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Circular 15/1976:- Contributory Pensions Scheme for the Widows and Children of Civil Servants

A Dhuine Uasail

I am directed by the Minister for the Public Service to refer to the changes in the superannuation code which were announced in Circular 46/75 dated 13 October 1975. That circular said that a further circular would be issued in due course about the changes, in so far as they relate to the Contributory widows' and Children's Scheme. For ease of reference, the changes applicable to scheme members serving in an established capacity on or after 1 June 1973 have been incorporated in the attached Scheme (Appendix I) and Instructions (Appendix 2).

2. The position in relation to members who retired or died prior to 1 June 1973 is referred to in paragraph 16 of Circular 46/75. This Department is undertaking the revision of the pensions payable to, or in respect of, such members to take account, as appropriate, of the improvements in paragraphs 3, 7, 9, 10(3), 11(1), 13 and 14(1) and (2) of that Circular.

3. Attention is drawn, in particular, to the revisions in the system of contributions set out in paragraphs 8(1) to 8(5) inclusive and 9(5) and 9(6) of the Instructions.

Mise le meas,

S. Mac Gamhna

Appendix I to Circular 15/76 - Contributory Pensions Scheme for the Widows and Children of Civil Servants: Details of the Scheme

1. The scheme provides pensions for the widows and children of men who, before their death or retirement, were established civil servants pensionable under the Superannuation Acts and were members of the scheme.

Benefits

2. (1) The widow of a pensioner (other than an ill-health pensioner - see paragraph 14) will receive one-half of her husband's pension.

(2) The widow of a member who dies before he becomes a pensioner or who retires, or is discharged, on grounds of ill-health and is awarded a pension, will receive a pension of one-half of her husband's accrued pension which will be calculated by crediting him with the amount of pensionable service which he would have had if he had served to age 65 (60 in the case of officers pensionable under the Superannuation (Prison Officers) Act 1919), subject to a maximum of 40 years. Special arrangements, as set out in paragraph 13, will apply to persons who are pensionable under the Superannuation (Prison Officers) Act, 1919 and to persons who qualify for notional years of established service.

(3) Orphaned children of members will, provided their mother died after the date on which their father became a member of the scheme, be eligible for the following proportions of the amount of the pension which the widow would have got under sub-paragraphs (1) or (2) above had she lived. Where the number of children is:

| | |
|-------------|--------------------------------------|
| One | Two-thirds of the amount |
| Two or more | The whole. |

(4) Where children are left, as well as a widow, an amount equal to one third of the widow's pension will be payable for each such child up to a maximum of three.

(5) In respect of the first month after her husband's death, widow's rate of pension (including any additions in respect of children under sub-paragraph (4)) may

(a) if he has died in service, be increased to 1/12th of the annual rate of pensionable remuneration (i.e. pensionable salary plus reckonable emoluments) by reference to which death gratuity was calculated;

(b) if he has died after retirement be increased to 1/12th of the actual rate of pension received by her husband under the Superannuation Acts immediately before his death if greater than the pension otherwise payable under paragraph 2(1);

(c) if he dies while on sick leave at pension rate of pay, be increased to 1/12th of that rate

(d) The increased rate of pension under this paragraph is applicable to widows only and children's pensions will continue to be calculated by reference to the widows' rates in sub-paragraph (1) and (2) above,

3. Where a member of the scheme resigns with an entitlement to preserved pension his widow will, provided she married the member before he resigned from the civil service, be entitled to a pension of one-half of the member's preserved pension, commencing on the day following the member's death. She will not, however, benefit from the provisions of paragraph 2(5). Eligible children will be entitled to the same proportions of the widow's pension as those outlined in paragraphs 2(3) and 2(4),

Definition of a child

4. (1) A child will be deemed to be a child for the purpose of the scheme until he reaches the age of 16, or the age of 21 if still pursuing a full-time course of education. Where he is permanently incapacitated by reason of mental or physical infirmity from maintaining himself, no limit will apply as long as he is incapable of maintaining himself.

(2) A child will be held to include

(a) any child of any marriage of the member;

(b) any child legally adopted by the member, or jointly by him and any spouse of his, before his retirement.

