



# Judicial Pensions and Retirement Act 1993

## 1993 CHAPTER 8

### PART I

#### NEW ARRANGEMENTS FOR JUDICIAL PENSIONS

##### *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.

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- (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 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)**

**C1** S. 4(1) applied (with modifications) (E.W.S.) (31.3.1995) by [S.I. 1995/634, art. 6\(1\)](#)

**C2** 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>F1</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>F2</sup>or surviving civil partner], and
- (b) their marriage took place [<sup>F3</sup>or their civil partnership was formed] before the deceased retired from qualifying judicial office,

the surviving spouse [<sup>F2</sup>or surviving civil partner] shall be entitled to a pension for life <sup>F4</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>F5</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>F6</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>F7</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—

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- (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;
- (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

- F1** 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\(2\)](#)
- F2** 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\(3\)\(a\)](#)
- F3** 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\(3\)\(b\)](#)
- F4** 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\(3\)\(c\)](#)
- F5** 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\(4\)](#)
- F6** 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\(5\)](#)
- F7** 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)

- C3** S. 5(1)-(4) applied (with modifications) (E.W.S) (31.3.1995) by [S.I. 1995/634](#), [art. 6\(1\)](#)
- C4** 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,

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

- (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>F8</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.

#### Textual Amendments

**F8** 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)**

- C5** S. 6 applied (with modifications) (E.W.S.) (31.3.1995) by [S.I. 1995/634, art. 6\(1\)](#)  
**C6** S. 6 applied (with modifications) (N.I.) (1.11.1995) by [S.R. 1995/388, art. 6\(1\)](#)  
**C7** 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)**

**C8** S. 7 applied (with modifications) (E.W.S.) (31.3.1995) by [S.I. 1995/634](#), **art. 6(1)**

**C9** 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>F9</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>F10</sup>or surviving civil partner], the annual rate of a children’s pension during the life of the surviving spouse [<sup>F10</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>F10</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>F11</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**

**F9** 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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**F10** 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\(3\)](#)

**F11** 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)**

**C10** s. 8(1)(2)(3) applied (with modifications) (E.W.S) (31.3.1995) by [S.I. 1995/634](#), [art. 6\(1\)](#)

**C11** 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>F12</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) [<sup>F13</sup>, (d) or (e) above or in the case of persons to whom this Part applies by virtue of paragraph 11(4) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007,] 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**

**F12** 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](#)

**F13** Words in s. 9(4) substituted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\)](#), ss. 48(2), 148(5), [Sch. 9 para. 16](#); [S.I. 2008/2696](#), [art. 5\(d\)](#) (with art. 3)

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

**C12** 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\(1\)](#)

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