



# Judicial Pensions Act 1981

## 1981 CHAPTER 20

An Act to consolidate certain enactments relating to pensions and other benefits payable in respect of service in judicial office, with amendments to give effect to recommendations of the Law Commission and the Scottish Law Commission. [21st May 1981]

### PART I

#### RATE OF PENSION

#### CHAPTER I

##### THE HIGHER JUDICIARY

### 1 Interpretation.

In this Chapter “high judicial office” means any of the offices listed in the first column of the Table below, and “relevant service”, in relation to high judicial office, has the meaning given in the second column of that Table.

TABLE

<i>Office</i>	<i>Relevant service</i>
Lord of Appeal in Ordinary.	Service as a Lord of Appeal in Ordinary or as a judge of the Supreme Court of England and Wales, the Court of Session or the Supreme Court of Northern Ireland.
Judge of the Supreme Court of England and Wales, other than the Lord Chancellor.	Service as a Lord of Appeal in Ordinary or as any judge of the Supreme Court of England and Wales.

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Judge of the Court of Session.	Service as a Lord of Appeal in Ordinary or as any judge of the Court of Session.
Judge of the Supreme Court of Northern Ireland	Service as a Lord of Appeal in Ordinary or as any judge of the Supreme Court of Northern Ireland.

## 2 Rate of pension.

- (1) A holder of high judicial office on retirement from that office shall be entitled during his life to a pension at the annual rate provided by this section—
  - (a) if he retires after 15 years relevant service or after he has attained the age of 70 years, or
  - (b) if at the time of his retirement he is disabled by permanent infirmity from the performance of the duties of his office.
- (2) The annual rate of the pension payable under this section to a person retiring from any office after 15 or more years relevant service shall be one half of his last annual salary.
- (3) The annual rate of the pension payable under this section to a person retiring from any office after less than 15 years relevant service shall be—
  - (a) if the period of relevant service does not amount to 6 years, one quarter of his last annual salary;
  - (b) if the period amounts to 6 years or more, one quarter of that salary plus 1/40th of that salary for each completed year of service exceeding 5.

### Modifications etc. (not altering text)

C1 S. 2(1) applied (E.W.) by Supreme Court Act 1981 (c. 54, SIF 37), s. 12(7)

## 3 Former holder of office other than high judicial office.

- (1) This section applies to a holder of high judicial office who, immediately before his appointment to high judicial office, was the holder of any other of the judicial offices described in Part I of Schedule 1 to the <sup>M1</sup>House of Commons Disqualification Act 1975, being an office in respect of which pensions are payable in pursuance of this or any other public general Act or under any other enactment, scheme or arrangement approved for the purposes of this section by the Lord Chancellor.
- (2) Where a person to whom this section applies retires from his office having qualified, otherwise than by retirement after attaining the age of 70 years, for a pension under this Chapter then if he so elects—
  - (a) the amount of the pension which may be paid to him under this Chapter shall be an amount equal to the pension for which he would have been eligible if he had continued to serve in his former office until his retirement at the salary then payable to a holder of that office, and
  - (b) any lump sum payable in his case under Part II of this Act shall be calculated as if his last annual salary were the salary payable at the date of his retirement to a holder of his former office.
- (3) Where a person to whom this section applies dies while holding his office, and his legal personal representatives so elect, any derivative benefit payable in respect of him

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under Part II of this Act shall be calculated as if the pension for which he would have been eligible if he had retired at the time of his death were a pension of the amount described in subsection (2)(a) above, and as if his last annual salary were the salary payable at the time of his death to a holder of his former office.

- (4) An election under this section shall be made within the period of three months beginning with the retirement or death of the person by or in respect of whom it is made, and shall be made in writing addressed to [<sup>F1</sup>the Treasury].

**Textual Amendments**

**F1** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(a)

**Marginal Citations**

**M1** 1975 c. 24.

**4 Provision against double pensions.**

Not more than one pension shall be paid to the same person under this Chapter, or under this Chapter and the <sup>M2</sup>Lord Chancellor's Pension Act 1832.

**Marginal Citations**

**M2** 1832 c. 111.

**CHAPTER II**

**OTHER JUDICIAL OFFICES**

**5 Circuit judge in England or Wales.**

- (1) A Circuit judge may on the recommendation of the Lord Chancellor be granted a pension—
- (a) if he retires after 15 years service and at the time of his retirement he has attained the age of 65 years, or
  - (b) if he vacates his office in accordance with section 17 of the <sup>M3</sup>Courts Act 1971 (age limit and removal on ground of incapacity or misbehaviour), or
  - (c) if the Lord Chancellor is satisfied by means of a medical certificate that, by reason of infirmity of mind or body, he is incapable of discharging the duties of his office, and that the incapacity is likely to be permanent.
- (2) The annual rate of a pension payable under this section to a person retiring after not less than 15 years service shall be one half of his last annual salary.
- (3) The annual rate of a pension payable under this section to a person retiring after less than 15 years service shall be—
- (a) if the period of service does not amount to 5 years, 6/40ths of his last annual salary,
  - (b) if the period of service amounts to 5 years or more, one quarter of that salary plus 1/40th for each completed year of service exceeding 5.

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- (4) If a person to whom a pension has been granted under this section (before he has attained the age of 72) in consequence of any such incapacity as is referred to in subsection (1)(c) above resumes the duty of a Circuit judge, the payment of the pension shall be suspended during the period of his resumed service, but at the end of that period the pension shall again be payable and be recalculated in accordance with subsections (2) and (3) above, and for that purpose the period of his resumed service shall be added to the period of his former service.
- (5) In this section “service” means service as a Circuit judge.
- (6) A pension under this section shall be payable at such intervals, not exceeding three months, as [<sup>F2</sup>the Treasury] may determine.

#### Textual Amendments

**F2** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), **s. 118(4)(a)**

#### Marginal Citations

**M3** [1971 c. 23.](#)

## 6 Sheriffs in Scotland.

For sheriffs in Scotland pensions shall be payable in accordance with the <sup>M4</sup>Sheriffs’ Pensions (Scotland) Act 1961.

