STATUTORY INSTRUMENTS

1990 No. 1509 (N.I. 13)

The Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990

\- - - - - - *24th July 1990*

Introductory

Title and commencement

1.—(1) This Order may be cited as the Pensions (Miscellaneous Provisions) (Northern Ireland) Order 1990.

(2) Except as provided by paragraph (3), this Order shall come into operation on the expiration of two months from the day on which it is made.

(3) Article 3(2)(*b*) and (4) shall come into operation on 1st January 1993.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F1] shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

the Increase Act means the Pensions (Increase) Act (Northern Ireland) 1971[F2] ;

the Pensions Order means the Social Security Pensions (Northern Ireland) Order 1975[F3];

the Superannuation Order means the Superannuation (Northern Ireland) Order 1972[F4].

Annotations:

F1 1954 c. 33 (N.I.)

F2 1971 c. 35 (N.I.)

F3 1975 NI 15

F4 1972 NI 10

Pensions increase

Qualifying conditions

3.—(1) In section 3 of the Increase Act, in subsection (1) (increases subject to satisfaction of qualifying conditions, except in the case of a widow's pension) for the words widow's pension there shall be substituted the words derivative or substituted pension or a relevant injury pension .

(2) In subsection (2) of that section (no increase for pension in respect of pensioner's own services unless a qualifying condition is satisfied)—

(a) after the words own services there shall be inserted the words, other than a relevant injury pension, ; and

(b) at the beginning of paragraph (*c*) (which provides for certain women with dependants to receive increases and which accordingly discriminates against men) there shall be inserted the words subject to subsections (9) to (11), .

(3) In consequence of paragraph (1)—

(a) subsection (3) for that section (conditions for increase of certain derivative and substituted pensions) is hereby repealed;

(b) in subsection (6) of that section, for the words as mentioned in subsection (3)(*d*) there shall be substituted the words for a trade, profession or vocation in such circumstances that he is required to devote the whole of his time to that training for a period of not less than two years ; and

(c) in subsection (8) of that section, the words or (3)(*a*), or in both, are hereby repealed.

(4) At the end of that section there shall be added the following subsections—

"(9) On and after 1st January 1993 paragraph (*c*) of subsection (2) shall have e#ect only to the extent provided by subsections (10) and (11).

(10) Where, immediately before 1st January 1993, a woman is in receipt of a pension which has been increased under this Part by virtue of paragraph (c) of subsection (2), that paragraph shall continue to have e#ect in relation to that woman and that pension until such time as the pension falls to be increased under this Part in consequence of any other provision of that subsection.

(11) In any case where—

(a) a woman's pension commences on or after 1st January 1993, and

(b) on the day on which the pension commences she has not attained the age of 55,

paragraph (c) of subsection (2) shall have e#ect in relation to that woman and so much of the pension as is referable to service rendered before 1st January 1993 until such time as the pension falls to be increased under this Part in consequence of any other provision of that subsection." .

(5) In section 8(2) of that Act (date on which a pension begins), after paragraph (*b*) there shall be inserted the following paragraph—

"(bb) a relevant injury pension payable by virtue of the acceptance of less favourable terms and conditions of employment is to be deemed to begin on the day on which the employment on less favourable terms and conditions begins; and" .

(6) In section 15(1) of that Act (interpretation), after the definition of qualifying condition there shall be inserted the following definition—

"relevant injury pension means—

(a) a pension paid to a person in respect of his absence from work by reason only of an injury sustained, or disease contracted, by him in the course of the employment by virtue of which his entitlement to the pension arises; or

(b) a pension paid to a person in respect of his having accepted less favourable terms and conditions of employment by reason of ill#health su#ered by him in consequence of an injury so sustained or a disease so contracted;

but does not include any pension the rate of which is periodically recalculated by reference to the rate of the salary which the pensioner could reasonably be expected to have received had he not sustained the injury or contracted the disease in question;" .

(7) In Article 69 of the Pensions Order, in paragraph (1) (increases subject to satisfaction of qualifying conditions, except in the case of a widow's pension) for the words widow's pension there shall be substituted the words derivative or substituted pension or a relevant injury pension .

Periods of further service

4.—(1) Section 4 of the Increase Act (e#ect of periods of further service on rate of pension) shall have e#ect, and be taken always to have had e#ect, with the amendments made by paragraphs (2) to (4).

