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THE SUPERANNUATION ACT 1984

The Judicial Pensions (Requisite Surviving Spouses' Benefits etc) Order 1997

Coming into force

1st November 2004

In exercise of the powers conferred on the Civil Service Commission by section 1 of the Superannuation Act 1984¹, and of all other enabling powers, the following Scheme is hereby made:—

Title and Commencement

1. This Order may be cited as the Judicial Pensions (Requisite Surviving Spouses' Benefits etc) Order 1997 and shall come into force on 1st November 2004.

Interpretation

2. In this Order—

“judicial pension scheme” means an office specified in Section 1(6) of the Judicial Pensions and Retirement Act 1993;

“qualifying judicial office” means a judicial office listed in Schedule 1 to the Judicial Pensions and Retirement Act 1993⁽²⁾ whose jurisdiction is exercised in England and Wales or Scotland.

Entitlement of surviving spouse to a pension

3. Subject to article 4, in any case—

- (a) where a member of a judicial pension scheme dies leaving a surviving spouse; and
- (b) where the deceased member has retired from qualifying judicial office, the marriage took place before his retirement;

the surviving spouse shall be entitled to receive a pension under the scheme.

¹ 1984 c.8

4.—(1) Article 3 does not apply where, in relation to a reference scheme, a surviving spouse's pension need not be paid by virtue of regulations made under section 12B(4)(a) of the Pension Schemes Act 1993(3).

(2) In this article "reference scheme" has the meaning given to it in the Pension Schemes Act 1993.

Annual rate of surviving spouse's pension

5. The annual rate of a surviving spouse's pension payable under a judicial pension scheme shall be no less than the amount specified in section 12B(4) of the Pension Schemes Act 1993 and shall be assessed by reference to the service of the member of the scheme on and after 6th April 1997.

Relationship to other benefits

6. Any pension to which a surviving spouse is entitled by virtue of this Order shall be reckoned towards and treated as part of any pension paid to the surviving spouse under the judicial pension scheme.

Entitlement to have effect notwithstanding other enactments

7. The entitlement to a surviving spouse's pension under this Order shall have effect notwithstanding the terms of any enactment relating to the judicial pension scheme.

The Judicial Pensions (Guaranteed Minimum Pension etc) Order 1995(4)

8.—(1) The Judicial Pensions (Guaranteed Minimum Pension etc) Order 1995 shall be amended in accordance with paragraph (2) below.

(2) In article 6(2), for "the formula $(A \times B) / 200 \times 3.4$ " substitute "the formula $([A \times (B \times 52)] / 200) \times 3.4$ ".

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides that, except in circumstances prescribed by regulations made under the Pension Schemes Act 1993, a surviving spouse shall be entitled to a pension on the death of a member of a judicial pension scheme providing the marriage took place before the member retired. This is to comply with the provisions of the Pension Schemes Act 1993 as amended by the Pensions Act 1995 which provide that a pension scheme must entitle a surviving spouse to a pension in order for a contracting-out certificate to be granted in relation to that scheme.

The Order also amends the Judicial Pensions (Guaranteed Minimum Pension etc) Order 1995 in order to clarify the calculation of the contribution to a surviving spouse's guaranteed minimum pension payable in the event of marriage during retirement.