#### Marginal Citations

**M4** [1961 c. 42.](#)

## 7 Stipendiary magistrates in England and Wales.

- (1) A stipendiary magistrate in England or Wales may on the recommendation of the Lord Chancellor be granted a pension if he retires after not less than [<sup>F3</sup>2 years] service, and—
- at the time of his retirement he has attained the age of 65, or
  - the Lord Chancellor is satisfied by means of a medical certificate that by reason of infirmity of mind or body he is incapable of discharging the duties of his office, and that the incapacity is likely to be permanent.
- (2) The annual rate of a pension payable under this section to a person retiring after not less than 20 years service shall not exceed one half of his last annual salary.
- (3) The annual rate of a pension payable under this section to a person retiring after less than 20 years service shall not exceed—
- <sup>F4</sup>(a) if the period of service amounts to less than 5 (but not less than 2) years, 6/80ths of his last annual salary,
  - (aa) if the period of service amounts to less than 10 years (but not less than 5), 15/80ths of his last annual salary plus 1/80th for each completed year of service exceeding 5,

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- (b) if the period of service amounts to not less than 10 years (but less than 20), one quarter of that salary plus 2/80ths for each completed year of service after the first 10 years.
- (4) A person to whom a pension is granted under this section on retirement on a medical certificate shall, until he attains the age of 65, be liable to be called upon to fill any public office or situation under the Crown in the United Kingdom for which his previous public services may render him eligible: and if he declines, when called upon to do so, to take upon him such office or situation, or declines or neglects to execute the duties thereof satisfactorily, being in a competent state of health, he shall forfeit his right to the pension which has been granted to him.
- (5) Any sums payable on account of a pension under this section shall be paid at such times in each year as [<sup>F3</sup>the Treasury] may determine.
- (6) In this section “service” means service as a stipendiary magistrate in England or Wales.

#### Textual Amendments

- F3** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\), s. 83\(1\)\(a\)](#)  
**F4** [S. 7\(3\)\(a\)](#) and “(aa)” substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\), s. 83\(2\)](#)

### 8 Judge Advocate General: choice between civil service scheme and special provision.

- (1) Section 9 below shall apply to a person holding the office of Judge Advocate General if within 3 months after appointment to that office he gives notice in writing to [<sup>F5</sup>the Treasury] that he elects that section 9 shall apply to him.
- (2) In the case of a person who holds the office of Judge Advocate General, but to whom section 9 below does not apply, the principal civil service pension scheme shall have effect as if service in that office were employment in the civil service of the State.

#### Textual Amendments

- F5** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\), s. 83\(1\)\(a\)](#)

### 9 Judge Advocate General: special provision.

- (1) A person to whom this section applies may be granted a pension if he retires after not less than [<sup>F6</sup>2 years] service and at the time of his retirement—
- (a) he has attained the age of 60, or
- (b) he is disabled by a permanent infirmity from performing the functions of his office.
- (2) The annual rate of a pension payable under this section to a person retiring after not less than 15 years service shall be one half of his last annual salary.
- (3) The annual rate of a pension payable under this section to a person retiring after less than 15 years service (but not less than 5) shall be one quarter of his last annual salary plus 1/40th for each completed year of service exceeding 5.

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[<sup>F7</sup>(3A) The annual rate of pension payable under this section to a person retiring after less than 5 (but not less than 2) years service shall be 6/80ths of his last annual salary.]

(4) Part III of Schedule 1 to this Act (injury or disease sustained in course of duty) shall have effect—

- (a) as if references to an officer to whom that Schedule applies included references to a person to whom this section applies, and
- (b) as if, in relation to an allowance granted under the said Part III to a person to whom this section applies paragraph 16(1)(a) referred to a pension under this section.

(5) In this section “service” means service as Judge Advocate General.

#### Textual Amendments

- F6** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 83(1)(b)
- F7** S. 9(3A) inserted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 83(3)

## 10 President or other member of either Lands Tribunal.

(1) There may be paid to persons who have been members of the Lands Tribunal, or the Lands Tribunal for Scotland, such superannuation allowances as the appropriate Minister may, with the approval of [<sup>F8</sup>the Treasury], determine.

(2) In this section “the appropriate Minister” means—

- (a) in relation to the Lands Tribunal, the Lord Chancellor,
- (b) in relation to the Lands Tribunal for Scotland, the Secretary of State.

#### Textual Amendments

- F8** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(2)

## 11 President of pensions appeals tribunals.

In the case of any person appointed as president of the pension appeal tribunals established under the <sup>M5</sup>Pensions Appeal Tribunals Act 1943—

- (a) the Lord Chancellor may pay such pension, allowances or gratuity to or in respect of him on his retirement or death, or make such payments towards the provision of such a pension, allowance or gratuity, as the Lord Chancellor with the approval of [<sup>F9</sup>the Treasury] may determine, and
- (b) if, on his ceasing to hold office as president of the pensions appeal tribunals, it appears to the Lord Chancellor that there are special circumstances which make it right that he should receive compensation, the Lord Chancellor may, with the approval of [<sup>F9</sup>the Treasury], pay to him a sum of such amount as the Lord Chancellor may, with the like approval, determine.

#### Textual Amendments

- F9** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(a)

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### Marginal Citations

M5 1943 c. 39.

## 12 President or chairman of industrial tribunals.

- (1) This section applies to any holder on a full-time basis of any of the following offices established by regulations under [<sup>F10</sup>section 1(1) of the Industrial Tribunals Act 1996], namely—
  - (a) President of the Industrial Tribunals (England and Wales),
  - (b) President of the Industrial Tribunals (Scotland),
  - (c) member of a panel of chairmen so established,if remunerated, apart from any allowances, on an annual basis.
- (2) A person to whom this section applies may on the recommendation of the Secretary of State be granted a pension—
  - (a) if he retires after 15 years relevant service and at the time of his retirement he has attained the age of 65, or
  - (b) if at the time of his retirement he has attained the age of 72, or
  - (c) if the Secretary of State is satisfied by means of a medical certificate that, at the time of his retirement, by reason of infirmity of mind or body, he is incapable of discharging the duties of his office and that the incapacity is likely to be permanent.
- (3) The annual rate of a pension payable under this section to a person retiring after not less than 15 years relevant service shall not exceed one half of his last annual salary.
- (4) The annual rate of a pension payable under this section to a person retiring after less than 15 years relevant service shall not exceed—
  - (a) if the period of relevant service is less than 5 years, 6/40ths of his last annual salary,
  - (b) if the period of relevant service is not less than 5 years (but less than 15 years), one quarter of his last annual salary plus 1/40th for each completed year of relevant service exceeding 5.
- (5) In this section the expression “relevant service” means service on a full-time basis as holder of any of the offices referred to in subsection (1) above (including such service remunerated otherwise than on an annual basis) or service in any such other capacity under the Crown as may be prescribed by regulations made by [<sup>F11</sup>the Treasury]; and regulations under this subsection shall be made by statutory instrument and—
  - (a) may be made generally or subject to specified exceptions or in relation to specified cases or classes of case,
  - (b) may provide that in calculating relevant service either the whole of a person’s prescribed service of any description shall be taken into account or such part thereof only as may be determined by or under the regulations,
  - (c) may make different provision for different cases or classes of case, and
  - (d) shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “last annual salary” means last annual remuneration apart from any allowances.