5. Payment of a pension to a widow under paragraphs 2(1), 2(2), 2(5) or 3 above and, subject to paragraph 6(2), payments in respect of children under paragraphs 2(4) or 3 will cease;

(1) on her remarriage but may, at the discretion of the Minister for the Public Service, be restored on subsequent widowhood, or if compassionate grounds for doing so subsequently arise;

(2) on cohabitation.

Special arrangements for the payment of children's pensions

6. (1) A pension payable in respect of a child (whether under paragraphs 2(3), 2(4) or 3) shall be paid to such person as the Minister for the Public Service may designate. The person designated will normally be the person responsible for the care of the child. In most cases under paragraphs 2(4) or 3 this will be the widow, but in others it may be desirable in the child's interest to pay to a third party,

(2) Where the widow is still living but her pension has ceased in any of the circumstances set out in paragraph 5, or in other circumstances, any pension payable in respect of a child under paragraphs 2(4) or 3 may be continued at the discretion of the Minister for the Public Service and paid on behalf of the child to such person as the Minister may designate.

(3) Where the widow is still living but either

(a) her pension has ceased but, under (2) above, the pension in respect of a child is being continued, or,

(b) the child was at the time of the member's death in the care of some person other than the widow

the Minister for the Public Service may, at his discretion, increase the pension in respect of that child to the rate of pension specified for orphaned children in paragraph 2(3).

Lump sum payments to Legal Personal Representatives

7. The legal personal representatives of a member who dies before becoming a pensioner may, subject to the provisions of the superannuation code, receive a lump sum payment, which will be liable to be reduced to the extent set out in paragraph 10 below.

Serving Civil Servants

8. (1) A civil servant serving in an established capacity (including those on special leave or secondment) at any time between 23 July 1988 and 31 December 1968 was given the option of contracting out of the scheme. Any person who has decided to contract out and whose decision was not subsequently rescinded before 31 December 1971 cannot be allowed to join at a later date

(2) In order to ensure the payment of contributions the following action is taken on the retirement or death in service of every male established civil servant who was a member of the scheme:

(a) On retirement he is required to complete a form correcting or amplifying such information as he may have given to his Department about the period, or periods, in his service during which he was married or, if no such information has been given, saying whether or not he has been married during his service and if so, during what periods, and to make a formal statement, duly witnessed, that the information furnished is complete and correct

(b) Unless

(i) the man states that he has not been married during his service,

or

(ii) his full contribution covering all his pensionable service has been paid by way of annual deductions,

his lump sum will be liable to reduction as the circumstances require (see paragraphs 10 and 11).

(c) If a member in his statement conceals any period of marriage during his service, this, if discovered while he is alive, will, where circumstances justify, lead to a reduction of his pension. The amount due by way of contribution will be recovered and, subject to this, his wife and/or children will be eligible for widow's and children's pension. If a similar false statement is discovered after the member's death his widow and/or children will, on making a claim, become eligible for pension under the scheme on payment within twelve months of the contribution that should have been paid by the deceased.

(d) On death in service, the legal personal representative will be required to complete a form similar to that prescribed in (a) above and unless

(i) he states that to the best of his belief the deceased was not married during his service, or,

(ii) the deceased had paid his contribution in full covering all his pensionable service by way of annual deductions,

the death gratuity will be reduced in accordance with the information given on the form as completed by the legal personal representative. If the legal personal representative states that the deceased was not married during his service and a claim by a widow or child is subsequently substantiated benefit will be payable if and when the amount of contribution due by the deceased is paid. If the legal personal representative proves to have stated inaccurately the date on which the member's marriage ended there may be a repayment to, or a recovery from, the deceased's estate or any beneficiary.

Compulsory Membership of the Scheme

9. A male becoming an established civil servant on or after 1 January 1969, including those recruited in an unestablished capacity before that date and established later, must participate in the scheme and contribute to the cost. He is required on establishment to say if he is married and, if unmarried, to notify his department if and when he marries subsequently. As membership of the scheme is compulsory in such cases any widow or child will normally be automatically assured of benefit. The completion of the form prescribed in the preceding paragraph will be required on death or retirement and the same consequences as those set out in that paragraph will follow if the civil servant conceals any period of marriage during his service, or if his legal personal representative makes an incorrect statement.

