



# Judicial Pensions and Retirement Act 1993

## 1993 CHAPTER 8

### PART I

#### NEW ARRANGEMENTS FOR JUDICIAL PENSIONS

##### *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 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.

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- (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—
- “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>F1</sup>12A Transfer of rights under other public service pension schemes**

- (1) Where this Part—

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- (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
- (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—

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- (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

- F1** 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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### 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

- F1** 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](#))

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

- (1) A person to whom this Part applies, or to whom it would apply apart from this section, may be a member of a personal pension scheme while holding qualifying judicial office if, and only if, he serves on the appropriate Minister a written notice of election, which shall—

- (a) identify the personal pension scheme in question; and
- (b) be expressed to take effect on a date not less than three months after service of the notice;

and, in accordance with section 1(5) above, where a person makes an election under this section, he shall not be regarded as a person to whom this Part applies at any time when the election is in force.

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

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- (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;

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>M1</sup>County Courts Act (Northern Ireland) 1959;
    - (c) section 2A(3) of the <sup>M2</sup>Resident Magistrates’ Pensions Act (Northern Ireland) 1960;
    - (d) section 2A(3) of the <sup>M3</sup>Lands Tribunal and Compensation Act (Northern Ireland) 1964;

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- (e) section 2A(1) of the <sup>M4</sup>Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969;
- (f) paragraph 7A(3) of Schedule 10 to the <sup>M5</sup>Social Security (Northern Ireland) Act 1975;

and, in the case of any other judicial pension scheme, any provision of that scheme which confers a right to elect for a pension under a personal pension scheme;

“personal pension scheme” means a scheme in respect of which there is in force a current appropriate scheme certificate issued by the Occupational Pensions Board in accordance with [<sup>F2</sup>section 7 of the Pension Schemes Act 1993] or, in the case of qualifying judicial office held in Northern Ireland, in accordance with [<sup>F3</sup>section 1 of the Pension Schemes (Northern Ireland) Act 1993];

“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

- F2** S. 13(9): words in the definition of “personal pension scheme” 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**
- F3** S. 13(9): words in the definition of “personal pension scheme” substituted (7.2.1994) by virtue of 1993 c. 49, s. 184, **Sch. 7 para. 43(2)** (where the substitution is expressed to be in place of text in s. 13(9) which mainly but not fully matches the the actual wording in s. 13(9)); S.R. 1994/17, **art. 2**

#### Marginal Citations

- M1** 1959 c. 25 (N.I.).
- M2** 1960 c. 2 (N.I.).
- M3** 1964 c. 29 (N.I.).
- M4** 1969 c. 7 (N.I.).
- M5** 1975 c. 15.

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