



# Judicial Pensions and Retirement Act 1993

## 1993 CHAPTER 8

An Act to make further provision with respect to the pensions and other benefits payable in respect of service in certain judicial, and related, offices and in certain senior public investigative offices; to amend the law relating to the date on which the holders of certain judicial, and related, offices are required to vacate those offices; and for purposes connected therewith. [29th March 1993]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Extent Information

**E1** Act extends to U.K. but for exceptions see s. 31(5)-(7)

### Modifications etc. (not altering text)

- C1** Power to amend Act conferred (31.3.1995) by S.I. 1986/1888 (N.I. 18), **art.18(3)(l)** (as added (31.3.1995) by 1993 c. 8, s. 31, **Sch. 8 para. 19(2)**; S.I. 1995/631, **art. 2**)  
Power to amend Act conferred (9.11.1998) by 1998 c. 42, s. 18(6), Sch. 4 paras. 3, 4 (with ss. 7(8), 22(5))  
Power to modify Act conferred (7.2.1994) by 1993 c. 48, ss. 188-190, 191, Sch. 6 Pt. II para. 17(2)(3) (j), **Sch. 9 para. 7**; S.I. 1994/86, **art. 2**
- C2** Power to modify Act conferred (N.I.) (7.2.1994) by 1993 c. 49, ss. 182, 183, 184, **Sch. 5 Pt. II para. 17(2)(3)(l)** (with Sch. 8 para. 8(3)); S.R. 1994/17  
Act modified (27.9.1999) by 1999 c. 22, **ss. 68(3)(b)**, 108(3) (with s. 107, Sch. 14 para. 7(2))  
Power to amend Act conferred (11.11.1999) by 1999 c. 30, **ss. 43**, 89(5)  
Act: power to amend conferred (1.9.2001) by 2001 c. 17, s. 1(3), **Sch. 1 para. 7(5)(b)** (with s. 78); S.I. 2001/2161, **art. 2** (subject to art. 3)
- C3** Act modified (19.12.2003) by The Judicial Pensions (Election against Benefits) Regulations 2003 (S.I. 2003/2916), **reg. 2(1)** (with reg. 2(3))
- C4** Act modified (19.12.2003) by The Judicial Pensions (Election against Benefits) Regulations 2003 (S.I. 2003/2916), **reg. 2(2)** (with reg. 2(3))

**Status:** Point in time view as at 25/02/2008. This version of this Act contains provisions that are not valid for this point in time.

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- C5** Act modified (9.2.2005) by [The Enterprise Act 2002 \(Judicial Pensions and Retirement Act 1993\) \(Consequential Amendment\) Order 2005 \(S.I. 2005/53\)](#), [art. 2\(2\)](#)

## PART I

### NEW ARRANGEMENTS FOR JUDICIAL PENSIONS

#### Modifications etc. (not altering text)

- C6** Pt. I (ss. 1-18) applied with modifications (31.3.1995) by [1967 c. 13, Sch. 1 para. 4\(1\)](#) (as substituted (31.3.1995) by [1993 c. 8, s. 25, Sch. 4 Pt. II para. 2](#)); [S.I. 1995/631, art. 2](#))  
 Pt. I (ss. 1-18) applied with modifications (31.3.1995) by [S.I. 1987/460 \(N.I. 5\), art. 4A](#) (as inserted (31.3.1995) by [1993 c. 8, s. 25, Sch. 4 Pt. IV para. 5\(4\)](#)); [S.I. 1995/631, art. 2](#)  
 Pt. I (ss. 1-18) applied with modifications (31.3.1995) by [1969 c. 10 \(N.I.\), Sch. 1A para. 4\(1\)](#) (as inserted (31.3.1995) by [1993 c. 8, s. 25, Sch. 4 Pt. V para. 6\(6\)](#)); [S.I. 1995/631, art. 2](#))  
 Pt. I (ss. 1-18) applied (31.3.1995) by [S.I. 1995/639, reg. 4.11\(1\)](#)  
 Pt. I (ss. 1-18) extended (16.7.1996) by [S.I. 1996/1297 \(N.I. 7\), art. 4\(4\), Sch. 1, para. 6\(1\)](#)  
 Pt. I (ss. 1-18) extended (with modifications) (except ss. 1(1)-(4), 2) (16.7.1996) by [S.I. 1996/1297 \(N.I. 7\), art. 4\(4\), Sch. 1 para. 6\(2\)\(3\)\(4\)](#)  
 Pt. I (ss. 1-18) extended (with modifications) (except ss. 1(1)-(4), 2) (16.7.1996) by [S.I. 1996/1298 \(N.I. 8\), art. 5\(4\), Sch. 1 para. 6\(2\)\(3\)\(4\)](#)  
 Pt. I (ss. 1-18) extended (16.7.1996) by [S.I. 1996/1298 \(N.I. 8\), art. 5\(4\), Sch. 1 para. 6\(1\)](#)
- C7** Pt. 1 applied (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 48\(2\), 148\(5\), Sch. 9 para. 11\(4\)\(5\)](#); [S.I. 2008/2696, art. 5\(d\)](#) (with art. 3)

#### Application of Part I

### 1 Persons to whom this Part applies.

(1) This Part applies—

- (a) to any person who first holds qualifying judicial office on or after the appointed day;
- (b) to any person—
  - (i) who, immediately before the appointed day, was holding any qualifying judicial office, service in which was, in his case, subject to a judicial pension scheme; and
  - (ii) who, on or after that day, ceases to hold that office and is appointed to some other qualifying judicial office, service in which would (apart from this Act) have been subject, in his case, to some other judicial pension scheme;
- (c) to any person who was not holding qualifying judicial office immediately before the appointed day, by virtue of having retired from such office, but who, on or after that day, is again appointed to such office; and
- (d) to any person who makes an election under subsection (2) below for this Part to apply to him;

but this subsection is subject to the following provisions of this Act.

(2) Any person—

- (a) who holds qualifying judicial office on the appointed day, and

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- (b) who held such office at any time before that day,  
shall be entitled, in such circumstances as may be prescribed and subject to subsection (5) below, to make an election for this Part to apply to him, if it would not otherwise do so.
- (3) Any election under subsection (2) above must be made within such time and in such manner as may be prescribed and shall be irrevocable.
- (4) The circumstances that may be prescribed under subsection (2) above, and the time that may be prescribed under subsection (3) above, include circumstances or times which permit the making of an election notwithstanding that the person in question has retired from qualifying judicial office or has died; and, without prejudice to section 29(3) and (4) below, where any such circumstances or times are so prescribed—
- (a) the person in question shall be treated for such purposes as may be prescribed as if he had, at such times as may be prescribed, been a person to whom this Part applies; and
- (b) any right to make an election notwithstanding the person's death shall be exercisable by his personal representatives.
- (5) Except as provided by section 13 below, this Part does not apply to a person at any time when an election under that section is in force in respect of him; nor shall he make an election under subsection (2) above at any such time.
- (6) For the purposes of this Act, a person shall be regarded as holding, or serving in, qualifying judicial office at any time when he holds, on a salaried basis, any one or more of the offices specified in Schedule 1 to this Act; and any reference in this Act to a "qualifying judicial office" is a reference to any office so specified if it is held on a salaried basis.
- (7) For the purposes of subsection (6) above, a person holds an office "on a salaried basis" if and so long as, and to the extent that—
- (a) his service in the office is remunerated by payment of a salary; and
- (b) that salary is not subject to terms which preclude rights to pensions and other benefits accruing by reference to it;
- and the reference in that subsection to an office being held on a salaried basis shall be construed accordingly.
- (8) The appropriate Minister may by order amend either Part of Schedule 1 to this Act by adding offices to those for the time being there specified.
- (9) In this section, "prescribed" means prescribed in regulations made by the appropriate Minister.
- (10) In this Part "the appointed day" means the day appointed under section 31 below for the coming into force of this Part other than subsection (8) above.

### *Pensions for judicial officers*

## **2 The judicial officer's entitlement to a pension.**

- (1) Any person to whom this Part applies—
- (a) who retires from qualifying judicial office on or after the day on which he attains the age of 65, and

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- (b) who has, at the time of that retirement, completed, in the aggregate, at least 5 years' service in qualifying judicial office,  
 shall be entitled during his life to a pension at the appropriate annual rate.
- (2) Any person to whom this Part applies—
- (a) who retires from qualifying judicial office on or after the day on which he attains the age of 60, but before attaining the age of 65, and
- (b) who has, at the time of that retirement, completed, in the aggregate, at least 5 years' service in qualifying judicial office,  
 shall be entitled during his life to a pension at the appropriate annual rate, actuarially reduced.
- (3) In any case where—
- (a) a person to whom this Part applies retires from qualifying judicial office before he has attained the age of 65 or before he has completed, in the aggregate, at least 5 years' service in such office, and
- (b) the appropriate Minister is satisfied by means of a medical certificate that, by reason of infirmity of mind or body, the person is incapable of discharging the duties of his qualifying judicial office and that the incapacity is likely to be permanent,  
 the person shall be entitled during his life to a pension at the appropriate annual rate (and subsection (2) above shall not have effect in relation to that retirement, notwithstanding that the conditions in paragraphs (a) and (b) of that subsection may be satisfied in the particular case).
- [<sup>F1</sup>(3A) Where the appropriate minister is the Lord Chancellor, he must, before satisfying himself as mentioned in subsection (3)(b)—
- (a) consult the Lord Chief of Justice of England and Wales, if the person in question holds office in England and Wales;
- (b) consult the Lord Chief of Justice of Northern Ireland, if the person in question holds office in Northern Ireland.]
- (4) Where a person to whom this Part applies is removed from a qualifying judicial office, his removal from that office shall be treated for the purposes of this Part as his retirement from qualifying judicial office; and if—
- (a) he has not attained the age of 60 at the date of that retirement, and
- (b) the appropriate Minister recommends that his accrued rights under this Part should be given immediate effect,  
 the person shall be entitled during his life to a pension at the appropriate annual rate, actuarially reduced.
- (5) Where a person to whom a pension under this section has commenced to be paid resumes service in qualifying judicial office—
- (a) the resumption of service shall not affect his entitlement to payment of the pension for any period before the resumption,
- (b) he shall not be entitled to payment of the pension for any period during the resumed service, and
- (c) at the end of the period of resumed service—
- (i) his entitlement (and that of any other person) to a pension or other benefit under this Part, and
- (ii) the rate or amount of any such pension or other benefit,

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shall be determined (subject to section 4(4) below) as if no pension under this section had previously commenced to be paid to him.

- (6) A pension under this section shall be payable at such intervals, not exceeding three months, as the Treasury may determine.
- (7) For the purposes of this Part—
- (a) in determining the length of a person’s period of service in any qualifying judicial office, it is immaterial whether he works full-time or part-time, but if he holds two or more qualifying judicial offices concurrently, no day shall be counted more than once;
  - (b) in determining the length of a person’s period of service in any qualifying judicial office, there shall be left out of account—
    - (i) any service in such office before the day on which this Part first applied to him (except to the extent to which it is given effect under or by virtue of section 12 below);
    - (ii) in the case of an office which becomes a qualifying judicial office by virtue of an order under section 1(8) above, any service in that office before the day on which it becomes such an office (except to the extent to which it is given effect under or by virtue of section 12 below);
    - (iii) any service in qualifying judicial office at a time when an election under section 13 below is in force in respect of him; and
    - (iv) any service in such office in respect of which he has taken a cash equivalent in accordance with paragraph 6 of Schedule 2 to this Act;
  - (c) in any case falling within subsection (3) above where, at the date of the retirement, the person has not attained the age of 65, the aggregate length of his period of service shall be increased by the addition of a period equal in length to one half of that which—
    - (i) begins immediately after the date of the retirement; and
    - (ii) ends with the day on which he would attain the age of 65;
  - (d) where any payment in respect of a pension under this section has become due, the pension shall be treated as commencing to be paid, notwithstanding that no payment has in fact been made in respect of it, and for this purpose a payment in respect of a pension shall be treated as becoming due on the first day of the period for which it is payable;
  - (e) “actuarially reduced”, in relation to the rate of a pension, means reduced by such amount as may be prescribed in, or determined in accordance with, regulations made under this section by the appropriate Minister with the concurrence of the Treasury;
  - (f) where a person ceases to hold qualifying judicial office in consequence of infirmity of mind or body, the cessation (however brought about) shall be taken for the purposes of this Part to constitute retirement, not removal, from such office.
- (8) In this Act “judicial pension” means a pension under this section.
- [<sup>F2</sup>(9) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.
- (10) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—

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- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F1** S. 2(3A) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 227\(2\)](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 11](#)
- F2** S. 2(9)(10) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 227\(3\)](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 11](#)

### 3 The appropriate annual rate.

- (1) In the case of a person who has, at the time of his retirement from qualifying judicial office, completed, in the aggregate, at least 20 years' service in such office, the "appropriate annual rate" for the purposes of this Act is an annual rate equal to one-half of his pensionable pay.
- (2) In the case of a person not falling within subsection (1) above, the "appropriate annual rate" for the purposes of this Act is an amount equal to one-fortieth of his pensionable pay, multiplied by the aggregate length of his service in qualifying judicial office (expressed in years and fractions of a year).
- (3) For the purposes of this Act—
  - (a) a person's "pensionable pay" is the greater of the following amounts, that is to say—
    - (i) the pension-capped salary payable to him in respect of his service in qualifying judicial office in the period of twelve months ending with the day on which <sup>F3</sup> . . . his participation in the scheme constituted by this Part ceases; and
    - (ii) the greatest amount of pension-capped salary payable to him in respect of such service in any other period of twelve consecutive months falling within the period of three years ending with that day;
  - (b) a person's "pension-capped salary" for any period of twelve months is so much of his aggregate salary in respect of service in qualifying judicial office in that period as [<sup>F4</sup>does not exceed the permitted maximum for the tax year] in which his participation in the scheme constituted by this Part ceases;
  - (c) a person's salary in respect of service in any qualifying judicial office shall be taken to accrue due from day to day, at the rate for the time being in force, throughout the period for which he holds the office;
  - (d) if, in consequence of periods of ill-health, the rate at which a person's salary in respect of service in any qualifying judicial office is payable to him for any period falling within the three years mentioned in paragraph (a)(ii) above is less than it would have been apart from the periods of ill-health, he shall be treated as if that salary had been payable to him throughout that period at the rate at which it would have been payable, apart from the periods of ill-health;
  - (e) in determining a person's salary in respect of his service in qualifying judicial office, there shall be left out of account any part of the salary which is paid on terms which preclude rights to pensions and other benefits accruing by reference to it;

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but paragraphs (a) and (b) above are subject to regulations under subsections (4) and (5) below.

[<sup>F5</sup>(3A) In subsection (3)(b) above “the permitted maximum” means—

- (a) in relation to the tax year 2005-06 and any earlier tax year, the permitted maximum within the meaning of section 590C(1) of the Income and Corporation Taxes Act 1988 (earnings cap) as it had effect for the tax year, and
- (b) in relation to the tax year 2006-07 and any later tax year, the amount arrived at under subsection (3B) below.

(3B) The permitted maximum for the tax year 2006-07 and any later tax year is the permitted maximum for the previous tax year increased (if there is a relevant increase in the retail prices index for the tax year) by the appropriate percentage for the tax year.

(3C) There is a relevant increase in the retail prices index for a tax year if the retail prices index for the month of September before the tax year is higher than it was for the previous September.

(3D) And the appropriate percentage for the tax year is the same percentage as the percentage increase in the retail prices index.

(3E) But if the result of the application of subsection (3B) above in relation to a tax year would not be a multiple of £600, the permitted maximum for that tax year is what it would be apart from this subsection rounded up to the nearest amount which is such a multiple.]

(4) Regulations may make provision for any case where a person to whom this Part applies serves in qualifying judicial office neither—

- (a) throughout the whole of the period of twelve months mentioned in subsection (3)(a)(i) above; nor
- (b) throughout any other such period of twelve consecutive months as is mentioned in subsection (3)(a)(ii) above;

and any such regulations may, in particular, provide for such a person’s pensionable pay and pension-capped salary to be determined for the purposes of this Act as if he had served in his qualifying judicial office (whether full-time or part-time) throughout the whole of the period of twelve months mentioned in paragraph (a) above and had been paid in respect of that service a salary of an amount determined by reference to the annual rate of salary payable in his case in respect of service in that office in that period.

(5) Regulations may also make provision for any case where the service in qualifying judicial office of a person to whom this Part applies is, or has at some time been, only part-time, within the meaning of the regulations; and any such regulations may, in particular, provide for the amount of salary by reference to which his pension-capped salary (and accordingly his pensionable pay) would fall to be determined, apart from this subsection, to be reduced, for the purpose of making any such determination, in accordance with the regulations.

(6) In this section, “regulations” means regulations made by the appropriate Minister with the concurrence of the Treasury.

[<sup>F6</sup>, “retail prices index”, in relation to a month, means—

- (a) the general index of retail prices (for all items) published by the Office for National Statistics for the month, or

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(b) if that index is not published for the month, any substituted index or index figures published by that Office for the month, and

“tax year” and “the tax year 2006-07” (and corresponding expressions) have the meanings in [F7section 4 of the Income Tax Act 2007].]

#### Textual Amendments

- F3** Words in s. 3(3)(a)(i) omitted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), [art. 3\(2\)\(a\)](#)
- F4** Words in s. 3(3)(b) substituted (6.4.2006) by [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), [art. 3\(2\)\(b\)](#)
- F5** S. 3(3A)-(3E) inserted (6.4.2006) by [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), [art. 3\(3\)](#)
- F6** S. 3(6): definitions of "retail prices index" and ""tax year" and "the tax year 2006-2007"" inserted (6.4.2006) by [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), [art. 3\(4\)](#)
- F7** Words in s. 3(6) substituted (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by [Income Tax Act 2007 \(c. 3\)](#), ss. 1027, 1034(1), [Sch. 1 para. 352](#)

#### *Derivative benefits*

#### **4 Lump sum on the judicial officer’s retirement or death.**

- (1) Where a judicial pension commences to be paid to a person, there shall also be paid to him a lump sum of an amount equal to two and one-quarter times the annual rate of the pension.
- (2) Where a judicial pension commences to be paid to a person, but he dies so soon thereafter that the aggregate of—
  - (a) the sums paid or payable to him on account of that pension, including any increases under the <sup>M1</sup>Pensions (Increase) Act 1971, and
  - (b) the lump sum paid or payable to him under subsection (1) above,
 falls short of an amount equal to five times the annual rate in force in respect of that pension immediately before his death, including any increases under the Pensions (Increase) Act 1971, his personal representatives shall be granted a lump sum equal to the deficiency.
- (3) Where a person to whom this Part applies dies while holding qualifying judicial office, a lump sum of an amount equal to twice the amount of his pensionable pay shall be payable—
  - (a) to the person (if any) nominated by him for the purposes of this subsection by notice in writing to the administrators of the scheme constituted by this Part; or
  - (b) in default of any such nomination, to his personal representatives;
 and, in determining a person’s pensionable pay for the purposes of this subsection, his death shall be treated as his retirement from qualifying judicial office.
- (4) A person to whom a lump sum is paid under subsection (1) above but who resumes service in qualifying judicial office shall not be required to refund the lump sum; but if the whole or any part of it is not refunded, an amount equal to so much of it as has



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not been refunded shall be deducted from any lump sum which subsequently becomes payable to or in respect of him under subsection (1), (2) or (3) above.

**Modifications etc. (not altering text)**

**C8** S. 4(1) applied (with modifications) (E.W.S.) (31.3.1995) by S.I. 1995/634, art. 6(1)

**C9** S. 4(1) applied (with modifications) (N.I.) (1.11.1995) by S.R. 1995/388, art. 6(1)

**Marginal Citations**

**M1** 1971 c. 56.

**5 Surviving spouse's [<sup>F8</sup>and surviving civil partner's] pension.**

(1) In any case where—

- (a) a person (“the deceased”) to whom this Part applies dies leaving a surviving spouse [<sup>F9</sup>or surviving civil partner], and
- (b) their marriage took place [<sup>F10</sup>or their civil partnership was formed] before the deceased retired from qualifying judicial office,

the surviving spouse [<sup>F9</sup>or surviving civil partner] shall be entitled to a pension for life <sup>F11</sup> . . . in respect of the deceased’s service in such office, at an annual rate equal to one-half of the annual rate of the deceased’s judicial pension.

[<sup>F12</sup>(1A) For the purposes of this Act—

- (a) a pension under this section which is payable to a surviving spouse is a “surviving spouse's pension”, and
- (b) a pension under this section which is payable to a surviving civil partner is a “surviving civil partner's pension”.]

(2) A pension under this section shall be payable at such intervals, not exceeding three months, as the Treasury may determine.

[<sup>F13</sup>(3) If—

- (a) the surviving spouse re-marries or forms a civil partnership, or
  - (b) the surviving civil partner marries or forms a subsequent civil partnership,
- the Treasury may, on or at any time after the marriage or the formation of the civil partnership, direct that the pension shall cease to be payable.]

(4) Where a direction has been given under subsection (3) above, the Treasury may at any time direct that payment of the pension is to be resumed.

(5) Where the deceased died while holding qualifying judicial office, his death shall be treated for the purposes of subsection (1)(b) above as his retirement from such office.

[<sup>F14</sup>(5A) Schedule 1A to this Act (which makes transitional provision in relation to surviving civil partners' pensions) shall have effect.]

(6) For the purposes of this section, “the annual rate of the deceased’s judicial pension” means—

- (a) where a judicial pension under subsection (1) or (3) of section 2 above had commenced to be paid to the deceased, the appropriate annual rate of that pension;

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- (b) where a judicial pension under subsection (2) or (4) of that section had commenced to be paid to the deceased, the appropriate annual rate of that pension, as actuarially reduced under that section;
- (c) where no judicial pension had commenced to be paid to the deceased, the rate that would have been the appropriate annual rate of his judicial pension under subsection (3) of that section—
  - (i) had he not died, but retired from qualifying judicial office on the date of death; and
  - (ii) had the appropriate Minister been satisfied in his case as mentioned in paragraph (b) of that subsection.

#### Textual Amendments

- F8** S. 5: words in side-note inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 70\(2\)](#)
- F9** Words in s. 5(1) inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 70\(3\)\(a\)](#)
- F10** Words in s. 5(1)(b) inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 70\(3\)\(b\)](#)
- F11** Words in s. 5(1) omitted (5.12.2005) by virtue of [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 70\(3\)\(c\)](#)
- F12** S. 5(1A) inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 70\(4\)](#)
- F13** S. 5(3) substituted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 70\(5\)](#)
- F14** S. 5(5A) inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 70\(6\)](#)

#### Modifications etc. (not altering text)

- C10** S. 5(1)-(4) applied (with modifications) (E.W.S) (31.3.1995) by [S.I. 1995/634](#), [art. 6\(1\)](#)
- C11** S. 5(1)-(4) applied (with modifications) (N.I.) (1.11.1995) by [S.R. 1995/388](#), [art. 6\(1\)](#)

## 6 Grant and payment of a children’s pension.

- (1) Upon the death of a person to whom this Part applies (“the deceased”) a pension in respect of his service in qualifying judicial office shall be granted for the benefit of such persons as may from time to time be the eligible children of the deceased (a “children’s pension”).
- (2) The persons who, for the purposes of this Part, are the “eligible children” of the deceased at any time are—
  - (a) any natural children of the deceased,
  - (b) any step-children of the deceased,
  - (c) any children adopted by the deceased before his retirement from qualifying judicial office, and
  - (d) any children adopted by the deceased after his retirement from qualifying judicial office and in respect of whom a direction is given under subsection (5) below,

who are for the time being in their period of childhood and full-time education.

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- (3) Only one children’s pension shall be granted in respect of the service of any one person, but—
- (a) the rate of the pension shall vary in accordance with section 8 below, according to the number of his eligible children for the time being;
  - (b) the pension shall be paid to such person or persons as the Treasury may from time to time direct, and different parts of the pension may be directed to be paid to different persons; and
  - (c) the person to whom all or any part of the pension is paid shall apply the sum paid to him, without distinction, for the benefit of all the persons who are for the time being eligible children of the deceased or, as the case may be, for the benefit of such of them as the Treasury may from time to time direct.
- (4) A children’s pension—
- (a) shall be paid so long as and whenever there are eligible children of the deceased; and
  - (b) shall be payable at such intervals, not exceeding three months, as the Treasury may determine.
- (5) The Treasury may direct that a person (“the child”) who was adopted by the deceased is to be regarded as falling within paragraph (d) of subsection (2) above if they are satisfied—
- (a) that the deceased had, before his retirement from qualifying judicial office, formed the intention of adopting the child; and
  - (b) that, immediately before that retirement, the child was wholly or mainly dependent on the deceased.
- (6) Where the deceased died while holding qualifying judicial office, his death shall be treated for the purposes of subsection (2)(c) above as his retirement from such office.
- [<sup>F15</sup>(7) In this section, “step-children of the deceased” means—
- (a) any children who—
    - (i) are the natural children of a person who at any time was married to, or the civil partner of, the deceased, and
    - (ii) at the time of the marriage or the formation of the civil partnership, either had been born or were in gestation;
  - (b) any children adopted by such a person before the marriage to, or the formation of the civil partnership with, the deceased; and
  - (c) any children adopted by such a person after the marriage to, or the formation of the civil partnership with, the deceased in a case where the adoption proceedings were pending at the time of the marriage or the formation of the civil partnership.]
- (8) For the purposes of this section the “natural children” of any person are any children of whom that person is the genetic father or mother.

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**Textual Amendments**

**F15** S. 6(7) substituted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 71](#)

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**Modifications etc. (not altering text)**

- C12** S. 6 applied (with modifications) (E.W.S.) (31.3.1995) by S.I. 1995/634, **art. 6(1)**  
**C13** S. 6 applied (with modifications) (N.I.) (1.11.1995) by S.R. 1995/388, **art. 6(1)**  
**C14** S. 6(2)(c)(d)(5)(7)(b) modified (6.4.2010) by The Human Fertilisation and Embryology (Parental Orders) Regulations 2010 (S.I. 2010/985), reg. 5, **Sch. 4**

**7 Children’s pension: meaning of “period of childhood and full-time education”.**

- (1) For the purposes of section 6 above, a person is in his “period of childhood and full-time education” at any time if, and only if, at that time—
- (a) he has not attained the age of 16;
  - (b) he is receiving full-time instruction at any university, college, school or other educational establishment; or
  - (c) he is undergoing training by any person (“the employer”) for any trade, profession or vocation in such circumstances that—
    - (i) he is required to devote the whole of his time to the training for a period of not less than two years; and
    - (ii) while he is undergoing the training, the emoluments receivable by him, or payable by the employer in respect of him, do not exceed the maximum allowable remuneration, disregarding for this purpose any emoluments receivable or payable by way of return of any premium paid in respect of the training.
- (2) A person shall not be regarded for the purposes of this section as coming within paragraph (b) or (c) of subsection (1) above at any time unless he has come within one or other of those paragraphs at all times since he attained the age of 16.
- (3) Where there is a period during which a person comes within neither paragraph (b) nor paragraph (c) of subsection (1) above, then, if the Treasury think fit and are satisfied that the person’s full-time education ought not to be regarded as completed, they may direct either—
- (a) that that period shall be disregarded for the purposes of subsection (2) above; or
  - (b) that the person shall be regarded for the purposes of this section as having come within paragraph (b) or (c) of subsection (1) above throughout that period.
- (4) For the purposes of this section—
- “emoluments” means any salary, fees, wages, perquisites or profits or gains whatsoever, and includes the value of free board, lodging or clothing;
- “the maximum allowable remuneration” at any time is an annual rate (£1,614 a year, at the passing of this Act) equal to that at which a pension of £250 a year—
- (a) first awarded under the principal civil service pension scheme on 1st June 1972, and
  - (b) increased from time to time by the amount of increase that would be applied under the <sup>M2</sup>Pensions (Increase) Act 1971 to such a pension,
- would (as so increased) be payable at that time.

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- (5) Where a premium has been paid in respect of the training of a person, all emoluments at any time receivable by him, or payable by the employer in respect of him, shall be taken for the purposes of subsection (1)(c)(ii) above to be receivable or payable by way of return of the premium, unless and to the extent that the amount of those emoluments exceeds in the aggregate the amount of the premium.

**Modifications etc. (not altering text)**

**C15** S. 7 applied (with modifications) (E.W.S.) (31.3.1995) by S.I. 1995/634, art. 6(1)

**C16** S. 7 applied (with modifications) (N.I.) (1.11.1995) by S.R. 1995/388, art. 6(1)

**Marginal Citations**

**M2** 1971 c. 56.

**8 Rate of children’s pension.**

- (1) Where the deceased leaves no surviving spouse [<sup>F16</sup>or surviving civil partner], the annual rate of a children’s pension shall be—

- (a) while the eligible children of the deceased are two or more in number, two-thirds of the annual rate of the deceased’s judicial pension; and
- (b) while there is only one eligible child of the deceased, one-third of the annual rate of the deceased’s judicial pension.

- (2) Where the deceased leaves a surviving spouse [<sup>F17</sup>or surviving civil partner], the annual rate of a children’s pension during the life of the surviving spouse [<sup>F17</sup>or surviving civil partner] shall be—

- (a) while the eligible children of the deceased are two or more in number, one-half of the annual rate of the deceased’s judicial pension; and
- (b) while there is only one eligible child of the deceased, one-quarter of the annual rate of the deceased’s judicial pension;

and the annual rate of the children’s pension after the death of the surviving spouse [<sup>F17</sup>or surviving civil partner] shall be the rate specified in paragraph (a) or, as the case may be, paragraph (b) of subsection (1) above.

- [<sup>F18</sup>(3) Where the deceased—

- (a) leaves a surviving spouse who re-marries or forms a civil partnership, or
- (b) leaves a surviving civil partner who marries or forms a subsequent civil partnership,

the Treasury may, if they think fit, direct that subsection (1) above shall apply instead of subsection (2) above as respects any period when the surviving spouse or surviving civil partner has a spouse or civil partner.]

- (4) “The annual rate of the deceased’s judicial pension” has the same meaning for the purposes of this section as it has for the purposes of section 5 above.

**Textual Amendments**

**F16** Words in s. 8(1) inserted (5.12.2005) by The Civil Partnership (Judicial Pensions and Church Pensions, etc.) Order 2005 (S.I. 2005/3325), art. 72(2)

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**F17** Words in s. 8(2) inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 72\(3\)](#)

**F18** S. 8(3) substituted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 72\(4\)](#)

**Modifications etc. (not altering text)**

**C17** s. 8(1)(2)(3) applied (with modifications) (E.W.S) (31.3.1995) by [S.I. 1995/634](#), [art. 6\(1\)](#)

**C18** S. 8(1)(2)(3) applied (with modifications) (N.I.) (1.11.1995) by [S.R. 1995/388](#), [art. 6\(1\)](#)

**9 Contribution towards cost of surviving spouse's <sup>F19</sup>, surviving civil partner's] and children's pension.**

- (1) Such contributions as may be prescribed by regulations made for the purposes of this section shall be made towards the cost of the liability for any pension or pensions under sections 5 to 8 above in respect of a person's service in qualifying judicial office.
- (2) No contribution shall be made by a person for any period of service during which an election under section 13 below is in force in respect of him.
- (3) The prescribed contributions shall be in the form of deductions from the salary payable in respect of the service.
- (4) In the case of persons to whom this Part applies by virtue of section 1(1)(b), (c) or (d) above, the prescribed contributions may (notwithstanding subsection (3) above) be in the form of either—
  - (a) deductions from the salary payable in respect of the service, or
  - (b) a reduction of any lump sum payable under section 4 above in respect of the service,
 or partly in one of those forms and partly in the other.
- (5) The power to make regulations under this section shall be exercisable by the appropriate Minister with the concurrence of the Treasury.