Contributions

10. The scheme is contributory and all participating in it are required to pay appropriate contributions. The contributions are as follows:

(1) a deduction of 1½% per annum is made from the member's salary or wages (exclusive of non-pensionable emoluments and allowances and payments for overtime) with effect from 1 January 1969 or, if later, the date he enters the civil service in an established capacity, or the date he is established if he was previously serving in a non-established capacity. Where a person is acting in a grade higher than his substantive grade, the deduction should be based on the salary which he is receiving for acting in the higher grade;

(2) a deduction of 1% of the pensionable salary at retirement, or death, for each full year of pensionable service given prior to entry to the scheme, is made from the lump sum payable on retirement or death and, where death occurs during service, or where a member retires on grounds of ill-health, a further deduction from the lump sum at the rate of 1% of pensionable salary will be made in respect of each full year by which a man's reckonable service at the time of death or retirement falls short of the

reckonable service he would have had if he had served to the age of 65 (60 in the case of officers who are pensionable under the Superannuation (Prison Officers) Act 1919). A deduction at the rate of 1% of the value of pensionable emoluments held on retirement or death for each full year of service reckonable under this scheme will also be made from the lump sum. A pro rata deduction is also made in any of the foregoing cases where a part year of pensionable service is involved. Contributions paid under this sub-paragraph, or under sub-paragraph (1), or both, shall not be for a period in excess of 40 years.

Example

A man born on 1 August 1925 who becomes a civil servant on 3 October 1943, joins the scheme and dies on 15 November 1970 with a salary then of CA. He pays an annual contribution of 1½% of his salary from 1 January 1969 to the date of his death, on his death, the deduction from his lump sum will be calculated as follows:-

| | Years | Days |
|--|--------------|-------------|
| Pensionable service to date of joining scheme | 25 | 90 |
| Pensionable service during which periodic contributions were paid | 1 | 319 |
| Potential service from date of death to age 65 | 19 | 259 |
| Total actual and potential service | 46 | 303 |
| The maximum service allowable is 40 years, so lump sum contributions are required in respect of 40 years, minus the period in respect of which periodic contributions were paid, leaving | 38 | 46 |

The contribution required is
 $1\% \times 38 \frac{46}{365} \times £A$

(3) A member who, prior to entry to the scheme, gave reckonable service in respect of which lump sum deductions are due, may opt to reduce that liability by making an extra periodic contribution at a rate of 1½% (or a multiple thereof, within limits allowed by the Revenue Commissioners from time to time) of salary for each year of prior reckonable service.

Example

A member whose reckonable service commenced on 1 January 1951 would normally be liable to have his lump sum or death gratuity reduced by 18% of pensionable remuneration in respect of such prior service. He can now opt to clear off this liability by paying an extra 1½% of salary for 18 years (or an extra 3% for 9 years or 4½% for 6 years, etc)

(4) The contribution rates quoted above may require to be altered if actuarial investigation establishes that they are inadequate to meet one-half of the cost of the scheme.

Period in respect of which contributions are payable

11. (1) A member will be liable to pay contributions in respect of all his reckonable service before being pensioned. His reckonable service may comprise periods

- (a) before he married;
- (b) while he is married;
- (c) between the death of his wife and his becoming a pensioner.

(2) Contributions deducted from salary are returnable in full where a member

- (a) retires, resigns, or dies, and has had no wife throughout the time the scheme applied to him, or
- (b) ceases to be a civil servant in any circumstances, other than death, where he does not qualify for a pension or preserved pension and his wife is still alive

(3) Contributions deducted from salary are returnable in the following circumstances:

- (a) If contributions have been deducted for a period in excess of 40 years, the contributions for the period preceding the last 40 years are returnable.
- (b) If a member's wife is not alive at his retirement, resignation or death and the period during which he paid periodic contributions exceeds the length of his pensionable service at the time of his wife's death, the contributions in respect of the excess period are returnable. The contributions to be refunded in this type of case will be those paid in his last years of service,

(4) Sub-paragraphs (2) and (3) do not apply where a person is transferring his pensionable service to another body,

(5) If the wife of a member dies before him, the contribution due in respect of reckonable service given prior to the date of entry to the scheme will continue to be payable from his lump sum to the extent that it has not been offset by periodic contributions. A corresponding adjustment would be made in a death gratuity if it were payable.

