1978 No. 103

PENSIONS

The Pensions (Clerks of the Crown and Peace—Requisite Benefits) Order (Northern Ireland) 1978

Made . . . . . 10*th April* 1978

Coming into operation . . . . 21*st April* 1978

The Minister for the Civil Service, having designated himself as having responsibility for the pension scheme for Clerks of the Crown and Peace, in exercise of the powers conferred on him by Article 61 of the Social Security Pensions (Northern Ireland) Order 1975(**a**), hereby makes the following Order:—

INTRODUCTORY

Citation and commencement

1. This Order may be cited as the Pensions (Clerks of the Crown and Peace—Requisite Benefits) Order (Northern Ireland) 1978 and shall come into operation on 21st April 1978.

Interpretation

2.—(1) In this Order—

"the Act of 1959" means the County Courts Act (Northern Ireland) 1959(**b**);

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

"normal pension age" has the same meaning as in the Order of 1975;

"office to which this Order applies" means the office of clerk of the Crown and Peace, and "office holder" means a person who holds or has held that office;

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

"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 judicial 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);

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

(2) Other expressions used in the Order of 1975 or in the Social Security (Northern Ireland) Act 1975(**c**) shall have the same meaning in this Order as in the relevant Order or Act.

(3) In this Order any reference to any enactment is a reference to that enactment as amended, extended or applied by any other enactment including this Order.

(a) S.I. 1975/1503 (N.I. 15)
(b) 1959 c. 25 (N.I.)
(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 (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 is under pensionable age and on 21st April 1978 is holding an office to which this Order applies, or who, when under that age, is after that date appointed to such an office.

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 an office, service in which may, under any enactment, be reckoned on any basis together with service of his in an office to which this Order applies.

(2) An office holder does not cease to hold office for the purposes of this Order if, after ceasing to hold an office to which this Order applies 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 an office to which this Order applies 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 that office.

(4) Service is not relevant service for the purposes of this Order if it is service before 21st 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) Subject to paragraph (4), as from his attainment of pensionable age an office holder shall be entitled to a pension under the scheme for his life.

(2) Subject to paragraph (3), the annual rate of the office holder's pension under paragraph (1) shall be $1\frac{1}{4}$ 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 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) Subject to paragraph (4), as from the death of an office holder (whether before or after attaining pensionable age) his widow shall be entitled to a pension under the scheme.

(2) Subject to paragraph (3), the annual rate of the widow's pension under paragraph (1) shall be 5/8th's 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.

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 the 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.

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, in relation to the pension provided for her by a scheme, 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 Order of 1975.

(2) Paragraph (1) shall apply for any such period as is mentioned in Article 38(6) of the Order of 1975.

(3) Paragraph (1) shall not apply—

(*a*) if at the date of his death the office holder's accrued rights to guaranteed minimum pensions have been extinguished under Article 45(7) of the Order of 1975, or

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

MISCELLANEOUS

Ascertainment of salary for requisite benefits

10.—(1) Subject to paragraphs (2) and (3), for the purposes of this Order the final salary of an office holder (or his last salary before death) shall be the annual rate of salary which the office holder is receiving immediately before he ceases to hold office together with any sum which is reckoned as an additional part of his salary for pension purposes.

(2) Where—

(*a*) an office holder has two or more periods of relevant service, and

(*b*) an election is made by or in respect of him, pursuant to any enactment relating to the payment of superannuation benefits in respect of persons who have served continuously in more than one office, in favour of the receipt of benefits payable under the relevant enactment which relates to an office held by him other than the last,

then for the purposes of this Order, the final salary of that office holder (or his last salary before death) shall be that which would have been arrived at under paragraph (1) if he had continued to hold the earlier office until the date when he ceased to hold office.

(3) For the purposes of Articles 6, 7 and 11(2) there shall be excluded from the salary by reference to which the annual rate of the office holder's or widow's pension is to be calculated any amount of earnings except so much (if any) as would, if expressed as a weekly rate, exceed one and a half times the lower earnings limit but would not exceed the upper earnings limit.

(4) In paragraph (3), references to the lower and upper earnings limits, in relation to any earnings, are references to those limits as in force when the earnings are paid.

Contribution in event of marriage during retirement

11.—(1) Where on the date when he ceases to hold office, an office holder is unmarried, he may be required to undertake, in return for payment to him of a lump sum under section 121 of the Act of 1959, that he will, on his first marriage thereafter, pay a contribution in respect of benefits that may become payable to a widow of his by virtue of Articles 7 and 9.

(2) The contribution referred to in paragraph (1) shall be equal to 1·875 per cent. of his final salary multiplied by the number of whole years of his relevant service—

(*a*) which were completed by him before he attained pensionable age, and

(*b*) which were not years—

(i) during any part of which he was a married man, or

(ii) preceding a marriage of his contracted before he ceased to hold office.

Marriage shortly before death

12. Where the marriage of a woman to an office holder takes place after he has ceased to hold office and not more than six months before his death, any pension to be paid to her as his widow by virtue of this Order shall be limited to her guaranteed minimum pension.

Time of payment

13. Any pension to which there is entitlement by virtue of this Order shall be payable at intervals of not more than three months.

Relationship to other benefits

14. Any pension to which there is entitlement by virtue of this Order shall be reckoned towards and treated as part of any pension which is paid in relation to an office holder under any relevant enactment.

Saving

15. Nothing in this Order shall affect the meaning of "normal pension age" in any relevant enactment.

Given under the Official Seal of the Minister for the Civil Service on 10th April 1978.

(L.S.)

C. R. Morris
Minister of State
Civil Service Department

EXPLANATORY NOTE

(*This Note is not part of the Order, but is intended to indicate its general purport.*)

This Order modifies, by virtue of Article 61 of the Social Security Pensions (Northern Ireland) Order 1975, the pensions scheme for the holders of the office of clerk of the Crown and Peace so as to make the changes required in order to meet the contracting-out requirements laid down by that Order. Articles 6 and 7 confer on an office holder and on his widow entitlement to pensions based on the final salary of the office holder and his years of service up to pensionable age (65 for men, 60 for women) and after 21st April 1978. The pensions are not to be less than the minimum guaranteed by Articles 8 and 9, and there will be occasions where the guaranteed minimum only will be payable (such as under Article 12). Article 10 provides the mode of ascertainment of final salary for the purposes of the Order, and Article 11 provides arrangements for the payment of contributions in respect of widows' pensions that may become payable by virtue of the Order where the office holder marries after retirement. The remaining Articles are explanatory and supplementary.