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#### Textual Amendments

- F10** Words in s. 12(1) substituted (E.W.S.) (22.8.1996) by 1996 c. 17, ss. 43, 46, **Sch. 1 para.6** (with s.38)  
**F11** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 118(4)(a)**

### 13 Social Security Commissioner.

- (1) A Social Security Commissioner may on the recommendation of [<sup>F12</sup>the Lord Chancellor] be granted a pension—
- (a) if he retires after 15 years service and at the time of his retirement he has attained the age of 65, or
  - (b) if at the time of his retirement he has attained the age of 72, or
  - (c) if [<sup>F12</sup>the Lord Chancellor] is satisfied by means of a medical certificate that at the time of his retirement, by reason of infirmity of mind or body, he is incapable of discharging the duties of his office and that the incapacity is likely to be permanent.
- (2) The annual rate of a pension payable under this section to a person retiring after not less than 15 years service shall not exceed one half of his last annual salary.
- (3) The annual rate of a pension payable under this section to a person retiring after less than 15 years service shall not exceed—
- (a) if the period of service does not amount to 5 years, 6/40ths of his last annual salary,
  - (b) if the period of service amounts to 5 years or more, one quarter of his last annual salary plus 1/40th for each completed year of service exceeding 5.
- (4) For the purposes of the preceding subsections—
- (a) service as Commissioner which is not remunerated by means of a salary shall be disregarded,
  - (b) [<sup>F13</sup>the Treasury] may by regulations provide for counting as service as Commissioner pensionable service in any other capacity under the Crown.
- (5) Regulations under subsection (4)(b) above shall be made by statutory instrument.

#### Textual Amendments

- F12** Words substituted by S.I. 1984/1818, **arts. 2, 3**  
**F13** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 118(4)(a)**

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

- C2** S. 13 excluded (E.W.S.) (1.7.1992) by Social Security Administration Act 1992 (c. 5), 41, 43, 50-52, 192(4), Sch. 2 para. 1(6);  
 S. 13 excluded (E.W.S.) (at different dates for specified purposes) by 1998 c. 14, s. 14(12), **Sch. 4 para. 4(2)**; S.I. 1999/1958, art. 2, **Sch. 1** (as amended by S.I. 1999/3178, art. 3(20), **Sch. 20**); S.I. 1999/2422, art. 2, **Sch. 1** (subject to transitional provisions in Sch. 14)(as amended by S.I. 1999/3178, art. 3(20), **Sch. 20**); S.I. 1999/2739, art. 2, **Sch. 1** (subject to transitional provisions in Sch. 2); S.I. 1999/2860, art. 2, **Sch. 1** (subject to transitional provisions in Schs. 16-18)(as amended by S.I. 1999/3178, art. 3(20), **Sch. 20**); S.I. 1999/3178, art. 2, **Sch. 1** (subject to transitional provisions in Schs. 21-23)



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### [<sup>F14</sup>13A Registrar of Criminal Appeals.

There may be paid to persons who have held the office of Queen’s Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals such superannuation allowances as the Lord Chancellor may, with the approval of the Treasury, determine.]

#### Textual Amendments

F14 S. 13A inserted by Courts and Legal Services Act 1990 (c. 41, SIF 37), s. 78(2)

## 14 Other judicial offices.

Schedule 1 to this Act shall have effect as respects the pensions and other benefits of certain court officers and of the president of the Transport Tribunal.

### [<sup>F15</sup>14A

(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 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 or (in the case of judicial office held in Northern Ireland), in accordance with Article 4 of the Social Security (Northern Ireland) Order 1986.

(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

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- (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
  - (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 application 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.]

**Textual Amendments**

**F15** S. 14A inserted by S.I. 1988/1417, reg. 3, Sch. para. 1

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

**C3** S. 14A(3) modified (31.3.1995) by 1993 c. 8, s. 13(8)(9)(a) (with s. 1); S.I. 1995/631, art. 2

**F16**<sup>15</sup> .....

**Textual Amendments**

**F16** S. 15 repealed (31.3.1995) by 1993 c. 8, s. 24, Sch. 3 Pt. I para. 2(1), Sch.9.; S.I. 1995/631, art. 2

## PART II

### LUMP SUMS AND WIDOWS' AND CHILDREN'S PENSIONS

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

**C4** Pt. II (ss. 16-29) modified (31.3.1995) by 1993 c. 8, s. 14(3), (with s. 1); S.I. 1995/631, art. 2  
 Pt. II (ss. 16-29) excluded (31.3.1995) by 1993 c. 8, s. 14(4), (with s. 1); S.I. 1995/631, art. 2

## 16 Application of Part II, and interpretation.

In this Part of this Act—

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“judicial office” means an office in column 1 of the following Table,  
“derivative benefit” means any lump sum under this Part of this Act or any widow’s [F17 widower’s] or children’s pension,  
“the personal pension”, in relation to any derivative benefit or contribution to the cost of a derivative benefit (the “related” derivative benefit or contribution) means the pension eligibility for which is a condition of the granting of the derivative benefit,  
“relevant service”, in relation to a pension for service in a judicial office, or in relation to a related benefit or contribution, means the kind of service, under one or more appointments, set out against that judicial office in column 2 of the Table.

