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STATUTORY INSTRUMENTS

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**1988 No. 1417**

**PENSIONS**

**The Judicial Pensions (Personal Pension Option) Regulations 1988**

<i>Made</i>	- - - -	<i>29th July 1988</i>
<i>Laid before Parliament</i>		<i>10th August 1988</i>
<i>Coming into force</i>	- -	<i>1st September 1988</i>

The Secretary of State in exercise of the powers conferred on him by section 17(2) of the Social Security Act 1986((1)) hereby makes the following Regulations:—

**Citation and Commencement**

1. These Regulations may be cited as the Judicial Pensions (Personal Pension Option) Regulations 1988 and shall come into force on 1st September 1988.

**Interpretation**

2. In these Regulations—

“the Act” means the Judicial Pensions Act 1981((2)), and references to a person’s eligibility for a pension are, in relation to a judicial office which carries entitlement to a pension, references to such entitlement.

**Personal Pension Option**

3. The provisions of the Act specified in the Schedule to these Regulations shall apply with the modifications specified in the Schedule.

29th July 1988

*John Moore*  
Secretary of State for Social Security

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(1) 1986 c. 50.

(2) 1981 c. 20; amended by section 152(1) of, and Schedule 5 to, the Supreme Court Act 1981 (c. 54).

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## SCHEDULE

Regulation 3

### PROVISIONS OF THE ACT APPLYING WITH MODIFICATIONS

#### *THE FOLLOWING PROVISIONS OF THE ACT SHALL APPLY;*

1. Part I with the following modifications:

After section 14 there shall be inserted the following section—

(1) The provisions regulating the pensions which may be received under the preceding sections and schedule 1 of this Act and under the Sheriffs' Pensions (Scotland) Act 1961<sup>(3)</sup> are to take effect subject to the modifications contained in this section.

(2) In this section—

“election” means an election made under subsection (3) of this section;

“judicial office” means one of the several offices referred to in sections 1, 5, 6, 7, 8, 10, 11, 12, 13 and 14 of and schedule 1 to this Act;

“judicial pension schemes” means the occupational pension schemes constituted by this Act and the Sheriffs' Pensions (Scotland) Act 1961 to provide personal pensions and derivative benefits to persons in any of the judicial offices and their widows and children, and “judicial pension scheme” and “relevant judicial pension scheme” have corresponding meanings;

“the Minister” in relation to judicial office held exclusively in Scotland means the Secretary of State for Scotland and otherwise means the Lord Chancellor;

“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 section 2 of the Social Security Act 1986<sup>(4)</sup> or (in the case of judicial office held in Northern Ireland), in accordance with Article 4 of the Social Security (Northern Ireland) Order 1986<sup>(5)</sup>.

(3) A person who is eligible for a pension in any judicial office shall while in judicial office

(a) be deemed to be a member of the relevant judicial pension scheme except during such time as an election is in force in respect of him; and

(b) be entitled at any time to become a member of a personal pension scheme by serving on the Minister a written notice of election, identifying the personal pension scheme, to take effect on a date not less than three months after the date when it was served.

(4) At any time after a person has made an election and while he continues to hold judicial office

(a) he may make a written application to the Minister requesting admission to membership of the judicial pension scheme relevant to the judicial office which he holds, and

(b) the Minister may, if satisfied that the applicant is in good health, admit him to the relevant judicial pension scheme on a date not less than three months after the date on which the application was served, and

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(3) 1961 c. 42.

(4) 1986 c. 50.

(5) S.I.1986/1888 (N.I. 18).

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(c) upon the date of the applicant's admission to the relevant judicial pension scheme, his election shall cease to be in force.

(5) An application under subsection (4) above shall supply such evidence relating to his health as the Minister may reasonably require and shall submit to any medical examination reasonably specified by the Minister.

(6) The Minister shall notify an applicant under subsection (4) of his decision in writing within three months after the date on which the application was served.

(7) Subject to the provisions of subsection (4) above, an election shall be irrevocable and an election shall not cease to be in force by reason only of a person becoming the holder of a judicial office different from the one which he held when he made the election.

(8) An election shall not affect its maker's eligibility for a pension which accrued under any judicial pension scheme before that election came into force.

(9) While an election remains in force in respect of a person, his service shall not be counted as service or relevant service in computing the pension for which he is eligible under any judicial pension scheme."

2. Part II with the following modifications—

(a) After section 16 there shall be inserted the following section—

**"16A.** For the purpose of the calculation of any derivative benefit under this Part, in respect of a person who is eligible for a pension for service in any judicial office, there shall be left out of account any period of service during which an election under section 14A was in force in respect of that person."

(b) In Section 23 the following subsection shall be inserted after subsection (1)—

**"1A.** No contribution shall be made by a man for any period of service during which an election under section 14A is in force in respect of him."

(c) In section 24 the following subsection shall be inserted after subsection (1)—

**"1A.** No contribution shall be made by a woman for any period of service during which an election under section 14A is in force in respect of her."

3. Schedule 2 with the following modifications—

(a) In paragraph 15 the following sub-paragraph shall be inserted after sub-paragraph (2)—

**"(3)** For the purposes of this paragraph, there shall be left out of account any period of service during which an election under section 14A is in force in respect of a person, and no contribution towards a widow's and children's pension shall be made by that person for that period."

(b) In paragraph 16 the following sub-paragraph shall be inserted after sub-paragraph (2)—

**"2A)** There shall be left out of account, in calculating RS2 in sub-paragraph (2) above, any period of service during which an election under section 14A is in force in respect of a person."

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations, amend the Judicial Pensions Act 1981 to allow members of the judicial pension schemes to elect to have personal pensions instead of acquiring pension rights under the 1981 Act. These Regulations enable the judicial pension schemes to comply with the provisions contained in the Social Security Act 1986 and the Social Security (Northern Ireland) Order 1986, which enable members of occupational pension schemes to exercise personal pension options. The modifications to the 1981 Act in the Schedule set out how a member of a judicial pension scheme may elect for a personal pension and the effect of such an election.