**Textual Amendments**

**F19** S. 9: words in side-note inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 73](#)

**Modifications etc. (not altering text)**

**C19** S. 9 applied (with modifications) (E.W.S) (31.3.1995) by [S.I. 1995/634](#), [art. 6\(1\)](#)

S. 9 applied (with modifications) (N.I.) (1.11.1995) by [S.R. 1995/388](#), [art. 6\(1\)](#)

*Additional voluntary contributions*

**10 Additional benefits from voluntary contributions.**

- (1) Regulations may make provision—
  - (a) entitling any person to whom this Part applies to make voluntary contributions towards the cost of the provision of additional benefits, whether under the scheme constituted by this Part or otherwise; or

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- (b) imposing conditions with respect to the exercise by any such person of any entitlement (whether or not under paragraph (a) above) which he may have to make any such voluntary contributions.
- (2) Regulations may make provision for the purpose of imposing, in a case where a person to whom this Part applies makes voluntary contributions, upper limits with respect to—
- (a) the aggregate value of the aggregable benefits which may be paid to or in respect of any such person; and
  - (b) the amount which any such person may pay by way of such contributions;
- and, without prejudice to the generality of paragraph (b) above, any such regulations may, in particular, impose such an upper limit on the amount which a person may pay by way of voluntary contributions as will, so far as reasonably practicable, secure that the aggregate value referred to in paragraph (a) above will not exceed the limit prescribed under that paragraph.
- (3) Regulations may—
- (a) prescribe the manner in which aggregable benefits are to be valued for the purpose of any such aggregation as is mentioned in subsection (2) above;
  - (b) confer on the administrators of the scheme constituted by this Part power to require a person to whom this Part applies who is making, or who wishes to make, voluntary contributions to provide such information as they may require concerning any retained benefits of his;
  - (c) permit the disclosure by those administrators of any information which they may obtain concerning any such retained benefits—
    - (i) to, or to any officers of, the Commissioners of Inland Revenue; or
    - (ii) to, or to any servants or agents of, any authorised provider who is, or may be, concerned in the investment of the voluntary contributions or the provision of the additional benefits in question.
- (4) Regulations—
- (a) may not prohibit the payment of voluntary contributions;
  - (b) may not impose any limit on the amount which a person may pay by way of voluntary contributions, other than <sup>F20</sup> . . . —
    - (i) such upper limit as may be imposed by virtue of subsection (2)(b) above; <sup>F21</sup> . . .
    - (ii) <sup>F21</sup> . . . . .
  - (c) must secure that any voluntary contributions paid by a person are used to provide additional benefits for or in respect of him; and
  - (d) must secure that the value of such additional benefits is reasonable, having regard to—
    - (i) the amount paid by way of voluntary contributions;
    - (ii) the value of the other benefits provided under the scheme constituted by this Part; and
    - <sup>F22</sup>(iii) the general value of benefits available to a person under any contract of life insurance entered into by him with an insurer;]
- but paragraphs (c) and (d) above have effect only in relation to a voluntary contributions scheme constituted by or under this Part.
- (5) Regulations may, in particular—



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- (a) provide that the value of additional benefits offered on payment of voluntary contributions shall be determined in accordance with prescribed rules based on tables prepared for the purposes of the regulations by the Government Actuary;
  - (b) prescribe the manner in which it is to be determined in any case whether the amount of a person's contributions exceeds any such limit as is mentioned in subsection (4)(b) above;
  - (c) provide for any administrative expenses incurred by any person by virtue of this section to be defrayed out of sums received by way of voluntary contributions;
  - (d) provide for the manner in which voluntary contributions are to be made;
  - (e) make provision for, and in connection with, the valuation of a person's accrued rights—
    - (i) under any occupational or personal pension scheme, which are to be transferred into a voluntary contributions scheme, or
    - (ii) under any voluntary contributions scheme, which on termination of his membership of that scheme may fall to be transferred into another scheme;
  - (f) prescribe the additional benefits which are to be available under a voluntary contributions scheme and the rates and times at which those benefits are to be payable;
  - (g) make provision for and in connection with the making of elections between different benefits available under voluntary contributions schemes;
  - (h) provide for the terms on which a person may terminate his membership of a voluntary contributions scheme;
  - (j) provide for the terms on which surplus funds may be refunded to a person who has made payments by way of voluntary contributions to a voluntary contributions scheme;
  - (k) specify any authorised providers—
    - (i) who are to invest any prescribed voluntary contributions, or
    - (ii) who are to provide any prescribed additional benefits,
 and, if two or more authorised providers are so specified, may make provision entitling any person who makes prescribed payments by way of voluntary contributions to elect between those authorised providers.
- (6) Regulations may provide for such additional benefits arising under or by virtue of this section as may be prescribed—
- (a) to be charged on, and paid out of, the Consolidated Fund; or
  - (b) to be paid out of money provided by Parliament.
- (7) The power to make regulations under this section shall be exercisable by the appropriate Minister with the concurrence of the Treasury.
- (8) In this section—
- “aggregable benefits” means—
- (a) any pensions or other benefits under this Part, other than such additional benefits as are mentioned in subsection (1) above;
  - (b) such additional benefits so mentioned as may be prescribed; and
  - (c) such retained benefits as may be prescribed;



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[<sup>F23</sup>“authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to invest such sums or, as the case may be, to provide that benefit;
- (b) an EEA firm of a kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit and which satisfies the conditions applicable to it which are specified in subsection (8B), (8C) or (8D); or
- (c) an EEA firm of a kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit.

“employment” has the same meaning as it has in the [<sup>F24</sup>Pension Schemes Act 1993] (and accordingly includes employment as a self-employed earner, within the meaning of [<sup>F24</sup>section 2 of the Social Security Contributions and Benefits Act 1992]);

[<sup>F25</sup>“insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;

“occupational pension scheme” has the meaning given by [<sup>F26</sup>section 1 of the Pension Schemes Act 1993] or, in relation to Northern Ireland, [<sup>F27</sup>section 1 of the Pension Schemes (Northern Ireland) Act 1993];

“personal pension scheme” has the meaning given by [<sup>F28</sup>section 1 of the Pension Schemes Act 1993] or, in relation to Northern Ireland, [<sup>F29</sup>section 1 of the Pension Schemes (Northern Ireland) Act 1993];

“prescribed” means specified in, or determined in accordance with, regulations;

“regulations” means regulations under this section;

<sup>F30</sup>  
.....

“retained benefits”, in the case of any person, means any rights retained by him to <sup>F31</sup> . . . benefits under any occupational or personal pension scheme which [<sup>F32</sup>is registered under Part 4 of the Finance Act 2004], being rights which accrued during some previous employment;

“surplus funds”, in relation to a person and any voluntary contributions scheme, means any funds which are, or have been, held for the purposes of that voluntary contributions scheme and which fall to be returned to him in consequence of any such limit as is mentioned in subsection (4)(b) above;

<sup>F33</sup>  
.....

“voluntary contributions scheme” means any occupational pension scheme if and to the extent that it is a scheme under which such additional benefits as are mentioned in subsection (1) above are, or are to be, provided;

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and, where a person's voluntary contributions are made by deduction from salary, any reference to payment of, or by way of, voluntary contributions shall be taken to include a reference to the making of voluntary contributions by deduction or, as the case may require, to any voluntary contributions so made.

[ In subsection (8), the definitions of “authorised provider” and “insurer” must be read<sup>F34</sup>(8A) with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.

(8B) If the EEA firm concerned is of the kind mentioned in paragraph 5(a) of Schedule 3 to the Financial Services and Markets Act 2000, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on a service falling within section A or [F35B of Annex I to the markets in financial instruments directive]; and
- (b) that the firm is authorised by its home state authorisation to carry on that service.

(8C) If the EEA firm concerned is of the kind mentioned in paragraph 5(b) of that Schedule, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive; and
- (b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions.

(8D) If the EEA firm concerned is of the kind mentioned in paragraph 5(c) of that Schedule, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive;
- (b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions; and
- (c) that the firm also carries on the activity in question in its home State.

(8E) Expressions used in subsections (8B) to (8D) which are also used in Schedule 3 to the Financial Services and Markets Act 2000 have the same meaning in those subsections as they have in that Schedule.]

(9) Without prejudice to section 29(6) below, regulations under this section may make different provision for different classes or descriptions of voluntary contributions scheme.

(10) Without prejudice to subsections (5)(c) and (d) and (6) above, there may be paid out of money provided by Parliament—

- (a) any sums required for or in connection with the operation or administration of any prescribed voluntary contributions scheme; or
- (b) any administrative expenses incurred under or by virtue of this section by a Minister of the Crown or government department.

(11) Any sums received under this section may be paid into the Consolidated Fund.]]

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### Textual Amendments

- F20** Words in s. 10(4)(b) omitted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), [art. 4\(2\)](#)
- F21** S. 10(4)(b)(ii) and preceding word omitted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), [art. 4\(2\)](#)
- F22** S. 10(4)(d)(iii) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), [112\(2\)](#)
- F23** Definition of “authorised provider” in s. 10(8) substituted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), [112\(3\)\(a\)](#)
- F24** S. 10(8): words in the definition of “employment” substituted (7.2.1994) by [1993 c. 48](#), s. 190, [Sch. 8 para. 46\(1\)\(a\)](#) (with s. 6(8)); [S.I. 1994/86](#), [art. 2](#)
- F25** Definition of “insurer” in s. 10(8) inserted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), [112\(3\)\(b\)](#)
- F26** S. 10(8): words in the definition of “occupational pension scheme” substituted (7.2.1994) by [1993 c. 48](#), s. 190, [Sch. 8 para. 46\(1\)\(b\)](#) (with s. 6(8)); [S.I. 1994/86](#), [art. 2](#)
- F27** S. 10(8): words in the definition of “occupational pension scheme” substituted (7.2.1994) by [1993 c. 49](#), s. 184, [Sch. 7 para. 43\(1\)\(a\)](#); [S.R. 1994/17](#), [art. 2](#)
- F28** S. 10(8): words in the definition of “personal pension scheme” substituted (7.2.1994) by [1993 c. 48](#), s. 190, [Sch. 8 para. 46\(1\)\(c\)](#) (with s. 6(8)); [S.I. 1994/86](#), [art. 2](#)
- F29** S. 10(8): words in the definition of “personal pension scheme” substituted (7.2.1994) by [1993 c. 49](#), s. 184, [Sch. 7 para. 43\(1\)\(b\)](#); [S.R. 1994/17](#), [art. 2](#)
- F30** S. 18: definition of “relevant benefits” omitted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), [art. 4\(3\)\(a\)](#)
- F31** S. 10(8): word in definition of “retained benefits” omitted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), [art. 4\(3\)\(b\)](#)
- F32** S. 10(8): words in definition of “retained benefits” substituted (6.4.2006) by [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), [art. 4\(3\)\(b\)](#)
- F33** S. 10(8): definitions of “tax exemption” and “tax approval” omitted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), [art. 4\(3\)\(c\)](#)
- F34** S. 10(8A)-(8E) inserted (1.12.2001) by [S.I. 2001/3649](#), [arts. 1](#), [112\(4\)](#)
- F35** Words in s. 10(8B) substituted (1.4.2007 for specified purposes and 1.11.2007 for remaining purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2007 \(S.I. 2007/126\)](#), regs. 1(2), 3(6), [Sch. 6 para. 11](#)

### Modifications etc. (not altering text)

- C20** S. 10(4) amended (1.7.1994) by [S.I. 1994/1696](#), reg. 68, [Sch. 8 Pt. I para. 22\(1\)](#)

## *Relationship with other pension schemes*

### 11 Provision against pensions under two or more judicial pension schemes.

- (1) Where this Part applies, or would, apart from section 13 below, apply, to a person—
- (a) no other judicial pension scheme, apart from—
- (i) any scheme established by regulations under section 10 above which may fall to be regarded as a judicial pension scheme, and
- (ii) the scheme constituted by section 19 below, shall have effect in relation to him; and
- (b) no pension or lump sum under any such scheme shall be paid to or in respect of him.
- (2) Subsection (1) above is without prejudice to a person’s accrued rights to benefit under any such scheme in respect of service before the relevant day; and, in the case of a

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person to whom this Part applies, any such rights which he may have shall accordingly be given effect in accordance with section 12 below.

- (3) Subsections (1) and (2) above shall not—
- (a) preclude the payment of a pension or other benefits under—
    - (i) the principal civil service pension scheme, or
    - (ii) the principal civil service pension scheme for the civil service of Northern Ireland,
 in respect of service before the relevant day, or
  - (b) affect any rights to a pension or other benefits under either of those schemes in respect of such service,
- unless at least some of that service was in qualifying judicial office.
- (4) In this section, the “relevant day”, in the case of any person, means the day on which this Part first applies, or would, apart from section 13(8)(a) below, first apply, to him.

## **12 Transfer of rights of persons holding qualifying judicial office before commencement.**

- (1) Where this Part begins to apply to a person by virtue of paragraph (b), (c) or (d) of section 1(1) above—
- (a) any relevant rights of his shall be transferred to the scheme constituted by this Part; and
  - (b) entitlement to, and the rate or amount of, any judicial pension or derivative benefit payable under this Part to or in respect of him shall accordingly be determined by reference to—
    - (i) the rights so transferred; and
    - (ii) his service in qualifying judicial office on or after the relevant day.
- (2) Regulations may make provision—
- (a) for calculating, whether by actuarial assessment or otherwise, the amount or value of the rights transferred under subsection (1) above, and
  - (b) prescribing the manner in which those rights are to be given effect under this Part,
- and, without prejudice to the generality of paragraph (b) above, regulations under that paragraph may provide for those rights to be so given effect by crediting the person in question with such service on or after the relevant day as may be prescribed.
- (3) For the purposes of this section—
- (a) a person’s “relevant rights” are his accrued rights to benefit under any judicial pension scheme constituted otherwise than by or under this Act; but
  - (b) rights under—
    - (i) the principal civil service pension scheme, or
    - (ii) the principal civil service pension scheme for the civil service of Northern Ireland,
 shall not be regarded as relevant rights for the purposes of this section unless at least some of the person’s service which was subject to the scheme in question was service in qualifying judicial office and, in that event, all his rights under that scheme shall be regarded as relevant rights.
- (4) In this section—

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- “prescribe” means prescribe in regulations;  
“regulations” means regulations made by the appropriate Minister with the concurrence of the Treasury;  
“the relevant day”, in relation to any person, means the day on which this Part first applies to him.

VALID FROM 03/11/2008

## <sup>F36</sup>12A Transfer of rights under other public service pension schemes

- (1) Where this Part—
- (a) begins, on or after the day on which this section comes into force, to apply to a person by virtue of section 1(1)(d) above, or
  - (b) begins to apply to a person—
    - (i) by virtue of section 1(1)(e) above, or
    - (ii) by virtue of paragraph 11(4) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007,any relevant public service pension rights of his shall be transferred to the scheme constituted by this Part.
- (2) Where a person's rights under a public service pension scheme are transferred under subsection (1) above—
- (a) that scheme shall no longer have effect in relation to him, and
  - (b) no pension or lump sum under the scheme shall be paid to or in respect of him.
- (3) Regulations may make provision—
- (a) for calculating, whether by actuarial assessment or otherwise, the amount or value of the rights transferred under subsection (1) above, and
  - (b) prescribing the manner in which those rights are to be given effect under this Part.
- (4) Without prejudice to the generality of paragraph (b) of subsection (3) above, regulations under that paragraph may provide for rights transferred under subsection (1) above to be given effect by crediting the person in question with such service, on or after the day on which this Part first applies to the person, as may be prescribed.
- (5) For the purposes of this section, a person's “relevant public service pension rights” are the person's accrued rights to benefit under any public service pension scheme, but this is subject to subsections (6) to (8) below.
- (6) A person's rights under a public service pension scheme are not “relevant public service pension rights” if the scheme is a judicial pension scheme other than—
- (a) the principal civil service pension scheme, or
  - (b) the principal civil service pension scheme for the civil service of Northern Ireland.
- (7) A person's rights—
- (a) under the principal civil service pension scheme, or

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(b) under the principal civil service pension scheme for the civil service of Northern Ireland,  
 are not “relevant public service pension rights” if they are transferred under section 12 above.

(8) A person's rights under a public service pension scheme are not “relevant public service pension rights” unless at least some of his service which was subject to the scheme was qualifying tribunal service and, in that event, all of his rights under the scheme shall be regarded as relevant public service pension rights.

(9) In this section—

“prescribe” means prescribe in regulations;

“public service pension scheme” means any public service pension scheme, as defined in—

(a) section 1 of the Pension Schemes Act 1993, or

(b) section 1 of the Pension Schemes (Northern Ireland) Act 1993;

“qualifying tribunal service” means—

(a) service as, or as a member of, a tribunal specified in a list in Schedule 6 to the Tribunals, Courts and Enforcement Act 2007 that has effect for the purposes of section 30 of that Act, or

(b) service as an authorised decision-maker for a tribunal, within the meaning given by section 31(4) of that Act;

“regulations” means regulations made by the Lord Chancellor with the concurrence of the Treasury.

#### Textual Amendments

**F36** Ss. 12A, 12B inserted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(2), 148(5), **Sch. 9 para. 18**; S.I. 2008/2696, **art. 5(d)** (with art. 3)

VALID FROM 03/11/2008

#### **12B Rate of pension etc. where rights transferred under section 12 or 12A**

Entitlement to, and the rate or amount of, any judicial pension or derivative benefit payable under this Part to or in respect of a person whose rights are transferred under section 12 or 12A above shall be determined by reference to—

(a) any rights of his that are transferred under section 12 above,

(b) any rights of his that are transferred under section 12A above, and

(c) his service in qualifying judicial office on or after the day on which this Part first applies to him.]

#### Textual Amendments

**F36** Ss. 12A, 12B inserted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(2), 148(5), **Sch. 9 para. 18**; S.I. 2008/2696, **art. 5(d)** (with art. 3)

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### 13 Election for personal pension instead of judicial pension.

[<sup>F37</sup>(1) A person to whom this Part applies, or to whom it would apply but for this section, may at any time serve on the appropriate Minister a written notice of election that this Part should not apply to him.

(1A) A person appointed to a qualifying judicial office may, at any time before beginning to serve in that office, serve on the appropriate Minister a written notice of election that this Part should not apply to him in relation to that office.

(1B) An election under this section—

- (a) if made by notice under subsection (1) above, shall take effect on the date specified in the notice, which shall be not less than one month after service of the notice;
- (b) if made by notice under subsection (1A) above, shall take effect when the person appointed begins to serve in that office.]

(2) An election made by a person under this section—

- (a) shall be irrevocable, except as provided by the following provisions of this section; and
- (b) shall not affect any rights of his which accrued under this Part before the election comes into force;

and, in accordance with section 2(7)(b)(iii) above, any service of his in qualifying judicial office while the election is in force shall be left out of account in determining the length of his service in such office for the purposes of this Part.

(3) Where an election under this section is in force and the person who made it continues to hold qualifying judicial office, he may make a written application to the appropriate Minister requesting that he should once again become a person to whom this Part applies.

(4) If, on an application under subsection (3) above, the appropriate Minister is satisfied that the applicant is in good health, he may direct that this Part shall once again apply to the applicant with effect from a date (his “date of re-admission”) not less than three months after service of the application.

(5) A person’s election under this section shall cease to be in force on his date of re-admission.

(6) An applicant under subsection (3) above shall—

- (a) provide such evidence relating to his health, and
  - (b) submit to any such medical examination,
- as may be reasonably required by the appropriate Minister.

(7) The appropriate Minister shall give written notice of his decision on an application under subsection (3) above to the applicant not later than three months after service of the application.

(8) Where an election (whenever made) under any of the corresponding provisions is in force in respect of a person on the relevant day—

- (a) the election shall have effect for the purposes of this Part, and shall continue in force, as if made under this section; and
- (b) if and so long as the election remains in force, the person shall be precluded from making an election under section 1(2) above;

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but if, on an application under subsection (3) above in relation to the election, the appropriate Minister directs that this Part shall apply to that person, the election shall, in accordance with subsection (5) above, cease to be in force for the purposes of this Part (as well as for those of the Act or instrument containing the corresponding provision), paragraphs (a) and (b) above shall cease to have effect in relation to it, and the application shall have effect as the applicant’s election under section 1(2) above.

(9) In this section—

“the corresponding provisions” means—

- (a) section 14A(3) of the 1981 Act;
- (b) section 116A(3) of the <sup>M3</sup>County Courts Act (Northern Ireland) 1959;
- (c) section 2A(3) of the <sup>M4</sup>Resident Magistrates’ Pensions Act (Northern Ireland) 1960;
- (d) section 2A(3) of the <sup>M5</sup>Lands Tribunal and Compensation Act (Northern Ireland) 1964;
- (e) section 2A(1) of the <sup>M6</sup>Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969;
- (f) paragraph 7A(3) of Schedule 10 to the <sup>M7</sup>Social Security (Northern Ireland) Act 1975;

and, in the case of any other judicial pension scheme, any provision of that scheme which [<sup>F38</sup>confers a right on a person to elect that this Part shall not apply to him];

<sup>F39</sup> .....

“the relevant day”, in the case of any person, means the day on which this Part first applies, or would, apart from any election under this section or the corresponding provisions, first apply to him.

**Textual Amendments**

- F37** S. 13(1)-(1B) substituted (19.12.2003) for s. 13(1) by [The Judicial Pensions \(Election against Benefits\) Regulations 2003 \(S.I. 2003/2916\)](#), [reg. 4\(2\)](#) (with [reg. 2\(1\)\(3\)](#))
- F38** S. 13(9): words in definition of "corresponding provisions" substituted (19.12.2003) by [The Judicial Pensions \(Election against Benefits\) Regulations 2003 \(S.I. 2003/2916\)](#), [reg. 4\(3\)](#) (with [reg. 2\(1\)\(3\)](#))
- F39** S. 13(9): definition of "personal pension scheme" omitted (19.12.2003) by virtue of [The Judicial Pensions \(Election against Benefits\) Regulations 2003 \(S.I. 2003/2916\)](#), [reg. 4\(3\)](#) (with [reg. 2\(1\)\(3\)](#))

**Marginal Citations**

- M3** 1959 c. 25 (N.I.).
- M4** 1960 c. 2 (N.I.).
- M5** 1964 c. 29 (N.I.).
- M6** 1969 c. 7 (N.I.).
- M7** 1975 c. 15.



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### *Supplemental provisions*

#### **14 Application of this Part to holders of the office of Lord Chancellor.**

- (1) Not more than one pension shall be paid under section 2 above and the <sup>M8</sup>Lord Chancellor's Pension Act 1832 to a person to whom this Part applies who has also held the office of Lord Chancellor.
- (2) In determining the appropriate annual rate of a pension payable under section 2 above to such a person as is mentioned in subsection (1) above who either—
  - (a) was holding the office of Lord Chancellor immediately before the appointed day, or
  - (b) first held that office on or after that day,the length of his service in qualifying judicial office shall be treated as increased by the aggregate length of his periods of service in the office of Lord Chancellor (excluding any day of service in that office which is also a day of service in qualifying judicial office).
- (3) Where a pension under the <sup>M9</sup>Lord Chancellor's Pension Act 1832 is, or would, but for his death, have been, paid to such a person as is mentioned in subsection (1) above (so that no derivative benefits are payable to or in respect of him under this Act) Part II of the 1981 Act shall continue to have effect with respect to the derivative benefits, within the meaning of that Part, which are payable to or in respect of him by virtue of his service in the office of Lord Chancellor, and shall do so notwithstanding anything in section 11 or 12 above.
- (4) Except as provided by subsection (3) above, no pension or other benefit shall be paid under that Part of that Act to or in respect of a person to whom this Part applies.

#### **Marginal Citations**

**M8** 1832 c. 111.

**M9** 1832 c. 111.

#### **15 Circuit judges: the Recorder of London and the Common Serjeant.**

Subject to sections 1(8) above and 21 below and to any regulations under section 38 or 39A of the <sup>M10</sup>Superannuation Act 1965 (employment in more than one public office), nothing in this Part shall apply in relation to the pensions and other benefits payable to or in respect of a person in respect of his service as a Circuit judge by virtue of holding the office of Recorder of London or Common Serjeant; and accordingly—

- (a) those matters shall continue to be provided for as mentioned in section 7 of the <sup>M11</sup>City of London (Courts) Act 1964 (remuneration, pensions and other benefits in respect of those offices to be defrayed by the Common Council); and
- (b) service as a Circuit judge by virtue of holding either of those offices shall not be regarded as service in qualifying judicial office.

#### **Marginal Citations**

**M10** 1965 c. 74.

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**M11** 1964 c. iv.

## 16 Disregard of abatement of pension under s.65 of the Social Security Act 1973 etc.

In making any calculation for the purposes of sections 4 to 8 above, any abatement of a pension falling to be made under any order made under—

[<sup>F40</sup>(a) section 141 of the Pension Schemes Act 1993 (modification of public service schemes) or section 143 of that Act (winding up of public service schemes);]

[<sup>F41</sup>(b) section 137 or 139 of the Pension Schemes (Northern Ireland) Act 1993 (corresponding Northern Ireland provisions);]

shall be left out of account.

### Textual Amendments

**F40** S. 16(a) substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 46(2)** (with s. 6(8)); S.I. 1994/86, **art. 2**

**F41** S. 16(b) substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 43(3)**; S.R. 1994/17, **art.2**

## [<sup>F42</sup>17 Effect of certain nullity decrees.

Where a marriage or civil partnership which is voidable, but not void from the beginning, is annulled by any court, the same results shall follow under this Part as would have followed if the marriage or the civil partnership had not been voidable but had been dissolved at the date of the annulment.]

### Textual Amendments

**F42** S. 17 substituted (5.12.2005) by **The Civil Partnership (Judicial Pensions and Church Pensions, etc.) Order 2005 (S.I. 2005/3325)**, **art. 74**

## 18 Continuity of tax treatment.

<sup>F43</sup> .....

### Textual Amendments

**F43** S. 18 ceased to have effect (6.4.2006) by virtue of **The Taxation of Judicial Pensions (Consequential Provisions) Order 2006 (S.I. 2006/497)**, **art. 5**

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## PART II

### MISCELLANEOUS, GENERAL AND SUPPLEMENTARY PROVISIONS

#### *Additional benefits in respect of disregarded earnings*

#### **19 Benefits in respect of earnings in excess of pension-capped salary.**

- (1) This section applies in any case where—
- (a) a pension or lump sum is payable under Part I above to or in respect of a person to whom that Part applies (the “judicial officer”); and
  - (b) the amount which constitutes the judicial officer’s pensionable pay is less than it would have been, had pension-capped salary fallen to be determined under section 3(3)(b) above, in his case, without the limit imposed by reference to the permitted maximum there mentioned;
- but nothing in this subsection applies in relation to any additional benefits provided under section 10 above.
- (2) Where this section applies, payments by way of pension or lump sum shall be made to or in respect of the judicial officer amounting to the difference between—
- (a) the rate or amount payable in respect of the pension or lump sum referred to in subsection (1) above; and
  - (b) the rate or amount that would have been payable in respect of that pension or lump sum, had pension-capped salary fallen to be determined under section 3(3)(b) above, in his case, without the limit imposed by reference to the permitted maximum there mentioned.
- (3) No contributions shall be payable under or by virtue of section 9 above in respect of the cost of the liability to make payments under this section.
- (4) <sup>F44</sup> .....
- (5) The appropriate Minister may by regulations make provision for implementing this section; and any such regulations may, in particular, make provision—
- (a) for or with respect to the calculation of benefits under this section;
  - (b) for or with respect to the time at which and method by which payments under this section are to be made.

#### **Textual Amendments**

- F44** S. 19(4) omitted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), [art. 6](#)

#### **Modifications etc. (not altering text)**

- C21** S. 19 applied (with modifications) (31.3.1995) by 1967 c. 13, [Sch.1 para. 4\(1\)](#) (as substituted (31.3.1995) by 1993 c. 8, s. 25, [Sch. 4 Pt. II para. 2](#)); S.I. 1995/631, [art. 2](#)
- S. 19 applied (with modifications) (31.3.1995) by S.I. 1987/460 (N.I. 5), [art. 4A](#) (as inserted (31.3.1995) by 1993 c. 8, s. 25, [Sch. 4 Pt. IV para. 5\(4\)](#); S.I. 1995/631, [art. 2](#))
- S. 19 applied (with modifications) (31.3.1995) by 1969 c. 10 (N.I.), [Sch.1A para. 4\(1\)](#) (as inserted (31.3.1995) by 1993 c. 8, s. 25, [Sch. 4 Pt. V para. 6\(6\)](#); S.I. 1995/631, [art. 2](#))
- S. 19 extended (with modifications) (16.7.1996) by S.I. 1996/1297 (N.I. 7), [art. 4\(4\)](#), [Sch. 1 para. 6\(2\)\(3\)\(4\)](#)

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S. 19 extended (with modifications) (16.7.1996) by S.I. 1996/1298 (N.I. 8), art. 5(4), **Sch. 1 para. 6(2)(3)(4)**

### *General provisions connected with the new schemes*

## 20 Appeals.

- (1) If any person to whom this section applies is aggrieved by any decision taken by the administrators of a relevant pension scheme concerning—
  - (a) the interpretation of the rules of the scheme, or
  - (b) the exercise of any discretion under the scheme,
 he shall have a right of appeal to the appropriate Minister against that decision.
- (2) On deciding an appeal under this section, the appropriate Minister may give to the administrators such directions as he considers necessary or expedient for implementing his decision.
- (3) The persons to whom this section applies are the following—
  - (a) any person to whom Part I above applies or has applied;
  - (b) the [<sup>F45</sup>widow, widower or surviving civil partner], or any surviving dependant, of a person who served in qualifying judicial office but who has died; and
  - (c) where the decision relates to the question—
    - (i) whether a person who claims to be such a person as is mentioned in paragraph (a) or (b) above is such a person, or
    - (ii) whether a person who claims to be entitled to become a person to whom Part I above applies is so entitled,
 the person so claiming.
- (4) Regulations may make provision as to the manner in which, and time within which, appeals under this section are to be brought.
- (5) The administrators shall be entitled to appear and be heard on any appeal under this section.
- (6) In this section—
 

“regulations” means regulations made by the appropriate Minister;

“relevant pension scheme” means any scheme constituted under or by virtue of Part I or section 19 above for the payment of pensions or other benefits;

“rules”, in relation to a relevant pension scheme, means the provisions of Part I and section 19 above and of any regulations or orders made under or by virtue of that Part or that section.

#### **Textual Amendments**

**F45** Words in s. 20(3)(b) substituted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), **art. 75**

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#### Modifications etc. (not altering text)

- C22** S. 20 applied (with modifications) (31.3.1995) by 1967 c. 13, **Sch.1 para. 4(1)** (as substituted (31.3.1995) by 1993 c. 8, s. 25, **Sch 4 Pt. II para. 2**; S.I. 1995/631, **art. 2**)
- S. 20 applied (with modifications) (31.3.1995) by S.I. 1987/460 (N.I. 5), **art.4A** (as inserted (31.3.1995) by 1993 c. 8, s. 25, **Sch. 4 Pt. IV para. 5(4)**; S.I. 1995/631, **art. 2**)
- S. 20 applied (with modifications) (31.3.1995) by 1969 c. 10 (N.I.), **Sch.1A para. 4(1)** (as inserted (31.3.1995) by 1993 c. 8, s. 25, **Sch. IV Pt. V para. 6(6)**; S.I. 1995/631, **art. 2**)
- S. 20 extended (with modifications) (16.7.1996) by S.I. 1996/1297 (N.I. 7), art. 4(4), **Sch. 1 para. 6(2)(3)(4)**
- S. 20 extended (with modifications) (16.7.1996) by S.I. 1996/1298 (N.I. 8), art. 5(4), **Sch. 1 para. 6(2)(3)(4)**

## 21 Pensions payable to judicial officers etc. by local authorities in England and Wales.

- (1) This section applies in any case where—
- an order under section 1(8) above amends Schedule 1 to this Act by the addition of any office (“the office”) to those for the time being specified in that Schedule; and
  - immediately before the coming into force of the order, a local authority was under a liability to defray, whether in whole or in part, pensions or other benefits payable in respect of service in the office.
- (2) Where this section applies, the appropriate Minister may by order made with the consent of the Treasury—
- provide for the local authority to be discharged, to such extent as may be prescribed, from the liability to pay pensions or other benefits in respect of such service in the office as may be prescribed; and
  - require the local authority instead to make prescribed payments to the Treasury.
- (3) In framing the provisions of an order under subsection (2) above, regard shall be had to the desirability of securing so far as reasonably practicable—
- that the payments required to be made by the local authority are such as to reimburse the Treasury in respect of so much of—
    - any pension or lump sum payable under Part I above, or to or in respect of any person to whom Part I above applies as may reasonably be regarded as attributable to his service in the office; and
  - that the local authority is discharged, to a corresponding extent, from the liability to pay any pension or other benefit to or in respect of such a person in respect of his service in the office.
- (4) In this section—
- “local authority” means any county council, [<sup>F46</sup>county borough council,] district council, London Borough Council or the Common Council of the City of London;
- “prescribed” means specified in, or determined in accordance with, an order under subsection (2) above.
- (5) Nothing in this section applies in relation to any pension or other benefits payable under or by virtue of section 10 above.

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### Textual Amendments

**F46** Words in s. 21(4) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 100** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

## 22 Application of the Pensions (Increase) Act 1971.

(1) In the <sup>M12</sup>Pensions (Increase) Act 1971, in Schedule 2 (which specifies the pensions and other benefits which fall to be increased under or by virtue of that Act) after paragraph 4 (and beneath the heading relating to the administration of justice) there shall be inserted—

“4A A pension payable under Part I or section 19 of the Judicial Pensions and Retirement Act 1993, other than a pension payable under or by virtue of section 10 of that Act.”

(2) The pensions in relation to which the <sup>M13</sup>Pensions (Increase) Act 1971 extends to Northern Ireland shall include pensions payable under Part I or section 19 above, other than pensions payable under or by virtue of section 10 above; and, accordingly, in section 19(2)(a) of that Act, after the words “Pension Fund” there shall be inserted the words “ or payable under Part I or section 19 of the Judicial Pensions and Retirement Act 1993 (otherwise than under or by virtue of section 10 of that Act) ”.

(3) In subsection (2) above, “pensions” has the same meaning as it has in the Pensions <sup>M14</sup>(Increase) Act 1971.

### Marginal Citations

**M12** 1971 c. 56.

**M13** 1971 c. 56.

**M14** 1971 c. 56.

## 23 Transfer of accrued benefits.

Schedule 2 to this Act shall have effect with respect to the transfer of accrued rights into and out of the pension schemes constituted by Part I or section 19 above (other than any such transfer which falls to be made under section 12 above).

### Modifications etc. (not altering text)

**C23** S. 23 applied (with modifications) (31.3.1995) by 1967 c. 13, **Sch.1 para. 4(1)** (as substituted (31.3.1995) by 1993 c. 8, s. 25, **Sch. 4 pt. II para. 2**; S.I. 1995/631, art. 2)  
 S. 23 applied (with modifications) (31.3.1995) by S.I. 1987/460 (N.I. 5), **art.4A** (as inserted (31.3.1995) by 1993 c.8, s. 25, **Sch. 4 Pt. IV para. 5(4)**; S.I. 1995/631, art. 2)  
 S. 23 applied (with modifications) (31.3.1995) by 1969 c. 10 (N.I.), **Sch.1A para. 4(1)** (as inserted (31.3.1995) by 1993 c. 8, s. 25, **Sch. 4 Pt. V para. 6(6)**; S.I. 1995/631, art. 2)  
 S. 23 extended (with modifications) (16.7.1996) by S.I. 1996/1297 (N.I. 7), art. 4(4), **Sch. 1 para. 6(2)(3)(4)**

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S. 23 extended (with modifications) (16.7.1996) by S.I. 1996/1298 (N.I. 8), art. 5(4), **Sch. 1 para. 6(2)(3)(4)**

[<sup>F47</sup>**23A Pension credits**

Schedule 2A to this Act shall have effect with respect to the creation and implementation of pension credits affecting a pension scheme constituted by Part I or Section 19 of this Act.]

