereby assumed, contributions in the form of a reduction in his lump sum, or in the form of periodical payments, or partly in the one of those forms and partly in the other.

(2) Where contributions are made under paragraph (1), Article 11 of the principal order shall not apply, and accordingly the following paragraph shall be added to that Article:—

"**(3A)** The foregoing provisions of this Article shall not apply in the case of a member continuing to serve after 17th April 1973 unless, in pursuance of Article 4 of the Lands Tribunal ((Superannuation) Order (Northern Ireland) 1976, he elects that this Order shall continue to apply to him as if Article 3 of that order had not been made.".

(3) The Schedule shall have effect for determining—

(*a*) the amounts of any contributions;

(*b*) the conditions subject to which contributions may be made in the form of periodical payments; and

(*c*) the circumstances in, and the conditions subject to, which contributions made in the form of periodical payments may be refunded in whole or in part.

Dated this 10th day of February 1976.

Merlyn Rees
One of Her Majesty's Principal Secretaries of State

SCHEDULE

Contributions towards increased widow's or children's pension

Contribution made entirely out of lump sum

1.—(1) This paragraph 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 a member who has made no periodical payments.

(2) If, for the purpose of his widow's pension, the whole of a member's service is (or, by virtue of an election made under Article 4(1)(*a*), is treated as being) service after 17th April 1973, the amount of the contribution shall be three-quarters of the lump sum.

(3) If, in the case of a member who has not made an election under Article 4(1)(*a*) or (*b*), a widow's pension is (in accordance with paragraphs (4) and (5) of Article 3) or is to be regarded as attributable partly to a period of service before 18th April 1973 and partly to a period of service after 17th April 1973, the amount of the contribution shall depend on the proportions those periods bear to the whole period of service to which the widow's pension is attributable and 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 member's lump sum;

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

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

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

(4) Where a member last had a wife at a time before the end of his service, the amount of the contribution shall, instead of being the amount arrived at by applying sub-paragraph (2) or (if appropriate) sub-paragraph (3), be—

(*a*) if either he made an election under Article 4(1)(*a*) or none of his service was service before 18th April 1973, that amount multiplied by the number of months of his service before the time at which he last had a wife and divided by the total number of months of his service; or

(*b*) in any other case, that amount multiplied by the sum of—

(i) the number of months of his service before the time he last had a wife and before 18th April 1973; and

(ii) one and a half times the number of months (if any) of his service before that time and after 17th April 1973;

and divided by the sum of—

(i) the total number of months of his service before 18th April 1973; and

(ii) one and a half times the total number of months of his service after 17th April 1973.

(5) 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 service had a wife.

(6) For the purpose of determining the amount of any contribution payable under this paragraph in the form of a reduction in a member's lump sum, there shall be disregarded any amount by which (in consequence of the operation of Article 5(2) of the principal order) that sum may exceed twice the annual amount of the personal pension.