TABLE

<i>Judicial office</i>	<i>Relevant service</i>
Lord Chancellor.	Service as Lord Chancellor in the first or any subsequent term of office.
Lord of Appeal in Ordinary.	Service as a Lord of Appeal in Ordinary or as a judge of the Supreme Court, the Court of Session or the Supreme Court of Northern Ireland.
Judge of the Supreme Court.	Service as a Lord of Appeal in Ordinary or as a judge of the Supreme Court.
Judge of the Court of Session.	Service as a Lord of Appeal in Ordinary or as a judge of the Court of Session.
Judge of the Supreme Court of Northern Ireland.	Service as a Lord of Appeal in Ordinary or as a Judge of the Supreme Court of Northern Ireland.
Circuit judge in England and Wales.	Service as a Circuit judge.
Sheriff principal or salaried sheriff in Scotland.	Pensionable service as a sheriff in Scotland.
Stipendiary magistrate in England and Wales.	Service as a stipendiary magistrate in England or Wales.
Judge Advocate General who has duly elected that section 9 of this Act shall apply to him.	Service as Judge Advocate General.
Member of Lands Tribunal or Lands Tribunal for Scotland.	Service as a member of either of those Tribunals
Chairman of the Scottish Land Court.	Service as Chairman of the Scottish Land Court.
President of Industrial Tribunals or other office pensionable under section 12 of this Act.	Relevant service as defined by section 12(5) of this Act.

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Social Security Commissioner.

Salaried service as a Social Security Commissioner, and any other service which under section 13(4)(b) of this Act counts as service as a Commissioner.

Any office in paragraph 1 of Schedule 1 to this Act, except where under paragraph 3 of that Schedule this Part of this Act does not apply.

Relevant service as defined in paragraph 2 of Schedule 1 to this Act in relation to the office.

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**Textual Amendments**

**F17** Word inserted (1.1.1992) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 124, [Sch. 18 para. 26](#); [S.I. 1991/2730](#), art. 2, [Sch.](#)

[<sup>F18</sup>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.]

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**Textual Amendments**

**F18** [S. 16A](#) inserted by [S.I. 1988/1417](#), reg. 3, [Sch. para. 2\(a\)](#)

**17 Lump sum on retirement or death.**

- (1) Where a person on retirement becomes eligible for a pension for service in any judicial office, he may be granted a lump sum equal to twice the annual amount of that pension.
- (2) Where a person was serving in any judicial office at the time of his death and, if he had then retired on the ground of permanent infirmity, would have become eligible for a pension for that service, his legal personal representatives may be granted a lump sum equal to—
  - (a) twice the annual amount of the pension for which he would have been so eligible, or
  - (b) his last annual salary,
 whichever is the greater.
- (3) Where a person on retirement becomes eligible for a pension for service in any judicial office but dies so soon after that the sums paid or payable to him on account of that pension plus an amount equal to twice the annual amount of that pension fall short of his last annual salary for such service, his legal personal representatives may be granted a lump sum equal to the deficiency.
- (4) In relation to the office of President of Industrial Tribunals, or any other office pensionable under section 12 above, any reference in this section to last annual salary is a reference to last annual remuneration apart from any allowances.

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

- C5** S. 17 (except subsections (2)(b) and (3)) extended by S.I. 1988/1418, arts. 3, 6 and by S.R. (N.I.) 1988/293, art. 6 Table

*Widows’ and children’s pensions*

**18 Conditions of grant.**

- (1) Subject to the provisions of this Part of this Act, on the death of a male person (hereinafter in this Part of this Act referred to as “the deceased”) who—
- (a) had become eligible for a pension for service in any judicial office, or
  - (b) was serving in any judicial office at the time of his death and would, if he had then retired on the ground of permanent infirmity, have become eligible for a pension for that service,
- there may be granted in respect of his service—
- (i) where he leaves a widow, a pension to that widow (hereafter in this Part of this Act referred to as a “widow’s pension”), and
  - (ii) where he had a wife at any time during his relevant service (whether or not the marriage continued until his death and whether or not a widow’s pension is or can be granted), a pension for the benefit of the children of the marriage [F19 and of children adopted by him during the marriage] (hereafter in this Part of this Act referred to as a “children’s pension”).
- (2) If [F20 the Treasury] is satisfied that a person (“the child”) excluded from subsection (1)(ii) above because adopted after the termination of the marriage was before the termination of the marriage wholly or mainly dependent on the deceased person, and that the deceased person had before the termination of the marriage formed the intention of adopting the child, [F20 the Treasury] may direct that the said exclusion in subsection (1)(ii) above shall not apply to the child.

[F21(3) .....

**Textual Amendments**

- F19** Words repealed for Northern Ireland by S.I. 1987/2203 (N.I. 22), art. 72(3), Sch. 5 Pt. I  
**F20** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(a)  
**F21** S. 18(3) repealed (1.1.1992) (with saving) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(6)(7), Sch. 19 para. 9, Sch. 20; S.I. 1991/2730, art. 2, Sch.

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

- C6** S. 18 extended by S.I. 1988/1418, arts. 3, 6 and by S.R. (N.I.) 1988/293, art. 6 Table

[F22] **18A Widowers’ pensions**

- (1) Section 18 above shall have effect in relation to the death of a female person as it has effect in relation to the death of a male person but as if—
- (a) for the words “widow”, “widow’s pension” and “wife” there were substituted “widower”, “widower’s pension” and “husband”; and

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(b) for the words “his”, “he” and “him” there were substituted “hers”, “she” and “her”.

(2) The transitional provisions in Part IV of Schedule 2 to this Act shall have effect in relation to widowers' pensions.]

#### Textual Amendments

**F22** S. 18A inserted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 79(1); S.I. 1991/2730, art. 2, Sch.

### [<sup>F23</sup>19 Widows' and widowers' pensions.

- (1) No widow's or widower's pension may be granted if the marriage with the deceased took place after he or she retired from relevant service.
- (2) A widow's or widower's pension shall come to an end on the death of the widow or widower.
- (3) Where a widow's or widower's pension is payable the Treasury may, on or at any time after the re-marriage of the widow or widower, direct that it shall cease to be payable.
- (4) Where such a direction has been given the Treasury may at any time direct that payment of the pension is to be resumed.
- (5) The annual amount of a widow's or widower's pension may be one half of the annual amount of the personal pension.]

#### Textual Amendments

**F23** S. 19 substituted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 80; S.I. 1991/2730, art. 2, Sch.

### 20 Children's pension: beneficiaries.

- (1) A children's pension may be granted if, and be paid so long as and whenever, there are persons for whose benefit it can enure.
- (2) Subject to the provisions of this section, the persons for whose benefit a children's pension can enure are any such children as are referred to in subsection (1) or subsection (3) of section 18 above, as the case may be, who are for the time being in their period of childhood and full-time education.
- (3) A children's pension cannot enure for the benefit of a person conceived after the end of the deceased's relevant service.
- (4) A children's pension cannot enure for the benefit of any person who was adopted by the deceased after the end of his relevant service:

Provided that if [<sup>F24</sup>the Treasury] is satisfied that a person (“the child”) falling within this subsection was before the end of the relevant service wholly or mainly dependent on the deceased person, and that the deceased person had, before the termination of the relevant service, formed the intention of adopting the child [<sup>F24</sup>the Treasury] may direct that this subsection shall not apply to the child.