**Textual Amendments**

**F47** S. 23A inserted (1.12.2000) by S.I. 2000/2986, **reg. 2**

**24 Corresponding minor amendments to other enactments.**

Schedule 3 to this Act (which makes certain minor amendments corresponding to provisions of this Act) shall have effect.

*Pensions for senior public investigative officers*

**25 The Comptroller and Auditor General and the Parliamentary and Health Service Commissioners etc.**

The amendments made by Schedule 4 to this Act shall have effect, as from the coming into force of this section, with respect to the pensions and other benefits payable to or in respect of a person (whenever appointed) who holds, or has held, any one or more of the following offices, that is to say—

- (a) Comptroller and Auditor General;
- (b) Parliamentary Commissioner for Administration;
- (c) Health Service Commissioner for England;
- (d) <sup>F48</sup> .....
- (e) Health Service Commissioner for Wales;
- (f) Comptroller and Auditor General for Northern Ireland;
- <sup>F49</sup>(g) .....
- <sup>F50</sup>(h) .....

**Textual Amendments**

**F48** S. 25(d) omitted (14.7.2004) by virtue of The Scottish Public Services Ombudsman Act 2002 (Consequential Provisions and Modifications) Order 2004 (S.I. 2004/1823), **art. 15**

**F49** S. 25(g) repealed (16.7.1996) by S.I. 1996/1298 (N.I. 8), art. 21(2), **Sch. 6**

**F50** S. 25(h) repealed (16.7.1996) by S.I. 1996/1297 (N.I. 7), art. 23(2), **Sch. 5**



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### *Retirement date for certain judicial officers etc*

## **26 Retirement date for holders of certain judicial offices etc.**

- (1) Subject to the following provisions of this section, a person holding any of the offices for the time being specified in Schedule 5 to this Act (a “relevant office”) shall vacate that office on the day on which he attains the age of 70 or such lower age as may for the time being be specified for the purpose in the enactments and instruments relating to that office, whenever passed or made.
- (2) Any reference in this section to a person’s holding an office includes a reference to his being a member of, or otherwise included in, any panel or list of persons appointed, nominated, approved or otherwise selected to serve from time to time in that office (whether or not the panel or list is required by or under any enactment); and any reference in this section or Schedule 5 to this Act to any particular office or to an office of any class or description, or to a person’s appointment to, or vacation of, an office, shall be construed accordingly.
- (3) Subject to the transitional provision referred to in subsection (11) below, subsection (1) above applies whether the person was appointed to the office before or after the coming into force of this section; but nothing in this Act, or in any amendment made by it, shall be taken—
  - (a) to preclude a person from vacating his office before the compulsory retirement date for that office in his case; or
  - (b) to prevent a person’s appointment to an office coming to an end before that date, in accordance with the terms on which he was appointed.
- (4) Subsections (5) and (6) below apply in relation to any holder (whenever appointed) of a relevant office for which the compulsory retirement date in his case falls on or after the day on which he attains the age of 70, except—
  - (a) Lord of Appeal in Ordinary;
  - (b) judge of the Supreme Court of England and Wales;
  - (c) Lord President of the Court of Session, Lord Justice Clerk or other judge of the Court of Session;
  - (d) Lord Chief Justice of Northern Ireland or Lord Justice of Appeal, or judge of the High Court, in Northern Ireland.
- (5) If, in a case where this subsection applies, the [<sup>F51</sup>appropriate person] considers it desirable in the public interest that the holder of a relevant office should continue in that office after his compulsory retirement date, he may authorise the person to continue in office, either generally or for such purpose as he may notify to the person, for a period not exceeding one year and not extending beyond the day on which the person attains the age of 75.
- (6) If, on the expiration of the period for which a person is authorised to continue in office—
  - (a) by virtue of subsection (5) above, or
  - (b) by any previous exercise of the power conferred by this subsection,
 the [<sup>F51</sup>appropriate person] considers it desirable in the public interest to retain the person in office for a further period, he may authorise him to continue in office, either generally or for such purpose as he may notify to the person, for a further period not exceeding one year and not extending beyond the day on which the person attains the age of 75.



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- (7) After the day on which a person attains the age of 75, he shall not hold any relevant office nor shall he—
- (a) be a member of the Judicial Committee of the Privy Council <sup>F52</sup> . . . ;
  - (b) participate in the hearing and determination of any appeal, or any petition for leave to appeal, to the House of Lords <sup>F52</sup> . . . ;
  - (c) act as a judge under or by virtue of section 9(1) of the <sup>M15</sup>Supreme Court Act 1981;
  - (d) hold office as a deputy Circuit judge, within the meaning of section 24 of the <sup>M16</sup>Courts Act 1971;
  - (e) sit and act as a judge under or by virtue of section 7 of the <sup>M17</sup>Judicature (Northern Ireland) Act 1978;
  - (f) act as a deputy, or as a temporary additional officer, under subsection (1) of section 91 of the <sup>M18</sup>Supreme Court Act 1981 by virtue of subsection (3) of that section [<sup>F53</sup>(holders of relevant office)];
  - [<sup>F54</sup>(g) hold office as a deputy district judge if either section 102(1B) of that Act (former district judge appointed as deputy in the High Court) or section 8(1ZB) of the County Courts Act 1984 (former district judge appointed as deputy in the county courts) applied to the appointment;]
  - (h) hold any office—
    - (i) to which appointments are made by or under any Act or statutory instrument;
    - (ii) for which there would, apart from this paragraph, be no compulsory retirement date; and
    - (iii) for appointment to which only persons who have held relevant office are eligible;

and this subsection applies whether or not the person was invited to act as a judge, or was appointed to the office in question, or to some other office by virtue of which he would (apart from this subsection) hold the office in question, before the appointed day.

- (8) After the day on which a person attains the age of 70, he shall not be appointed or re-appointed as—
- (a) <sup>F55</sup> . . . . .
  - (b) the person, or one of the persons, constituting a tribunal for the purposes of section 150(3) of the <sup>M19</sup>Mines and Quarries Act 1954, or as an assessor assisting such a tribunal;
  - (c) an assessor assisting with an inquiry under section [<sup>F56</sup> 61 of the Merchant Shipping Act 1995];
  - <sup>F57</sup>(d) . . . . .
  - <sup>F58</sup>(e) . . . . .
  - <sup>F58</sup>(f) . . . . .
  - (g) an arbitrator, or (in Scotland) an arbiter, under paragraph 9(2) of Schedule 10 to the <sup>M20</sup>Electricity Act 1989;
  - (h) chairman of a tribunal constituted under [<sup>F59</sup>Schedule 3 to the Education Act 2005];
  - <sup>F58</sup>(j) . . . . .

- (9) The appropriate Minister may by order—

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- (a) amend Schedule 5 to this Act by adding offices to those for the time being specified in that Schedule; or
  - (b) amend subsection (8) above by adding offices to those for the time being specified in that subsection.
- (10) As from the appointed day, the enactments and instruments mentioned in Schedule 6 to this Act shall have effect with the amendments specified in that Schedule; but those amendments are subject to section 27 below and Schedule 7 to this Act.
- (11) Schedule 7 to this Act shall have effect for the purpose of making transitional provision in relation to persons holding relevant offices immediately before the appointed day; and—
- (a) subsections (1) and (3) above are subject to the provisions of that Schedule; and
  - (b) any reference in this section to the compulsory retirement date for an office shall be construed in accordance with those provisions.
- (12) In this section—
- “the appointed day” means the day appointed under section 31 below for the coming into force of this section;
- [<sup>F60</sup>“the appropriate person” means—
- (a) the appropriate Minister in a case which falls within paragraph (a) of the definition of the expression in section 30;
  - (b) in relation to any judicial office whose jurisdiction is exercised exclusively in relation to England and Wales, the Lord Chief Justice of England and Wales;
  - (c) in relation to any judicial office whose jurisdiction is exercised exclusively in relation to Northern Ireland, the Lord Chief Justice of Northern Ireland.<sup>F61</sup>;
  - (d) the Senior President of Tribunals in the case of a person who holds a judicial office that—
    - (i) is specified in subsection (12A) below, and
    - (ii) is not in the person's case an office to which any of paragraphs (a) to (c) above applies;
  - (e) the Lord Chief Justice of England and Wales in the case of a person who holds a judicial office that is not in the person's case an office to which any of paragraphs (a) to (d) applies;]]

“the compulsory retirement date” for an office means the day on which a holder of that office is or, apart from any continuation power, would be required by any enactment or statutory instrument to vacate that office, being either—

    - (a) the day on which he attains a particular age; or
    - (b) a day falling to be determined by reference to his attaining a particular age;

“continuation power” means a power conferred by an enactment or statutory instrument on a Minister of the Crown to authorise the holder of an office to continue in that office until a later day than that on which, apart from any exercise of the power, he would be required by any enactment or statutory instrument to vacate that office;

and any reference to vacating an office includes a reference to retiring from it.

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[<sup>F62</sup>(12A) The judicial offices mentioned in paragraph (d) of the definition of “appropriate person” in subsection (12) above are—

- (a) Chamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal;
- (b) judge, or other member, of the First-tier Tribunal or of the Upper Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 2 or 3 to the Tribunals, Courts and Enforcement Act 2007 (“the 2007 Act”);
- (c) deputy judge of the Upper Tribunal appointed under paragraph 7(1) of Schedule 3 to the 2007 Act, except in a case where the holding of the office by the person in question falls within subsection (7)(ga) above;
- (d) transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of the 2007 Act);
- (e) deputy judge of the Upper Tribunal by virtue of an order under section 31(2) of the 2007 Act;
- (f) an office held by a person if the person's holding of the office results in the person being a member of, or person who is, a tribunal in a list in Schedule 6 to the 2007 Act that has effect for the purposes of section 30 of that Act (but only if the office is specified in Schedule 5 to this Act);
- (g) President or other member of the Asylum and Immigration Tribunal;
- (h) member of the Employment Appeal Tribunal appointed under section 22(1) (c) of the Employment Tribunals Act 1996;
- (i) member of a panel of chairmen of employment tribunals.

(12B) Neither paragraph (d) nor paragraph (e) of the definition of “appropriate person” in subsection (12) above applies to an office held by a person if provision about that person's continuation in the office after the compulsory retirement date for the office—

- (a) would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament, or
- (b) would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly.]

[<sup>F63</sup>(13) Where the Lord Chief Justice of England or Wales or the Lord Chief Justice of Northern Ireland [<sup>F64</sup>or the Senior President of Tribunals] is the appropriate person, he must obtain the concurrence of the Lord Chancellor before exercising any functions under this section.

(14) The Lord Chief Justice of England or Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.

(15) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

**F51** Words in s. 26(5)(6) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 228\(2\)](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 11](#)

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- F52** Words in s. 26(7)(a)(b) repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 146, 148, Sch. 4 para. 228(3), **Sch. 18 Pt. 2**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 11, 30
- F53** Words in s. 26(7)(f) substituted (19.9.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(1), 148(5), **Sch. 8 para. 31(3)**; S.I. 2007/2709, **art. 2(c)(i)**
- F54** S. 26(7)(g) substituted (19.7.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 56, 148(5), **Sch. 11 para. 12**
- F55** S. 26(8)(a) repealed (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406(7), 411(2), **Sch. 19(1)**, Note 1 (with Sch. 18); S.I. 2003/1900, **arts. 2(1), 3**, Sch. 1; S.I. 2003/3142, **art. 3**
- F56** Words in s. 26(8)(c) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para.93(a)** (with s. 312(1))
- F57** S. 26(8)(d) repealed (29.11.1999) by S.I. 1998/1506 (N.I. 10), art. 78(2), **Sch. 7**; S.R. 1999/472, art. 2(1)(a)(2), **Sch. 1**
- F58** S. 26(8)(e)(f)(j) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 113
- F59** Words in s. 26(8) substituted (1.9.2006) by Education Act 2005 (c. 18), ss. 61, 125, **Sch. 9 para. 7**; S.I. 2006/1338, **art. 4(1)**, Sch. 2
- F60** S. 26(12): definition of "the appropriate person" inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 228(4)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11
- F61** S. 26(12): paras. (d)(e) in definition of "the appropriate person" inserted (19.9.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), **ss. 54(2)**, 148(5); S.I. 2007/2709, **art. 2(a)**
- F62** S. 26(12A)(12B) inserted (19.9.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), **ss. 54(3)**, 148(5); S.I. 2007/2709, **art. 2(a)**
- F63** S. 26(13)-(15) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 228(5)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11
- F64** Words in s. 26(13) inserted (19.9.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), **ss. 54(4)**, 148(5); S.I. 2007/2709, **art. 2(a)**

#### Modifications etc. (not altering text)

- C24** S. 26 modified (27.9.1999) by 1999 c. 22, ss. 105, 108(3), **Sch. 14 Pt. V para. 25** (with Sch. 14 para. 7(2))
- C25** S. 26 applied (28.4.2003) by Land Registration Act 2002 (c. 9), ss. 107(3), 136(2), **Sch. 9 para. 1(3)** (with s. 129); S.I. 2003/1028, **art. 2(a)**
- C26** S. 26(1) applied (1.1.1996) by S.I. 1995/3192, **art. 4(a)**
- C27** S. 26(3)(11) restricted (1.1.1996) by S.I. 1995/3192, **art. 4(b)(i)(ii)**
- C28** S. 26(4)-(6) restricted (1.1.1996) by S.I. 1995/3192, **art. 5**
- C29** S. 26(5)(6) applied (18.3.2008) by Charities Act 1993 (c. 10), Sch. 1B para. 4 (as inserted by Charities Act 2006 (c. 50), ss. 8, 79, **Sch. 3 para. 1**; S.I. 2008/751, {art. 2,} Sch. (subject to arts. 3-12))

#### Marginal Citations

- M15** 1981 c. 54.  
**M16** 1971 c. 23.  
**M17** 1978 c. 23.  
**M18** 1981 c. 54.  
**M19** 1954 c. 70.  
**M20** 1989 c. 29.

## 27 Completion of proceedings after retirement.

- (1) Notwithstanding that a person has vacated or otherwise ceased to hold an office to which this section applies—
- (a) he may act as if he had not ceased to hold the office for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary

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matter relating to, any case begun before him before he ceased to hold that office; and

- (b) for that purpose, and for the purpose of any proceedings arising out of any such case or matter, he shall be treated as being or, as the case may be, as having been a holder of that office;

but nothing in this subsection shall authorise him to do anything if he ceased to hold the office by virtue of his removal from it.

- (2) Where a person has vacated or otherwise ceased to hold a qualifying judicial office but the office in question is one to which this section applies, then, notwithstanding anything in subsection (1) above, any remuneration that may be paid in respect of service of his in that office by virtue of that subsection shall be remuneration by payment of fees (and not a salary) and accordingly that service shall not be regarded as service in qualifying judicial office.

- (3) The offices to which this section applies are—

- (a) any relevant office, within the meaning of section 26 above;
- (b) any office falling within any of the paragraphs of subsection (7) of that section;
- (c) Queen’s Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals;
- (d) Vice Judge Advocate General;
- (e) Assistant Judge Advocate General;

<sup>F65</sup>(f) .....

[<sup>F66</sup>(ff) a part-time sheriff;]

- (g) Chairman of the Criminal Injuries Compensation Board.

- (4) If and to the extent that any prohibition imposed by subsection (7) of section 26 above would not, apart from this subsection, be regarded as a prohibition on the holding of an office, it shall be treated for the purposes of this section as if it were such a prohibition, and references in this section to office, or to vacating or otherwise ceasing to hold office, shall be construed accordingly.

#### Textual Amendments

**F65** S. 27(3)(f) repealed (1.10.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 Pt. 2 para. 10, Sch. 7 Pt. 3; S.I. 2001/3234, art. 2 (subject to art. 3)

**F66** S. 27(3)(ff) inserted (S.) (9.8.2000) by 2000 asp 9, s. 12, Sch. para. 5(2)

### Miscellaneous and supplementary provisions

## 28 Payments charged on Consolidated Fund etc.

- (1) There shall be charged on, and paid out of, the Consolidated Fund—

- (a) any pension or lump sum under Part I above payable to or in respect of a person who has held any of the qualifying judicial offices specified in Part I of Schedule 1 to this Act; and
- (b) any payments by way of pension or lump sum authorised under section 19 above to be made to or in respect of such a person.

- (2) Except as provided by subsection (1) above—

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- (a) any pension or lump sum payable under Part I above, and
  - (b) any payment authorised to be made under section 19 above,
- shall be met out of money provided by Parliament.
- (3) There shall be charged on, and paid out of, the Consolidated Fund any increase attributable to the provisions of this Act in the sums charged on, and payable out of, that Fund by or under any other enactment.
  - (4) There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other enactment.
  - (5) Any administrative expenses incurred under this Act by a Minister of the Crown or government department shall be defrayed out of money provided by Parliament.
  - (6) Any sums received by the Treasury under section 21 above shall be paid into the Consolidated Fund.
  - (7) Nothing in this section applies in relation to any pension or other benefits payable under or by virtue of section 10 above.

**Modifications etc. (not altering text)**

**C30** S. 28(6) modified (31.3.1995) by [S.I. 1995/633](#), [art. 7\(1\)](#) (with [art. 11](#))

VALID FROM 12/04/2010

**[<sup>F67</sup>28A Northern Ireland**

The Lord Chancellor and the Department of Justice in Northern Ireland may make arrangements under which the Department is to make contributions to the cost of the liabilities under this Act for pensions, lump sums or other payments in respect of persons' service in qualifying judicial office in Northern Ireland.]

**Textual Amendments**

**F67** [S. 28A](#) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), [arts. 1\(2\), 15\(5\)](#), [Sch. 18 para. 49](#) (with [arts. 28-31](#)); [S.I. 2010/977](#), [art. 1\(2\)](#)

**29 Regulations and orders.**

- (1) Any power conferred by this Act to make regulations or an order shall be exercisable by statutory instrument.
- (2) A statutory instrument which contains (whether alone or with other provisions) regulations or an order under this Act, other than an order under section 31(2) below, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power conferred by this Act to make regulations or an order includes power, exercisable in the same manner, to make such transitional, consequential,

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supplementary or incidental provision or savings as may appear to the authority making the regulations or order to be necessary or expedient for the purposes of, or in connection with, the regulations or order.

- (4) The provision that may be made under or by virtue of subsection (3) above includes provision modifying the operation of this Act or any other enactment.
- (5) The amendment by this Act of any provision contained in regulations or an order shall not be taken to have prejudiced any power to make further regulations or orders amending or revoking that provision.
- (6) Regulations and orders under this Act may make different provision for different cases or classes of case.

### 30 Interpretation.

(1) In this Act—

“the 1981 Act” means the <sup>M21</sup>Judicial Pensions Act 1981;

“actuarially reduced” has the meaning given by section 2(7)(e) above;

“the administrators”, in relation to a pension scheme, means the persons entrusted with the administration of the scheme;

“appropriate annual rate”, in relation to a judicial pension, shall be construed in accordance with section 3 above;

“the appropriate Minister” means—

(a) in relation to any judicial office whose jurisdiction is exercised exclusively in relation to Scotland, the Secretary of State; or

(b) subject to paragraph (a) above, the Lord Chancellor;

“children’s pension” has the meaning given by section 6 above;

“commence to be paid”, in relation to any judicial pension, shall be construed in accordance with section 2(7)(d) above;

“the deceased”, in connection with any surviving spouse’s [<sup>F68</sup>, surviving civil partner’s] or children’s pension, shall be construed in accordance with section 5 or 6 above, as the case may be;

“derivative benefit” means a lump sum under section 4 above or a surviving spouse’s [<sup>F69</sup>, surviving civil partner’s] or children’s pension;

“eligible children”, in relation to the deceased, shall be construed in accordance with section 6 above;

“judicial pension” means a pension under section 2 above;

“judicial pension scheme” means any public service pension scheme, as defined in—

(a) [<sup>F70</sup>section 1 of the Pension Schemes Act 1993], or

(b) [<sup>F71</sup>section 1 of the Pension Schemes (Northern Ireland) Act 1993],

under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices (whether or not in respect of service in such offices alone);

“pensionable pay” has the meaning given by section 3(3) above;

“pension-capped salary” has the meaning given by section 3(3) above;

“the principal civil service pension scheme” means a scheme made under section 1 of the <sup>M22</sup>Superannuation Act 1972 which is the principal civil service pension scheme within the meaning of section 2 of that Act;

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“the principal civil service pension scheme for the civil service of Northern Ireland” means a scheme made under Article 3 of the <sup>M23</sup>Superannuation (Northern Ireland) Order 1972 which is the principal civil service pension scheme within the meaning of Article 4 of that Order;

“qualifying judicial office” has the meaning given by section 1(6) above;

“serve” and “service”, in relation to qualifying judicial office, shall be construed in accordance with section 1(6) above;

“stipendiary magistrate”, in England and Wales, includes a metropolitan stipendiary magistrate;

[<sup>F72</sup>“surviving civil partner's pension” has the meaning given by section 5 above; ]

“surviving spouse’s pension” has the meaning given by section 5 above.

- (2) In the case of a person who has retired from qualifying judicial office on more than one occasion, references in this Act to his retirement from such office are references to the last of those occasions.
- (3) For the purposes of this Act, a person shall be regarded as vacating, or retiring from, an office at the end of the last day of his service in that office.
- (4) Any reference in this Act to a pension or lump sum, or any salary or other money, being paid or payable to a person includes a reference to its being paid or payable for him.
- (5) In determining for any purpose of this Act the accrued rights of a person under a judicial pension scheme which confers a power (but does not expressly impose a duty) to pay a pension or other benefit under the scheme, it shall be assumed that there is a duty to exercise the power (and to do so in such a way as will provide the greatest pension or other benefit authorised to be paid).
- (6) Where a calculation falls to be performed under this Act, any resulting fraction of £1 shall be rounded up to the next whole £1.

#### Textual Amendments

- F68** S. 30(1): words in definition of "the deceased" inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 76\(2\)\(a\)](#)
- F69** S. 30(1): words in definition of "derivative benefit" inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 76\(2\)\(b\)](#)
- F70** Words in s. 30(1) substituted (7.2.1994) by [1993 c. 48, s. 190](#), [Sch. 8 para. 46\(4\)](#) (with s. 6(8)); [S.I. 1994/86](#), [art. 2](#)
- F71** Words in s. 30(1) substituted (7.2.1994) by [1993 c. 49, s. 184](#), [Sch. 7 para. 43\(4\)](#); [S.R. 1994/17](#), [art. 2](#)
- F72** S. 30(1): definition of "surviving civil partner's pension" inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 76\(2\)\(c\)](#)

#### Marginal Citations

- M21** [1981 c. 20](#).
- M22** [1972 c. 11](#).
- M23** [S.I. 1972/1073 \(N.I. 10\)](#).

### 31 Short title, supplementary provisions and extent.

- (1) This Act may be cited as the Judicial Pensions and Retirement Act 1993.



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- (2) The provisions of this Act shall come into force on such day as the appropriate Minister may by order made by statutory instrument appoint; and different days may be appointed for different provisions or for different purposes of the same provision.
- (3) The enactments and instruments mentioned in Schedule 8 to this Act shall have effect with the amendments there specified (being minor amendments and amendments consequential on the provisions of this Act).
- (4) The enactments and instruments specified in Schedule 9 to this Act are repealed or revoked to the extent specified in the third column of that Schedule.
- (5) Section 21 above extends to England and Wales only.
- (6) The amendments, repeals and revocations in section 22 above and Schedules 3, 4, 6, 8 and 9 to this Act have the same extent as the enactment or instrument to which they relate.
- (7) Subject to subsections (5) and (6) above, this Act extends to Northern Ireland.

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**Subordinate Legislation Made**

**P1** S. 31(2) power fully exercised (7.3.1995): 31.3.1995 appointed by [S.I. 1995/631, art. 2](#)

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## SCHEDULES

### SCHEDULE 1

Section 1.

#### THE OFFICES WHICH MAY BE QUALIFYING JUDICIAL OFFICES

#### PART I

#### JUDGES

Lord of Appeal in Ordinary  
 Lord Chief Justice of England  
 Master of the Rolls  
 Lord President of the Court of Session  
 Lord Chief Justice of Northern Ireland  
 Lord Justice Clerk  
 Lord Justice of Appeal (in England and Wales or Northern Ireland)  
 [<sup>F73</sup>President of the Queen's Bench Division  
 President of the Family Division  
 Chancellor of the High Court ]  
 High Court Judge (in England and Wales or Northern Ireland)  
 Judge of the Court of Session  
 [<sup>F74</sup>Recorder of London  
 Common Serjeant]  
 Circuit judge  
 Sheriff Principal or sheriff in Scotland  
 County Court Judge in Northern Ireland  
 [<sup>F75</sup> District Judge (Magistrates' Courts)]  
 Stipendiary Magistrate in England and Wales  
 Resident Magistrate appointed under the <sup>M24</sup>Magistrates' Courts Act (Northern Ireland) 1964.

#### Textual Amendments

- F73** Sch. 1 Pt. 1: entries substituted (1.10.2005) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 4 para. 229](#); S.I. 2005/2505, [art. 2\(c\)](#)
- F74** Entries in Sch. 1 Pt. I inserted (31.3.1995) by S.I. 1995/633, [art. 3](#) (with [art. 11](#))
- F75** Entry in Sch. 1 Pt. I inserted (31.8.2000) by [1999 c. 22](#), s. 78, [Sch. 11 paras. 39, 40](#) (with [Sch. 14 para. 7\(2\)](#)); S.I. 2000/1920, [art. 3\(a\)](#)

#### Marginal Citations

- M24** 1964 c. 21 (N.I.).

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## PART II

### OTHER APPOINTMENTS

#### *Court officers*

Master, Queen’s Bench Division  
Queen’s Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals  
Admiralty Registrar  
Master, Chancery Division  
Registrar in Bankruptcy of the High Court  
Taxing Master of the Supreme Court  
District Judge of the Principal Registry of the Family Division  
Registrar of civil appeals  
F76 . . . .  
District judge  
[<sup>F77</sup> Coroner appointed under section 2(1) of the Coroners Act (Northern Ireland) 1959 ]  
Any of the offices from time to time specified in column 1 of Schedule 3 to the  
M25 Judicature (Northern Ireland) Act 1978 <sup>F78</sup> . . . . .

#### Textual Amendments

- F76** Sch. 1 Pt. 2: reference to a Master of the Court of Protection omitted (with saving) (1.10.2007) by virtue of [Mental Capacity Act 2005 \(c. 9\)](#), ss. 67(1), 68(1)-(3), [Sch. 6 para. 38\(2\)](#) (with ss. 27, 28, 29, 62); S.I. 2007/1897, [art. 2](#)
- F77** Sch. 1 Pt. 2: Entry inserted (3.4.2006) by [The Judicial Pensions and Retirement Act 1993 \(Addition of Qualifying Judicial Offices\) Order 2006 \(S.I. 2006/391\)](#), [art. 2](#)
- F78** Sch. 1 Pt. 2: words in entry repealed (1.5.2004) by [Courts Act 2003 \(c. 39\)](#), ss. 109(3), 110(1), [Sch. 10](#); S.I. 2004/1104, [art. 3\(h\)\(iii\)](#)

#### Marginal Citations

**M25** 1978 c. 23.

#### *Members of tribunals*

Chief or other Social Security Commissioner, excluding appointments in pursuance of [<sup>F79</sup> paragraph 1(2) of Schedule 4 to the Social Security Act 1998]  
Chief or other Social Security Commissioner for Northern Ireland, excluding appointments in pursuance of section 50(2) of the <sup>M26</sup>Social Security Administration (Northern Ireland) Act 1992  
Chief or other Child Support Commissioner, excluding appointments in pursuance of paragraph 4 of Schedule 4 to the <sup>M27</sup>Child Support Act 1991  
Chief or other Child Support Commissioner for Northern Ireland, excluding appointments in pursuance of paragraph 4 of Schedule 4 to the Child <sup>M28</sup> Support Act 1991 as that paragraph has effect by virtue of paragraph 8 of that Schedule  
[<sup>F80</sup> President of appeal tribunals (within the meaning of Chapter I of Part I of the Social Security Act 1998), appointed under section 5 of that Act]

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[<sup>F81</sup>President of appeal tribunals (within the meaning of Chapter I of Part II of the Social Security (Northern Ireland) Order 1998) appointed under Article 6 of that Order]

[<sup>F82</sup>Chairman of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals]

[<sup>F83</sup>Chairman of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals in Northern Ireland]

F84

...

F85

...

President of the [<sup>F86</sup>Employment Tribunals] (England and Wales)

President of the [<sup>F86</sup>Employment Tribunals] (Scotland)

President or Vice-President of the Industrial Tribunals and the Fair Employment Tribunal, appointed under [<sup>F87</sup>Article 82 of the Fair Employment and Treatment (Northern Ireland) Order 1998]

Chairman of [<sup>F86</sup>employment tribunals] appointed in pursuance of regulations under [<sup>F88</sup>section 1(1) of the [<sup>F89</sup>Employment Tribunals Act 1996]]

Chairman of industrial tribunals or of the Fair Employment Tribunal appointed in pursuance of regulations under [<sup>F90</sup>Article 3 of the Industrial Tribunals (Northern Ireland) Order 1996] or appointed under [<sup>F91</sup>Article 82(1)(c) of the Fair Employment and Treatment (Northern Ireland) Order 1998]

President or other member of the Lands Tribunal, the Lands Tribunal for Scotland or the Lands Tribunal for Northern Ireland

[<sup>F92</sup>President of the Competition Commission Appeal Tribunals]

[<sup>F93</sup> President of the Competition Appeal Tribunal ]

[<sup>F94</sup> Chairman of a Mental Health Review Tribunal [<sup>F95</sup>for England] appointed on or after 1st November 2003 ]

[<sup>F96</sup> Chairman of the Mental Health Review Tribunal for Wales

President of the Mental Health Review Tribunal for Wales ]

[<sup>F97</sup> President or Deputy President of the Pensions Regulator Tribunal ]

[<sup>F98</sup> President of the Gambling Appeals Tribunal ]

[<sup>F99</sup> Asylum Support Adjudicator

President of the Charity Tribunal ]

[<sup>F100</sup> President of the tribunal constituted under section 9 of the Protection of Children Act 1999 <sup>F101</sup> or member of the chairmen's panel appointed under paragraph 1(1)(b) of the Schedule to that Act ]

### Textual Amendments

**F79** Words in Sch. 1 Pt. II substituted (in force for specified purposes at 6.9.1999 and 5.10.1999 respectively and in force at 29.11.1999 in so far as not already in force except for specified purposes) by 1998 c. 14, s. 86(1), **Sch. 7 para. 123(1)(a)**; S.I. 1999/2422, art. 2(c), **Sch. 1** (subject to transitional provisions in Sch. 14); S.I. 1999/2739, art. 2, **Sch. 1** (subject to transitional provisions in Sch. 2); S.I. 1999/3178, art. 2(1)(2), **Sch. 1** (subject to transitional provisions in Schs. 21-23)

**F80** Entry in Sch. 1 Pt. II substituted (1.6.1999) by 1998 c. 14, s. 86(1), **Sch. 7 para. 123(1)(b)**; S.I. 1999/1510, **art. 2(g)(vii)**

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- F81** Entry in Sch. 1 Pt. II substituted (29.11.1999 except for specified purposes) by S.I. 1998/1506 (N.I. 10), art. 78(1), **Sch. 6 para. 92(1)**; S.R. 1999/472, art. 2(1)(2), **Sch. 1** (subject to transitional provisions in arts. 20-22)
- F82** Entry in Sch 1 Pt. II repealed (in force for specified purposes at 18.10.1999 so far as relating to chairmen of disability appeal tribunals and in force at 29.11.1999 in so far as not already in force except for specified purposes) by 1998 c. 14, s. 86(1), **Sch. 7 para. 123(2)**, **Sch. 8**; S.I. 1999/2860, art. 2(c), **Sch. 1** (subject to transitional provisions in Schs. 16-18); S.I. 1999/3178, art. 2(1)(2), **Sch. 1** (subject to transitional provisions in Schs. 21-23)
- F83** Entry in Sch. 1 Pt. II repealed (29.11.1999 except for specified purposes) by S.I. 1998/1506 (N.I. 10), art. 78(1)(2), **Sch. 6 para. 92(2)**, **Sch. 7**; S.R. 1999/472, art. 2(1)(2), **Sch. 1** (subject to transitional provisions in arts. 20-22)
- F84** Entry in Sch. 1 Pt. II repealed (1.6.1999) by 1998 c. 14, s. 86(1)(2), **Sch. 7 para. 123(2)**, **Sch. 8**; S.I. 1999/1510, **art. 2(g)(viii)**
- F85** Entry in Sch. 1 Pt. II repealed (1.6.1999) by S.I. 1998/1506 (N.I. 10), art. 78(1)(2), **Sch. 6 para. 92(2)**, **Sch. 7**; S.R. 1999/246, art. 2, **Sch. 1**
- F86** Words in Sch. 1 Pt. II substituted (1.8.1998) by 1998 c. 8, **ss. 1(2)(b)**, 16; S.I. 1998/1658, art. 2(1), **Sch. 3**
- F87** Words in Sch. 1 Pt. II substituted (1.3.1999) by S.I. 1998/3162 (N.I. 21), art. 105(1), **Sch. 3**; S.R. 1999/81, **art. 3(1)**
- F88** Words in Sch. 1 Pt. II substituted (E.W.S.) (22.8.1996) by 1996 c. 17, ss. 43, 46, **Sch. 1 para. 10(2)** (with s. 38)
- F89** Words in Sch. 1 Pt. II substituted (1.8.1998) by 1998 c. 8, **ss. 1(2)(c)**, 16; S.I. 1998/1658, art. 2(1), **Sch. 3**
- F90** Words in Sch. 1 Pt. II substituted (24.9.1996) by S.I. 1996/1921 (N.I. 18), art. 26, **Sch. 1 para. 9(a)**
- F91** Words in Sch. 1 Pt. II substituted (1.3.1999) by S.I. 1998/3162 (N.I. 21), art. 105(1), **Sch. 3**; S.R. 1999/81, **art. 3(1)**
- F92** Entry in Sch. 1 Pt. II inserted (1.10.1999) by S.I. 1999/2283, **art. 2**
- F93** Sch. 1 Pt. 2: entry inserted (9.2.2005) by The Enterprise Act 2002 (Judicial Pensions and Retirement Act 1993) (Consequential Amendment) Order 2005 (S.I. 2005/53), **art. 2(1)**
- F94** Sch. 1 Pt. 2: entry inserted (1.11.2003) by The Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) (No. 2) Order 2003 (S.I. 2003/2589), **art. 2**
- F95** Sch. 1 Pt. 2: words in entry inserted (25.2.2008) by The Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) Order 2008 (S.I. 2008/171), **art. 2**
- F96** Sch. 1 Pt. 2: Entries inserted (25.2.2008) by The Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) Order 2008 (S.I. 2008/171), **art. 2**
- F97** Sch. 1 Pt. 2: Entry inserted (17.12.2004) by Pensions Act 2004 (c. 35), ss. 102(4), 322(1), **Sch. 4 para. 17(2)**; S.I. 2004/3350, **art. 2**, **Sch. 4**
- F98** Sch. 1 Pt. 2: Entry inserted (E.W.S.) (1.1.2007) by Gambling Act 2005 (c. 19), ss. 140, 358, **Sch. 8 para. 6**; S.I. 2006/3272, **art. 2(1)**, **Sch. 1** (with Sch. 4) (as amended by S.I. 2006/3361, S.I. 2007/1157, S.I. 2007/1527, S.I. 2007/2169)
- F99** Sch. 1 Pt. 2: Entries inserted (1.4.2007) by The Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) Order 2007 (S.I. 2007/675), **art. 2**
- F100** Sch. 1 Pt. 2: Entry inserted (19.8.2007) by The Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) (No. 2) Order 2007 (S.I. 2007/2185), **art. 2**
- F101** 1999 c.14.