(6) Contributions are admissible as an expense for income tax purposes and any sums repaid will, therefore, be liable to income tax.

Free cover for children after the death of a wife

12. If, after his becoming a member of the scheme, but before his retirement, a man's wife dies and there is at that time a child or children, any such child will, on the father's death, be eligible for an orphan's pension without further charge.

Contributions in respect of enhanced service

13. Certain categories of civil servants are allowed to reckon the whole or part of their service to an extent greater than that actually served (e.g. to count each year of service after 20 years as if it had been two years' service). As well as paying for his actual service such an officer will be liable also to a special abatement of lump sum or death gratuity in respect of extra service which he may reckon over and above his actual service. This also applies to persons who are granted notional years of established service.

Retirement on ill-health

14. Where a married member retires on pension on grounds of ill-health and, in accordance with paragraph 14(2) of Circular 46/75, his service, for the purposes of the scheme, is increased by reference to potential service to age 65 (60 in the case of officers pensionable under the Superannuation (Prison Officers) Act 1919), the appropriate contributions will be payable by the member on his service as thus increased.

Members of the scheme allowed to allocate

15. Members will continue to be allowed to allocate part of their pension under the Superannuation Act, 1956.

Marriage shortly before death

16. When the death of a member occurs within one year of a marriage which has taken place during service, and there is no child of the marriage, pension will be withheld if the Minister for the Public Service is of the opinion that the likelihood of early death could have been foreseen by the man at the time of marriage. Where pension is exceptionally so withheld then, if the member has died in service, contributions by way of reduction of the gratuity payable on death will not be required and, if he has died after retirement, contributions deducted from his lump sum on retirement will be made good to his estate. In either case annual contributions from salary will similarly be refunded to his estate.

Marriage after retirement

17. No pension under the scheme will be payable to the widow of a member's marriage which takes place after the date of his retirement, nor to a child conceived after that date.

Abatement

18. There will be no abatement or suspension of the pension payable under this scheme to a member's widow if she takes up or, having previously been employed in the public service, resumes employment in the public service.

Social Welfare Acts

19. The arrangements outlined above may be modified in due course in the light of developments in Social Welfare Insurance.

20. This document is not exhaustive and does not claim to cover all possible circumstances which may arise.

Appendix 2 to Circular 15/76 - Contributory Pensions Scheme for the Widows and Children of Civil Servants: Instructions to Departments

Recording contributions from salary

1. Departments should keep, in respect of each member of the scheme, a record of the contributions paid and the periods covered thereby, Form W.P.5 shows the form of record required and

this form should be used in all cases. It should be included among the documents to be transferred where an officer is assigned to another Department.

Accounting for contributions

2. All contributions (both from salaries and from lump sums or death gratuities) are applied as appropriations-in-aid of the Vote for Superannuation and Retired Allowances (or of the Vote for the Department of Posts and Telegraphs in the case of officers of that Department). Accordingly, Departments (except the Department of Posts and Telegraphs) should pay over the contributions they collect from salary to the Accounts Branch, Department of Finance, for credit to the Appropriations-in-aid subhead of the Vote for Superannuation and Retired Allowances. Transfers should be made quarterly, as soon as practicable after the close of the quarter in which the contributions were collected. The Department of Posts, and Telegraphs should credit the contributions it collects to the Appropriations-in-aid subhead of its own Vote.

3. Departments with delegated authority to pay pensions, lump sums and death gratuities, who make deductions from lump sums and death gratuities under paragraph 8 below, should claim the full amount of lump sums and death gratuities when making their quarterly recoupment in respect of superannuation payments from the Accounts Branch, Department of Finance, and should have the amounts deducted credited to the Appropriations-in-aid subhead of the Vote for Superannuation and Retired Allowances. The Department of Posts and Telegraphs should adopt a similar procedure for its Vote.

Appointments, resignations, retirements and deaths

4. Form W.P.2 should be completed by each male officer when he first takes up an established post and should be retained with his personal papers.