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- (5) A children’s pension cannot enure for the benefit of a female person who at the time of the death of the deceased was married and if, after the death of the deceased, a female person marries, she shall thereupon cease to be a person for whose benefit a children’s pension can enure.

<sup>F25</sup>(6) .....

**Textual Amendments**

- F24** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(a)  
**F25** S. 20(6) repealed (1.1.1992) (with saving) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(6)(7), Sch. 19 para. 9, Sch. 20; S.I. 1991/2730, art. 2, Sch.

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

- C7** S. 20 extended by S.I. 1988/1418, arts. 3, 6 and by S.R. (N.I.) 1988/293, art. 6 Table

**21 Meaning of “period of childhood and full-time education”.**

- (1) A person shall be deemed for the purposes of section 20 above to be in his period of childhood and full-time education while either—
- (a) he is under the age of sixteen, or
  - (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 (hereinafter referred to as “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, [<sup>F26</sup>do not exceed the maximum allowable remuneration], exclusive of any emoluments receivable or payable by way of return of any premium paid in respect of the training.

- (2) A person shall not be deemed for the purposes of this section to satisfy the conditions specified in paragraph (b) or the conditions specified in paragraph (c) of subsection (1) above, unless there has up till then been no time since he attained the age of sixteen when he did not satisfy one or other of those conditions.

- (3) In subsection (1) above “emoluments” means any salary, fees, wages, perquisites or profits or gains whatsoever, and includes the value of free board, lodging or clothing, and, for the purposes of paragraph (c)(ii) of that subsection, 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 deemed to be receivable or payable by way of return of the premium, unless and except to the extent that the amount thereof exceeds in the aggregate the amount of the premium.

[<sup>F27</sup>(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

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- (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.]
- (4) As respects any period during which neither of the conditions specified in paragraphs (b) and (c) of subsection (1) above is satisfied in relation to a person, [<sup>F28</sup>the Treasury may, if it] thinks fit, and is satisfied that that person's full-time education ought not to be regarded as completed, direct either—
- (a) that that period shall be ignored for the purposes of subsection (2) above, or
- (b) that that period shall be so ignored and shall also be treated as part of his period of childhood and full-time education for all the other purposes of section 20 above.

<sup>F29</sup>(5) .....

<sup>F29</sup>(6) .....

#### Textual Amendments

- F26** Words in s. 21(1)(c)(ii) substituted (31.3.1995) by 1993 c. 8, s. 24, **Sch. 3 Pt. I para. 1(1)**; S.I. 1995/631, **art. 2**
- F27** S. 21(3A) inserted (31.3.1995) by 1993 c. 8, s. 24, **Sch. 3 Pt. I para. 1(2)**; S.I. 1995/631, **art. 2**
- F28** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 118(5)**
- F29** S. 21(5)(6) repealed (31.3.1995) by 1993 c. 8, s. 24, **Sch. 3 Pt. I para. 1(3)**, **Sch. 9**; S.I. 1995/631, **art. 2**

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

- C8** S. 21 extended by S.I. 1988/1418, **arts. 3, 6** and by S.R. (N.I) 1988/293, art. 6 Table
- C9** S. 21(1)(c)(ii) amended (8.4.1991) by virtue of S.I.1991/862, **art. 2**
- C10** S. 21(1)(c)(ii) amended (6.4.1992) by S.I. 1992/360, **art. 2**;  
 S. 21(1)(c)(ii) amended (12.4.1993) by S.I. 1993/220, **art. 2**;  
 S. 21(1)(c)(ii) amended (11.4.1994) by S.I. 1994/350, **art. 2**

## 22 Children's pension: rate and mode of payment.

- (1) Only one children's pension shall be granted in respect of the service of any one person, but—
- (a) the rate thereof may vary according to the number of persons for whose benefit it can for the time being enure, and
- (b) it shall be paid to such person or persons as [<sup>F30</sup>the Treasury] may from time to time direct, and different parts thereof may be directed to be paid to different persons, and
- (c) the person to whom all or any part thereof is paid shall apply the sum paid to him, without distinction, for the benefit of all the persons for whose benefit the pension can for the time being enure or for the benefit of such of them as [<sup>F30</sup>the Treasury] from time to time directs.
- (2) Where the deceased [<sup>F31</sup>leaves no widow or widower and, if he or she leaves a widow or widower, after his or her death], the annual amount of a children's pension—
- (a) while the persons for whose benefit it can enure are two or more in number, may amount to two-thirds of the annual amount of the personal pension,



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- (b) while there is only one such person, may amount to one-third of the annual amount of the personal pension.
- (3) Subject to the provisions of subsection (4) below, where the deceased leaves a widow [<sup>F32</sup>or widower], the annual amount of a children’s pension during her life—
  - (a) while the persons for whose benefit it can enure are two or more in number, may amount to one half the annual amount of the personal pension,
  - (b) while there is only one such person, may amount to one quarter of the annual amount of the personal pension.
- (4) Notwithstanding anything in the preceding provisions of this section, where the deceased leaves a widow [<sup>F33</sup>or widower] who remarries, no children’s pension shall be payable as respects any period when she has a husband [<sup>F33</sup>or he has a wife] unless the [<sup>F34</sup>Treasury] specially directs that such a pension shall be so payable, but, [<sup>F34</sup>if the Treasury does specially so direct, it may, if it thinks fit], further direct that subsection (2) above shall apply as respects any such period notwithstanding that the widow [<sup>F33</sup>or widower] is alive.
- (5) <sup>F35</sup> .....

**Textual Amendments**

- F30** Words in s. 22(1) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(a)
- F31** Words in s. 22(2) substituted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(3), Sch. 18 para. 27(a); S.I. 1991/2730, art. 2, Sch.
- F32** Words in s. 22(3) substituted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(3), Sch. 18 para. 27(b); S.I. 1991/2730, art. 2, Sch
- F33** Words in s. 22(4) inserted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(3), Sch. 18 para. 27(c); S.I. 1991/2730, art. 2, Sch.
- F34** Words in s. 22(4) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(6)(a)(b)
- F35** S. 22(5) repealed (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), Sch.20; S.I. 1991/2730, art. 2, Sch.