#### Marginal Citations

**M26** 1992 c. 8.

**M27** 1991 c. 48.

**M28** 1992 c. 48.

*Other offices whose holders are appointed by the Lord Chancellor*  
Judge Advocate General

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Vice Judge Advocate General

Assistant Judge Advocate General

Deputy Judge Advocate

F102

President or Vice-President of Value Added Tax Tribunals

Chairman of value added tax tribunals

Commissioner for the special purposes of the Income Tax Acts appointed under section 4 of the <sup>M29</sup>Taxes Management Act 1970

[<sup>F103</sup>President or other member of the Asylum and Immigration Tribunal ]

President [<sup>F104</sup>or Deputy President] of the pensions appeal tribunals established under the <sup>M30</sup>Pensions Appeal Tribunals Act 1943

President or chairman of the Transport Tribunal

[<sup>F105</sup>President or Deputy President of the Financial Services and Markets Tribunal]

[<sup>F106</sup>Member of a panel constituted under section 6(1) of the Social Security Act 1998  
<sup>M31</sup>F107 .....

Member of a panel constituted under Article 7(1) of the Social Security (Northern Ireland) Order 1998 <sup>M32</sup>F108 .....

[<sup>F109</sup>Adjudicator to Her Majesty's Land Registry]]

#### Textual Amendments

- F102** Sch. 1 Pt. 2: Entry relating to "Judge Advocate of Her Majesty's Fleet" repealed (1.1.2008) by [Armed Forces Act 2006 \(c. 52\)](#), ss. 378(2), 383(2), [Sch. 17](#); S.I. 2007/2913, [art. 3](#) (with art. 4(3))
- F103** Sch. 5: Entry substituted (4.4.2005) for the entries relating to the Immigration Appeal Tribunal and immigration adjudicators by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), ss. 26(7), 48(3), [Sch. 2 para. 8\(2\)](#); S.I. 2005/565, [art. 2\(a\)\(d\)](#) (with arts. 3-9)
- F104** Words in Sch. 1 Pt. II inserted (7.6.2002 with application as mentioned in art. 2 of the amending S.I.) by [The Judicial Pensions \(Pensions Appeal Tribunals\) Order 2002 \(S.I. 2002/1347\)](#), [art. 3](#)
- F105** Entry in Sch. 1 Pt. II inserted (3.9.2001) by 2000 c. 8, s. 432(1), [Sch. 20 para. 7\(2\)](#); S.I. 2001/2632, [art. 2\(2\)](#), [Sch. Pt. 2](#)
- F106** Entries in Sch. 1 Pt. II added (1.6.1999) by S.I. 1999/1454, [art. 2](#)
- F107** Sch. 1 Pt. 2: words in entry omitted (8.12.2003) by virtue of [The Judicial Pensions and Retirement Act 1993 \(Qualifying Judicial Offices\) \(Amendment\) Order 2003 \(S.I. 2003/2775\)](#), [art. 2\(a\)](#)
- F108** Sch. 1 Pt. 2: words in entry omitted (8.12.2003) by virtue of [The Judicial Pensions and Retirement Act 1993 \(Qualifying Judicial Offices\) \(Amendment\) Order 2003 \(S.I. 2003/2775\)](#), [art. 2\(b\)](#)
- F109** Sch. 1 Pt. 2: entry inserted (30.6.2003) by [The Judicial Pensions and Retirement Act 1993 \(Addition of Qualifying Judicial Offices\) Order 2003 \(S.I. 2003/1311\)](#), [art. 2](#)

#### Marginal Citations

- M29** 1970 c. 9.
- M30** 1943 c. 39.
- M31** 1998 c. 14.
- M32** S.I. 1998/1506 (N.I. 10).

#### Other offices

Chairman of the Criminal Injuries Compensation Board incorporated under section 108(1) of the <sup>M33</sup>Criminal Justice Act 1988

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Chairman of the Foreign Compensation Commission  
Chairman of the Scottish Land Court  
President of the Industrial Court appointed in pursuance of Article 91 of the <sup>M34</sup>Industrial Relations (Northern Ireland) Order 1992

#### Marginal Citations

**M33** 1988 c. 33.

**M34** S.I. 1992/807 (N.I. 5).

## [<sup>F110</sup>SCHEDULE 1A

Section 5

### SURVIVING CIVIL PARTNER'S PENSION: TRANSITIONAL PROVISIONS

#### Textual Amendments

**F110** Sch. 1A inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 77](#)

#### THE COMMENCEMENT DATE

1 In this Schedule “the commencement date” means 5th December 2005.

#### SERVICE WHOLLY BEFORE THE COMMENCEMENT DATE

2 No surviving civil partner's pension shall be payable in respect of a person who retires from qualifying judicial office before the commencement date.

#### SERVICE PARTLY BEFORE AND PARTLY ON THE COMMENCEMENT DATE

- 3 (1) The annual rate of a surviving civil partner's pension in respect of a person who—
- (a) holds qualifying judicial office before the commencement date; and
  - (b) continues to do so on that date,
- shall be calculated in accordance with section 5.
- (2) Sub-paragraph (1) does not apply if, within, 6 months of the formation of the civil partnership, the person elects for the annual rate of the surviving civil partner's pension to be calculated under sub-paragraph (3).
- (3) Where the annual rate of a surviving civil partner's pension falls to be calculated under this sub-paragraph, that pension shall be calculated in accordance with section 5, but solely for the purpose of this sub-paragraph, the annual rate of the deceased's judicial pension shall be deemed to be that to which he would have been entitled had he first been appointed to qualifying judicial office on the commencement date.
- (4) An election under sub-paragraph (2) must be made in writing to the administrators.
- (5) An election under sub-paragraph (2) is irrevocable.]



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## SCHEDULE 2

Section 23.

### TRANSFER OF ACCRUED BENEFITS

#### Modifications etc. (not altering text)

- C31** Sch. 2 applied (with modifications) (31.3.1995) by 1967 c. 13, **Sch.1 para. 4(1)** (as substituted (31.3.1995) by 1993 c. 8, s. 25, **Sch. 4 Pt. II para. 2**; S.I. 1995/631, **art. 2**)  
 Sch. 2 applied (with modifications) (31.3.1995) by S.I. 1987/460 (N.I. 5), **art.4A** (as inserted (31.5.1995) by 1993 c. 8, s. 25, **Sch. 4 Pt. IV para. 5(4)**; S.I. 1995/631, **art. 2**)  
 Sch. 2 applied (with modifications) (31.3.1995) by 1969 c. 10 (N.I.), **Sch.1A para. 4(1)** (as inserted (31.3.1995) by 1993 c. 8, s. 25, **Sch. 4 Pt. V para. 6(6)**; S.I. 1995/631, **art. 2**)  
 Sch. 2 extended (with modifications) (16.7.1996) by S.I. 1996/1298 (N.I. 8), **art. 5(4)**, **Sch. 1 para. 6(2)(3)(4)**  
 Sch. 2 extended (with modifications) (16.7.1996) by S.I. 1996/1297 (N.I. 7), **art. 4(4)**, **Sch. 1 para. 6(2)(3)(4)**

## PART I

### GENERAL

#### *Interpretation*

1 [F111(1)] In this Schedule—

[F112]“authorised insurer” means—

- (i) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
- (ii) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;]

“contracted-out scheme” has the same meaning as it has for the purposes of Part III of [F113]the Pension Schemes Act 1993] and, in relation to Northern Ireland, [F114]Part III of the Pension Schemes (Northern Ireland) Act 1993];

“disregarded service”, in relation to any member of a scheme, means any period of service in qualifying judicial office during which an election under, or an election having effect as if made under, section 13 of this Act is in force in respect of the qualifying member;

“guaranteed minimum pension” has the same meaning as in the [F113]the Pension Schemes Act 1993] and, in relation to Northern Ireland [F115]Pension Schemes (Northern Ireland) Act 1993], ;

“member”, in relation to a scheme, means a person to whom Part I of this Act applies or has applied;

“normal pension age” means the earliest age at which, if his service in qualifying judicial office had continued until retirement at that age, a member of the scheme constituted by Part I of this Act might have been entitled to receive a pension under the scheme at the appropriate annual rate (otherwise than by reason of infirmity of mind or body);



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“occupational pension scheme” has the meaning given by [F116section 1] of [F113the Pension Schemes Act 1993] or, in relation to Northern Ireland, Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975;

“personal pension scheme” has the meaning given by [F117section 1 of the Pension Schemes Act 1993] or, in relation to Northern Ireland, [F118section 1 of the Pension Schemes (Northern Ireland) Act 1993];

“prescribed” means prescribed by regulations;

“protected rights” has the same meaning as in [F113the Pension Schemes Act 1993] and, in relation to Northern Ireland, the [F115Pension Schemes (Northern Ireland) Act 1993];

“qualifying member” means a person to whom Part II of this Schedule applies;

“qualifying service” means the service by reference to which a qualifying member’s entitlement to benefit under the scheme is calculated; and

“scheme” means the relevant occupational pension scheme constituted by Part I or section 19 of this Act.

[F119(2) The definition of “authorised insurer” in sub-paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section;
- (c) Schedule 2 to that Act.]

#### Textual Amendments

- F111** Sch. 2 para. 1 re-numbered as para. 1(1) (1.12.2001) by S.I. 2001/3649, **arts. 1, 114(2)**
- F112** Definition of “authorised insurer” in Sch. 2 para. 1(1) substituted (1.12.2001) for the definition of “authorised insurance company” by S.I. 2001/3649, **arts. 1, 114(3)**
- F113** Sch. 2 para. 1: words in the definition of “guaranteed minimum pension” substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 46(5)(a)(i)** (with s. 6(8)); S.I. 1994/86, **art. 2**
- F114** Sch. 2 para. 1: words in the definition of “contracted-out scheme” substituted (N.I) (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 43(5)(a)(i)**; S.R. 1994/17, **art. 2**
- F115** Sch. 2 para. 1: words in the definitions of “guaranteed minimum pension” and “protected rights” substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 43(5)(a)(ii)**; S.R. 1994/17, **art. 2**
- F116** Sch. 2 para. 1: words in the definition of “occupational pension scheme” substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 46(5)(a)(ii)** (with s. 6(8)); S.I. 1994/86, **art. 2**
- F117** Sch. 2 para. 1: words in the definition of “personal pension scheme” substituted (7.2.1994) by 1993 c. 48, ss. 190, 193(2), **Sch. 8 para. 46(5)(a)(iii)** (with s. 6(8)); S.I. 1994/86, **art. 2**
- F118** Sch. 2 para. 1: words in the definition of “personal pension scheme” substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 43(5)(a)(iii)**; S.R. 1994/17
- F119** Sch. 2 para. 1(2) inserted (1.12.2001) by S.I. 2001/3649, **arts. 1, 114(4)**

#### Modifications etc. (not altering text)

- C32** Sch. 2 para. 1 amended (1.7.1994) by 1994/1696, reg. 68, Sch. 8 Pt. I para. 22(2)

#### Regulations

- 2 Regulations for the purposes of this Schedule may be made, with the concurrence of the Treasury, by the Lord Chancellor or, in relation to Scotland, the Secretary of State.

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*Other provisions about transfer values*

- 3 [F120 Chapter IV of Part IV of the Pension Schemes Act 1993] (transfer values) and [F121 Chapter IV of Part IV of the Pension Schemes (Northern Ireland) Act 1993] (corresponding Northern Ireland provisions) shall not apply in relation to those schemes to which this Schedule applies.

**Textual Amendments**

**F120** Words in Sch. 2 para. 3 substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 46(5)(b)**; S.I. 1994/86, **art. 2**

**F121** Words in Sch. 2 para. 3 substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 43(5)(b)**; S.R. 1994/17, **art. 2**

**PART II**

TRANSFERS OUT

*Qualifying members*

- 4 (1) Where the conditions mentioned in sub-paragraph (2) below are satisfied, this Part of this Schedule applies to any person—
- (a) to or in respect of whom benefits are payable under a scheme; and
  - (b) whose qualifying service ends after this Schedule comes into force.
- (2) The conditions are that—
- (a) his qualifying service ends at least one year before he reaches normal pension age; and
  - (b) on the date on which it ends—
    - (i) he has accrued rights to benefit under the scheme; or
    - (ii) he would have such rights if his service in qualifying judicial office had also ended on that date.

*Qualifying member's right to a transfer payment*

- 5 (1) When his qualifying service ends, a qualifying member acquires a right to the cash equivalent at the relevant date of any benefits—
- (a) which have accrued to, or in respect of him, under the scheme; or
  - (b) where service of his in qualifying judicial office is disregarded service, which would have so accrued if his service in qualifying judicial office had ended on the same date as that on which his qualifying service ended.
- (2) In this paragraph “the relevant date” means—
- (a) the date when the qualifying member's qualifying service ends, or
  - (b) the date of any application which he has made under paragraph 6 below and which has not been withdrawn,
- whichever is the later.

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### *Method of taking cash benefit*

- 6 (1) A qualifying member who acquires a right to a cash equivalent under paragraph 5 above may only take it by exercising the option conferred by this paragraph.
- (2) The option is that of requiring the Treasury to use the cash equivalent in whichever of the following ways the qualifying member chooses—
- (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—
    - (i) whose trustees or managers are able and willing to accept him; and
    - (ii) which satisfies prescribed requirements;
  - (b) for acquiring rights allowed under the rules of a personal pension scheme—
    - (i) whose trustees or managers are able and willing to accept him; and
    - (ii) which satisfies prescribed requirements;
  - (c) for purchasing from one or more authorised [<sup>F122</sup>insurers]—
    - (i) chosen by the qualifying member, and
    - (ii) willing to accept payment on his account from the Treasury, one or more annuities which satisfy prescribed requirements;
  - (d) for subscribing to other pension arrangements which satisfy prescribed requirements.
- (3) Without prejudice to the generality of the power to prescribe requirements under sub-paragraph (2) above, such requirements may provide that pension arrangements or a scheme or annuity must satisfy such requirements of the Commissioners of Inland Revenue as may be prescribed.
- (4) A qualifying member may exercise his option in different ways in relation to different portions of his cash equivalent.
- (5) A qualifying member who exercises his option must do so in relation to the whole of his cash equivalent or, where sub-paragraph (6) below applies, in relation to the whole of the reduced cash equivalent.
- (6) Where—
- (a) the trustees or managers of—
    - (i) an occupational pension scheme which is not a contracted-out scheme, or
    - (ii) a personal pension scheme which is not an appropriate scheme under [<sup>F123</sup>section 7 of the Pension Schemes Act 1993], [<sup>F124</sup>section 3 of the Pension Schemes (Northern Ireland) Act 1993] or under any prescribed provision, or
    - (iii) a self-employed pension arrangement within the meaning of regulation 2D of the <sup>M35</sup>Occupational Pension Schemes (Transfer Values) Regulations 1985, regulation 2D of the <sup>M36</sup>Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1985, regulation 2A of the <sup>M37</sup>Personal Pension Schemes (Transfer Values) Regulations 1987, regulation 2A of the <sup>M38</sup>Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1987 or any other prescribed provision,

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are able or willing to accept a transfer payment only in respect of a qualifying member's rights other than his accrued rights to a guaranteed minimum pension or his protected rights; and

- (b) the member has not required the Treasury to use the portion of his cash equivalent which represents a guaranteed minimum pension or protected rights in any of the ways specified in sub-paragraph (2) above,

paragraph 5 above, this paragraph and paragraph 7 below are to be read as conferring on the member an option only in respect of the reduced cash equivalent.

- (7) In this paragraph “reduced cash equivalent” means a sum equal to the balance of the cash equivalent to which the qualifying member would be entitled if sub-paragraph (6) above did not apply, after deduction of an amount sufficient for the Treasury to meet its liability in respect of the member's guaranteed minimum pension or protected rights or those of his widow, or her widower.

#### Textual Amendments

**F122** Word in *Sch. 2 para. 6(2)(c)* substituted (1.12.2001) by *S.I. 2001/3649, arts. 1, 114(5)*

**F123** Words in *Sch. 2 para. 6(6)(a)(ii)* substituted (7.2.1994) by *1993 c. 48, s. 190, Sch. 8 para. 46(5)(c); S.I. 1994/86, art. 2*

**F124** Words in *Sch. 2 para. 6(6)(a)(ii)* substituted (7.2.1994) by *1993 c. 49, s. 184, Sch. 7 para. 43(5)(c)S.R. 1994/17, art. 2*

#### Marginal Citations

**M35** *S.I. 1985/1931.*

**M36** *S.R. (N.I.) 1985 No. 358.*

**M37** *S.I. 1987/1112.*

**M38** *S.R. (N.I.) 1987 No. 290.*

#### *Calculation of cash equivalents*

- 7 (1) Cash equivalents are to be calculated and verified in the prescribed manner.
- (2) Regulations made under sub-paragraph (1) above may, in particular, provide—
- (a) that in calculating cash equivalents account shall be taken—
- (i) of any surrender or forfeiture of the whole or part of a qualifying member's pension which occurs before the Treasury does what is needed to comply with the choice made by him in exercising his option;
- (ii) in a case where paragraph 6(6) above applies, of the need to deduct an appropriate amount to provide a guaranteed minimum pension or give effect to protected rights; and
- (b) that in prescribed circumstances a qualifying member's cash equivalent shall be increased or reduced.
- (3) Without prejudice to the generality of sub-paragraph (2) above, the circumstances that may be specified by virtue of paragraph (b) of that sub-paragraph include the length of time which elapses between the termination of a qualifying member's qualifying service and his exercise of the option conferred by paragraph 6 above.

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#### *Time within which option must be exercised*

- 8 (1) A qualifying member may only exercise his option on or before the last option date.
- (2) The last option date is—
- (a) the date which falls one year before the date on which the qualifying member reaches normal pension age, or
  - (b) the end of the period of six months beginning with the date on which his qualifying service ends,
- whichever is the later.
- (3) A qualifying member loses the right to any cash equivalent under this Schedule if—
- (a) his pension becomes payable before he reaches normal pension age; or
  - (b) he fails to exercise his option on or before the last option date.

#### *Option to be exercised in writing*

- 9 (1) A qualifying member may only exercise his option by making an application in writing to the Treasury.
- (2) In any case where—
- (a) a qualifying member has exercised his option, and
  - (b) the Treasury has done what is needed to comply with the choice made by him in exercising his option,
- the Treasury shall be discharged from any obligation to provide benefits to which the cash equivalent related except, in any such cases as are mentioned in paragraph 6(6) above, to the extent that an obligation to provide guaranteed minimum pensions or give effect to protected rights continues to subsist.
- (3) If the Treasury receives an application under this paragraph, it shall be its duty, subject to the following provisions of this paragraph, to do what is needed to comply with the choice made by the qualifying member in exercising his option—
- (a) within twelve months of the date on which it receives his application, or
  - (b) by the date on which he attains normal pension age,
- whichever is the earlier.

#### *Cancellation of exercise of option*

- 10 (1) A qualifying member may cancel the exercise of his option by giving the Treasury notice in writing that he no longer wishes it to be exercised.
- (2) No such notice shall have effect if it is given to the Treasury at a time when, in order to comply with the choice made by the qualifying member in exercising his option, the Treasury has entered into an agreement with a third party to use the whole or part of his cash equivalent in a way specified in paragraph 6(2)(a), (b), (c) or (d) above.
- (3) A qualifying member who withdraws an application may make another.

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### PART III

#### TRANSFERS IN

##### *Application to accept payment into scheme*

- 11 (1) Where a member of a scheme has asked the appropriate Minister to accept a payment representing the cash equivalent of his accrued rights in any other qualifying scheme, that Minister may—
- (a) to the extent to which it does not exceed the prescribed limit, accept the payment or any part of it; or
  - (b) refuse to accept the payment or any part of it.
- (2) A request under sub-paragraph (1) above must be made—
- (a) in writing;
  - (b) before the person making it has reached normal pension age; and
  - (c) not less than one year before he becomes entitled to a pension on retirement from his qualifying service.
- (3) In this paragraph—
- “the prescribed limit” means the limit prescribed by regulations made by virtue of paragraph 13(a) below;
- “qualifying scheme” means—
- (a) an occupational pension scheme, a personal pension scheme, or an annuity purchased from an authorised [<sup>F125</sup>insurer], which satisfies prescribed requirements; or
  - (b) other prescribed pension arrangements.

#### **Textual Amendments**

**F125** Sch. 2 para. 11(3): Word in para. (a) of the definition of “qualifying scheme” substituted (1.12.2001) by S.I. 2001/3649, arts. 1, 114(6)

##### *Cancellation of request*

- 12 (1) A member may, by notice in writing given to the appropriate Minister, cancel a request made by him under paragraph 11 above, at any time before it has been accepted.
- (2) A transferring member who withdraws an application may make another.

##### *Regulations*

- 13 Regulations may—
- (a) prescribe limits on the amounts which the appropriate Minister may accept under paragraph 11(1) above;
  - (b) make provision as to the manner in which payments are to be accepted into a scheme under this Part of this Schedule;
  - (c) make provision as to the benefits which are to be provided to a member to reflect any such payment accepted with respect to him;

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- (d) prescribe formulae, based on tables of factors provided by the Government Actuary, to be used when performing any calculation relating to the acceptance of transfer payments or the provision of benefits.

## [<sup>F126</sup>SCHEDULE 2A

### PENSION CREDITS

#### Textual Amendments

**F126** Sch. 2A inserted (1.12.2000) by S.I. 2000/2986, reg. 3

- <sup>F127</sup>1 (1) In any case where—
- (a) a person (“the transferee”) becomes entitled to a pension credit under section 29 of the Welfare Reform and Pensions Act 1999 (“the 1999 Act”); and
  - (b) that pension credit is derived from the rights of another person (“the transferor”) under—
    - (i) an occupational pension scheme constituted by Part I or section 19 of this Act; or
    - (ii) any scheme in relation to which a scheme within sub-paragraph (i) is specified as an alternative for the purposes of paragraph 2 of Schedule 5 to the 1999 Act,the transferee shall become entitled to rights under this paragraph in respect of that pension credit.
- (2) The rights which are to be provided under this paragraph shall be so calculated as to be appropriate rights for the purposes of paragraph 5 of Schedule 5 to the 1999 Act, and any regulations made by the Secretary of State for the purposes of that paragraph shall apply accordingly.
- (3) Subject to sub-paragraph (2) above, the rights which are to be provided under this paragraph, shall be such as may be prescribed by the appropriate Minister in regulations, which shall provide for the calculation and payment of any sums payable as part of those rights.
- (4) Regulations under sub-paragraph (3) above may—
- (a) provide for the calculation of the amounts payable in such manner as may, in the particular case, be approved by a person prescribed by the regulations, or in accordance with guidance from time to time prepared by a person so prescribed;
  - (b) include provision by reference to regulations made under section 30 of or Schedule 5 to the 1999 Act; or
  - (c) include provision by reference to regulations made under paragraph 13 of Schedule 2 to this Act.
- (5) Section 28(1) of this Act shall apply to any pension or lump sum payable by virtue of this paragraph as if it were—
- (a) a pension or lump sum under Part I of this Act; or
  - (b) a payment authorised by section 19 of this Act,

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payable to the transferor in respect of the office which he held at the time of the order or agreement under which the pension credit arose.

**Textual Amendments**

**F127** Sch. 2A inserted (1.12.2000) by [S.I. 2000/2986, reg. 3](#)

- <sup>F128</sup><sub>2</sub> The appropriate Minister shall have no power to accept, for the benefit of a member of a judicial pension scheme—
- (a) a payment under paragraph 1(3) of Schedule 5 to the 1999 Act,
  - (b) a payment under section 95 of the Pension Schemes Act 1993 <sup>F129</sup>, or
  - (c) any other payment,
- to the extent that that payment directly or indirectly represents a pension credit.]

**Textual Amendments**

**F128** Sch. 2A inserted (1.12.2000) by [S.I. 2000/2986, reg. 3](#)

**F129** 1993 c. 48.

SCHEDULE 3

Section 24.

CORRESPONDING MINOR AMENDMENTS TO OTHER PENSIONS ENACTMENTS

**PART I**

AMENDMENTS OF THE 1981 ACT

*Dependent children: maximum allowable remuneration*

- 1 (1) In section 21 of the 1981 Act (meaning of “period of childhood and full-time education”) in subsection (1)(c)(ii), for the words from “do not exceed” to “a year” there shall be substituted the words “ do not exceed the maximum allowable remuneration ”.
- (2) After subsection (3) of that section (meaning of “emoluments”) there shall be inserted—
- “(3A) For the purposes of subsection (1)(c)(ii) above, the “maximum allowable remuneration” at any time is an annual rate (£1,614 a year, at the passing of the Judicial Pensions and Retirement Act 1993) equal to that at which a pension of £250 a year—
- (a) first awarded under the principal civil service pension scheme on 1st June 1972, and
  - (b) increased from time to time by the amount of increase that would be applied under the Pensions (Increase) Act 1971 to such a pension,
- would (as so increased) be payable at that time, rounding any resulting fraction of £1 up to the next whole £1.”



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- (3) Subsections (5) and (6) of that section (orders increasing the earnings limit in subsection (1)(c)(ii)) shall cease to have effect.

### *Appeals*

- 2 (1) Section 15 of the 1981 Act (which provides that the decision of the Treasury on certain questions shall be final) shall cease to have effect.
- (2) After section 32 of that Act there shall be inserted—

#### **“32A Appeals.**

- (1) If any person to whom this section applies is aggrieved by any decision taken by the administrators of a relevant pension scheme concerning—
- (a) the interpretation of the rules of the scheme, or
  - (b) the exercise of any discretion under the scheme,
- he shall have a right of appeal to the appropriate Minister against that decision.
- (2) On deciding an appeal under this section, the appropriate Minister may give to the administrators such directions as he considers necessary or expedient for implementing his decision.
- (3) The persons to whom this section applies are the following—
- (a) any member of the scheme;
  - (b) the widow or widower, or any surviving dependant, of a deceased member of the scheme;
  - (c) where the decision relates to the question—
    - (i) whether a person who claims to be such a person as is mentioned in paragraph (a) or (b) above is such a person, or
    - (ii) whether a person who claims to be entitled to become a member of the scheme is so entitled,the person so claiming.
- (4) Regulations may make provision as to the manner in which, and time within which, appeals under this section are to be brought.
- (5) The administrators shall be entitled to appear and be heard on any appeal under this section.
- (6) In this section—
- “the administrators”, in relation to a pension scheme, means the persons entrusted with the administration of the scheme;
  - “the appropriate Minister” means—
    - (a) in relation to any judicial office whose jurisdiction is exercised exclusively in relation to Scotland, the Secretary of State; or
    - (b) subject to paragraph (a) above, the Lord Chancellor;
  - “member”, in relation to a pension scheme, means a person whose service in an office is, was or is to be subject to the scheme;
  - “regulations” means regulations made by the appropriate Minister;

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“relevant pension scheme” means any pension scheme constituted under or by virtue of this Act;

“rules”, in relation to a relevant pension scheme, means the provisions of this Act, and of any regulations or orders made under this Act, so far as relating to that scheme.”

*Additional voluntary contributions*

- 3 (1) Section 33A of the 1981 Act (which confers power to make regulations entitling any member of a judicial pension scheme constituted by that Act or by the <sup>M39</sup>Sheriffs’ Pensions (Scotland) Act 1961 to make voluntary contributions towards the provision of additional benefits under the scheme) shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (1), after the word “provision” there shall be inserted “ (a) ” and for the words “under the scheme” there shall be substituted the words “whether under the scheme or otherwise; or
- (b) imposing conditions with respect to the exercise by any such person of any entitlement (whether or not under paragraph (a) above) which he may have to make any such voluntary contributions.”
- (3) After that subsection there shall be inserted—
- “(1A) The regulations may make provision for the purpose of imposing, in a case where a member makes voluntary contributions, upper limits with respect to—
- (a) the aggregate value of the aggregable benefits which may be paid to or in respect of any such member; and
- (b) the amount which any such member may pay by way of such contributions;
- and, without prejudice to the generality of paragraph (b) above, the regulations may, in particular, impose such an upper limit on the amount which a member may pay by way of voluntary contributions as will, so far as reasonably practicable, secure that the aggregate value referred to in paragraph (a) above will not exceed the limit prescribed under that paragraph.
- (1B) The regulations may—
- (a) prescribe the manner in which aggregable benefits are to be valued for the purpose of any such aggregation as is mentioned in subsection (1A) above;
- (b) confer on the administrators of a judicial pension scheme power to require a member who is making, or who wishes to make, voluntary contributions to provide such information as they may require concerning any retained benefits of his;
- (c) permit the disclosure by those administrators of any information which they may obtain concerning any such retained benefits—
- (i) to, or to any officers of, the Commissioners of Inland Revenue; or
- (ii) to, or to any servants or agents of, any authorised provider who is, or may be, concerned in the investment of the

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voluntary contributions or the provision of the additional benefits in question.”

- (4) In subsection (2), in paragraph (b) (no limit on voluntary contributions, other than an upper limit corresponding to that imposed by section 594 of the <sup>M40</sup>Income and Corporation Taxes Act 1988) after the words “other than” there shall be inserted the words “either or both of the following, that is to say—
- (i) such upper limit as may be imposed by virtue of subsection (1A)(b) above; or
  - (ii) ”.
- (5) At the end of that subsection there shall be added the words—
- “ but paragraphs (c) and (d) above have effect only in relation to a voluntary contributions scheme constituted by or under this Act or the Sheriffs’ Pensions (Scotland) Act 1961. ”
- (6) In subsection (3) (regulations about valuation of benefits etc)—
- (a) the word “and” immediately preceding paragraph (b) shall be omitted; and
  - (b) in that paragraph, for the words “limit imposed by virtue of” there shall be substituted the words “ such limit as is mentioned in ”.
- (7) At the end of that subsection there shall be added—
- “(c) provide for any administrative expenses incurred by any person by virtue of this section to be defrayed out of sums received by way of voluntary contributions;
  - (d) provide for the manner in which voluntary contributions are to be made;
  - (e) make provision for, and in connection with, the valuation of a person’s accrued rights—
    - (i) under any occupational or personal pension scheme, which are to be transferred into a voluntary contributions scheme, or
    - (ii) under any voluntary contributions scheme, which on termination of his membership of that scheme may fall to be transferred into another scheme;
  - (f) prescribe the additional benefits which are to be available under a voluntary contributions scheme and the rates and times at which those benefits are to be payable;
  - (g) make provision for and in connection with the making of elections between different benefits available under voluntary contributions schemes;
  - (h) provide for the terms on which a person may terminate his membership of a voluntary contributions scheme;
  - (j) provide for the terms on which surplus funds may be refunded to a person who has made payments by way of voluntary contributions to a voluntary contributions scheme;
  - (k) specify any authorised providers—
    - (i) who are to invest any prescribed voluntary contributions, or
    - (ii) who are to provide any prescribed additional benefits,

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and, if two or more authorised providers are so specified, may make provision entitling any person who makes prescribed payments by way of voluntary contributions to elect between those authorised providers.”

- (8) Subsection (4) (limitation of voluntary contributions by reference to maximum entitlement of members) shall be omitted and before subsection (5) there shall be inserted—

“(4A) The regulations may provide for such additional benefits arising under or by virtue of this section as may be prescribed—

- (a) to be charged on, and paid out of, the Consolidated Fund; or
- (b) to be paid out of money provided by Parliament.”

- (9) After subsection (5) there shall be inserted—

“(5A) The regulations may make different provision for different classes or descriptions of voluntary contributions scheme.”