5. It should be pointed out to males being offered or taking up established posts (or unestablished posts with a deferred establishment clause in the conditions of appointment) that their salaries will be reduced by 1½% in respect of contributions to the scheme, with effect from the date of establishment and that, where necessary, a reduction will be made in their retiring lump sums or death gratuities to take account of contributions to the scheme.

6. When an officer who is a member of the scheme retires from his established post, or resigns, he must complete form W.P.3. The information given on the form should be compared with the information recorded on his personal file and any discrepancy reported to this Department. It should be accompanied by a completed form W.P.3.

7. Where an officer dies during his established service his Department should send form W.P.4 to his legal personal representative for completion. The completed form, together with a completed form E. Gen 9 or E. Gen 23 (as appropriate) should be forwarded to this Department. Where there is no widow but there are eligible children, the officer's own Department should ascertain who is responsible for the care of such children and report specially to this Department.

8. In the case of Departments with delegated authority to grant pensions, lump sums and death gratuities, the following action should be taken where a member of the scheme retires or dies:

(1) if the member's wife is alive at the time of his retirement or death a contribution at the rate of 1% of his pensionable salary should be deducted from his lump sum or death gratuity (or preserved lump sum or death gratuity) for each full year of his pensionable service, reduced by the number of years and part-years for which contributions have been deducted from his salary. In addition, where a member dies in service or where a married member, on grounds of ill-health, retires or is discharged, a further contribution of 1% of his pensionable salary at date of death or retirement or discharge, as appropriate,

should be deducted in respect of each full year by which his actual pensionable service at death, retirement or discharge falls short of the pensionable service he would have had if he had served to age 65 (or age 60 in the case of a member to whom the Superannuation (Prison Officers) Act 1919 applies) A pro rata deduction should also be made in any of the foregoing cases, or in subparagraph (2) following, where a part year of pensionable service is involved. The maximum service in respect of which contributions will be levied is 40 years;

(2) if the member's wife is not alive at the time of his retirement or death a deduction at the rate of 1% of his pensionable salary should be made from his lump sum or death gratuity (or preserved lump sum or death gratuity) for each full year of pensionable service (subject to a maximum of 40 years) he had on his wife's death reduced by the number of years and part-years for which contributions have been deducted from his salary;

(3) in sub-paragraphs (1) and (2) above "pensionable salary" means

(a) where a lump sum or death gratuity is payable, pensionable salary at date of retirement or death;

(b) where a preserved lump sum or death gratuity is payable, pensionable salary at date of resignation as increased by reference to pensions increases granted in the period between date of resignation and the date on which the lump sum or gratuity becomes payable;

(4) where pensionable emoluments in addition to salary are reckoned in calculating a member's lump sum or death gratuity (or preserved lump sum or death gratuity) a deduction (in addition to any which may be made under (1) or (2)) at the rate of 1% of the amount of the pensionable emoluments so reckoned should be made from the lump sum or death gratuity for each full year and proportionately for any part-year (subject to a maximum of 40 years)

(a) of his pensionable service at retirement where he retires and his wife is still alive, or

(b) of the pensionable service he would have had if he had served to the age referred to in 8(1) above, if he dies in service, or, on grounds of ill-health, retires or is discharged, and his wife is still alive, or

(c) of the pensionable service he had on his wife's death;

(5) where the improvements specified in paragraphs 3(1), 3(2), 7, 11, 13 and 14(2) of Circular 46/75 increase the pensionable service and/or pensionable remuneration by reference to which a pension under this scheme falls to be calculated, the appropriate contributions should be collected;

(6) where a member is not married on joining the scheme no deduction in respect of the 1% contribution is required, provided he does not marry while a member of the scheme;

(7) for the purpose of this paragraph, it should be noted that any notional years of established service should be included in pensionable service. Where a person is pensionable under the Superannuation (Prison Officers) Act, 1919, each year of pensionable service in excess of twenty should be counted as two years' pensionable service for the purpose of this paragraph. However, subject to paragraph 10(3) of the scheme, periodic deductions from salary should be made only for each actual year of pensionable service; further deductions necessitated by according double value to each such year should be made from the lump sum or death gratuity in due course;