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

- C11** S. 22 extended by S.I. 1988/1418, arts. 3, 6 and by S.R. (N.I.) 1988/293, art. 6 Table

*Contributions*

**23 Contribution towards cost of widow’s and children’s pension.**

- (1) There shall be made towards the cost of the liability for any pension or pensions under sections 16 to 20 above in respect of a [<sup>F36</sup>person’s] relevant service such contribution as may be prescribed by regulations made for the purposes of this section.
- [<sup>F37</sup>(1A) No contribution shall be made by a [<sup>F36</sup>person] for any period of service during which an election under section 14A is in force in respect of him.]
- (2) The prescribed contributions shall be in the form either of a reduction of the lump sum payable in respect of the relevant service or deductions from the salary payable in respect of the relevant service, or partly in one of those forms and partly in the other.
- (3) Regulations made for the purposes of this section may make provision for consequential and incidental matters, including provision excluding or modifying

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the operation of this Act or any enactment passed before 18th April 1973; and in particular any regulations providing for contributions by deduction from salary may make consequential provision as to any enactment referring or relating to lump sums payable under this Part of this Act.

- (4) Regulations for the purposes of this section may be made, with the concurrence of [<sup>F38</sup>the Treasury], by the Lord Chancellor or, in relation to pensions for service in offices existing only in Scotland, by the Secretary of State.
- (5) Regulations under this section shall be made by statutory instrument which shall be subject to annulment pursuant to a resolution of either House of Parliament.

**Textual Amendments**

- F36** Word in s. 23 substituted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(3), **Sch. 18 para. 28**; S.I. 1991/2730, **art. 2**, Sch.
- F37** S. 23(1A) inserted as provided by S.I. 1988/1417, reg. 3, **Sch. para. 2(b)**
- F38** Words in s. 23(4) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 118(4)(a)**

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

- C12** S. 23 extended by S.I. 1988/1418, **arts. 3, 6** and by S.R. (N.I.) 1988/293, art. 6 Table

<sup>F39</sup>24

**Textual Amendments**

- F39** S. 24 repealed (1.1.1992) (with saving) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(6)(7), Sch. 19 para. 9, **Sch.20**; S.I. 1991/2730, art. 2, **Sch.**

*Special cases*

**25 Persons serving again after retirement.**

- (1) Where any person after retirement from service in a judicial office resumes <sup>F40</sup> . . . service, that retirement shall be left out of account for all the purposes of this Part of this Act except that—
  - (a) if a lump sum was granted on that retirement without any contribution being made, then unless that person on resumption of <sup>F40</sup> . . . service, or within three months of <sup>F40</sup> . . . marrying while again serving, refunds by way of contribution such sum, not exceeding three quarters of the lump sum granted on the prior retirement as [<sup>F41</sup>the Treasury] may determine, no pension shall be granted to any [<sup>F42</sup>widow, widower or child of that person], and
  - (b) any lump sum granted on that retirement, less any refund, shall be set off against any lump sum to be granted in respect of [<sup>F43</sup>that person's] service.

<sup>F44</sup>(2) . . . . .

- (3) Where a refund is made under subsection (1) above, all such adjustments shall be made, including payments out of the Consolidated Fund or out of money provided by Parliament and payments into the Exchequer, as will secure that the position is the

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same as if the lump sum had been reduced by an amount equal to the refund and no refund had been made.

#### Textual Amendments

- F40** Word in s. 25 repealed (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**; S.I. 1991/2730, art. 2, **Sch.**
- F41** Words in s. 25(1)(a) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(a)
- F42** Words in s. 25(1)(a) substituted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(3), **Sch. 18 para. 29(a)**; S.I. 1991/2730, art. 2, **Sch.**
- F43** Words in s. 25(1)(b) substituted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(3), **Sch. 18 para. 29(b)**; S.I. 1991/2730, art. 2, **Sch.**
- F44** S. 25(2) repealed (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), **Sch. 20**; S.I. 1991/2730, art. 2, **Sch.**

## 26 Lord Chancellor.

Any reference in this Part of this Act to retirement shall in relation to a Lord Chancellor be taken as a reference to resignation of office.

### *Supplemental*

## 27 Disregard of abatement of pension under s. 65 of Social Security Act 1973.

In making any calculation under this Part of this Act any abatement of a pension falling to be made under any order made under section 65 of the <sup>M6</sup>Social Security Act 1973 shall be left out of account.

#### Marginal Citations

- M6** 1973 c. 38.

## 28 Effect of certain nullity decrees.

Where a marriage which is voidable, but not void from the beginning, is declared to be null by any court of competent jurisdiction, the same results shall follow under this Part of this Act as would have followed thereunder if the marriage had not been voidable and had been dissolved at the date of the declaration of nullity.

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

- C13** S. 28 applied by S.I. 1987/375, arts. 1, 2(3)–(5), **Sch. 1**

## 29 Recommendation of a Minister required in certain cases.

The grant under this Part of this Act of a lump sum or widow's <sup>F45</sup>widower's] or children's pension conditional on eligibility for a pension requiring the recommendation to <sup>F46</sup>the Treasury or any Minister of the Crown] shall require the like recommendation.

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#### Textual Amendments

- F45** Word inserted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(3), **Sch. 18 para. 30(a)**; S.I. 1991/2730, art. 2, **Sch.**  
**F46** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(3)

### PART III

#### SUPPLEMENTAL

#### [<sup>F47</sup>29A Transfer of accrued benefits.

Schedule 1A shall have effect with respect to the transfer of accrued rights into and out of the judicial pension schemes constituted by this Act and the Sheriffs' Pensions (Scotland) Act 1961.]

#### Textual Amendments

- F47** S. 29A inserted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(3) **Sch. 18 para. 31**; S.I. 1991/2730, art. 2, **Sch.**

VALID FROM 01/12/2000

#### [<sup>F48</sup>29B Pension credits: restriction on payments

- (1) The appropriate Minister shall have no power to accept, for the benefit of a member of a judicial pension scheme constituted under or by virtue of this Act—
- (a) a payment under paragraph 1(3) of Schedule 5 to the Welfare Reform and Pensions Act 1999,
  - (b) a payment under section 95 of the Pension Schemes Act 1993 <sup>F49</sup>, or
  - (c) any other payment,
- to the extent that that payment directly or indirectly represents a pension credit.
- (2) In this section “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), the Lord Chancellor.]