- (10) After subsection (8) there shall be added—

“(9) In this section—

“administrators”, in relation to any scheme, means the persons entrusted with the administration of that scheme;

“aggregable benefits” means—

- (a) any pensions or other benefits under a judicial pension scheme, other than such additional benefits as are mentioned in subsection (1) above;
- (b) such additional benefits so mentioned as may be prescribed; and
- (c) such retained benefits as may be prescribed;

“authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means a person who is authorised under Chapter III of Part I of the Financial Services Act 1986 to invest those sums or, as the case may be, to provide that benefit;

“employment” has the same meaning as it has in the Social Security Pensions Act 1975 (and accordingly includes employment as a self-employed earner, within the meaning of that Act);

“judicial pension scheme” has the meaning given by section 14A(2) above;

“member” means member of a judicial pension scheme;

“occupational pension scheme” has the meaning given by section 66(1) of the Social Security Pensions Act 1975 or, in relation to Northern Ireland, Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975;

“personal pension scheme” has the meaning given by section 84(1) of the Social Security Act 1986 or, in relation to Northern Ireland, Article 2(2) of the Social Security (Northern Ireland) Order 1986;

“prescribed” means specified in, or determined in accordance with, the regulations;

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“relevant benefits” has the meaning given by section 612(1) of the Income and Corporation Taxes Act 1988;

“retained benefits”, in the case of any person, means any rights retained by him to relevant benefits under any occupational or personal pension scheme which has, or which may be expected to qualify for, tax-exemption or tax-approval, being rights which accrued during some previous employment;

“surplus funds”, in relation to a person and any voluntary contributions scheme, means any funds which are, or have been, held for the purposes of that voluntary contributions scheme and which fall to be returned to him in consequence of any such limit as is mentioned in subsection (2)(b) above;

“tax-exemption” and “tax-approval” have the meaning given by section 84(1) of the Social Security Act 1986;

“voluntary contributions”, in relation to any member of a judicial pension scheme, means voluntary contributions towards the provision of additional benefits, whether under that scheme or otherwise;

“voluntary contributions scheme” means any occupational pension scheme if and to the extent that it is a scheme under which such additional benefits as are mentioned in subsection (1) above are, or are to be, provided;

and, where a person’s voluntary contributions are made by deduction from salary, any reference to payment of, or by way of, voluntary contributions shall be taken to include a reference to the making of voluntary contributions by deduction or, as the case may require, to any voluntary contributions so made.

- (10) Without prejudice to subsections (3)(c) and (d) and (4A) above, there may be paid out of money provided by Parliament—
- (a) any sums required for or in connection with the operation or administration of any prescribed voluntary contributions scheme; or
  - (b) any administrative expenses incurred under or by virtue of this section by a Minister of the Crown or government department.
- (11) Any sums received under this section may be paid into the Consolidated Fund.”

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**Marginal Citations**

**M39** 1961 c. 42.

**M40** 1988 c. 1.

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## PART II

### AMENDMENT OF THE SHERIFFS' PENSIONS (SCOTLAND) ACT 1961

#### *Appeals*

4 After section 9 of the <sup>M41</sup>Sheriffs' Pensions (Scotland) Act 1961 there shall be inserted—

#### “9A Appeals.

- (1) If any person to whom a pension is payable under this Act is aggrieved by any decision taken by the administrators of a pension scheme constituted by this Act concerning—
  - (a) the interpretation of the provisions of the scheme, or
  - (b) the exercise of any discretion under the scheme,
 he shall have a right of appeal to the Secretary of State.
- (2) On deciding an appeal under this section, the Secretary of State may give to the administrators such directions as he considers necessary or expedient for implementing his decision.
- (3) The Secretary of State may by regulations make provision as to the manner in which, and time within which, appeals under this section are to be brought.
- (4) The administrators shall be entitled to appear and be heard on any appeal under this section.
- (5) In this section, “the administrators”, in relation to a pension scheme, means the persons entrusted with the administration of the scheme.”

#### **Marginal Citations**

**M41** 1961 c. 42.

## PART III

### AMENDMENTS OF NORTHERN IRELAND PROVISIONS

#### *Interpretation*

5 In this Part of this Schedule—

“the 1951 Act” means the <sup>M42</sup>Judicial Pensions Act (Northern Ireland) 1951;

“the 1959 Act” means the <sup>M43</sup>County Courts Act (Northern Ireland) 1959;

“the 1960 Act” means the <sup>M44</sup>Resident Magistrates' Pensions Act (Northern Ireland) 1960;

“the 1964 Order” means the <sup>M45</sup>Lands Tribunal (Salaries and Superannuation) Order (Northern Ireland) 1964;

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“the 1969 Act” means the <sup>M46</sup>Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969;

“the 1975 Act” means the <sup>M47</sup>Social Security (Northern Ireland) Act 1975.

#### Marginal Citations

**M42** 1951 c. 20 (N.I.).

**M43** 1959 c. 25 (N.I.).

**M44** 1960 c. 2 (N.I.).

**M45** S.R. & O. (N.I.) 1964 No. 191.

**M46** 1969 c. 7 (N.I.).

**M47** 1975 c. 15.

#### *Dependent children: maximum allowable remuneration*

- 6 (1) In subsection (1)(c)(ii) of each of the following enactments (which give the meaning of “period of childhood and full-time education”), that is to say—
- section 9 of the 1951 Act,
  - section 125 of the 1959 Act,
  - section 7 of the 1960 Act,
- for the words from “do not exceed” to “a year” there shall be substituted the words “do not exceed the maximum allowable remuneration”.
- (2) In paragraph 1(c)(ii) of Article 9 of the 1964 Order (which gives the meaning of “period of childhood and full-time education”), for the words from “do not exceed” to “a year” there shall be substituted the words “do not exceed the maximum allowable remuneration”.
- (3) The subsection set out in sub-paragraph (4) below shall be inserted—
- numbered as subsection (2A), after subsection (2) of section 9 of the 1951 Act;
  - numbered as subsection (2A), after subsection (2) of section 125 of the 1959 Act;
  - numbered as subsection (4A), after subsection (4) of section 7 of the 1960 Act.
- (4) The subsection inserted by sub-paragraph (3) above is as follows—
- “(0) For the purposes of subsection (1)(c)(ii), the “maximum allowable remuneration” at any time is an annual rate (£1,614 a year, at the passing of the Judicial Pensions and Retirement Act 1993) equal to that at which a pension of £250 a year—
- first awarded under the principal civil service pension scheme (within the meaning of that Act) on 1st June 1972, and
  - increased from time to time by the amount of increase that would be applied under the Pensions (Increase) Act 1971 to such a pension, would (as so increased) be payable at that time, rounding any resulting fraction of £1 up to the next whole £1.”
- (5) A paragraph in the same terms as the subsection set out in sub-paragraph (4) above, but with the substitution of the word “ paragraph ” for the word “subsection”, shall

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be inserted, numbered as paragraph (2A), after paragraph (2) of Article 9 of the 1964 Order.

- (6) Paragraph 18 of Schedule 1 to the <sup>M48</sup>Superannuation (Amendment) Act (Northern Ireland) 1966 (orders increasing the earnings limit in subsection (1)(c)(ii) of each of the sections specified in sub-paragraph (1) above) shall cease to have effect.

**Marginal Citations**

**M48** 1966 c. 27 (N.I.).

*Appeals*

- 7 (1) The following enactments (which correspond to section 15 of the 1981 Act) shall cease to have effect, that is to say—
- (a) section 116(6) of the 1959 Act;
  - (b) section 14 of the 1960 Act;
  - (c) paragraph 6(4) of Schedule 10 to the 1975 Act.
- (2) The section set out in sub-paragraph (3) below shall be inserted—
- (a) numbered as section 132A, after section 132 of the 1959 Act;
  - (b) numbered as section 21A, after section 21 of the 1960 Act.

- (3) The section inserted by sub-paragraph (2) above is as follows—

**Appeals.**

- 10 (1) If any person to whom this section applies is aggrieved by any decision taken by the administrators of a relevant pension scheme concerning—
- (a) the interpretation of the rules of the scheme, or
  - (b) the exercise of any discretion under the scheme,
- he shall have a right of appeal to the Lord Chancellor against that decision.
- (2) On deciding an appeal under this section, the Lord Chancellor may give to the administrators such directions as he considers necessary or expedient for implementing his decision.
- (3) The persons to whom this section applies are the following—
- (a) any member of the scheme;
  - (b) the widow or widower, or any surviving dependant, of a deceased member of the scheme;
  - (c) where the decision relates to the question—
    - (i) whether a person who claims to be such a person as is mentioned in paragraph (a) or (b) is such a person, or
    - (ii) whether a person who claims to be entitled to become a member of the scheme is so entitled,
 the person so claiming.
- (4) The Lord Chancellor may by regulations make provision as to the manner in which, and time within which, appeals under this section are to be brought.



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(5) Regulations made under this section shall be subject to annulment in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(6) The administrators shall be entitled to appear and be heard on any appeal under this section.

(7) In this section—

“the administrators”, in relation to a pension scheme, means the persons entrusted with the administration of the scheme;

“member”, in relation to a pension scheme, means a person whose service in an office is, was or is to be subject to the scheme;

“relevant pension scheme” means any pension scheme constituted under or by virtue of this Act;

“rules”, in relation to a relevant pension scheme, means the provisions of this Act, and of any regulations or orders made under this Act, so far as relating to that scheme.”

(4) A paragraph in the same terms as the section set out in sub-paragraph (3) above, but with the substitution of the words “ this paragraph ” for the words “this section”, wherever occurring, shall be inserted, numbered as paragraph 7B, after paragraph 7A of Schedule 10 to the 1975 Act.

#### *Additional voluntary contributions*

8 (1) The following enactments (which correspond to section 33A of the 1981 Act), that is to say—

- (a) section 11A of the 1951 Act,
- (b) section 127A of the 1959 Act, and
- (c) section 9A of the 1960 Act,

shall be amended in accordance with the following provisions of this paragraph.

(2) In subsection (1), after the word “provision” there shall be inserted “ (a) ” and for the words “under the scheme” there shall be substituted the words “whether under the scheme or otherwise; or

- (b) imposing conditions with respect to the exercise by any such person of any entitlement (whether or not under paragraph (a)) which he may have to make any such voluntary contributions.”

(3) After that subsection there shall be inserted—

“(1A) The regulations may make provision for the purpose of imposing, in a case where a member makes voluntary contributions, upper limits with respect to—

- (a) the aggregate value of the aggregable benefits which may be paid to or in respect of any such member; and
- (b) the amount which any such member may pay by way of such contributions;

and, without prejudice to the generality of paragraph (b), the regulations may, in particular, impose such an upper limit on the amount which a member may pay by way of voluntary contributions as will, so far as reasonably

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practicable, secure that the aggregate value referred to in paragraph (a) will not exceed the limit prescribed under that paragraph.

(1B) The regulations may—

- (a) prescribe the manner in which aggregable benefits are to be valued for the purpose of any such aggregation as is mentioned in subsection (1A);
- (b) confer on the administrators of a judicial pension scheme power to require a member who is making, or who wishes to make, voluntary contributions to provide such information as they may require concerning any retained benefits of his;
- (c) permit the disclosure by those administrators of any information which they may obtain concerning any such retained benefits—
  - (i) to, or to any officers of, the Commissioners of Inland Revenue; or
  - (ii) to, or to any servants or agents of, any authorised provider who is, or may be, concerned in the investment of the voluntary contributions or the provision of the additional benefits in question.”

(4) In subsection (2), in paragraph (b) (no limit on voluntary contributions, other than an upper limit corresponding to that imposed by section 594 of the <sup>M49</sup>Income and Corporation Taxes Act 1988) after the words “other than” there shall be inserted the words “either or both of the following, that is to say—

- (i) such upper limit as may be imposed by virtue of subsection (1A)(b); or

(ii) ”.

(5) At the end of that subsection there shall be added the words—

“ but paragraphs (c) and (d) have effect only in relation to a voluntary contributions scheme constituted by or under this Act. ”

(6) In subsection (3) (regulations about valuation of benefits etc)—

- (a) the word “and” immediately preceding paragraph (b) shall be omitted; and
- (b) in that paragraph, for the words “limit imposed by virtue of” there shall be substituted the words “ such limit as is mentioned in ”.

(7) At the end of that subsection there shall be added—

- “(c) provide for any administrative expenses incurred by any person by virtue of this section to be defrayed out of sums received by way of voluntary contributions;
- (d) provide for the manner in which voluntary contributions are to be made;
- (e) make provision for, and in connection with, the valuation of a person’s accrued rights—
  - (i) under any occupational or personal pension scheme, which are to be transferred into a voluntary contributions scheme, or
  - (ii) under any voluntary contributions scheme, which on termination of his membership of that scheme may fall to be transferred into another scheme;

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- (f) prescribe the additional benefits which are to be available under a voluntary contributions scheme and the rates and times at which those benefits are to be payable;
  - (g) make provision for and in connection with the making of elections between different benefits available under voluntary contributions schemes;
  - (h) provide for the terms on which a person may terminate his membership of a voluntary contributions scheme;
  - (i) provide for the terms on which surplus funds may be refunded to a person who has made payments by way of voluntary contributions to a voluntary contributions scheme;
  - (j) specify any authorised providers—
    - (i) who are to invest any prescribed voluntary contributions, or
    - (ii) who are to provide any prescribed additional benefits,and, if two or more authorised providers are so specified, may make provision entitling any person who makes prescribed payments by way of voluntary contributions to elect between those authorised providers.”
- (8) Subsection (4) (limitation of voluntary contributions by reference to maximum entitlement of members) shall be omitted and before subsection (5) there shall be inserted—

“(4A) The regulations may provide for such additional benefits arising under or by virtue of this section as may be prescribed—

- (a) to be charged on, and paid out of, the Consolidated Fund of the United Kingdom; or
- (b) to be paid out of money provided by the Parliament of the United Kingdom.”

- (9) After subsection (6) there shall be added—

“(7) In this section—

“administrators”, in relation to any scheme, means the persons entrusted with the administration of that scheme;

“aggregable benefits” means—

- (a) any pensions or other benefits under a judicial pension scheme, other than such additional benefits as are mentioned in subsection (1);
- (b) such additional benefits so mentioned as may be prescribed; and
- (c) such retained benefits as may be prescribed;

“authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means a person who is authorised under Chapter III of Part I of the Financial Services Act 1986 to invest those sums or, as the case may be, to provide that benefit;

“employment” has the same meaning as it has in the Social Security Pensions (Northern Ireland) Order 1975 (and accordingly includes employment as a self-employed earner, within the meaning of that Order);

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“judicial pension scheme” means a scheme constituted by this Act;

“member” means member of a judicial pension scheme;

“occupational pension scheme” has the meaning given by Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975;

“personal pension scheme” has the meaning given by Article 2(2) of the Social Security (Northern Ireland) Order 1986;

“prescribed” means specified in, or determined in accordance with, the regulations;

“relevant benefits” has the meaning given by section 612(1) of the Income and Corporation Taxes Act 1988;

“retained benefits”, in the case of any person, means any rights retained by him to relevant benefits under any occupational or personal pension scheme which has, or which may be expected to qualify for, tax-exemption or tax-approval, being rights which accrued during some previous employment;

“surplus funds”, in relation to a person and any voluntary contributions scheme, means any funds which are, or have been, held for the purposes of that voluntary contributions scheme and which fall to be returned to him in consequence of any such limit as is mentioned in subsection (2)(b);

“tax-exemption” and “tax-approval” have the meaning given by Article 2(2) of the Social Security (Northern Ireland) Order 1986;

“voluntary contributions”, in relation to any member of a judicial pension scheme, means voluntary contributions towards the provision of additional benefits, whether under that scheme or otherwise;

“voluntary contributions scheme” means any occupational pension scheme if and to the extent that it is a scheme under which such additional benefits as are mentioned in subsection (1) are, or are to be, provided;

and, where a person’s voluntary contributions are made by deduction from salary, any reference to payment of, or by way of, voluntary contributions shall be taken to include a reference to the making of voluntary contributions by deduction or, as the case may require, to any voluntary contributions so made.

- (8) Without prejudice to subsections (3)(c) and (d) and (4A), there may be paid out of money provided by the Parliament of the United Kingdom—
- (a) any sums required for or in connection with the operation or administration of any prescribed voluntary contributions scheme; or
  - (b) any administrative expenses incurred under or by virtue of this section by a Minister of the Crown or government department.
- (9) Any sums received under this section may be paid into the Consolidated Fund of the United Kingdom.”

#### Marginal Citations

M49 1988 c. 1.

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## SCHEDULE 4

Section 25.

### PENSIONS FOR SENIOR PUBLIC INVESTIGATIVE OFFICERS

#### PART I

##### THE COMPTROLLER AND AUDITOR GENERAL

1 For section 13 of the <sup>M50</sup>Superannuation Act 1972 (pension provision for the Comptroller and Auditor General) there shall be substituted—

#### “13 The Comptroller and Auditor General.

(1) A person who first holds office on or after the appointed day as the Comptroller and Auditor General (in this section referred to as “the Comptroller”) shall be entitled, if he was a member of a judicial pension scheme immediately before he first holds that office, to elect between—

- (a) the scheme of pensions and other benefits under that judicial pension scheme (his “former scheme”);
- (b) (if different from his former scheme) the scheme of pensions and other benefits constituted by Part I of the 1993 Act (“the 1993 scheme”); and
- (c) the scheme of pensions and other benefits applicable under section 1 of this Act to the civil service of the State (“the civil service scheme”);

and, if he is not entitled to make an election under this subsection, or if he is so entitled but fails to make such an election, he shall be treated as if he had been so entitled and had elected for the civil service scheme.

(2) If a person who held the office of Comptroller before the appointed day has made an election under the former enactments for the old judicial scheme, he shall be entitled to make an election under this subsection between—

- (a) the old judicial scheme; and
- (b) the 1993 scheme;

and, if he fails to make an election under this subsection, he shall be taken to have elected for the old judicial scheme.

(3) If a person who held the office of Comptroller before the appointed day—

- (a) has made an election under the former enactments for the civil service scheme, or
- (b) has failed to make an election under those enactments (so that he is taken to have elected for the civil service scheme),

he shall be treated as if he had been entitled to make an election under this section and had elected for the civil service scheme.

(4) Where a person elects under this section for his former scheme, that scheme shall, subject to regulations under this section, apply as if his service as Comptroller were service which was subject, in his case, to that scheme.

(5) A person who elects under subsection (1)(b) or (2)(b) above for the 1993 scheme, shall be entitled, when he ceases to hold office as Comptroller, to a

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pension under Part I of the 1993 Act at the appropriate annual rate (within the meaning of that Act) if he has held that office for at least 5 years and either—

- (a) he has attained the age of 65; or
- (b) he is disabled by permanent infirmity for the performance of the duties of the office;

and, subject to the following provisions of, and regulations under, this section, the provisions of Part I of that Act (other than sections 1(1) to (4) and 2) and of sections 19, 20 and 23 of, and Schedule 2 to, that Act (which provide for benefits in respect of earnings in excess of pension-capped salary, appeals and transfer of accrued rights) shall apply in relation to him and his service in the office of Comptroller as they apply in relation to a person to whom Part I of that Act applies.

- (6) Subject to regulations under this section, in the application of provisions of the 1993 Act by virtue of subsection (5) above, a person who elects for the 1993 scheme shall be treated—
  - (a) as if the office of Comptroller were a qualifying judicial office (within the meaning of that Act) by virtue of inclusion among the offices specified in Part I of Schedule 1 to that Act;
  - (b) as if his election under this section were an election such as is mentioned in paragraph (d) of section 1(1) of that Act (so that, in particular, section 12 of that Act, which provides for the transfer of accrued rights into the scheme, applies);
  - (c) as if his pension by virtue of this section were a pension under section 2 of that Act (and, accordingly, a judicial pension, within the meaning of that Act); and
  - (d) for the purpose of determining, in the event of his death, the rate of any surviving spouse's or children's pension payable under sections 5 to 8 of that Act in respect of his service as Comptroller, as if references in those sections to the annual rate of the deceased's judicial pension were references—
    - (i) where a pension had commenced to be paid to him by virtue of subsection (5) above, to the appropriate annual rate of that pension; or
    - (ii) where no such pension had commenced to be paid to him, to the rate that would have been the appropriate annual rate of the pension payable to him by virtue of subsection (5) (b) above, had he not died, but been disabled by permanent infirmity for the performance of the duties of his office on and after the date of death;

and, in the application of that Act to the Comptroller (whether by virtue of subsection (1)(a) or (b) or (2)(b) above) the references to the appropriate Minister in sections 13 (election for personal pension), 19 (benefits in respect of earnings in excess of pension-capped salary) and 20 (appeals) of, and Schedule 2 (transfer of accrued rights) to, that Act shall be taken as references to the Treasury and the power conferred by paragraph 2 of that Schedule to make regulations shall be exercisable by the Treasury.

- (7) Where a person elects under this section for the civil service scheme, the principal civil service pension scheme within the meaning of section 2 of this Act and for the time being in force shall, subject to regulations under this

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**Status:** Point in time view as at 25/02/2008. This version of this Act contains provisions that are not valid for this point in time.

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section, apply as if his service as Comptroller were service in employment in the civil service of the State.

- (8) Where a person elects under this section for the old judicial scheme, that scheme and the former enactments shall, subject to regulations under this section, continue to have effect in relation to him and his service in the office of Comptroller.
- (9) Any power to make an election under this section shall be exercisable within such time and in such manner as may be prescribed in regulations under this section.
- (10) The Treasury may make regulations for purposes supplementary to the other provisions of this section.
- (11) Any such regulations may, without prejudice to section 38 or 39A of the Superannuation Act 1965 (employment in more than one public office), make special provision with respect to the pensions and other benefits payable to or in respect of a person to whom—
  - (a) his former scheme,
  - (b) the 1993 scheme,
  - (c) the civil service scheme, or
  - (d) the old judicial scheme,applies, or has applied, in respect of any service other than service as Comptroller.
- (12) The provision that may be made by virtue of subsection (11) above includes provision—
  - (a) for aggregating—
    - (i) other service falling within his former scheme, the 1993 scheme or the old judicial scheme with service as Comptroller, or
    - (ii) service as Comptroller with such other service,for the purpose of determining qualification for, or entitlement to, or the amount of, benefit under the scheme in question;
  - (b) for increasing the amount of the benefit payable under any of the schemes mentioned in paragraph (a)(i) above, in the case of a person to whom that scheme applied in respect of an office held by him before appointment as Comptroller, up to the amount that would have been payable under that scheme if he had retired from that office on the ground of permanent infirmity immediately before his appointment.
- (13) Any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of the House of Commons.
- (14) Any pension or other benefit granted by virtue of this section shall be charged on, and issued out of, the Consolidated Fund.
- (15) In this section—
  - “the 1981 Act” means the Judicial Pensions Act 1981;
  - “the 1993 Act” means the Judicial Pensions and Retirement Act 1993;

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“the appointed day” means the day on which Part I of Schedule 4 to the 1993 Act comes into force;

“the former enactments” means section 13 of this Act, as it had effect from time to time before the appointed day;

“judicial pension scheme” means any public service pension scheme, as defined in—

- (a) section 66(1) of the Social Security Pensions Act 1975, or
- (b) Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975,

under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices, within the meaning of the 1993 Act, but does not include the civil service scheme;

“the old judicial scheme” means the statutory scheme of pensions and other benefits applicable under or by virtue of the 1981 Act to the judicial offices listed in section 1 of that Act.”

#### Marginal Citations

M50 1972 c. 11.

## PART II

### THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION

- 2 For Schedule 1 to the <sup>M51</sup>Parliamentary Commissioner Act 1967 (pension provision for the Parliamentary Commissioner for Administration) there shall be substituted—

#### “SCHEDULE 1

Section 2.

#### PENSIONS AND OTHER BENEFITS

##### *Persons taking office after the appointed day*

- 1 A person who first holds office as the Commissioner on or after the appointed day shall be entitled, if he was a member of a judicial pension scheme immediately before he first holds that office, to elect between—

- (a) the scheme of pensions and other benefits under that judicial pension scheme (his “former scheme”);
- (b) (if different from his former scheme) the scheme of pensions and other benefits constituted by Part I of the 1993 Act (“the 1993 scheme”); and
- (c) the scheme of pensions and other benefits applicable under section 1 of the Superannuation Act 1972 to the civil service of the State (“the civil service scheme”);

and, if he is not entitled to make an election under this paragraph, or if he is so entitled but fails to make such an election, he shall be treated as if he had been so entitled and had elected for the civil service scheme.



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*Transitional provision for persons appointed before the appointed day*

- 2 (1) If a person who held the office of Commissioner before the appointed day has made an election under the former enactments for the old judicial scheme, he shall be entitled to make an election under this sub-paragraph between—
- (a) the old judicial scheme; and
  - (b) the 1993 scheme;
- and, if he fails to make an election under this sub-paragraph, he shall be taken to have elected for the old judicial scheme.
- (2) If a person who held the office of Commissioner before the appointed day—
- (a) has made an election under the former enactments for the civil service scheme, or
  - (b) has failed to make an election under those enactments (so that he is taken to have elected for the civil service scheme),
- he shall be treated as if he had been entitled to make an election under this Schedule and had elected for the civil service scheme.

*Effect of election to continue in former scheme*

- 3 Where a person elects under this Schedule for his former scheme, that scheme shall, subject to regulations under this Schedule, apply as if his service as Commissioner were service which was subject, in his case, to that scheme.

*Effect of election for the 1993 scheme*

- 4 (1) A person who elects under paragraph 1(b) or 2(1)(b) above for the 1993 scheme, shall be entitled, when he ceases to hold office as Commissioner, to a pension under Part I of the 1993 Act at the appropriate annual rate (within the meaning of that Act) if he has held that office for at least 5 years and either—
- (a) he has attained the age of 65; or
  - (b) he is disabled by permanent infirmity for the performance of the duties of the office;
- and, subject to the following provisions of, and regulations under, this Schedule, the provisions of Part I of that Act (other than sections 1(1) to (4) and 2) and of sections 19, 20 and 23 of, and Schedule 2 to, that Act (which provide for benefits in respect of earnings in excess of pension-capped salary, appeals and transfer of accrued rights) shall apply in relation to him and his service in the office of Commissioner as they apply in relation to a person to whom Part I of that Act applies.
- (2) Subject to regulations under this Schedule, in the application of provisions of the 1993 Act by virtue of sub-paragraph (1) above, a person who elects for the 1993 scheme shall be treated—
- (a) as if the office of Commissioner were a qualifying judicial office (within the meaning of that Act) by virtue of inclusion among the offices specified in Part I of Schedule 1 to that Act;

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- (b) as if his election under this Schedule were an election such as is mentioned in paragraph (d) of section 1(1) of that Act (so that, in particular, section 12 of that Act, which provides for the transfer of accrued rights into the scheme, applies);
- (c) as if his pension by virtue of this Schedule were a pension under section 2 of that Act (and, accordingly, a judicial pension, within the meaning of that Act); and
- (d) for the purpose of determining, in the event of his death, the rate of any surviving spouse's or children's pension payable under sections 5 to 8 of that Act in respect of his service as Commissioner, as if references in those sections to the annual rate of the deceased's judicial pension were references—
  - (i) where a pension had commenced to be paid to him by virtue of sub-paragraph (1) above, to the appropriate annual rate of that pension; or
  - (ii) where no such pension had commenced to be paid to him, to the rate that would have been the appropriate annual rate of the pension payable to him by virtue of sub-paragraph (1) (b) above, had he not died, but been disabled by permanent infirmity for the performance of the duties of his office on and after the date of death;

and, in the application of that Act to the Commissioner (whether by virtue of paragraph 1(a) or (b) or 2(1)(b) above) the references to the appropriate Minister in sections 13 (election for personal pension), 19 (benefits in respect of earnings in excess of pension-capped salary) and 20 (appeals) of, and Schedule 2 (transfer of accrued rights) to, that Act shall be taken as references to the Treasury and the power conferred by paragraph 2 of that Schedule to make regulations shall be exercisable by the Treasury.

*Effect of election for, or to continue in, the civil service scheme*

- 5 Where a person elects under this Schedule for the civil service scheme, the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall, subject to regulations under this Schedule, apply as if his service as Commissioner were service in employment in the civil service of the State.

*Effect of election to continue in the old judicial scheme*

- 6 Where a person elects under this Schedule for the old judicial scheme, that scheme and the former enactments shall, subject to regulations under this Schedule, continue to have effect in relation to him and his service in the office of Commissioner.

*Time for, and manner of, election*

- 7 Any power to make an election under this Schedule shall be exercisable within such time and in such manner as may be prescribed in regulations under this Schedule.

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### *Regulations*

- 8 (1) The Treasury may make regulations for purposes supplementary to the other provisions of this Schedule.
- (2) Any such regulations may, without prejudice to section 38 or 39A of the Superannuation Act 1965 (employment in more than one public office), make special provision with respect to the pensions and other benefits payable to or in respect of a person to whom—
- (a) his former scheme,
  - (b) the 1993 scheme,
  - (c) the civil service scheme, or
  - (d) the old judicial scheme,
- applies, or has applied, in respect of any service other than service as Commissioner.
- (3) The provision that may be made by virtue of sub-paragraph (2) above includes provision—
- (a) for aggregating—
    - (i) other service falling within his former scheme, the 1993 scheme or the old judicial scheme with service as Commissioner, or
    - (ii) service as Commissioner with such other service,for the purpose of determining qualification for, or entitlement to, or the amount of, benefit under the scheme in question;
  - (b) for increasing the amount of the benefit payable under any of the schemes mentioned in paragraph (a)(i) above, in the case of a person to whom that scheme applied in respect of an office held by him before appointment as Commissioner, up to the amount that would have been payable under that scheme if he had retired from that office on the ground of permanent infirmity immediately before his appointment.
- (4) Any statutory instrument made by virtue of this Schedule shall be subject to annulment in pursuance of a resolution of the House of Commons.

### *Pensions and benefits to be charged on the Consolidated Fund*

- 9 Any pension or other benefit granted by virtue of this Schedule shall be charged on, and issued out of, the Consolidated Fund.

### *Interpretation*

- 10 In this Schedule—
- “the 1981 Act” means the Judicial Pensions Act 1981;
  - “the 1993 Act” means the Judicial Pensions and Retirement Act 1993;
  - “the appointed day” means the day on which Part II of Schedule 4 to the 1993 Act comes into force;

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“the former enactments” means Schedule 1 to this Act, as it had effect from time to time before the appointed day;

“judicial pension scheme” means any public service pension scheme, as defined in—

- (a) section 66(1) of the Social Security Pensions Act 1975, or
- (b) Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975,

under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices, within the meaning of the 1993 Act, but does not include the civil service scheme;

“the old judicial scheme” means the statutory scheme of pensions and other benefits applicable under or by virtue of the 1981 Act to the judicial offices listed in section 1 of that Act.”

#### Marginal Citations

**M51** 1967 c. 13.

### F130F130 PART III

#### THE HEALTH SERVICE COMMISSIONERS

#### Textual Amendments

**F130** Sch. 4 Pt. III repealed (5.2.1994) by 1993 c. 46, ss. 20(2), 22(4), **Sch.3** (with s. 3(4))

#### *The Health Service Commissioners for England and for Wales*

- .....
- 3 (1) Section 107 of the National Health Service Act 1977 (which makes provision with respect to the salaries and pensions of the Health Service Commissioners for England and for Wales) shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (2) (which applies Schedule 1 to the Parliamentary Commissioner Act 1967 in relation to persons who have held office as a Health Service Commissioner) for the words “who have held office”, in both places where they occur, there shall be substituted the words “ who hold, or have held, office ”.
- (3) In subsection (6) (persons not to make simultaneously different elections in pursuance of paragraph 1 of that Schedule in respect of different offices)—
- (a) in paragraph (a), after the words “paragraph 1” there shall be inserted the words “ or 2 ”; and
  - (b) in paragraph (b), for the words “that paragraph” there shall be substituted the words “ either of those paragraphs ”.

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- (4) In subsection (7) (which, among other things, provides for different regulations to be made under paragraph 4 of that Schedule in relation to different offices) for the words “paragraph 4” there shall be substituted the words “ paragraph 8 ”.
- (5) The amendments made by sub-paragraphs (2) to (4) above have effect only in relation to Schedule 1 to the Parliamentary Commissioner Act 1967, as substituted by Part II above; and accordingly in any case where—
  - (a) a person makes an election under paragraph 2(1)(a) of that Schedule for the old judicial scheme there mentioned, and
  - (b) the former enactments mentioned in paragraph 6 of that Schedule continue to apply by virtue of that paragraph,the amendments made by sub-paragraphs (3) and (4) above shall be disregarded in the continuing application of section 107 of the National Health Service Act 1977 in relation to those former enactments as they continue to have effect in relation to that person and that scheme.

*The Health Service Commissioner for Scotland*

- .....
- 4 (1) Section 91 of the National Health Service (Scotland) Act 1978 (which makes provision with respect to the salary and pension of the Health Service Commissioner for Scotland) shall be amended in accordance with the following provisions of this paragraph.
  - (2) In subsection (2) (which applies Schedule 1 to the Parliamentary Commissioner Act 1967 in relation to persons who have held office as the Health Service Commissioner) for the words “who have held office”, in both places where they occur, there shall be substituted the words “ who hold, or have held, office ”.
  - (3) In subsection (6) (persons not to make simultaneously different elections in pursuance of paragraph 1 of that Schedule in respect of different offices)—
    - (a) in paragraph (a), after the words “paragraph 1” there shall be inserted the words “ or 2 ”; and
    - (b) in paragraph (b), for the words “that paragraph” there shall be substituted the words “ either of those paragraphs ”.
  - (4) In subsection (7) (which, among other things, provides for different regulations to be made under paragraph 4 of that Schedule in relation to different offices) for the words “paragraph 4” there shall be substituted the words “ paragraph 8 ”.
  - (5) The amendments made by sub-paragraphs (2) to (4) above have effect only in relation to Schedule 1 to the Parliamentary Commissioner Act 1967, as substituted by Part II above; and accordingly in any case where—
    - (a) a person makes an election under paragraph 2(1)(a) of that Schedule for the old judicial scheme there mentioned, and
    - (b) the former enactments mentioned in paragraph 6 of that Schedule continue to apply by virtue of that paragraph,the amendments made by sub-paragraphs (3) and (4) above shall be disregarded in the continuing application of section 91 of the National Health Service (Scotland) Act 1978 in relation to those former enactments as they continue to have effect in relation to that person and that scheme.