(2) In subsection (2) (termination of earlier service by person who is or may become eligible for pension), after the word may there shall be inserted the words (without rendering further reckonable service) .

(3) After that subsection there shall be inserted the following subsection—

"(2A) In subsection (2) reckonable service , in relation to a person and his o#cial pension, means service which falls to be taken into account in calculating the basic rate of the pension." .

(4) In subsection (3) (derivative pensions which fall to be calculated by reference to the rate of principal pension), after the words falls to be calculated there shall be inserted (*a*) and after the word retirement) there shall be inserted the words

"or

(b) by reference to a rate of emoluments (whether actual emoluments or not and whether final or average emoluments) and a period of service of the person who was or, had he survived, would have been the pensioner in relation to such a principal pension," .

(5) Section 2 of the Pensions (Increase) Act (Northern Ireland) 1966[F5] (which first made provision corresponding to section 4(2) of the Increase Act and which was repealed by that Act) shall be taken to have had e#ect as originally enacted—

(a) with the insertion after the word may in paragraph (b) of subsection (1) of the words (without rendering further reckonable service) , and

(b) with the addition after that paragraph of the words—

"and in paragraph (b) reckonable service , in relation to a person and his pension, means service which falls to be taken into account in calculating the basic rate of the pension" .

Annotations:
F5 1966 c. 5 (N.I.)

No increase for additional lump sums arising from recalculation

5. At the end of section 9 of the Increase Act (gratuities and lump sums) there shall be added the following subsection—

"(7) In any case where—

(a) a lump sum beginning after the coming into force of this subsection, or an instalment of such a lump sum, is paid, but

(b) the amount of that lump sum or instalment is subsequently recalculated, and

(c) in consequence of the recalculation, an additional amount becomes payable by way of lump sum,

the additional amount shall not be increased under this Part in respect of the whole or any part of the period beginning with the day on which the lump sum or instalment became payable and ending with the day on which the additional amount is paid." .

Employers' contributions towards cost of pensions increase for teachers and persons engaged in [F6health care], etc.

6.—(1) In Article 11 of the Superannuation Order (teachers), after paragraph (3) there shall be inserted the following paragraph—

"(3A) Notwithstanding anything in the Pensions (Increase) Act (Northern Ireland) 1971, regulations under this Article may provide that the cost of increases under that Act of such of the pensions, allowances or gratuities payable under the regulations as may be prescribed by the regulations, or such part of those increases as may be so prescribed, shall be defrayed—

(a) by contributions from employers of teachers or from such other persons or classes of person (apart from teachers) as the Department of Education may consider appropriate and may specify in the regulations; or

(b) by contributions from such of those employers or other persons as may be so specified;

and any provisions of the said Act of 1971, or of regulations made under section 5 thereof, relating to liability for the cost of increases under that Act of pensions, allowances or gratuities payable under the regulations shall have e#ect subject to the provisions of any regulations made by virtue of this paragraph and for the time being in force." .

(2) In Article 12 of that Order (persons engaged in **[**F6health care**]**, etc.), in paragraph (1), after the words as may be so prescribed there shall be inserted the words " (in this Article referred to as health sta#) " and after paragraph (3) there shall be inserted the following paragraph—

"(3A) Notwithstanding anything in the Pensions (Increase) Act (Northern Ireland) 1971, regulations under this Article may provide that the cost of increases under that Act of such of the pensions, allowances or gratuities payable under the regulations as may be prescribed by the regulations, or such part of those increases as may be so prescribed, shall be defrayed—

(a) by contributions from employers of health sta# or from such other persons or classes of person (apart from health sta#) as the Department of Health and Social Services may consider appropriate and may specify in the regulations; or

(b) by contributions from such of those employers or other persons as may be so specified;

and any provisions of the said Act of 1971, or of regulations made under section 5 thereof, relating to liability for the cost of increases under that Act of pensions, allowances or gratuities payable under the regulations shall have e#ect subject to the provisions of any regulations made by virtue of this paragraph and for the time being in force." .

Annotations:

F6 Words in Order substituted (1.4.2009) by Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1), ss. 32, 34(3), **Sch. 6 para. 1(1)(b)** (with Sch. 6 para. 1(3)); S.R. 2009/114, **art. 2**