1973. No. 455

PENSIONS

Parliamentary Commissioner for Administration and Commissioner for Complaints (Pension) Order (Northern Ireland) 1973

Made . . . . . *5th November* 1973

Coming into operation . . . *17th December* 1973

To be laid before the Parliament of the United Kingdom under paragraph 4(5)(b) of the Schedule to the Northern Ireland (Temporary Provisions) Act 1972.

WHEREAS by section 2(3) of the Parliamentary Commissioner Act (Northern Ireland) 1969(**a**) it is provided that there shall be paid to any person who has held the office of Commissioner under that Act or in respect of his service as Commissioner such pension and other benefits as the Governor may by Order in Council determine:

AND WHEREAS by section 13(1) of the Commissioner for Complaints Act (Northern Ireland) 1969(**b**) it is provided that the Governor may by Order in Council make provision for the payment to any person who has held the office of Commissioner under that Act or in respect of the service of a person as Commissioner of such pension and other benefits as may be specified in the Order:

AND WHEREAS it is provided by each of the above-recited Acts that the Governor shall not be recommended to make any such Order in Council until a draft thereof has been laid before the Parliament of Northern Ireland and approved by a resolution of each House of that Parliament:

AND WHEREAS it is provided by sub-section (1) of section 1 of the Northern Ireland (Temporary Provisions) Act 1972(**c**) that so long as that section has effect all functions which apart from that Act belong to the Governor in Council shall be discharged by the Secretary of State:

AND WHEREAS it is provided by sub-paragraph (5) of paragraph 4 of the Schedule to the said Act of 1972 that where under any enactment it is a condition for the taking of any step that a resolution has been passed by one or both of the Houses of the Parliament of Northern Ireland, then so long as section 1 of that Act has effect the step may be taken without any resolution but any statutory rules made by virtue of that sub-paragraph shall be subject to annulment in pursuance of a resolution of either House of the Parliament of the United Kingdom in like manner as a statutory instrument:

NOW THEREFORE, the Secretary of State, in exercise of the powers conferred upon him by section 2 of the Parliamentary Commissioner Act (Northern Ireland) 1969, by section 13 of the Commissioner for Complaints Act (Northern Ireland) 1969 and by section 1(1) of the Northern Ireland (Temporary Provisions) Act 1972 and of all other powers enabling him in that behalf hereby makes the following Order:

(**a**) 1969. c. 10 (N.I.). (**b**) 1969. c. 25 (N.I.). (**c**) 1972. c. 22.

PART I

PRELIMINARY

Citation

1. This Order may be cited as the Parliamentary Commissioner for Administration and Commissioner for Complaints (Pension) Order (Northern Ireland) 1973.

Interpretation

2. In this Order—

"the civil service scheme" means the scheme of pensions and other benefits applicable to the civil service of Northern Ireland and "the United Kingdom civil service scheme" means the corresponding scheme applicable to the civil service of the United Kingdom;

"Commissioner" means both the person holding the office of the Northern Ireland Parliamentary Commissioner for Administration and the person holding the office of the Northern Ireland Commissioner for Complaints and includes any person holding both these offices;

"the judicial scheme" means the scheme of pensions and other benefits set out in Part II;

"the Ministry" means the Ministry of Finance.

Election between the judicial scheme and the civil service scheme for pensions and other benefits

3.—(1) Subject to paragraph (3) a person appointed to be the Commissioner may elect between the judicial scheme and the civil service scheme and if he does not so elect he shall be treated as having elected for the civil service scheme.

(2) An election under paragraph (1) shall be made within the period of three months beginning with the date on which the person by whom the election is made takes office as Commissioner or the date of the coming into operation of this Order, whichever is the later, and shall be made in writing addressed to the Ministry.

(3) Where a person is appointed to one of the offices referred to in the definition of "Commissioner" in Article 2 and is subsequently appointed to the other office so referred to, any election which that person has made or is to be treated as having made under paragraph (1) in respect of the office to which he is first appointed shall have effect in relation to the office to which he is subsequently appointed.

PART II

THE JUDICIAL SCHEME

Application

4. This Part shall apply to a person appointed to be the Commissioner who elects for the judicial scheme.

Annual pension

5.—(1) On a person, to whom this Part applies, ceasing to hold office as Commissioner, the Ministry may, subject to the provisions of this Order, grant to him an annual sum by way of pension in respect of his service as Commissioner, calculated in accordance with paragraph (2), if he has held office as Commissioner for not less than five years and either—

(*a*) he has attained the age of sixty-five years; or

(*b*) the Ministry is satisfied by means of a medical certificate that at the time of ceasing to hold office he is, by reason of infirmity of mind or body, incapable of discharging the duties of Commissioner and that the incapacity is likely to be permanent.

(2) The annual sum granted under paragraph (1) shall be a sum not exceeding such fraction of the last annual salary as in the following Table corresponds with the number of completed years of service:—

TABLE

Years of service	*Fraction of remuneration*
5	ten-fortieths
6	eleven-fortieths
7	twelve-fortieths
8	thirteen-fortieths
9	fourteen-fortieths
10	fifteen-fortieths
11	sixteen-fortieths
12	seventeen-fortieths
13	eighteen-fortieths
14	nineteen-fortieths
15 or more	twenty-fortieths

Lump sum payable on retirement or death and widows' and children's pensions

6. Sections 5 to 11 and 15 of the Judicial Pensions Act (Northern Ireland) 1951(**d**) shall apply in relation to a person to whom this Part applies and to his service as Commissioner as they apply in relation to holders of offices mentioned in section 3 of that Act and to service in any such office.