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## PART IV

### THE COMPTROLLER AND AUDITOR GENERAL FOR NORTHERN IRELAND

- 5 (1) The <sup>M58</sup>Audit (Northern Ireland) Order 1987 shall be amended in accordance with the following provisions of this paragraph.
- (2) In Article 2(2) (interpretation), in the definition of “the appointed day” after the word “means” there shall be inserted the words “ (except in Article 4A) ”.
- (3) In paragraph (4) of Article 4 (pension of the Comptroller and Auditor General), after the words “Northern Ireland” (where they occur for the second time) there shall be inserted the words “ unless he elects under Article 4A for it to be treated otherwise ”.
- (4) After that Article there shall be inserted the following Article—

#### *“ Pension of Comptroller and Auditor General: supplementary*

- 4A (1) This Article applies to a person—
- (a) who first holds office on or after the appointed day as the Comptroller and Auditor General; and
  - (b) who, immediately before he first holds that office, is a member of a judicial pension scheme.
- (2) A person to whom this Article applies shall be entitled to elect between—
- (a) the scheme of pensions and other benefits under the judicial pension scheme mentioned in paragraph (1)(b) (his “former scheme”);
  - (b) (if different from his former scheme) the scheme of pensions and other benefits constituted by Part I of the 1993 Act (“the 1993 scheme”); and
  - (c) the scheme of pensions and other benefits applicable under the Superannuation (Northern Ireland) Order 1972 to the civil service of Northern Ireland (“the civil service scheme”);
- and, if he fails to make an election under this paragraph, he shall be treated as if he had elected for the civil service scheme.
- (3) Where a person elects under this Article for his former scheme, that scheme shall, subject to regulations under this Article, apply as if his service as Comptroller and Auditor General were service which was subject, in his case, to that scheme.
- (4) A person who elects under paragraph (2)(b) for the 1993 scheme, shall be entitled, when he ceases to hold office as Comptroller and Auditor General, to a pension under Part I of the 1993 Act at the appropriate annual rate (within the meaning of that Act) if he has held that office for at least 5 years and either—
- (a) he has attained the age of 65; or
  - (b) he is disabled by permanent infirmity for the performance of the duties of the office;
- and, subject to the following provisions of, and regulations under, this Article, the provisions of Part I of that Act (other than sections 1(1) to (4) and 2) and of sections 19, 20 and 23 of, and Schedule 2 to, that Act (which provide for benefits in respect of earnings in excess of pension-capped salary, appeals and transfer of accrued rights) shall apply in relation to him and his

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service in the office of Comptroller and Auditor General as they apply in relation to a person to whom Part I of that Act applies.

(5) Subject to regulations under this Article, in the application of provisions of the 1993 Act by virtue of paragraph (4), a person who elects for the 1993 scheme shall be treated—

- (a) as if the office of the Comptroller and Auditor General were a qualifying judicial office (within the meaning of that Act) by virtue of inclusion among the offices specified in Part I of Schedule 1 to that Act;
- (b) as if his election under this Article were an election such as is mentioned in paragraph (d) of section 1(1) of that Act (so that, in particular, section 12 of that Act, which provides for the transfer of accrued rights into the scheme, applies);
- (c) as if his pension by virtue of this Article were a pension under section 2 of that Act (and, accordingly, a judicial pension, within the meaning of that Act); and
- (d) for the purpose of determining, in the event of his death, the rate of any surviving spouse's or children's pension payable under sections 5 to 8 of that Act in respect of his service as Comptroller and Auditor General, as if references in those sections to the annual rate of the deceased's judicial pension were references—
  - (i) where a pension had commenced to be paid to him by virtue of paragraph (4), to the appropriate annual rate of that pension; or
  - (ii) where no such pension had commenced to be paid to him, to the rate that would have been the appropriate annual rate of the pension payable to him by virtue of paragraph (4)(b), had he not died, but been disabled by permanent infirmity for the performance of the duties of his office on and after the date of death;

and, in the application of that Act to the Comptroller and Auditor General (whether by virtue of paragraph (2)(a) or (b)) the references to the appropriate Minister in sections 13 (election for personal pension), 19 (benefits in respect of earnings in excess of pension-capped salary) and 20 (appeals) of, and Schedule 2 (transfer of accrued rights) to, that Act shall be taken as references to the Treasury and the power conferred by paragraph 2 of that Schedule to make regulations shall be exercisable by the Treasury.

- (6) Where a person elects under this Article for the civil service scheme, Article 4(4) shall apply in relation to his service as Comptroller and Auditor General.
- (7) Any power to make an election under this Article shall be exercisable within such time and in such manner as may be prescribed in regulations under this Article.
- (8) The Treasury may make regulations for purposes supplementary to the other provisions of this Article.
- (9) Any such regulations may, without prejudice to section 38 of the Superannuation Act (Northern Ireland) 1967 or section 39A of the Superannuation Act 1965 (employment in more than one public office),

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make special provision with respect to the pensions and other benefits payable to or in respect of a person to whom—

- (a) his former scheme,
- (b) the 1993 scheme, or
- (c) the civil service scheme,

applies, or has applied, in respect of any service other than service as Comptroller and Auditor General.

(10) The provision that may be made by virtue of paragraph (9) includes provision—

- (a) for aggregating—
  - (i) other service falling within his former scheme or the 1993 scheme with service as Comptroller and Auditor General, or
  - (ii) service as Comptroller and Auditor General with such other service,

for the purpose of determining qualification for, or entitlement to, or the amount of, benefit under the scheme in question;

- (b) for increasing the amount of the benefit payable under either of the schemes mentioned in sub-paragraph (a)(i), in the case of a person to whom that scheme applied in respect of an office held by him before appointment as Comptroller and Auditor General, up to the amount that would have been payable under that scheme if he had retired from that office on the ground of permanent infirmity immediately before his appointment.

(11) Regulations made under this Article shall be subject to annulment in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

(12) Any pension or other benefit granted by virtue of this Article (except a pension or other benefit under the civil service scheme) shall be charged on, and issued out of, the Consolidated Fund of the United Kingdom.

(13) In this Article—

“the 1993 Act” means the Judicial Pensions and Retirement Act 1993;

“the appointed day” means the day on which Part IV of Schedule 4 to the 1993 Act comes into force;

“judicial pension scheme” means any public service pension scheme, as defined in—

- (a) section 66(1) of the Social Security Pensions Act 1975, or
- (b) Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975,

under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices, within the meaning of the 1993 Act, but does not include the civil service scheme.”



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**Marginal Citations**

**M58** [S.I. 1987/460 \(N.I. 5\)](#).

**PART V**

THE NORTHERN IRELAND PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION  
AND THE NORTHERN IRELAND COMMISSIONER FOR COMPLAINTS

**F1316** .....

**Textual Amendments**

**F131** [Sch. 4 Pt. V para. 6](#) repealed (16.7.1996) by [S.I. 1996/1298 \(N.I. 8\)](#), [art. 21\(2\)](#), [Sch. 6](#)

**F1327** .....

**Textual Amendments**

**F132** [Sch. 4 Pt. V para. 7](#) repealed (16.7.1996) by [S.I. 1996/1297 \(N.I. 7\)](#), [art. 23\(2\)](#), [Sch. 5](#)

SCHEDULE 5

Section 26.

RETIREMENT PROVISIONS: THE RELEVANT OFFICES

- Lord of Appeal in Ordinary
- Judge of the Supreme Court of England and Wales <sup>F133</sup> .....
- Deputy judge of the High Court
- Lord President of the Court of Session
- Lord Justice Clerk
- Judge of the Court of Session
- Temporary Judge of the Court of Session
- Lord Chief Justice of Northern Ireland
- Lord Justice of Appeal in Northern Ireland
- Judge of the High Court of Justice in Northern Ireland
- Circuit judge
- Sheriff principal or sheriff in Scotland
- Temporary sheriff principal [<sup>F134</sup>or temporary sheriff] in Scotland
- County Court judge in Northern Ireland
- Deputy County Court judge in Northern Ireland
- Master, Queen's Bench Division
- Deputy or temporary Master, Queen's Bench Division, appointed under subsection (1) of section 91 of the <sup>M59</sup>Supreme Court Act 1981 otherwise than by virtue of subsection (3) of that section

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[<sup>F135</sup>Queen’s Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals ]

Admiralty Registrar

Deputy or temporary Admiralty Registrar appointed under subsection (1) of section 91 of the <sup>M60</sup>Supreme Court Act 1981 otherwise than by virtue of subsection (3) of that section

Master, Chancery Division

Deputy or temporary Master, Chancery Division, appointed under subsection (1) of section 91 of the <sup>M61</sup>Supreme Court Act 1981 otherwise than by virtue of subsection (3) of that section

Registrar in Bankruptcy of the High Court

Deputy or temporary Registrar in Bankruptcy of the High Court appointed under subsection (1) of section 91 of the <sup>M62</sup>Supreme Court Act 1981 otherwise than by virtue of subsection (3) of that section

Taxing Master of the Supreme Court

Deputy or temporary Taxing Master of the Supreme Court appointed under subsection (1) of section 91 of the <sup>M63</sup>Supreme Court Act 1981 otherwise than by virtue of subsection (3) of that section

District judge of the principal registry of the Family Division

Deputy or temporary district judge of the principal registry of the Family Division appointed under subsection (1) of section 91 of the <sup>M64</sup>Supreme Court Act 1981 otherwise than by virtue of subsection (3) of that section

Registrar of Civil Appeals

Deputy or temporary Registrar of Civil Appeals appointed under subsection (1) of section 91 of the <sup>M65</sup>Supreme Court Act 1981 otherwise than by virtue of subsection (3) of that section

<sup>F136</sup> . . .

<sup>F136</sup> . . .

District judge (whether appointed under section 100 of the Supreme Court Act 1981 or section 6 of the <sup>M66</sup>County Courts Act 1984)

Deputy district judge appointed under section 102 of the <sup>M67</sup>Supreme Court Act 1981, except in a case where [<sup>F137</sup>subsection (1B) of that section applied to the appointment of the person in question]

Deputy district judge appointed under section 8 of the <sup>M68</sup>County Courts Act 1984, except in a case where [<sup>F137</sup>subsection (1ZB) of that section applied to the appointment of the person in question]

Recorder

Assistant Recorder

Any appointment under section 70 <sup>F138</sup> . . . . . of the <sup>M69</sup>Judicature (Northern Ireland) Act 1978 to an office from time to time specified in column 1 of Schedule 3 to that Act (statutory office) or any appointment under section 74 of that Act to act in any such office

[<sup>F139</sup>District Judge (Magistrates’ Courts)]

Resident Magistrate appointed under the <sup>M70</sup>Magistrates’ Courts Act (Northern Ireland) 1964

Deputy Resident Magistrate appointed under the Magistrates’ <sup>M71</sup>Courts Act (Northern Ireland) 1964

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Chief or other Social Security Commissioner (including appointments in pursuance of [F140 paragraph 1(2) of Schedule 4 to the Social Security Act 1998])

Chief or other Child Support Commissioner (including appointments in pursuance of paragraph 4 of Schedule 4 to the M72 Child Support Act 1991)

Chief or other Social Security Commissioner for Northern Ireland (including appointments in pursuance of section 50(2) of the M73 Social Security Administration (Northern Ireland) Act 1992)

Chief or other Child Support Commissioner for Northern Ireland (including appointments in pursuance of paragraph 4 of Schedule 4 to the Child Support Act 1991 as that paragraph has effect by virtue of paragraph 8 of that Schedule)

[F141 President of appeal tribunals (within the meaning of Chapter I of Part I of the Social Security Act 1998) appointed under section 5 of that Act]

[F142 President of appeal tribunals (within the meaning of Chapter I of Part II of the Social Security (Northern Ireland) Order 1998) appointed under Article 6 of that Order]

[F143 Chairman of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals]

F144 . . .

[F145 Chairman of social security appeal tribunals, medical appeal tribunals and disability appeal tribunals in Northern Ireland]

F146 . . .

[F143 Chairman of vaccine damage tribunals]

Chairman of the Foreign Compensation Commission

Commons Commissioner

[F147 President of the Employment Tribunals (England and Wales)]

[F148 President of the Employment Tribunals (Scotland)]

President or Vice-President of industrial tribunals and of the Fair Employment Tribunal (Northern Ireland)

Chairman of [F149 employment tribunals], appointed in pursuance of regulations under [F150 section 1(1) of [F151 the Employment Tribunals Act 1996]]

Chairman of industrial tribunals in Northern Ireland, appointed in pursuance of regulations under [F152 Article 3 of the Industrial Tribunals (Northern Ireland) Order 1996]

Chairman of the Fair Employment Tribunal, appointed under [F153 Article 82(1)(c) of the Fair Employment and Treatment (Northern Ireland) Order 1998]

President of the Industrial Court appointed in pursuance of Article 91 of the M74 Industrial Relations (Northern Ireland) Order 1992

Member of the Employment Appeal Tribunal appointed under [F154 section 22(1)(c) of [F151 the Employment Tribunals Act 1996]]

President or other member of the Lands Tribunal, the Lands Tribunal for Scotland or the Lands Tribunal for Northern Ireland

[F155 Member of the Pensions Regulator Tribunal ]

Judge Advocate General

F156 . . .

President of Value Added Tax Tribunals

Chairman of value added tax tribunals

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Commissioner for the special purposes of the Income Tax Acts appointed under section 4 of the <sup>M75</sup>Taxes Management Act 1970

Deputy Special Commissioner appointed under section 4A of the Taxes Management Act 1970

[<sup>F157</sup>President or other member of the Asylum and Immigration Tribunal ]

President or other member of Pensions Appeal Tribunals

Chairman or other member of a Mental Health Review Tribunal constituted under the <sup>M76</sup>Mental Health Act 1983

<sup>F158</sup>  
 . . .

Chairman of a tribunal constituted for the purposes of sections 14 and 15 of the <sup>M77</sup>Misuse of Drugs Act 1971

Chairman of an advisory body constituted for the purposes of section 14 of the Misuse of Drugs Act 1971

Appointed member of the Restrictive Practices Court, within the meaning of section 3 of the <sup>M78</sup>Restrictive Practices Court Act 1976

Chairman or other member of the tribunal constituted by section 706 of the <sup>M79</sup>Income and Corporation Taxes Act 1988

<sup>F159</sup>  
 . . .

Chairman, deputy-chairman or other member of an Agricultural Land Tribunal (other than an assessor added to the Tribunal under paragraph 16(2) of Schedule 9 to the <sup>M80</sup>Agriculture Act 1947)

President of the Aircraft and Shipbuilding Industries Arbitration Tribunal

Chairman of a tribunal established by section 29 of the <sup>M81</sup>Betting, Gaming and Lotteries Act 1963

Chairman or deputy chairman of the Copyright Tribunal

Chairman or deputy chairman of [<sup>F160</sup>the Information Tribunal]

<sup>F161</sup>  
 . . . . .

President of a tribunal constituted under Schedule 3 to the <sup>M82</sup>Industry Act 1975

<sup>F162</sup>  
 . . .

Chairman of the Plant Varieties and Seeds Tribunal

Chairman of a Registered Homes Tribunal constituted under the <sup>M83</sup>Registered Homes Act 1984

Chairman or other member of Rent Assessment Committees appointed by the Lord Chancellor under Schedule 10 to the <sup>M84</sup>Rent Act 1977

President or chairman of the Transport Tribunal

<sup>F163</sup>  
 . . . . .

Wreck commissioner appointed under section [<sup>F164</sup> 297(1) of the Merchant Shipping Act 1995]

Chairman of a Reinstatement Committee constituted under the <sup>M85</sup>Reserve Forces (Safeguard of Employment) Act 1985

[<sup>F165</sup>Chairman or other member of a reserve forces appeal tribunal constituted under Part IX of the Reserve Forces Act 1996]

[<sup>F166</sup>Member of a panel constituted under section 6(1) of the Social Security Act 1998

Member of a panel constituted under Article 7(1) of the Social Security (Northern Ireland) Order 1998]

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[<sup>F167</sup>Member of the Financial Services and Markets Tribunal.]

[<sup>F168</sup>Adjudicator to Her Majesty's Land Registry

[<sup>F169</sup>Coroner appointed under section 2(1) of the Coroners Act (Northern Ireland) 1959  
Deputy Coroner appointed under section 2(1) of the Coroners Act (Northern Ireland)  
1959]]

[<sup>F170</sup>President or other member of the Gambling Appeals Tribunal ]

[<sup>F171</sup>Asylum Support Adjudicator ]

[<sup>F172</sup>President of the tribunal constituted under section 9 of the Protection of Children Act  
1999 or member of the chairmen's panel appointed under paragraph 1(1)(b) of the Schedule  
to that Act ]

### Textual Amendments

- F133** Sch. 5: words repealed (3.4.2006) by [Constitutional Reform Act 2005](#) (c. 4), ss. 15, 146, 148, Sch. 4 para. 230, **Sch. 18 Pt. 2**; S.I. 2006/1014, **art. 2**, Sch. 1 paras. 11, 30
- F134** Words in Sch. 5 repealed (S.) (9.8.2000) by 2000 asp 9, s. 12, **Sch. para. 5(2)**
- F135** Sch. 5: Entry inserted (1.4.2005) by [Courts Act 2003](#) (c. 39), **ss. 89(2)**, 110(1); S.I. 2005/910, **art. 3(v)**
- F136** Sch. 5: entries relating to the Master and Deputy or temporary Master of the Court of Protection omitted (with saving) (1.10.2007) by virtue of [Mental Capacity Act 2005](#) (c. 9), ss. 67(1), 68(1)-(3), **Sch. 6 para. 38(3)** (with ss. 27, 28, 29, 62); S.I. 2007/1897, **art. 2(c)(d)**
- F137** Sch. 5: words in entries relating to deputy district judges substituted (19.7.2007) by [Tribunals, Courts and Enforcement Act 2007](#) (c. 15), ss. 56, 148(5), **Sch. 11 para. 13**
- F138** Sch. 5: words in entry repealed (1.5.2004) by [Courts Act 2003](#) (c. 39), ss. 109(3), 110(1), **Sch. 10**; S.I. 2004/1104, **art. 3(h)(iii)**
- F139** Entry in Sch. 5 substituted (31.8.2000) by 1999 c. 22, ss. 78(2), 105, Sch. 11 para. 41, **Sch. 14 Pt. V para. 25** (with [Sch. 14 para. 7\(2\)](#)); S.I. 2000/1920, **art. 3(a)**
- F140** Words in Sch. 5 substituted (in force for specified purposes at 6.9.1999 and 5.10.1999 respectively and in force at 29.11.1999 in so far as not already in force except for specified purposes) by 1998 C. 14, s. 86(1), Sch. 7 para. 124(1)(a); S.I. 1999/2422, **art. 2(c)**, **Sch. 1** (subject to transitional provisions in [Sch. 14](#)); S.I. 1999/2739, **art. 2**, **Sch. 1** (subject to transitional provisions in [Sch. 2](#)); S.I. 1999/3178, **art. 2(1)(2)**, **Sch. 1** (subject to transitional provisions in [Schs. 21-23](#))
- F141** Entry in Sch. 5 substituted (1.6.1999) by 1998 c. 14, s. 86(1), **Sch. 7 para. 124(b)**; S.I. 1999/1510, **art. 2(g)(vii)**
- F142** Entry in Sch. 5 substituted (29.11.1999 except for specified purposes) by S.I. 1998/1506 (N.I. 10), **art. 78(1)(2)**, **Sch. 6 para. 93(1)**; S.R. 1999/472, **art. 2(1)(a)(2)**, **Sch. 1** (subject to transitional provisions in [arts. 20-22](#))
- F143** Entries in Sch. 5 repealed (in force for specified purposes at 18.10.1999 so far as relating to chairmen of disability appeal tribunals and vaccine damage tribunals and in force at 29.11.1999 in so far as not already in force except for specified purposes) by 1998 c. 14, s. 86(1)(2), Sch. 7 para. 124(2), **Sch. 8**; S.I. 1999/2860, **art. 2(c)**, **Sch. 1** (subject to transitional provisions in [Schs. 16-18](#)); S.I. 1999/3178, **art. 2(1)(2)**, **Sch. 1** (subject to transitional provisions in [Schs. 21-23](#))
- F144** Entry in Sch. 5 repealed (1.6.1999) by 1998 c. 14, s. 86(1)(2), Sch. 7 para. 124(2), **Sch. 8**; S.I. 1999/1510, **art. 2(g)(viii)**
- F145** Entry in Sch. 5 repealed (29.11.1999 except for specified purposes) by S.I. 1998/1506 (N.I. 10), **art. 78(1)(2)**, **Sch. 6 para. 92(2)**; S.R. 1999/472, **art. 2(1)(2)**, **Sch. 1** (subject to transitional provisions in [arts. 20-22](#))
- F146** Entry in Sch. 5 repealed (1.6.1999) by S.I. 1998/1506 (N.I. 10), **art. 78(1)(2)**, Sch. 6 para. 93(2), **Sch. 7**; S.R. 1999/246, **art. 2**, **Sch. 1**
- F147** Words in Sch. 5 substituted (1.8.1998) by 1998 c. 8, **ss. 1(2)(d)**, 16 (with s. 16(2)); S.I. 1998/1658, **art. 2(1)**
- F148** Words in Sch. 5 substituted (1.8.1998) by 1998 c. 8, **ss. 1(2)(e)**, 16; S.I. 1998/1658, **art. 2(1)**

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- F149** Words in Sch. 5 substituted (1.8.1998) by 1998 c. 8, **ss. 1(2)(b)**, 16; S.I. 1998/1658, **art. 2(1)**
- F150** Words in Sch. 5 substituted (E.W.S.) (22.8.1996) by 1996 c. 17, ss. 43, 46, **Sch. 1 para. 10(3)(a)**
- F151** Words in Sch. 5 substituted (1.8.1998) by 1998 c. 8, **s. 1(2)(c)**, 16 (with s. 16(2)); S.I. 1998/1658, **art. 2(1)**
- F152** Words in Sch. 5 substituted (24.9.1996) by S.I. 1996/1921 (N.I. 18), art. 26, **Sch. 1 para. 9(b)** (with Sch. 2)
- F153** Words in Sch. 5 substituted (1.3.1999) by S.I. 1998/3162 (N.I. 21), art. 105(1), **Sch. 3**; S.R. 1999/81, **art. 3(1)**
- F154** Words in Sch. 5 substituted (E.W.S.) (22.8.1996) by 1996 c. 17, ss. 43, 46, **Sch. 1 para. 10(3)(b)** (with s. 38)
- F155** Sch. 5: Entry inserted (17.12.2004) by Pensions Act 2004 (c. 35), ss. 102(4), 322(1), **Sch. 4 para. 17(3)**; S.I. 2004/3350, **art. 2**, Sch.
- F156** Sch. 5: Entry relating to "Judge Advocate of Her Majesty's Fleet" repealed (1.1.2008) by Armed Forces Act 2006 (c. 52), ss. 378(2), 383(2), **Sch. 17**; S.I. 2007/2913, **art. 3** (with art. 4(3))
- F157** Sch. 5: Entry substituted (4.4.2005) for entries relating to the IAT and immigration adjudicators by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 26(7), 48(3), **Sch. 2 para. 8(3)**; S.I. 2005/565, **art. 2(a)(d)** (with arts. 3-9)
- F158** Entry in Sch. 5 repealed (1.12.2001) by 2000 c. 8, s. 432(1)(3), Sch. 20 para. 7(3)(a), **Sch. 22**; S.I. 2001/3538, **art. 2(1)**
- F159** Sch. 5: entry relating to "Arbitrator appointed under paragraph 1(5) of Schedule 11 to the Agricultural Holdings Act 1986" repealed (19.10.2006) by The Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006 (S.I. 2006/2805), arts. 1(1)(b), 18, **Sch. 2** (with art. 10)
- F160** Words in Sch. 5 substituted (14.5.2001) by 2000 c. 36, s. 18(4), **Sch. 2 Pt. I para. 11**; S.I. 2001/1637, **art. 2(b)**
- F161** Sch. 5: entry repealed (1.9.2003 for E.S.N.I. and 1.1.2004 for W.) by Education Act 2002 (c. 32), ss. 215(2), 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); S.I. 2003/1667, **art. 4** (with transitional provisions and savings in Sch. 1) (as amended by S.I. 2004/571 and S.I. 2005/2570); S.I. 2003/2961, **art. 6**, Sch. Pt. 3
- F162** Sch. 5: Entry relating to "Chairman of the tribunal constituted under Schedule 9 to the National Health Service Act 1977" omitted (1.3.2007) by virtue of National Health Service (Consequential Provisions) Act 2006 (c. 43), ss. 2, 8(2), **Sch. 1 para. 159** (with Sch. 2 Pt. 1, Sch. 3 Pt. 1)
- F163** Sch. 5: Entry repealed (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406(7), 411(2), **Sch. 19(1)**, Note 1 (with Sch. 18); S.I. 2003/1900, **arts. 2(1)**, 3, Sch. 1; S.I. 2003/3142, **art. 3(2)**
- F164** Words in Sch. 5 substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 93(b)** (with s. 312)
- F165** Entry added at the end of Sch. 5 (1.4.1997) by 1996 c. 14, s. 131(1), **Sch. 10 para. 26** (with s. 72(5)); S.I. 1997/305, **art. 2**
- F166** Entries in Sch. 5 added (1.6.1999) by S.I. 1999/1454, **art. 3**
- F167** Entry in Sch. 5 inserted (3.9.2001) by 2000 c. 8, s. 432(1), **Sch. 20 para. 7(3)(b)**; S.I. 2001/2632, art. 2(2), **Sch. Pt. 2**
- F168** Sch. 5: entry inserted (28.4.2003) by Land Registration Act 2002 (c. 9), ss. 133, 136(2), **Sch. 11 para. 28** (with s. 129); S.I. 2003/1028, **art. 2**
- F169** Sch. 5: Entries inserted (3.4.2006) by The Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) Order 2006 (S.I. 2006/391), **art. 3**
- F170** Sch. 5: Entry inserted (E.W.S.) (1.1.2007) by Gambling Act 2005 (c. 19), ss. 140, 358, **Sch. 8 para. 3(4)**; S.I. 2006/3272, **art. 2(1)**, Sch. 1 (with Sch. 4) (as amended by S.I. 2006/3361, S.I. 2007/1157, S.I. 2007/1527, S.I. 2007/2169)
- F171** Sch. 5: Entry inserted (1.4.2007) by The Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) Order 2007 (S.I. 2007/675), **art. 4**
- F172** Sch. 5: Entry inserted (19.8.2007) by The Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) (No. 2) Order 2007 (S.I. 2007/2185), **art. 3**

### Marginal Citations

- M59** 1981 c. 54.  
**M60** 1981 c. 54.

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<b>M61</b>	1981 c. 54.
<b>M62</b>	1981 c. 54.
<b>M63</b>	1981 c. 54.
<b>M64</b>	1981 c. 54.
<b>M65</b>	1981 c. 54.
<b>M66</b>	1984 c. 28.
<b>M67</b>	1981 c. 54.
<b>M68</b>	1984 c. 28.
<b>M69</b>	1978 c. 23.
<b>M70</b>	1964 c. 21 (N.I.).
<b>M71</b>	1964 c. 21.
<b>M72</b>	1991 c. 48.
<b>M73</b>	1992 c. 8.
<b>M74</b>	S.I. 1992/807 (N.I. 5).
<b>M75</b>	1970 c. 9.
<b>M76</b>	1983 c. 20.
<b>M77</b>	1971 c. 38.
<b>M78</b>	1976 c. 33.
<b>M79</b>	1988 c. 1.
<b>M80</b>	1947 c. 48.
<b>M81</b>	1963 c. 2.
<b>M82</b>	1975 c. 68.
<b>M83</b>	1984 c. 23.
<b>M84</b>	1977 c. 42.
<b>M85</b>	1985 c. 17.

## SCHEDULE 6

Section 26.

### RETIREMENT DATES FOR CERTAIN JUDICIAL OFFICES

#### *The Judicial Committee of the Privy Council*

- 1 (1) At the end of section 3 of the <sup>M86</sup>Appellate Jurisdiction Act 1887 (Judicial Committee of the Privy Council to include such members of the Privy Council as are holding or have held high judicial office) there shall be added the words “ but no person shall be a member of that Committee by virtue of this section at any time after the day on which he attains the age of seventy-five years unless he is for the time being the Lord Chancellor of Great Britain. ”
- (2) At the end of section 1 of the <sup>M87</sup>Judicial Committee Act 1881 (person holding, or who has held, the office of Lord Justice of Appeal, if a member of the Privy Council, to be a member of the Judicial Committee) there shall be added the words “ but no person shall be a member of that Committee by virtue of this section at any time after the day on which he attains the age of seventy-five years. ”

#### Marginal Citations

- M86** 1887 c. 70.  
**M87** 1881 c. 3.

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### *Lords of Appeal*

- 2 In section 5 of the <sup>M88</sup> Appellate Jurisdiction Act 1876, after paragraph (3) (peers who hold, or have held, high judicial office to be Lords of Appeal) there shall be added the words—
- “ but this section is subject to sections 26(7)(b) and 27 of the Judicial Pensions and Retirement Act 1993 (prohibition on participating in the hearing and determination of appeals after attaining the age of seventy-five years, except for the purpose of completing proceedings already begun). ”

#### **Marginal Citations**

**M88** 1876 c. 59.

### *Lords of Appeal in Ordinary and senior judges in Scotland and Northern Ireland*

- 3 In subsection (1) of section 2 of the <sup>M89</sup> Judicial Pensions Act 1959 (which provides that any Lord of Appeal in Ordinary, Lord Justice General, Lord Justice Clerk, Senator of the College of Justice in Scotland, Lord Chief Justice of Northern Ireland, Lord Justice of Appeal in Northern Ireland or Judge of the High Court of Justice in Northern Ireland is to vacate his office on the day on which he attains the age of 75) for the words “seventy-five” there shall be substituted the word “seventy”.

#### **Marginal Citations**

**M89** 1959 c. 9.

### *Judges of the Supreme Court*

- 4 In subsection (2) of section 11 of the <sup>M90</sup> Supreme Court Act 1981 (which provides that any judge of the Supreme Court, other than the Lord Chancellor, is to vacate his office no later than the day on which he attains the age of 75) for the words “seventy-five” there shall be substituted the word “seventy”.

#### **Marginal Citations**

**M90** 1981 c. 54.

### *Acting and deputy judges*

- 5 (1) In section 9 of the Supreme Court Act 1981, after subsection (1) (persons who may act as judges) there shall be inserted—
- “(1A) A person shall not act as a judge by virtue of subsection (1) after the day on which he attains the age of 75.”
- (2) After subsection (4) of that section (appointment of deputy High Court judges) there shall be inserted—



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“(4A) No appointment of a person as a deputy judge of the High Court shall be such as to extend beyond the day on which he attains the age of 70, but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of 75).”

- (3) In subsection (6)(b) of that section (which refers to subsection (7) of that section, relating to the completion of proceedings after retirement), for the words “subject to subsection (7)” there shall be substituted the words “subject to section 27 of the Judicial Pensions and Retirement Act 1993”.

#### *Temporary Judges of the Court of Session*

- 6 (1) In paragraph 5 of Schedule 4 to the <sup>M91</sup>Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (appointment of temporary judges of the Court of Session) for the words “75 years” there shall be substituted the words “70 years”.
- (2) The said paragraph 5 as amended by sub-paragraph (1) above shall be numbered sub-paragraph (1) and there shall be added the following sub-paragraph—
- “(2) Sub-paragraph (1) above is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).”

#### **Marginal Citations**

**M91** 1990 c. 40.

#### *Acting judges of the High Court or Court of Appeal in Northern Ireland*

- 7 In section 7 of the <sup>M92</sup>Judicature (Northern Ireland) Act 1978, in subsection (1) (which provides that certain judges and former judges may, at the request of the Lord Chancellor, sit as judges of the High Court or Court of Appeal in Northern Ireland)—
- (a) the words “at any time” shall be omitted; and
- (b) at the end, there shall be added the words “at any time on or before the day on which he attains the age of seventy-five.”

#### **Marginal Citations**

**M92** 1978 c. 23.

#### *Circuit judges*

- 8 (1) Section 17 of the <sup>M93</sup>Courts Act 1971 (retirement of Circuit judges) shall be amended in accordance with the following provisions of this paragraph.
- (2) For subsection (1) (which requires a Circuit judge to vacate his office at the end of the completed year of service in which he attains the age of 72, subject to the possibility of extended appointment) there shall be substituted—

**Status:** Point in time view as at 25/02/2008. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** *Judicial Pensions and Retirement Act 1993 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

“(1) Subject to subsection (4) below and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75), a Circuit judge shall vacate his office on the day on which he attains the age of 70.”

(3) Subsection (2) (which contains power to continue a Circuit judge’s appointment up to the age of 75 and which is superseded by section 26(4) to (6) of this Act) shall cease to have effect.

(4) Subsection (3) (day on which certain persons are to be regarded as completing a year of service) shall cease to have effect.

**Marginal Citations**

**M93** 1971 c. 23.

*Recorders, deputy Circuit judges and assistant Recorders*

9 (1) In section 21 of the <sup>M94</sup>Courts Act 1971, in subsection (5) (Recorder not to hold office after the end of the completed year of service in which he attains the age of 72) for the words from “the end of” onwards there shall be substituted the words “ the day on which he attains the age of seventy, but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of 75). ”

(2) In section 24 of that Act (deputy Circuit judges and assistant Recorders), after subsection (1) there shall be inserted—

“(1A) No appointment of a person under subsection (1) above shall be such as to extend—

- (a) in the case of appointment as a deputy Circuit judge, beyond the day on which he attains the age of seventy-five; or
- (b) in the case of appointment as an assistant Recorder, beyond the day on which he attains the age of seventy;

but paragraph (b) above is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of 75).”