#### Textual Amendments

- F48** S. 29B inserted (1.12.2000) by S.I. 2000/2985, **reg. 2**  
**F49** 1993 c. 48.

#### 30 Saving for Pensions (Increase) Act.

This Act is without prejudice to the operation of the <sup>M7</sup>Pensions (Increase) Act 1971.

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#### Marginal Citations

M7 1971 c. 56.

### 31 Payments charged on Consolidated Fund.

There shall be charged on, and paid out of, the Consolidated Fund—

- (a) any pension under Chapter I of Part I, or section 5 or 7, of this Act, and
- (b) any lump sum, or widow's [<sup>F50</sup>widower's] or children's pension, under Part II of this Act conditional on eligibility for a pension payable out of the Consolidated Fund.

#### Textual Amendments

**F50** Word inserted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(3), **Sch. 18 para. 30(b)**; S.I. 1991/2730, **art. 2**, Sch.

### 32 Other financial provisions.

(1) Subsection (2) below applies where—

- (a) the rate of a pension payable to a person under section 12 or 13 above is or would be increased in respect of service in a capacity prescribed under section 12(5) or 13(4)(b) as the case may be, and
- (b) a pension payable wholly in respect of service in that prescribed capacity would be paid and borne otherwise than out of money provided by Parliament.

(2) Any pension benefits paid to or in respect of that person as having been the holder of an office mentioned in section 12(1) or 13(1) above shall, to such extent as [<sup>F51</sup>the Treasury] may determine, having regard to the relative length of service and rate of remuneration in that office and in the prescribed capacity, be paid and borne in like manner as that in which a pension payable to him wholly in respect of service in the prescribed capacity would have been paid or borne.

(3) In this section—

- (a) “pension” includes any superannuation or other retiring allowance or gratuity,
- (b) “pension benefits” includes benefits payable on retirement or death by way of lump sum or gratuity, and benefits payable in respect of a person's service or employment to other persons by way of widow's [<sup>F52</sup>widower's] or orphan's pension or otherwise.

#### Textual Amendments

**F51** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(a)

**F52** Word inserted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(3), **Sch. 18 para. 30(c)**; S.I. 1991/2730, **art. 2**, Sch.

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

**C14** S. 32 excluded (E.W.S.) (1.7.1992) by Social Security Administration Act 1992 (c. 5), ss. 41, 43, 50-52, 192(4), **Sch. 2 para. 1(6)**

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S. 32 excluded (E.W.S) (at different dates for specified purposes) by 1998 c. 14, s. 14(12), **Sch. 4 para. 4(2)**; S.I. 1999/1958, art. 2, **Sch. 1** (as amended by S.I. 1999/3178, art. 3(20), **Sch. 20**); S.I. 1999/2422, art. 2, **Sch. 1** (subject to transitional provisions in **Sch. 14**)(as amended by S.I. 1999/3178, art. 3(20), **Sch. 20**); S.I. 1999/2739, art. 2, **Sch. 1** (subject to transitional provisions in **Sch. 2**); S.I. 1999/2860, art. 2, **Sch. 1** (subject to transitional provisions in **Schs. 16-18**) (as amended by S.I. 1999/3178, art. 3(20), **Sch. 20**); S.I. 1999/3178, art. 2, **Sch. 1** (subject to transitional provisions in **Schs. 21-23**)

### [<sup>F53</sup>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;

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

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“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.]

**Textual Amendments**

**F53** S. 32A inserted (31.3.1995) by 1993 c. 8, s. 24, **Sch. 3 Pt. I para. 2(2)**; S.I. 1995/631, **art. 2**

### 33 Interpretation.

In this Act, unless the context otherwise requires—

.....<sup>F54</sup>  
“stipendiary magistrate” in England and Wales includes a metropolitan stipendiary magistrate.

**Textual Amendments**

**F54** Definition repealed by **Courts and Legal Services Act 1990** (c. 41, SIF 76:1), ss. 118(8), 125(7), **Sch. 20**

### [<sup>F55</sup>33A Voluntary contributions.

(1) Regulations shall make provision

- [<sup>F56</sup>(a)] entitling any member of a judicial pension scheme constituted by this Act or the Sheriffs’ Pensions (Scotland) Act 1961 to make voluntary contributions towards the cost of the provision of additional benefits [<sup>F57</sup> 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.]

[<sup>F58</sup>(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;

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- (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.]

(2) The regulations—

- (a) may not prohibit the payment of voluntary contributions;
- (b) may not impose any limit on the amount which any member may pay by way of voluntary contributions other than [<sup>F59</sup>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)] an upper limit corresponding to that for the time being fixed by or under section 594 of the Income and Corporation Taxes Act <sup>M8</sup>1988 (exempt statutory schemes);
- (c) must secure that any voluntary contributions paid by a member of a scheme are used to provide prescribed 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; and
  - (iii) the general value of benefits available to a person under any contract of life insurance entered into by him with an insurance company to which Part II of the Insurance Companies Act <sup>M9</sup>1982 (regulation of insurance companies carrying on insurance business within the United Kingdom) applies.

[<sup>F60</sup>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.]

(3) The regulations may, in particular—

- (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; <sup>F61</sup> . . .
- (b) prescribe the manner in which it is to be determined in any case whether the amount of a person's contributions exceeds any [<sup>F62</sup>such limit as is mentioned in] subsection (2)(b) above.
- <sup>F63</sup>(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



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- (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.]

<sup>F64</sup>(4) .....

[ The regulations may provide for such additional benefits arising under or by virtue of <sup>F65</sup>(4A) 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.]

(5) Regulations made under this section may make provision for consequential and incidental matters, including, in particular, consequential provision with respect to any enactment referring or relating to lump sums payable under Part II of this Act.

[ The regulations may make different provision for different classes or descriptions of <sup>F66</sup>(5A) voluntary contributions scheme.]

(6) Regulations under this section may be made—

- (a) by the Lord Chancellor; or
- (b) in relation to pensions for service in offices existing only in Scotland, by the Secretary of State,

with the consent of the Treasury.

(7) The power to make regulations under this section shall be exercisable by statutory instrument.

(8) Any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament.