Commissioner with other service under the civil service scheme or the United Kingdom civil service scheme who elects for the judicial scheme

7.—(1) This Article shall apply to any person to whom this Part applies and who before his appointment as Commissioner has rendered service to which the civil service scheme or the United Kingdom civil service scheme applies.

(2) The amount of any annual or lump sum benefit payable under the judicial scheme, in the case of a person to whom this Article applies, shall not exceed the difference between the amount of the corresponding benefit granted in his case under the civil service scheme or the United Kingdom civil service scheme and the amount which would be payable under the judicial scheme if his service falling within the civil service scheme or the United Kingdom civil service scheme had been service as Commissioner and had been aggregated with his service as Commissioner.

(3) Where, in the case of a person to whom this Article applies, the lump sum benefit granted under the civil service scheme or the United Kingdom civil service scheme is greater than the amount of the lump sum which would be payable under the judicial scheme if his service falling within the civil service scheme or the United Kingdom civil service scheme had been service as Commissioner and had been aggregated with his service as Commissioner, a sum equal to one-ninth of the excess shall be deemed to be added, for the purposes of the limit imposed by paragraph (2), to the amount of the annual benefit granted under the civil service scheme or the United Kingdom civil service scheme, and the annual benefit under the judicial scheme shall be reduced accordingly.

(**d**) 1951. c. 20.

(4) Where as a result of the limit imposed by paragraph (2) no lump sum benefit is payable under the judicial scheme, no widow's or children's pension shall, subject to the following provisions of this Article, be granted under that scheme; and where as a result of that limit the amount of the lump sum under the judicial scheme is so reduced that it is insufficient to meet the whole of the contribution falling to be made under section 11 of the Judicial Pensions Act (Northern Ireland) 1951, any widow's or children's pension shall, subject to the following provisions of this Article, be reduced so as to bear to the full amount thereof the same proportion as the contribution made bears to the full contribution falling to be made.

(5) If, within twelve months after the retirement from the office of Commissioner, or the death in such office, of the person in respect of whose service a contribution falls to be made under the said section 11, or within such longer period as the Ministry may allow in any particular case, there is paid to the Ministry a sum which, when added to the contribution (if any) made by a reduction of the lump sum granted in respect of him, is equal to the contribution falling to be made in his case under the said section 11, any widow's or children's pension payable in respect of him may be granted in full.

(6) Where only part of any sum falling to be paid under paragraph (5) is paid within the period specified therein, any widow's or children's pension shall be reduced so as to bear to the full amount thereof the same proportion as the aggregate contribution made bears to the full contribution falling to be made.

(7) Notwithstanding anything in paragraphs (4) to (6), a contribution made by a reduction of a lump sum or a contribution by means of such a payment as is mentioned in paragraph (5) or (6), or, where both such contributions are made, the aggregate contribution, shall be ineffective in the case of the person in respect of whose service the contribution falls to be made, unless either a widow's or a children's pension can be paid in respect of his service under the judicial scheme at a rate equal to at least £6.50 per annum, and where a contribution is ineffective—

(*a*) no widow's or children's pension shall be granted;

(*b*) the lump sum payable in respect of him shall be increased by the amount of any reduction made in it to provide the contribution; and

(*c*) the amount of any contribution made by means of such a payment as is mentioned in paragraph (5) or (6) shall be repaid.

PART III

THE CIVIL SERVICE SCHEME

Application

8. This Part shall apply to a person appointed to be the Commissioner who elects for the civil service scheme.

9. The Principal Civil Service Pension Scheme (Northern Ireland) 1972 shall, subject to the provisions of this Order, apply to a person to whom this Part applies as if his service as Commissioner were pensionable service in the civil service of Northern Ireland.

PART IV.

GENERAL

Service in two offices

10. The amount of a superannuation award payable to or in respect of any person by virtue of this Order shall not by reason of the fact that the years of service of that person as Commissioner included years of service in both the offices referred to in the definition of "Commissioner" in Article 2 be greater than the amount which would have been payable if those years had been years of service in one only of those offices.

Ministry's decision to be final

11. The decision of the Ministry shall be final on any question arising as to—

(*a*) the application of any of the provisions of this Order to any person; or

(*b*) the amount of any benefit under this Order; or

(*c*) the reckoning of any service for the purpose of calculating such benefit.

Dated this 5th day of November 1973.

W. S. I. Whitelaw,
One of Her Majesty's Principal Secretaries of State.

EXPLANATORY NOTE

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

This Order deals with the pension arrangements for the Parliamentary Commissioner for Administration and for the Commissioner for Complaints. It relates to the pension position of a person who held either of these offices and of a person who held both these offices. It gives such a person the right to elect between two pension schemes—a judicial-type scheme and the civil service scheme. In relation to the judicial-type scheme the Order contains provisions dealing with the qualification for and calculation of benefits and with the application of the scheme to a person with previous service as a civil servant. In relation to the civil service scheme the Order contains provisions dealing with its application to the person.