**Marginal Citations**

**M94** 1971 c. 23.

*Sheriffs*

10 In the <sup>M95</sup>Sheriff Courts (Scotland) Act 1971, after section 5 (qualification for offices of sheriff principal and sheriff) there shall be inserted—

**“5A Retiring age for sheriff principal and sheriff.**

(1) A sheriff principal or sheriff shall vacate his office on the day on which he attains the age of 70.

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- (2) Subsection (1) above is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).”

**Marginal Citations**

**M95** 1971 c. 58.

*Temporary sheriffs*

- 11 In section 11 of the Sheriff Courts (Scotland) Act 1971 (power to appoint temporary sheriffs principal and temporary sheriffs), after subsection (4) there shall be inserted the following subsections—

“(4A) No appointment under this section of a person to be a temporary sheriff principal or temporary sheriff shall extend beyond the day on which the person reaches the age of 70.

(4B) Subsection (4A) above is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).”

*County Court Judge in Northern Ireland*

- 12 In section 105 of the <sup>M96</sup>County Courts Act (Northern Ireland) 1959, for subsection (4) (which requires every judge to vacate his office at the end of the completed year of service in which he attains the age of 72, but subject to a proviso for judges who would not have completed 15 years’ service) there shall be substituted—

“(4) Every judge shall vacate his office on the day on which he attains the age of seventy years; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of 75).”

**Marginal Citations**

**M96** 1959 c. 25 (N.I.).

*Deputy judge of a county court in Northern Ireland*

- 13 In section 107 of the County Courts Act (Northern Ireland) 1959, for subsection (4) (which provides that, except in the case of a former judge, a deputy judge shall not hold office after the end of the completed year of service in which he attains the age of 72) there shall be substituted—

“(4) Neither the initial term for which a deputy judge is appointed nor any extension of that term under subsection (3) shall be such as to continue his appointment as a deputy judge after the day on which he attains the age of seventy; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of 75).”

**Status:** Point in time view as at 25/02/2008. This version of this Act contains provisions that are not valid for this point in time.

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### *Officers of the Supreme Court*

- 14 (1) Section 92 of the <sup>M97</sup>Supreme Court Act 1981 (tenure of office of certain officers of the Supreme Court) shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (1) (certain Masters, Registrars and other officers of the Supreme Court to vacate office at the end of the completed year of service in which they attain the age of 72)—
- (a) after the words “Subject to the following provisions of this section” there shall be inserted the words “ and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of 75) ”; and
- (b) for the words from “at the end” onwards there shall be substituted the words “ on the day on which he attains the age of seventy years. ”
- (3) In subsection (2B) (offices to which subsection (2A) applies) the words “and the office of Queen’s Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals” shall be omitted.
- (4) Subsection (2C) (which makes provision for determining the day on which persons who successively hold offices falling within column 1 of Part I or II of Schedule 2 to that Act are to be regarded as completing a year of service, and which is of no further utility) shall cease to have effect.
- (5) <sup>F173</sup> .....
- (6) Subsection (3) (which contains power to continue a person’s appointment to an office to which subsection (1) applies up to the age of 75 and which is superseded by section 26(4) to (6) of this Act) shall cease to have effect.
- (7) <sup>F173</sup> .....

#### **Textual Amendments**

**F173** Sch. 6 para. 14(5)(7) repealed (1.4.2005) by Courts Act 2003 (c. 39), ss. 109(3), 110(1), Sch. 10; S.I. 2005/910, art. 3(aa)

#### **Marginal Citations**

**M97** 1981 c. 54.

### *Deputy and temporary officers of the Supreme Court*

- 15 In section 91 of the <sup>M98</sup>Supreme Court Act 1981, in subsection (3) (which permits certain appointments as a deputy or temporary officer to be made, notwithstanding that the person would be disqualified by age from holding the office in question) after paragraph (c) there shall be added—
- “ but no appointment by virtue of this subsection shall be such as to extend beyond the day on which the person in question attains the age of seventy-five years. ”

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#### Marginal Citations

M98 1981 c. 54.

#### *Deputy district judges of district registries of the High Court*

- 16 In section 102 of the Supreme Court Act 1981, at the end of subsection (3) (which permits certain appointments as a deputy district judge of a district registry of the High Court to be made, notwithstanding that the person would be disqualified by age from holding the office in question) there shall be added the words “; but no appointment by virtue of this subsection shall be such as to extend beyond the day on which the person in question attains the age of seventy-five years.”

#### *District judges and deputy district judges of county courts*

- 17 (1) In section 8 of the <sup>M99</sup>County Courts Act 1984 (deputy district judges) after subsection (1) there shall be inserted—

“(1A) Any appointment of a person as a deputy district judge—

- (a) if he has previously held office as a district judge, shall not be such as to extend beyond the day on which he attains the age of 75 years; and
- (b) in any other case, shall not be such as to extend beyond the day on which he attains the age of 70 years, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).”

- (2) Section 11 of that Act (tenure of office of district judge etc) shall be amended in accordance with the following provisions of this paragraph.

- (3) For subsections (1) and (2) (which provide for a person to whom subsection (1) applies to vacate his office at the end of the completed year of service in which he attains the age of 72) there shall be substituted—

“(1) This subsection applies to the office of district judge.

- (2) Subject to the following provisions of this section and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of 75), a person who holds an office to which subsection (1) applies shall vacate his office on the day on which he attains the age of 70 years.”

- (4) Subsection (3) (which confers power to continue district judges etc in office up to the age of 75 and which is superseded by section 26(4) to (6) of this Act) shall cease to have effect.

#### Marginal Citations

M99 1984 c. 28.

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*Statutory officers in Northern Ireland*

18 In section 71 of the <sup>M100</sup>Judicature (Northern Ireland) Act 1978, for subsection (3) (which provides that a statutory officer, within the meaning of that Act, is to retire at the end of the completed year of service in which he attains the age of 72, but subject to the substitution of a lower age, under subsection (4)) there shall be substituted—

“(3) Subject to subsection (4) below and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office beyond the age of 70, up to the age of 75), a statutory officer shall retire on the day on which he attains the age of 70 years.”

**Marginal Citations**  
 M100 1978 c. 23.

*Stipendiary magistrates in England and Wales*

<sup>F174</sup>19 .....

**Textual Amendments**  
 F174 Sch. 6 para. 19 repealed (19.6.1997) by 1997 c. 25, ss. 73(3), 74(1), Sch. 6 Pt. I (with Sch. 4 para. 27)

*Resident Magistrates in Northern Ireland*

20 For section 1 of the <sup>M101</sup>Resident Magistrates’ Pensions Act (Northern Ireland) 1960 (Resident Magistrate to vacate office at the end of the completed year of service in which he attains the age of 70, but with power to continue in office up to the age of 72) there shall be substituted—

**“1 Retiring age of resident magistrates.**

Every resident magistrate (whether appointed before or after the passing of this Act) shall vacate his office on the day on which he attains the age of seventy; but this section is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of 75).”

**Marginal Citations**  
 M101 1960 c. 2 (N.I.).

*Social security: Commissioners, and the President and chairmen of appeal tribunals*

<sup>F175</sup>21 .....

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### Textual Amendments

**F175** Sch. 6 para. 21 repealed (29.11.1999 except for specified purposes) by 1998 c. 14, s. 86(2), Sch. 8; S.I. 1999/3178, art. 2(1)(2), Sch. 1 (subject to transitional provisions in Schs. 21-23)

#### *Social security: Commissioners, and the President and chairmen of appeal tribunals in Northern Ireland*

- 22 (1) Paragraph 1 of Schedule 2 to the <sup>M102</sup>Social Security Administration (Northern Ireland) Act 1992 (tenure of office as Commissioner, President or full-time chairman) shall be amended in accordance with the following provisions of this paragraph.
- (2) In sub-paragraph (2) (which requires such a person to vacate office at the end of the completed year of service in which he attains the age of 72) for the words from “at the end of” onwards there shall be substituted the words “on the day on which they attain the age of 70, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).”
- (3) Sub-paragraph (3) (which contains power to continue such a person’s appointment up to the age of 75 and which is superseded by section 26(4) to (6) of this Act) shall cease to have effect.
- (4) In sub-paragraph (6) (sub-paragraph (2) or (3) not to apply in relation to deputy Commissioners) the words “or (3)” shall be omitted.

### Marginal Citations

**M102** 1992 c. 8.

#### *Child support: Commissioners and chairmen of appeal tribunals*

- 23 <sup>F176</sup>(1) .....
- (2) In Schedule 4 to that Act (Child Support Commissioners), in paragraph 1—
- (a) in sub-paragraph (1) (Child Support Commissioner to retire at the end of the completed year of service in which he reaches the age of 72) for the words from “at the end” to the end of that sub-paragraph there shall be substituted the words “on the date on which he reaches the age of 70; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75)”; and
- (b) sub-paragraph (2) (which contains power to continue a Commissioner’s appointment up to the age of 75 and which is superseded by section 26(4) to (6) of this Act) shall cease to have effect.
- (3) In paragraph 4 of that Schedule (deputy Child Support Commissioners) at the beginning of paragraph (b) of sub-paragraph (2) there shall be inserted the words “Subject to sub-paragraph (2A)”, and after that sub-paragraph there shall be inserted—



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“(2A) No appointment of a person to be a deputy Child Support Commissioner shall be such as to extend beyond the date on which he reaches the age of 70; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).”

(4) In paragraph 7 of that Schedule (Lord Chancellor to consult the Lord Advocate before exercising certain powers under the Schedule) for the words “paragraph 1(2) or (3)” there shall be substituted the words “ paragraph 1(3) ”.

**Textual Amendments**

**F176** Sch. 6 para. 23(1) repealed (1.6.1999) by 1998 c. 14, s. 86(2), Sch. 8; S.I. 1999/1510, art. 2(f)(vii)

*Chairmen of child support appeal tribunals in Northern Ireland*

F177<sup>24</sup> .....

**Textual Amendments**

**F177** Sch. 6 para. 24 repealed (1.6.1999) by S.I. 1998/1506 (N.I. 10), art. 78(2), Sch. 7; S.R. 1999/246, art. 2, Sch. 1 (subject to transitional provisions in arts. 23-25)

*Chairman of the Foreign Compensation Commission*

25 In section 1 of the <sup>M103</sup>Foreign Compensation Act 1950 (constitution of the Foreign Compensation Commission), at the beginning of subsection (3) there shall be inserted the words “ Subject, in the case of the chairman, to subsection (3A) of this section, ” and after that subsection there shall be inserted—

“(3A) The chairman of the Commission shall vacate his office on the day on which he attains the age of seventy years; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).”

**Marginal Citations**

**M103** 1950 c. 12.

*Commons Commissioners*

26 In section 17 of the <sup>M104</sup>Commons Registration Act 1965 (which includes provision for the appointment of Commons Commissioners) after subsection (1) there shall be inserted—

“(1A) A Commons Commissioner shall vacate his office on the day on which he attains the age of seventy years; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power of Lord



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Chancellor to authorise continuance in office up to the age of seventy-five years).”

#### Marginal Citations

M104 1965 c. 64.

*President and chairmen of <sup>F178</sup>employment tribunals]*

#### Textual Amendments

F178 Words in cross heading substituted (1.8.1998) by 1998 c.8, ss, 1(2)(b), 16; S.I. 1998/1658, art. 2(1)

- 27 (1) The <sup>M105</sup>[<sup>F179</sup>Employment Tribunals](England and Wales) Regulations 1965 shall be amended in accordance with sub-paragraphs (2) and (3) below.
- (2) For regulation 3(2) (which requires the [<sup>F180</sup>President of the Employment Tribunals (England and Wales)]to vacate office at the end of the completed year of service in which he attains the age of 72) there shall be substituted—
- “(2) The President shall vacate his office on the day on which he attains the age of seventy years, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of 75).”
- (3) In regulation 5, at the beginning of paragraph (5) (terms of membership of panels) there shall be inserted the words “ Subject to paragraph (6) ” and after that paragraph there shall be inserted—
- “(6) A member of a panel of chairmen appointed under paragraph (2) shall vacate his office on the day on which he attains the age of seventy years, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of 75).”
- (4) The <sup>M106</sup>[<sup>F179</sup>employment tribunals](Scotland) Regulations 1965 shall be amended in accordance with sub-paragraphs (5) and (6) below.
- (5) For regulation 3(2) (which requires the [<sup>F181</sup>President of the Employment Tribunals (Scotland)]to vacate office at the end of the completed year of service in which he attains the age of 72) there shall be substituted—
- “(2) The President shall vacate office on the day on which he attains the age of seventy years, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).”
- (6) In regulation 5, at the beginning of paragraph (5) (terms of membership of panels) there shall be inserted the words “ Subject to paragraph (6) ” and after that paragraph there shall be inserted—
- “(6) A member of a panel of chairmen appointed under paragraph (2) shall vacate his office on the day on which he attains the age of seventy years, but subject

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to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).”

#### Textual Amendments

**F179** Words in Sch. 6 para. 27(1)(4) substituted (1.8.1998) by 1998 c. 8, ss. 1(2)(b), 16 ; S.I. 1988/1658, art. 2(1), Sch. 1

**F180** Words in Sch. 6 para. 27(2) substituted (1.8.1998) by 1998 c. 8, ss. 1(2)(d), 16 ; S.I. 1998/1658, art. 2(1), Sch. 1

**F181** Words in Sch. 6 para. 27(5) substituted (1.8.1998) by 1998 c. 8, ss. 1(2)(e), 16 ; S.I. 1998/1658, art. 2(1), Sch. 1

#### Marginal Citations

**M105** S.I. 1965/1101.

**M106** S.I. 1965/1157.

#### *President, Vice-President and chairmen of industrial tribunals and of the Fair Employment Tribunal*

28 <sup>F182</sup>(1) . . . . .

(2) In regulation 3 of the <sup>M107</sup>Industrial Tribunals Regulations (Northern Ireland) 1965 (membership of tribunals), at the beginning of paragraph (5) there shall be inserted the words “ Subject to paragraph (6) ” and after that paragraph there shall be inserted—

“(6) A member of a panel of chairmen appointed under paragraph (2) shall vacate his office on the day on which he attains the age of seventy years, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of 75).”

#### Textual Amendments

**F182** Sch. 6 para. 28(1) repealed (1.3.1999) by S.I. 1998/3162 (N.I. 21), art. 105(4), Sch. 5; S.R. 1999/81, art. 3(1)

#### Marginal Citations

**M107** S.R. & O. (N.I.) 1965 No. 112.

#### *President of the Industrial Court in Northern Ireland*

29 In Article 91 of the <sup>M108</sup>Industrial Relations (Northern Ireland) Order 1992, at the beginning of paragraph (3) (terms of appointment of president and other members of the Industrial Court) there shall be inserted the words “ Subject, in the case of the president, to paragraph (3A), ” and after that paragraph there shall be inserted—

“(3A) The president shall vacate his office on the day on which he attains the age of 70; but this paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993.”

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**Marginal Citations**

M108 S.I. 1992/807 (N.I. 5).

*Members of the Employment Appeal Tribunal*

F183<sup>30</sup> .....

**Textual Amendments**

F183 Sch. 6 para. 30 repealed (22.8.1996) by 1996 c. 17, ss. 45, 46, Sch. 3 Pt. I (with s. 38)

*The Lands Tribunal and the Lands Tribunal for Scotland*

31 In section 2 of the <sup>M109</sup>Lands Tribunal Act 1949, after subsection (5) (terms of appointment to membership of the Tribunal) there shall be inserted—

“(5A) No person shall be appointed a member of the Tribunal for a term which extends beyond the day on which he attains the age of seventy, except in accordance with section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).”

**Marginal Citations**

M109 1949 c. 42.

*The Lands Tribunal for Northern Ireland*

32 In section 2 of the <sup>M110</sup>Lands Tribunal and Compensation Act (Northern Ireland) 1964, for paragraph (b) of subsection (2) (which requires a member to vacate his office at the end of the completed year of service in the course of which he attains the age of 72) there shall be substituted—

“(b) shall vacate his office on the day on which he attains the age of seventy years, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of 75); and”.

**Marginal Citations**

M110 1964 c. 29 (N.I.).

*Judge Advocate of Her Majesty’s Fleet*

33 In section 28 of the <sup>M111</sup>Courts-Martial (Appeals) Act 1951, in subsection (3) (Judge Advocate of the Fleet to vacate office at the end of the completed year of service in which he attains the age of 70, with a proviso for continuance in office up to the age of 72)—

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- (a) for the words from “at the end” to “seventy years” there shall be substituted the words “ on the day on which he attains the age of seventy years, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75) ”; and
- (b) the proviso (which is superseded by section 26(4) to (6) of this Act) shall cease to have effect.

**Marginal Citations**

M111 1951 c. 46.

*Judge Advocate General and related offices*

34 In subsection (2) of section 32 of that Act (which makes similar provision for the Judge Advocate General and also provides for certain other judicial officers to vacate office at the end of the completed year of service in which they attain the age of 65, but with a proviso for continuance in office up to the age of 70)—

- (a) after the words “The Judge Advocate General shall” there shall be inserted the words “ , subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75), ”;
- (b) for the words “at the end of the completed year of service in the course of which”, in both places where they occur, there shall be substituted the words “ on the day on which ”; and
- (c) the proviso (which in relation to the Judge Advocate General is superseded by section 26(4) to (6) of this Act) shall cease to have effect.

*Value added tax tribunals*

F184 35 .....

**Textual Amendments**

F184 Sch. 6 para. 35 repealed (1.9.1994 with effect as mentioned in s. 100(1) of the repealing Act) by 1994 c. 23, s. 100(2), Sch. 15

*Special, and deputy Special, Commissioners for Income Tax*

36 (1) In section 4 of the <sup>M112</sup>Taxes Management Act 1970 (Special Commissioners) after subsection (3) there shall be inserted—

- “(3A) A Special Commissioner—
- (a) may resign his office at any time; and
  - (b) shall vacate his office on the day on which he attains the age of seventy years;
- but paragraph (b) above is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).”

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- (2) In section 4A of that Act, at the end of subsection (2) (which provides that a person shall not be qualified for appointment as a deputy Special Commissioner unless he is qualified for appointment as a Special Commissioner) there shall be added the words “ (and, accordingly, no appointment of a person as a deputy Special Commissioner shall be such as to extend beyond the day on which he attains the age of seventy years, but subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993) ”.

**Marginal Citations**

M112 1970 c. 9.

*President or other member of the Immigration Appeal Tribunal*

F185<sup>37</sup> .....

**Textual Amendments**

F185 Sch. 6 para. 37 repealed (14.2.2000) by 1999 c. 33, s. 169(1)(3), Sch. 14 para. 98(1)(4), Sch. 16; S.I. 2000/168, art. 2, Sch. (with art. 3)

*Immigration adjudicators*

F186<sup>38</sup> .....

**Textual Amendments**

F186 Sch. 6 para. 38 repealed (14.2.2000) by 1999 c. 33, s. 169(1)(4), Sch. 14 para. 98(1)(4), Sch. 16; S.I. 2000/168, art. 2, Sch. (with art. 3)

*Pensions Appeal Tribunals*

39 In the Schedule to the <sup>M113</sup>Pensions Appeal Tribunals Act 1943, for paragraph 2 (appointment, remuneration and removal of members) there shall be substituted—

- “2 (1) The members of the Tribunals shall be appointed by the Lord Chancellor.
- (2) There shall be paid to them such remuneration as the Treasury may determine.
- (3) The Lord Chancellor may, if he thinks fit, remove any member of such a Tribunal.
- (4) Subject to sub-paragraph (3) above and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75), a member of such a Tribunal shall vacate his office on the day on which he attains the age of seventy years.”

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**Marginal Citations**  
M113 1943 c. 39.

*Mental Health Review Tribunals*

40 In Schedule 2 to the <sup>M114</sup>Mental Health Act 1983 (which makes provision with respect to Mental Health Review Tribunals), at the beginning of paragraph 2 there shall be inserted the words “ Subject to paragraph 2A below, ” and after that paragraph there shall be inserted—

“2A A member of a Mental Health Review Tribunal shall vacate office on the day on which he attains the age of 70 years; but this paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75 years).”

**Marginal Citations**  
M114 1983 c. 20.

*The Financial Services Tribunal*

<sup>F187</sup>41 .....

**Textual Amendments**  
F187 Sch. 6 para. 41 repealed (1.12.2001) by S.I. 2001/3649, arts. 1, 115(a)

*Tribunals and advisory bodies under the Misuse of Drugs Act 1971*

42 (1) Schedule 3 to the <sup>M115</sup>Misuse of Drugs Act 1971 (which includes provision in relation to tribunals and advisory bodies established for the purposes of sections 14 and 15 of that Act) shall be amended in accordance with this paragraph.

(2) In paragraph 1 (membership of tribunals) after sub-paragraph (2) there shall be inserted—

“(2A) The chairman of a tribunal shall vacate his office on the day on which he attains the age of seventy years; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).”

(3) In paragraph 13 (membership of advisory bodies) after sub-paragraph (1) there shall be inserted—

“(1A) The chairman of an advisory body shall vacate his office on the day on which he attains the age of seventy years; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).”

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**Marginal Citations**

M115 1971 c. 38.

*Restrictive Practices Court*

43 (1) In section 3 of the <sup>M116</sup>Restrictive Practices Court Act 1976 (appointed members of the Restrictive Practices Court), in subsection (2)—

- (a) at the beginning, there shall be inserted the words “ Subject to subsection (2A) below, ”; and
- (b) the words “(not less than three years)” shall cease to have effect.

(2) After that subsection there shall be inserted—

“(2A) No appointment of a person to be an appointed member shall be such as to extend beyond the day on which he attains the age of seventy years; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years);”.

**Marginal Citations**

M116 1976 c. 33.

*Tribunals constituted under section 706 of the Income and Corporation Taxes Act 1988*

44 Section 706 of the <sup>M117</sup>Income and Corporation Taxes Act 1988 (appointment of a tribunal to hear appeals in connection with the cancellation of tax advantages from certain transactions in securities) shall be numbered as subsection (1) of that section, and at the end of that section there shall be added—

“(2) A person appointed as chairman or other member of the tribunal shall vacate his office on the day on which he attains the age of 70; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).”

**Marginal Citations**

M117 1988 c. 1.

*Arbitrator appointed under the Agricultural Holdings Act 1986*

45 <sup>F188</sup> .....

**Textual Amendments**

**F188** Sch. 6 para. 45 repealed (19.10.2006) by [The Regulatory Reform \(Agricultural Tenancies\) \(England and Wales\) Order 2006 \(S.I. 2006/2805\)](#), art. 18, [Sch. 2](#) (with art. 10)



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### *Agricultural Land Tribunals*

- 46 (1) Schedule 9 to the <sup>M118</sup>Agriculture Act 1947 (constitution etc of Agricultural Land Tribunals) shall be amended in accordance with this paragraph.
- (2) In paragraph 13 (which relates to the chairmen of such Tribunals), in sub-paragraph (2)—
- (a) at the beginning there shall be inserted the words “ Subject to sub-paragraph (2A) of this paragraph, ”; and
- (b) for the words “three years” there shall be substituted “ such period as may be specified in the terms of his appointment ”.
- (3) After that sub-paragraph there shall be inserted—
- “(2A) No appointment of a person to be the chairman shall be such as to extend beyond the day on which he attains the age of seventy years; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).”
- (4) Paragraph 14 (which provides for there to be a panel of deputy-chairmen for each such Tribunal) shall be numbered as sub-paragraph (1) of that paragraph, and at the end of that paragraph there shall be added—
- “(2) A member of the panel of deputy-chairmen shall vacate his office on the day on which he attains the age of seventy years; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).”
- (5) In paragraph 15 (which provides for there to be panels of persons representing farmers’ and landowners’ interests), after sub-paragraph (1) there shall be inserted—
- “(1A) A member of either of the panels drawn up under sub-paragraph (1) of this paragraph shall vacate his office on the day on which he attains the age of seventy years; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).”

#### **Marginal Citations**

**M118** 1947 c. 48.

### *The Aircraft and Shipbuilding Industries Arbitration Tribunal*

- 47 In section 42 of the <sup>M119</sup>Aircraft and Shipbuilding Industries Act 1977, at the beginning of subsection (5) (which makes provision in relation to the terms of appointment of the members of the Aircraft and Shipbuilding Industries Arbitration Tribunal) there shall be inserted the words “ Subject to subsection (5A) below, ” and after that subsection there shall be inserted—
- “(5A) No appointment of a person to be the president of the arbitration tribunal shall be such as to extend beyond the day on which he attains the age of 70; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions



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and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).”

**Marginal Citations**

M119 1977 c.3.

*Chairman of a tribunal established by section 29  
of the Betting, Gaming and Lotteries Act 1963*

48 In section 29 of the <sup>M120</sup>Betting, Gaming and Lotteries Act 1963 (appointment of a tribunal to hear appeals concerning bookmakers’ levy) at the end of subsection (2) there shall be added the words “ , but subject, in the case of the chairman, to subsection (2A) of this section ”, and after that subsection there shall be inserted—

“(2A) The chairman of any such tribunal shall vacate his office on the day on which he attains the age of seventy years; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).”

**Marginal Citations**

M120 1963 c. 2.

*The Copyright Tribunal*

49 In section 146 of the <sup>M121</sup>Copyright, Designs and Patents Act 1988 (membership of the Copyright Tribunal) after subsection (3) there shall be inserted—

“(3A) A person who is the chairman or a deputy chairman of the Tribunal shall vacate his office on the day on which he attains the age of 70 years; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75 years).”

**Marginal Citations**

M121 1988 c. 48.

*The Data Protection Tribunal*

[<sup>F189</sup>50 In Schedule 2 to the <sup>M122</sup>Data Protection Act 1984, in paragraph 8 (tenure of office of members of the Data Protection Tribunal), at the beginning of sub-paragraph (1) there shall be inserted the words “ Subject to the following provisions of this paragraph, ” and at the end of that paragraph there shall be added—

“(3) A person who is the chairman or a deputy chairman of the Tribunal shall vacate his office on the day on which he attains the age of seventy years; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).”]

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#### Textual Amendments

**F189** Sch. 6 para. 50 repealed (1.3.2000) by 1998 c. 29, s. 74(2), **Sch. 16 Pt. I**; S.I. 2000/183, **art. 2**

#### Marginal Citations

**M122** 1984 c. 35.

### *Independent Schools Tribunals*

**F190**<sup>51</sup> .....

#### Textual Amendments

**F190** Sch. 6 para. 51 repealed (1.11.1996) by 1996 c. 56, ss. 582(2), 583(2), **Sch. 38 Pt. I** (with ss. 1(4), 561, 562, Sch. 39)

#### *President of a tribunal constituted under Schedule 3 to the Industry Act 1975*

- 52 (1) In Schedule 3 to the <sup>M123</sup>Industry Act 1975, paragraph 6 (terms of appointment of members of a tribunal established to arbitrate in a dispute arising under that Act) shall be numbered as sub-paragraph (1) of that paragraph.
- (2) At the beginning of that sub-paragraph there shall be inserted the words “ Subject, in the case of the president of a tribunal, to sub-paragraph (2) below ”, and after that sub-paragraph there shall be added—

“(2) No appointment of a person to be the president of a tribunal shall be such as to extend beyond the day on which he attains the age of 70 years; but this paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75 years).”

#### Marginal Citations

**M123** 1975 c. 68.

#### *Tribunal constituted under Schedule 9 to the National Health Service Act 1977*

- 53 In regulation 26 of the <sup>M124</sup>National Health Service (Service Committees and Tribunal) Regulations 1974 (tenure of office of chairman of Tribunal constituted under section 46 of the <sup>M125</sup>National Health Service Act 1977) at the beginning of paragraph (1) there shall be inserted the words “ Subject to paragraph (1A), ” and after that paragraph there shall be inserted—

“(1A) The chairman shall vacate his office on the day on which he attains the age of 70; but this paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of 75).”

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**Marginal Citations**

M124 S.I. 1974/455.

M125 1977 c. 49.

*Chairman of the Plant Varieties and Seeds Tribunal*

F191 54 .....

**Textual Amendments**

F191 Sch. 6 para. 54 repealed (8.5.1998) by 1997 c. 66, s. 52, Sch. 4; S.I 1998/1028, art. 2

*Chairman of a Registered Homes Tribunal*

55 In section 40 of the <sup>M126</sup>Registered Homes Act 1984, at the beginning of subsection (6) (terms of appointment of persons to the panels of chairmen and other members of Registered Homes Tribunals), there shall be inserted the words “ Subject, in the case of a person appointed to the legal panel, to subsection (7) below, ” and after that subsection there shall be added—

“(7) No appointment of a person to the legal panel shall be such as to extend beyond the day on which he attains the age of seventy years; but this subsection is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).”

**Marginal Citations**

M126 1984 c. 23.

*Rent Assessment Committees*

56 In Schedule 10 to the <sup>M127</sup>Rent Act 1977, after paragraph 2 (appointment by Lord Chancellor or Secretary of State of persons to constitute the panels from which the members of rent assessment committees are selected) there shall be inserted—

“2A No appointment of a person to any panel by the Lord Chancellor shall be such as to extend beyond the day on which the person attains the age of seventy years; but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (Lord Chancellor’s power to authorise continuance in office up to the age of seventy-five years).”

**Marginal Citations**

M127 1977 c. 42.

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*The Transport Tribunal*

- 57 (1) Paragraph 3 of Schedule 4 to the <sup>M128</sup>Transport Act 1985 (tenure of office of judicial members) shall be amended in accordance with the following provisions of this paragraph.
- (2) In sub-paragraph (1) (judicial member to hold office until the end of the completed year of service in which he attains the age of 72 and then retire)—
  - (a) after the words “Subject to the following provisions of this paragraph” there shall be inserted the words “ and to subsections (4) to (6) of section 26 of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five) ”; and
  - (b) for the words “the end of the completed year of service in which he attains the age of seventy-two” there shall be substituted the words “ the day on which he attains the age of seventy ”.
- (3) Sub-paragraph (2) (which contains power to continue the member’s appointment up to the age of 75 and which is superseded by section 26(4) to (6) of this Act) shall cease to have effect.

**Marginal Citations**  
M128 1985 c. 67.

*Tribunal established under section 9 of the Wireless Telegraphy Act 1949*

58 <sup>F192</sup> .....

**Textual Amendments**  
F192 Sch. 6 para. 58 repealed (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406(7), 411(2), Sch. 19(1), Note 1 (with Sch. 18); S.I. 2003/1900, arts. 2(1), 3, Sch. 1; S.I. 2003/3142, art. 3(2)

*Wreck commissioner*

59 <sup>F193</sup> .....

**Textual Amendments**  
F193 Sch. 6 para. 59 repealed (1.1.1996) by 1995 c. 21, ss. 314, 316, Sch. 12 (with s. 312(1), Sch. 14 para. 1)

*Chairman of a Reinstatement Committee*

- 60 In Schedule 2 to the <sup>M129</sup>Reserve Forces (Safeguard of Employment) Act 1985, paragraph 2 (composition of Reinstatement Committees) shall be numbered as sub-paragraph (1) of that paragraph and at the end of that paragraph there shall be added—
  - “(2) A member of the panel of persons referred to in sub-paragraph (1)(a) shall vacate his office on the day on which he attains the age of seventy years;

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but this sub-paragraph is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (power to authorise continuance in office up to the age of seventy-five years).”

**Marginal Citations**

M129 1985 c. 17.

*Tribunals constituted for the purposes of section 150(4) of the Mines and Quarries Act 1954*

61 In Schedule 3 to the <sup>M130</sup>Mines and Quarries Act 1954, at the end of paragraph 1 (constitution of tribunals to inquire into whether a certificate of competency granted under that Act should be withdrawn or suspended) there shall be added the words “; but no person shall be appointed—

(a) as the person, or one of the persons, constituting such a tribunal, or

(b) as an assessor to assist any such tribunal,

after the day on which he attains the age of seventy years. ”

**Marginal Citations**

M130 1954 c. 70.

*Courts of inquiry under section 52 of the Merchant Shipping Act 1970*

62 In rule 5 of the <sup>M131</sup>Merchant Shipping (Section 52 Inquiries) Rules 1982 (appointment of courts of inquiry for the purposes of section 52 of the <sup>M132</sup>Merchant Shipping Act 1970) after paragraph (3) there shall be added—

“(4) A person shall not be appointed after the day on which he attains the age of 70 to assist with a section 52 inquiry as an assessor.”

**Marginal Citations**

M131 S.I. 1982/1752.

M132 1970 c. 36.

*Chairman of a vaccine damage tribunal in Northern Ireland*

F194 63 .....

**Textual Amendments**

F194 Sch. 6 para. 63 repealed (29.11.1999 except for specified purposes) by S.I. 1998/1506 (N.I. 10), art. 78(2), Sch. 7; S.R. 1999/472, art. 2(1)(a)(2), Sch. 1 (subject to transitional provisions in arts. 20-22)

*Chairman of a tribunal constituted under section 47 of the Building Societies Act 1986*

F195 64 .....

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**Textual Amendments**

**F195** Sch. 6 para. 64 repealed (1.12.2001) by S.I. 2001/3649, arts. 1, 115(b)

*Chairman of a tribunal constituted under section 28 of the Banking Act 1987*

**F196** 65 .....

**Textual Amendments**

**F196** Sch. 2 para. 65 repealed (1.12.2001) by S.I. 2001/3649, arts. 1, 115(c)

*Arbitrators appointed under Schedule 10 to the Electricity Act 1989*

66 **F197** .....