(8) in calculating deductions under (4) care should be taken to ensure that the appropriate deduction is being made for all reckonable service i.e. service in respect of which periodic contributions have been paid as well as prior and potential service:

(9) in calculating the appropriate rate of pension under paragraph 2(5)(a) of the scheme (Appendix I), the following procedure should be adopted:

(a) The normal rate of widow's pension under paragraph 2(2) of the scheme should be calculated and it, together with any children's pensions payable under paragraph 2(4) of the scheme, should be paid with effect from the day following the date of the members death,

(b) In addition, in respect of the first month of widowhood, the widow should be paid an amount of pension equivalent to A - B where

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A is the pensionable remuneration by reference to which the death gratuity was calculated; and

B is the annual rate of widow's pension (including additions in respect of children) payable under sub-paragraph (a) above;

(10) a similar procedure should be adopted in relation to awards under paragraphs 2(5)(b) and (c) of the scheme. In such cases 'A' would represent the rate of pension payable to the member at date of death (in cases arising under paragraph 2(5)(b) of the scheme) and pension rate of pay at date of death (in cases arising under paragraph 2(5) (c)) :

(11) as indicated in paragraph 2(5)(d) of the scheme it should be noted that the enhanced rates of pension under paragraph 2(5) of the scheme are payable to widows only, Children's pensions should continue to be calculated by reference to the normal rate of widows' pension.

Refund of Contributions

9. (1) Contributions deducted from salary are returnable in full where a member (a) retires, resigns or dies, and has had no wife throughout the time the scheme applied to him or (b) ceases to be a civil servant in any circumstances, other than death, where he does not qualify for a pension or preserved pension and his wife is still alive.

(2) Contributions deducted from salary are returnable in part in the following circumstances:

(a) if contributions have been deducted for a period in excess of 40 years, the contributions for the period preceding the last 40 years are returnable

(b) if a member's wife is not alive at his retirement, resignation or death and the period during which he paid periodic contributions exceeds the length of his pensionable service at the time of his wife's death, the contributions in respect of the excess period are returnable.

(3) Sub-paragraphs (1) and (2) will not apply where a person is transferring his pensionable service to another body.

(4) Where a refund of contributions is due under this paragraph, it should be made by the officer's own Department, which should deduct the sum involved from the amount which it is required to pay over to the Accounts Branch, Department of Finance, under paragraph 2 of these instructions. That Accounts Branch should be notified of the amount of the deductions. Where a member dies, any refund of contributions should be paid to his legal personal representative.

(5) It should be noted that, where periodic contributions are deducted in respect of a period which is not an exact number of complete years, contributions in respect of the broken part of a year at the beginning of such a period will no longer be returnable. The following example of an officer with reckonable service from 2 July 1937 to 1 April 1974 and pensionable salary of £4000 a year illustrates the position.

| Example | | Years | Days |
|---------|--|----------|------|
| (1) | Reckonable service | 36 | 274 |
| (2) | Periodic contributions already deducted from salary and brought to credit of Superannuation Vote in respect of the period 1.1.1969 to 1.4.1974 | 5 | 91 |
| (3) | Deduction to be made from lump sum in respect of the period 2.7.1937 to 31.12.1968 | 31 | 183 |
| (4) | Lump sum: £4000 x 36 274/365 x 3/80 = | £5512.60 | |
| (5) | Deduct £4000 x 31 183/365 x 1% = | £1260.05 | |
| | Net lump sum | £4252.55 | |

(6) If, in the case illustrated in sub-paragraph (5) above, the contributions in respect of the broken period - 91 days - had already been refunded to the officer and the contributions in respect of the 5 years credited to the Superannuation Vote then the amount to be deducted from the lump sum would be £4000 x 31 274/365 x 1%.

General

10. Where less than full salary is paid for any period (e.g., three quarters or half-pay) the contributions should be calculated on the notional full salary. No deduction should be made from sick pay at pension rate.

11. Where an officer transfers to another Department/Office between the effective date of a pay increase and the date on which payment of any arrears is made, the Department which pays the arrears is responsible for collecting the appropriate contributions.

12. Forms W.P. 2, 3, 4 and 5, are available from the Stationery Office.