**Textual Amendments**

**F197** Sch. 6 para. 66 repealed (1.10.2006) by The Employment Equality (Age) Regulations 2006 (S.I. 2006/1031), reg. 49(2), Sch. 6 para. 66 (with regs. 44-46)

*Chairman of a tribunal constituted under Schedule 3 to the Education (Schools) Act 1992*

**F198** 67 .....

**Textual Amendments**

**F198** Sch. 6 para. 67 repealed (1.11.1996) by 1996 c. 57, ss. 47(2), 48(2), Sch. 7

*Chairman of a tribunal constituted under section 59 of the Friendly Societies Act 1992*

**F199** 68 .....

**Textual Amendments**

**F199** Sch. 2 para. 68 repealed (1.12.2001) by S.I. 2001/3649, arts. 1, 115(d)

SCHEDULE 7

Section 26.

RETIREMENT DATES: TRANSITIONAL PROVISIONS

**Modifications etc. (not altering text)**

**C33** Sch. 7 restricted (1.1.1996) by S.I. 1995/3192, art. 4(b)(iii)

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Sch. 7 modified (27.9.1999) by 1999 c. 22, ss. 105, 108(3), **Sch. 14 Pt. V para. 25** (with Sch. 14 para. 7(2))

Sch. 7 continued (14.2.2000) by 1999 c. 33, s. 169(2), **Sch. 15 para. 3(4)**; S.I. 2000/168, art. 2, **Sch.** (with art. 3)

### *Interpretation*

- 1 (1) In this Schedule—
  - “potential retirement date”, in relation to any office, shall be construed in accordance with paragraph 5 below;
  - “re-appointment” to an office includes extension of a subsisting appointment to the office, otherwise than by the exercise of a continuation power.
- (2) For the purposes of this Schedule, a person’s office—
  - (a) is “salaried” if and so long as his service in the office is remunerated by payment of a salary; and
  - (b) is “fee-paid” if and so long as his service in the office is remunerated by the payment of fees;and any reference in this Schedule to a person’s being “salaried” or “fee-paid” shall be construed accordingly.
- (3) Subsection (3) of section 26 of this Act applies for the purposes of this Schedule as it applies for the purposes of that section.
- (4) Expressions used in this Schedule and in section 26 of this Act have the same meaning in this Schedule as they have in that section.
- (5) This Schedule is without prejudice to subsections (4) to (6) of section 26 of this Act, but is subject to subsection (7) of that section and to section 27 of this Act.

### *Salaried offices*

- 2 (1) This paragraph applies to any person who for the time being holds, or who is seeking appointment or re-appointment to, a salaried relevant office (in this paragraph referred to as his “post-commencement office”), if—
  - (a) immediately before the appointed day, he was holding that or any other salaried relevant office (in this paragraph referred to as his “pre-commencement office”);
  - (b) he has at all times on and after that day held some one or other salaried relevant office (whether the same office or not); and
  - (c) his potential retirement date by reference to his pre-commencement office falls later than the date that would, apart from this paragraph, be the compulsory retirement date for the post-commencement office in his case.
- (2) If and so long as this paragraph applies to a person—
  - (a) nothing in section 26 of, and no amendment made by Schedule 6 to, this Act shall—
    - (i) require him to vacate his post-commencement office before his potential retirement date by reference to his pre-commencement office; or

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- (ii) affect his eligibility for appointment or re-appointment to the post-commencement office; and
  - (b) that potential retirement date shall be taken for the purposes of section 26 of this Act (and, accordingly, of this Schedule) to be the compulsory retirement date for the post-commencement office in his case.
- (3) If a person has two or more pre-commencement offices (so that he would, apart from this sub-paragraph, have two or more potential retirement dates) his potential retirement date for the purposes of this paragraph—
- (a) shall be determined by reference only to that one of his pre-commencement offices to which he was first appointed, or
  - (b) shall be such later date, falling on or before the day on which he attains the age of 75, as may be agreed in writing by him and the appropriate Minister, determined by reference to that pre-commencement office;
- and any reference in this Schedule to the person's potential retirement date by reference to his pre-commencement office shall be construed accordingly.
- (4) If immediately before the appointed day—
- (a) a person who holds a salaried relevant office (“office A”) also holds another relevant office (“office B”), but
  - (b) in consequence of holding office A, he is either—
    - (i) unremunerated in respect of his service in office B, or
    - (ii) remunerated by payment of a supplement, in respect of that service, to the salary payable in respect of his service in office A,
- then, in determining for the purposes of sub-paragraph (3) above the number of pre-commencement offices which that person has, and to which of them he was first appointed, he shall be taken to hold office B at that time as a salaried relevant office and to have been so holding it at all previous times when the conditions in paragraphs (a) and (b) above were fulfilled.

**Modifications etc. (not altering text)**

**C34** Sch. 7 para. 2(2)(b) excluded (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 48(2), 148(5), [Sch. 9 para. 8\(2\)](#); S.I. 2008/2696, [art. 5\(d\)](#) (with [art. 3](#))

*Fee-paid offices*

- 3 (1) This paragraph applies to any person who for the time being holds, or who is seeking re-appointment to, a fee-paid relevant office, if—
- (a) immediately before the appointed day, he was holding that office as a fee-paid office;
  - (b) he has at all times on and after that day held that office as a fee-paid office; and
  - (c) his potential retirement date by reference to that office falls later than the date that would, apart from this paragraph, be the compulsory retirement date for that office in his case.
- (2) If and so long as this paragraph applies to a person—
- (a) nothing in section 26 of, and no amendment made by Schedule 6 to, this Act shall—



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- (i) require him to vacate the office referred to in sub-paragraph (1) above before his potential retirement date by reference to that office; or
  - (ii) affect his eligibility for re-appointment to that office as a fee-paid office; and
- (b) that potential retirement date shall be taken for the purposes of section 26 of this Act (and, accordingly, of this Schedule) to be the compulsory retirement date for that office in his case.

*Persons holding a relevant office by virtue of a continuation power*

- 4 Where, immediately before the appointed day, a person was holding a relevant office by virtue of the exercise of a continuation power, nothing in section 26 of this Act or this Schedule, and no amendment made by Schedule 6 to this Act, shall affect the continuing validity of that exercise of that power in relation to that person.

*Ascertainment of potential retirement date*

- 5 (1) For the purposes of this Schedule, a person's potential retirement date by reference to an office is—
- (a) in a case where, immediately before the appointed day, he was holding that office otherwise than by virtue of the exercise of a continuation power, the day on which he would have been required by any enactment or statutory instrument to vacate that office, apart from this Act and apart from any continuation power;
  - (b) in a case where, immediately before the appointed day, he was holding that office by virtue of the exercise of a continuation power, the last day of the period for which he is authorised to continue in that office by virtue of that exercise of the continuation power; or
  - (c) in the case of an office to which any of the following sub-paragraphs applies (offices for which there was no compulsory retirement date before the appointed day, but whose standard terms of appointment, or whose arrangements with respect to retirement, are reflected in the provisions of the sub-paragraph in question), the day specified in the sub-paragraph as the appropriate day.
- (2) This sub-paragraph applies to each of the following offices, as a salaried office—
- (a) Social Security Commissioner appointed before 23rd May 1980;
  - (b) President or other member of the Lands Tribunal, or of the Lands Tribunal for Scotland, set up under the <sup>M133</sup>Lands Tribunal Act 1949;
  - (c) Commissioner for the special purposes of the Income Tax Acts, appointed under section 4 of the Taxes Management Act 1970;
  - (d) President or other member of the Immigration Appeal Tribunal;
  - (e) Chairman of the Foreign Compensation Commission;
  - (f) Chief or other Commons Commissioner;
  - (g) Chairman of [<sup>F200</sup>employment tribunals], appointed in pursuance of regulations under [<sup>F201</sup>section 1(1) of [<sup>F200</sup>the Employment Tribunals Act 1996]];

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- (h) Chairman of industrial tribunals or of the Fair Employment Tribunal, appointed in pursuance of regulations under [F202 Article 3 of the Industrial Tribunals (Northern Ireland) Order 1996] or appointed under [F203 Article 82(1)(c) of the Fair Employment and Treatment (Northern Ireland) Order 1998];
- (j) president of the Industrial Court appointed in pursuance of Article 91 of the M134 Industrial Relations (Northern Ireland) Order 1992;
- (k) President of Pensions Appeal Tribunals;

and the appropriate day in the case of an office to which this sub-paragraph applies is the last day of the completed year of service in that office in which the person attains the age of 72.

- (3) In the case of the office of immigration adjudicator (whose usual terms of appointment, whether as a salaried or a fee-paid office, require the holder to vacate it on the day on which he attains the age of 70)—
  - (a) this sub-paragraph applies only in those cases where, immediately before the appointed day, the office is held on terms which require the person in question to vacate it on the day on which he attains the age of 72; and
  - (b) where this sub-paragraph applies, the appropriate day is the day on which that person attains that age;

and, accordingly, no person shall have a potential retirement date by reference to that office (whether held as a salaried or a fee-paid office) in any other case.

- (4) This sub-paragraph applies to the office of deputy judge of the High Court, as a fee-paid office; and the appropriate day in the case of an office to which this sub-paragraph applies is the day on which the person attains the age of 75.
- (5) This sub-paragraph applies to each of the following offices, as a fee-paid office—
  - (i) in the case of appointments under subsection (1) of section 91 of the M135 Supreme Court Act 1981 otherwise than by virtue of subsection (3) of that section, each of the following offices—
    - (a) deputy or temporary Master, Queen’s Bench Division;
    - (b) deputy or temporary Admiralty Registrar;
    - (c) deputy or temporary Master, Chancery Division;
    - (d) deputy or temporary Registrar in Bankruptcy of the High Court;
    - (e) deputy or temporary Taxing Master of the Supreme Court;
    - (f) deputy or temporary Registrar of Civil Appeals;
    - (g) F204 .....
  - (ii) assistant Recorder;
  - F205 (iii) .....
  - F205 (iv) .....
- (v) Chairman of the Foreign Compensation Commission;
  - (vi) Commons Commissioner;
  - (vii) chairman of [F200 employment tribunals], appointed in pursuance of regulations under [F206 section 1(1) of [F200 the Employment Tribunals Act 1996]];
  - (viii) chairman of industrial tribunals or of the Fair Employment Tribunal, appointed in pursuance of regulations under [F202 Article 3 of the Industrial Tribunals (Northern Ireland) Order 1996] or appointed

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- under [<sup>F203</sup> Article 82(1)(c) of the Fair Employment and Treatment (Northern Ireland) Order 1998];
- (ix) president of the Industrial Court appointed in pursuance of Article 91 of the <sup>M136</sup>Industrial Relations (Northern Ireland) Order 1992;
  - (x) President or other member of the Lands Tribunal, or of the Lands Tribunal for Scotland, set up under the <sup>M137</sup>Lands Tribunal Act 1949;
    - (xi) Commissioner for the special purposes of the Income Tax Acts, appointed under section 4 of the <sup>M138</sup>Taxes Management Act 1970;
    - (xii) deputy Special Commissioner, appointed under section 4A of the Taxes Management Act 1970;
    - (xiii) President or other member of the Immigration Appeal Tribunal;
    - (xiv) President or other member of Pensions Appeal Tribunals;
    - (xv) Chairman or member of a Mental Health Review Tribunal constituted under the <sup>M139</sup>Mental Health Act 1983;
    - (xvi) member of the Financial Services Tribunal appointed by the Lord Chancellor;
    - (xvii) chairman of a tribunal constituted for the purposes of sections 14 and 15 of the <sup>M140</sup>Misuse of Drugs Act 1971;
    - (xviii) chairman of an advisory body constituted for the purposes of section 14 of the <sup>M141</sup>Misuse of Drugs Act 1971;
    - (xix) appointed member of the Restrictive Practices Court, within the meaning of section 3 of the <sup>M142</sup>Restrictive Practices Court Act 1976;
    - (xx) chairman or other member of the tribunal constituted by section 706 of the <sup>M143</sup>Income and Corporation Taxes Act 1988;
    - (xxi) <sup>F207</sup> .....
    - (xxii) chairman or deputy-chairman of an Agricultural Land Tribunal;
    - (xxiii) President of the Aircraft and Shipbuilding Industries Arbitration Tribunal;
    - (xxiv) Chairman of a tribunal established by section 29 of the <sup>M144</sup>Betting, Gaming and Lotteries Act 1963;
    - (xxv) chairman or deputy chairman of the Copyright Tribunal;
    - (xxvi) chairman or deputy chairman of [<sup>F208</sup>the Information Tribunal];
    - (xxvii) <sup>F209</sup> .....
    - (xxviii) president of a tribunal constituted under Schedule 3 to the <sup>M145</sup>Industry Act 1975;
    - (xxix) chairman of the tribunal constituted under Schedule 9 to the <sup>M146</sup>National Health Service Act 1977;
    - (xxx) Chairman of the Plant Varieties and Seeds Tribunal;
    - (xxxi) chairman of a Registered Homes Tribunal constituted under the <sup>M147</sup>Registered Homes Act 1984;
    - (xxxii) [<sup>F210</sup>President of the tribunal established under section 9 of the <sup>M148</sup>Wireless Telegraphy Act 1949;]
    - (xxxiii) wreck commissioner appointed under section 82 of the <sup>M149</sup>Merchant Shipping Act 1970;
    - (xxxiv) Chairman of a Reinstatement Committee constituted under the <sup>M150</sup>Reserve Forces (Safeguard of Employment) Act 1985;

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and the appropriate day in the case of an office to which this sub-paragraph applies is the last day of the completed year of service in the office in which the person attains the age of 72.

- (6) This sub-paragraph applies to each of the following offices, as a fee-paid office—
- (a) deputy or temporary district judge of the principal registry of the Family Division appointed under subsection (1) of section 91 of the <sup>M151</sup>Supreme Court Act 1981 otherwise than by virtue of subsection (3) of that section;
  - (b) deputy district judge appointed under section 102 of the <sup>M152</sup>Supreme Court Act 1981, except in a case where the person in question has previously held office as a district judge for a district registry;
  - (c) deputy district judge appointed under section 8 of the <sup>M153</sup>County Courts Act 1984, except in a case where the person in question has previously held office as a district judge for a county court district;
  - (d) Deputy Resident Magistrate, appointed under the <sup>M154</sup>Magistrates' Courts Act (Northern Ireland) 1964;
  - (e) member of an Agricultural Land Tribunal, other than chairman, deputy chairman or an assessor added to the Tribunal under paragraph 16(2) of Schedule 9 to the <sup>M155</sup>Agriculture Act 1947;
  - (f) chairman or other member of Rent Assessment Committees appointed by the Lord Chancellor under Schedule 10 to the <sup>M156</sup>Rent Act 1977;

and the appropriate day in the case of an office to which this sub-paragraph applies is the last day of the completed year of service in that office in which the person attains the age of 70.

- (7) This sub-paragraph applies to the office of member of the Employment Appeal Tribunal appointed under [<sup>F211</sup>section 22(1)(c) of [<sup>F200</sup>the Employment Tribunals Act 1996]], as a fee-paid office; and the appropriate day in the case of an office to which this sub-paragraph applies is the 31st March next following the day on which the person attains the age of 70.

#### Textual Amendments

- F200** Words in Sch. 7 para. 5(2)(g)(5)(viii)(7) substituted (1.8.1998) by 1998 c. 8, **ss. 1(2), 16(3)(d)** (with s. 16(2)); S.I.1998/1658, **art. 2**
- F201** Words in Sch. 7 para. 5(2)(g) substituted (E.W.S.) (22.8.1996) by 1996 c. 17, **ss. 43, 46, Sch. 1 para. 10(4)(a)** (with s. 38)
- F202** Words in Sch. 7 para. 5(2)(h)(5)(viii) substituted (24.9.1996) by S.I. 1996/1921 (N.I. 18), **art. 26, Sch. 1 para. 9(c)**
- F203** Words in Sch. 7 paras. 5(2)(h)(5)(viii) substituted (1.3.1999) by 1998/3162 (N.I. 21), **art. 105(1), Sch. 3; S.R. 1999/81, art. 3(1)**
- F204** Sch.7 para. 5(5)(i)(g) omitted (with saving) (1.10.2007) by virtue of **Mental Capacity Act 2005 (c. 9), ss. 67(1), 68(1)-(3), Sch. 6 para. 38(4)** (with **ss. 27, 28, 29, 62**); S.I. 2007/1897, **art. 2(c)(d)**
- F205** Sch. 7 para. 5(iii)(iv) repealed (29.11.1999 except for specified purposes) by 1998 c. 14, s. 86(2), **Sch. 8; S.I. 1999/3178, art. 2(1)(2), Sch. 1** (subject to transitional provisions in **Schs. 21-23**)
- F206** Words in Sch. 7 para. 5(5)(vii) substituted (E.W.S.) (22.8.1996) by 1996 c. 17, **ss. 43, 46, Sch. 1 para. 10(4)(a)** (with s. 38)
- F207** Sch. 7 para. 5(5)(xxi) repealed (19.10.2006) by **The Regulatory Reform (Agricultural Tenancies) (England and Wales) Order 2006 (S.I. 2006/2805), art. 18, Sch. 2** (with art. 10)
- F208** Words in Sch. 7 para. 5(5)(xxvi) substituted (14.5.2001) by 2000 c. 36, s. 18(4), **Sch. 2 Pt. I para. 12; S.I. 2001/1637, art. 2(b)**

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- F209** Sch. 7 para. 5(5)(xxvii) repealed (1.9.2003 for E.S.N.I. and 1.1.2004 for W.) by [Education Act 2002](#) (c. 32), ss. 215(2), 216(4), [Sch. 22 Pt. 3](#) (with ss. 210(8), 214(4)); S.I. 2003/1667, [art. 4](#) (with transitional provisions and savings in Sch. 1) (as amended by S.I. 2004/571 and S.I. 2005/2570); S.I. 2003/2961, [art. 6](#), Sch. Pt. 3
- F210** Sch. 7 para. 5(5)(xxxii) repealed (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by [Communications Act 2003](#) (c. 21), ss. 406(7), 411(2), [Sch. 19\(1\)](#), Note 1 (with Sch. 18); S.I. 2003/1900, [arts. 2\(1\)](#), 3, Sch. 1; S.I. 2003/3142, [art. 3\(2\)](#)
- F211** Words in Sch. 7 para. 5(7) substituted (E.W.S.) (22.8.1996) by 1996 c. 17, ss. 43, 46, [Sch. 1 para. 10\(4\)\(b\)](#) (with s. 38)

#### Marginal Citations

- M133** 1949 c. 42.  
**M134** S.I. 1992/807 (N.I. 5).  
**M135** 1981 c. 54.  
**M136** S.I. 1992/807 (N.I. 5).  
**M137** 1949 c. 42.  
**M138** 1970 c. 9.  
**M139** 1983 c. 20.  
**M140** 1971 c. 38.  
**M141** 1971 c. 38.  
**M142** 1976 c. 33.  
**M143** 1988 c. 1.  
**M144** 1963 c. 2.  
**M145** 1975 c. 68.  
**M146** 1977 c. 49.  
**M147** 1984 c. 23.  
**M148** 1949 c. 54.  
**M149** 1970 c. 36.  
**M150** 1985 c. 17.  
**M151** 1981 c. 54.  
**M152** 1981 c. 54.  
**M153** 1984 c. 28.  
**M154** 1964 c. 21 (N.I.).  
**M155** 1947 c. 48.  
**M156** 1977 c. 42.

## SCHEDULE 8

Section 31.

### MINOR AND CONSEQUENTIAL AMENDMENTS

#### *The Courts-Martial (Appeals) Act 1951*

- 1 Section 35 of the <sup>M157</sup>Courts-Martial (Appeals) Act 1951 (pension arrangements for Vice Judge Advocate General, Assistant Judge Advocates General and Deputy Judge Advocates) shall be numbered as subsection (1) of that section and at the end of that section there shall be added—

“(2) The foregoing subsection shall not have effect in relation to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.”

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**Marginal Citations**

M157 1951 c. 46.

*The County Courts Act (Northern Ireland) 1959*

- 2 At the end of section 116 of the <sup>M158</sup>County Courts Act (Northern Ireland) 1959 (pensions of county court judges in Northern Ireland) there shall be added—

“(7) This Part shall not have effect in relation to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.”

**Marginal Citations**

M158 1959 c. 25 (N.I.).

*The Resident Magistrates’ Pensions Act (Northern Ireland) 1960*

- 3 In section 2 of the <sup>M159</sup>Resident Magistrates’ Pensions Act (Northern Ireland) 1960 (pensions of resident magistrates in Northern Ireland) after subsection (1) there shall be inserted—

“(1A) This Act shall not have effect in relation to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.”

**Marginal Citations**

M159 1960 c. 1 (N.I.).

*The Foreign Compensation Act 1962*

- 4 In section 3 of the <sup>M160</sup>Foreign Compensation Act 1962, after subsection (1) (which makes provision for the pensions or other benefits payable to or in respect of members of the Foreign Compensation Commission) there shall be inserted—

“(1A) Subsection (1) above shall not have effect in relation to a chairman or former chairman of the Commission who is a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.”

**Marginal Citations**

M160 1962 c. 4.

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*The Lands Tribunal and Compensation Act (Northern Ireland) 1964*

- 5 In section 2 of the <sup>M161</sup>Lands Tribunal and Compensation Act (Northern Ireland) 1964 (pensions of members of the Lands Tribunal for Northern Ireland) after subsection (5) there shall be inserted—

“(5A) Subsection (5), so far as relating to allowances and gratuities by way of superannuation, shall not have effect in relation to persons to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.”

**Marginal Citations**

[M161 1964 c. 29 \(N.I.\)](#).

*The Superannuation Act 1965*

- 6 In section 39A of the <sup>M162</sup>Superannuation Act 1965 (superannuation benefits in respect of persons who have been employed in two or more judicial offices) in subsection (6), in the definition of “judicial office”, after the word “means” there shall be inserted—

“(a) any qualifying judicial office, within the meaning of the Judicial Pensions and Retirement Act 1993, and

(b) ”.

**Marginal Citations**

[M162 1965 c. 74](#).

*The Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969*

- 7 In section 2 of the <sup>M163</sup>Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969 (pensions for president of the industrial court, president and vice-president of the industrial tribunals and the Fair Employment Tribunal, etc in Northern Ireland) after subsection (1) there shall be inserted—

“(1A) Subsection (1) shall not apply in relation to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.”

**Marginal Citations**

[M163 1969 c. 7 \(N.I.\)](#).

*The Taxes Management Act 1970*

- 8 In section 4 of the <sup>M164</sup>Taxes Management Act 1970, after subsection (6) (pensions, allowances and gratuities payable to or in respect of Special Commissioners) there shall be inserted—

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“(6A) Subsection (6) above, so far as relating to pensions (including allowances and gratuities), shall not have effect in relation to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.”

**Marginal Citations**

**M164** 1970 c. 9.

*The Immigration Act 1971*

9 In Schedule 5 to the <sup>M165</sup>Immigration Act 1971, paragraphs 3 and 9 (which, among other things, make provision for the pensions, allowances and gratuities etc payable to or in respect of immigration adjudicators and members of the Immigration Appeal Tribunal) shall each be numbered as sub-paragraph (1) and at the end of each of those paragraphs there shall be added—

“(2) Sub-paragraph (1)(b) above shall not have effect in relation to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.”

**Marginal Citations**

**M165** 1971 c. 77.

*The Administration of Justice Act 1973*

10 (1) Section 10 of the <sup>M166</sup>Administration of Justice Act 1973 (which, as it has effect by virtue of subsection (8) thereof, provides for certain widow’s and children’s pensions in Northern Ireland to be increased) shall be amended as follows—

- (a) in subsections (1), (2)(a) and (3), after the words “or widow’s” in each place there shall be inserted the words “or widower’s”;
- (b) in subsection (2)—
  - (i) in paragraph (b), after the word “widow”, where it occurs for the first time, there shall be inserted the words “or widower”, and
  - (ii) in sub-paragraph (i) of that paragraph, for the words from “was” to “and” there shall be substituted the words “left a spouse and he or”;
- (c) in subsection (4)—
  - (i) after the word “him” or “his” in each place there shall be inserted the words “or her”, and
  - (ii) in sub-paragraph (c), after the word “widow’s” there shall be inserted the word “widower’s”; and
- (d) in subsection (5), after the word “widow’s” there shall be inserted the word “widower’s”.

(2) In Schedule 3 to the Administration of Justice Act 1973 (which sets out the enactments in relation to which section 10 of that Act has effect), in paragraph 3, for the reference to the Department of Health and Social Services for Northern Ireland there shall be substituted a reference to the Department of Economic Development.



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**Marginal Citations**

M166 1973 c. 15.

*The Social Security (Northern Ireland) Act 1975*

11 In paragraph 6 of Schedule 10 to the <sup>M167</sup>Social Security (Northern Ireland) Act 1975 (pensions of social security commissioners in Northern Ireland) after sub-paragraph (1) there shall be inserted—

“(1A) Sub-paragraph (1) shall not have effect in relation to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.”

**Marginal Citations**

M167 1975 c. 15.

*The Social Security Pensions Act 1975*

F212 12 . . . . .

**Textual Amendments**

F212 Sch. 8 para. 12 repealed (7.2.1994) by 1993 c. 48, s. 188, Sch.5 Pt. I (with s. 6(8)); S.I. 1994/86, art. 2

*The Social Security Pensions (Northern Ireland) Order 1975*

F213 13 . . . . .

**Textual Amendments**

F213 Sch. 8 para. 13 repealed (7.2.1994) by 1993 c. 49, s. 182(1), Sch. 4 Pt. I; S.R. 1994/17, art. 2

*The Judicature (Northern Ireland) Act 1978*

14 At the end of section 72 of the <sup>M168</sup>Judicature (Northern Ireland) Act 1978 (pension arrangements for statutory officers) there shall be added—

“(4) This section does not apply to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.”

**Marginal Citations**

M168 1978 c. 23.

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*The Supreme Court Act 1981*

- 15 (1) In section 12 of the <sup>M169</sup>Supreme Court Act 1981, in subsection (7) (pensions to be payable to or in respect of the judges mentioned in subsection (1) in accordance with section 2 of the 1981 Act) after the words “section 2 of the Judicial Pensions Act 1981” there shall be inserted the words “ or, in the case of a judge who is a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, in accordance with that Act ”.
- (2) In section 93 of that Act (certain officers to be treated as employed in the civil service of the State for the purposes of salary and pension), in subsection (2) (exception, in respect of pension, for persons holding offices specified in paragraph 1 of Schedule 1 to the 1981 Act) for the words from “an office” onwards there shall be substituted the words “ qualifying judicial office, within the meaning of the Judicial Pensions and Retirement Act 1993. ”
- (3) In section 102 of that Act (deputy district judges for district registries of the High Court), for subsection (5) (which includes a reference to section 91(5) of that Act, a provision which is repealed by this Act) there shall be substituted—  
 “(5) Subsection (6) of section 91 applies in relation to a deputy district judge appointed under this section as it applies in relation to a person appointed under that section.”

**Marginal Citations**  
 M169 1981 c. 54.

*The Value Added Tax Act 1983*

F214 16 .....

**Textual Amendments**  
 F214 Sch. 8 para. 16 repealed (1.9.1994 with effect as mentioned in s. 101(1) of the repealing Act) by 1994 c. 23, s. 100(2), Sch. 15

*The County Courts Act 1984*

- 17 In the <sup>M170</sup>County Courts Act 1984—
  - (a) section 7 (which relates to assistant district judges), and
  - (b) in section 9 (qualifications for appointment) the words “assistant district judge”,
 shall cease to have effect.

**Marginal Citations**  
 M170 1984 c. 28.

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### *The Social Security Act 1986*

F215 18 .....

#### **Textual Amendments**

**F215** Sch. 8 para. 18 repealed (7.2.1994) by 1993 c. 48, s. 188, **Sch.5 Pt. I** (with s. 6(8)); S.I. 1994/86, **art. 2**

### *The Social Security (Northern Ireland) Order 1986*

F216 19 .....

#### **Textual Amendments**

**F216** Sch. 8 para. 19 repealed (7.2.1994) by 1993 c. 49, s. 182, **Sch. 4 Pt.I**; SR. 1994/17, art. 2

### *The Criminal Justice Act 1988*

20 In Schedule 6 to the <sup>M171</sup>Criminal Justice Act 1988, in paragraph 3, after sub-paragraph (2) (pensions, allowances and gratuities payable to or in respect of members of the Criminal Injuries Compensation Board) there shall be added—

“(3) Sub-paragraph (2) above does not apply to a chairman or former chairman of the Board who is a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.”

#### **Marginal Citations**

**M171** 1988 c. 33.

### *The Child Support Act 1991*

21 <sup>F217</sup>(1) .....

(2) In Schedule 4 to that Act, at the end of paragraph 2 (remuneration and expenses of, and pensions, allowances or gratuities for, Child Support Commissioners) there shall be added—

“(3) Sub-paragraph (1), so far as relating to pensions, allowances or gratuities, shall not have effect in relation to any person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.”

#### **Textual Amendments**

**F217** Sch. 8 para. 21(1) repealed (1.6.1999) by 1998 c. 14, s. 86(2), **Sch. 8**; S.I. 1999/1510, **art. 2(f)(vii)**

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**Changes to legislation:** Judicial Pensions and Retirement Act 1993 is up to date with all changes known to be in force on or before 21 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

### *The Child Support (Northern Ireland) Order 1991*

F218<sup>22</sup> .....

#### **Textual Amendments**

**F218** Sch. 8 para. 22 repealed (1.6.1999) by S.I. 1998/1506 (N.I. 10), art. 78(2), **Sch. 7**; S.R. 1999/246, art. 2, **Sch. 1** (subject to transitional provisions in arts. 23-25)

### *The Social Security Administration Act 1992*

F219<sup>23</sup> .....

#### **Textual Amendments**

**F219** Sch. 8 para. 23 repealed (29.11.1999 except for specified purposes) by 1998 c. 14, s. 86(2), **Sch. 8**; S.I. 1999/3178, art. 2(1)(2), **Sch. 1** (subject to transitional provisions in Schs. 21-23)

### *The Social Security Administration (Northern Ireland) Act 1992*

F220<sup>24</sup> .....

#### **Textual Amendments**

**F220** Sch. 8 para. 24 repealed (29.11.1999 except for specified purposes) by S.I. 1998/1506 (N.I. 10), art. 78(2), **Sch. 7**; S.R. 1999/472, art. 2(1)(a)(2), **Sch. 1** (subject to transitional provisions in arts. 20-22)

## SCHEDULE 9

Section 31.

### REPEALS AND REVOCATIONS

<b>Chapter or number</b>	<b>Short title</b>	<b>Extent of repeal or revocation</b>
14 & 15 Geo. 6. c. 46.	The Courts-Martial (Appeals) Act 1951.	In section 28, the proviso to subsection (3). In section 32, the proviso to subsection (2).
1951 c. 20 (N.I.).	The Judicial Pensions Act (Northern Ireland) 1951.	In section 11A, in subsection (3), the word “and” immediately preceding paragraph (b), and subsection (4).
1959 c. 25 (N.I.).	The County Courts Act (Northern Ireland) 1959.	Section 116(6). In section 127A, in subsection (3), the word “and” immediately

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		preceding paragraph (b), and subsection (4).
1960 c. 2 (N.I.).	The Resident Magistrates' Pensions Act (Northern Ireland) 1960.	In section 9A, in subsection (3), the word "and" immediately preceding paragraph (b), and subsection (4).Section 14.
9 & 10 Eliz. 2. c. 42.	The Sheriffs' Pensions (Scotland) Act 1961.	Section 6.Section 9.In section 10, in the definition of "sheriff", the words "except in subsection (2) of section six".
1966 c. 27 (N.I.).	The Superannuation (Amendment) Act (Northern Ireland) 1966.	In Schedule 1, paragraph 18.
1969 c. 7 (N.I.).	The Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969.	Section 2(5).
1970 c. 9.	The Taxes Management Act 1970.	Section 4A(5).
1971 c. 23.	The Courts Act 1971.	Section 17(2) and (3).Section 24(4).
1975 c. 15.	The Social Security (Northern Ireland) Act 1975.	In Schedule 10, paragraph 6(4).
1976 c. 33.	The Restrictive Practices Court Act 1976.	In section 3(2), the words "(not less than three years)".
1978 c. 23.	The Judicature (Northern Ireland) Act 1978.	In section 7(1), the words "at any time".Section 8(4).
1979 c. 55.	The Justices of the Peace Act 1979.	In section 14, the proviso to subsection (1), and subsection (2).
1981 c. 20.	The Judicial Pensions Act 1981.	Section 15.Section 21(5) and (6).
	In section 33A, in subsection (3), the word "and" immediately preceding paragraph (b), and subsection (4).In Schedule 1, in paragraph 1, the entry "Assistant district judge".	
1981 c. 54.	The Supreme Court Act 1981.	Section 9(7).Section 91(5).In section 92, in subsection (2B), the words from "and the office" onwards, and subsections (2C) and (3).Section 103.
1984 c. 28.	The County Courts Act 1984.	Section 7.Section 8(2).In section 9, the

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		words “assistant district judge”.Section 11(3).
1985 c. 67.	The Transport Act 1985.	In Schedule 4, paragraph 3(2).
1990 c. 41.	The Courts and Legal Services Act 1990.	In Schedule 18, paragraph 42(b).
1991 c. 48.	The Child Support Act 1991.	In Schedule 3, paragraph 4(4) and, in paragraph 8, the word “(4)”.In Schedule 4, paragraph 1(2).
S.I. 1991/2628 (N.I. 23).	The Child Support (Northern Ireland) Order 1991.	In Schedule 3, paragraph 4(4).
1992 c. 5.	The Social Security Administration Act 1992.	In Schedule 2, in paragraph 1, sub-paragraph (3), in sub-paragraph (5) the words “(3) or”, in sub-paragraph (6) the words “or (3)” and, in sub-paragraph (7), the words “(2) or”.
1992 c. 8.	The Social Security Administration (Northern Ireland) Act 1992.	In Schedule 2, in paragraph 1, sub-paragraph (3) and, in sub-paragraph (6), the words “or (3)”.

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