[ In this section—

<sup>F67</sup>(9) “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;

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- (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 [F68Pension Schemes Act 1993] (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 [F69section 1 of the Pension Schemes Act 1993] or, in relation to Northern Ireland, [F70section 1 of the Pension Schemes (Northern Ireland) Act 1993];

“personal pension scheme” has the meaning given by [F71section 1 of the Pension Schemes Act 1993] or, in relation to Northern Ireland, [F72section 1 of the Pension Schemes (Northern Ireland) Act 1993];

“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) above;

“tax-exemption” and “tax-approval” have the meaning given by [F73section 181(1) of the Pension Schemes Act 1993];

“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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### Textual Amendments

- F55** S. 33A inserted (6.3.1995) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 82(1); S.I. 1995/641, art. 2
- F56** Word in s. 33A(1) inserted (31.3.1995) by 1993 c. 8, s. 24, Sch. 3 Pt. I para. 3(2); S.I. 1995/631, art. 2
- F57** Words in s. 33A(1) substituted (31.3.1995) by 1993 c. 8, s. 24, Sch. 3 Pt. I para. 3(2); S.I. 1995/631, art. 2
- F58** S. 33A(1A)(1B) inserted (31.3.1995) by 1993 c. 8, s. 24, Sch. 3 Pt. I para. 3(3); S.I. 1995/631, art. 2
- F59** Words in s. 33A(2)(b) inserted (31.3.1995) by 1993 c. 8, s. 24, Sch. 3 Pt. I para. 3(4); S.I. 1995/631, art. 2
- F60** Words in s. 33A(2) added (31.3.1995) by 1993 c. 8, s. 24, Sch. 3 Pt. I para. 3(5); S.I. 1995/631, art. 2
- F61** Word in s. 33A(3)(a) repealed (31.3.1995) by 1993 c. 8, s. 24, Sch. 3 Pt. I para. 3(6)(a), Sch. 9; S.I. 1995/631, art. 2
- F62** Words in s. 33A(3)(b) substituted (31.3.1995) by 1993 c. 8, s. 24, Sch. 3 Pt. I para. 3(6)(b); S.I. 1995/631, art. 2
- F63** S. 33A(3)(c)-(k) added (31.3.1995) by 1993 c. 8, s. 24, Sch. 3 Pt. I para. 3(7); S.I. 1995/631, art. 2
- F64** S. 33A(4) repealed (31.3.1995) by 1993 c. 8, s. 24, Sch. 3 Pt. I para. 3(8), Sch. 9; S.I. 1995/631, art. 2
- F65** S. 33A(4A) inserted (31.3.1995) by 1993 c. 8, s. 24, Sch. 3 Pt. I para. 3(8); S.I. 1995/631, art. 2
- F66** S. 33A(5A) inserted (31.3.1995) by 1993 c. 8, s. 24, Sch. 3 Pt. I para. 3(9); S.I. 1995/631, art. 2
- F67** S. 33A(9)-(11) added (31.3.1995) by 1993 c. 8, s. 24, Sch. 3 Pt. I para. 3(10); S.I. 1995/631, art. 2
- F68** Words in s. 33A(9) substituted (7.2.1994) by 1993 c. 48, s. 190, Sch. 8 para. 13(a) (with s. 164); S.I. 1994/86, art. 2
- F69** Words in s. 33A(9) substituted (7.2.1994) by 1993 c. 48, s. 190, Sch. 8 para. 13(b) (with s. 164); S.I. 1994/86, art. 2
- F70** Words in s. 33A(9) substituted (N.I.) (7.2.1994) by 1993 c. 49, s. 184, Sch. 7 para. 17(a); S.R. 1994/17, art. 2.
- F71** Words in s. 33A(9) substituted (7.2.1994) by 1993 c. 48, s. 190, Sch. 8 para. 13(c) (with s. 164); S.I. 1994/86, art. 2
- F72** Words in s. 33A(9) substituted (N.I.) (7.2.1994) by 1993 c. 49, s. 184, Sch. 7 para. 17(b); S.R. 1994/17, art. 2.
- F73** Words in s. 33A(9) substituted (7.2.1994) by 1993 c. 48, s. 190, Sch. 8 para. 13(d) (with s. 164); S.I. 1994/86, art. 2

### Modifications etc. (not altering text)

- C15** S. 33A(2) amended (1.7.1994) by S.I. 1994/1696, reg. 68, Sch. 8 para. 7(2)

### Marginal Citations

- M8** 1988 c. 1 (63:1).  
**M9** 1982 c. 50 (67).

## 34 County court registrars and assistant registrars.

(1) For the purposes of this Act the annual salary of a county court registrar or assistant registrar who is also a district registrar of the High Court shall be deemed to include any salary payable in respect of his services as district registrar.

[<sup>F74</sup>(2) Nothing in this Act shall apply to a part-time registrar or part-time assistant registrar within the meaning of subsection (3) of [<sup>F75</sup>section 10 of the County Courts Act 1984] (restrictions on practice).]

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#### Textual Amendments

- F74** S. 34(2) substituted (E.W.) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(1), [Sch. 5 para. 2](#)  
**F75** Words substituted by [County Courts Act 1984 \(c. 28, SIF 34\)](#), s. 148(1), [Sch. 2](#)

### 35 Saving for certain Circuit judges in the City of London.

The provisions of this Act relating to Circuit judges have effect subject to paragraphs 5, 6 and 7 of Schedule 2 to the <sup>M10</sup>Courts Act 1971.

#### Marginal Citations

- M10** 1971 c. 23.

### 36 Transitory provisions, amendments and repeals.

- (1) Schedules 2 and 3 to this Act (transitory provisions and consequential amendments) shall have effect.
- (2) The enactments and instruments specified in Schedule 4 to this Act shall be repealed to the extent specified in the third column of that Schedule.

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

- C16** The text of s. 36(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### 37 Short title and commencement.

- (1) This Act may be cited as the Judicial Pensions Act 1981.
- (2) This Act shall come into force at the expiration of a period of one month beginning with the date on which it is passed.

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## SCHEDULES

### SCHEDULE 1

Sections 9(4) and 14.

#### CERTAIN SUPREME COURT AND COUNTY COURT OFFICERS, AND PRESIDENT OF TRANSPORT TRIBUNAL

#### PART I

1 This Schedule applies to the following officers:—

*Supreme Court officers*

*County court officers*

*Transport Tribunal*

President of the Transport Tribunal.

#### Textual Amendments

- F76** List substituted (E.W.) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(1), [Sch. 5 para. 2](#)  
**F77** Words repealed by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 78(3), 125(7), [Sch. 20](#)  
**F78** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(3), [Sch. 18 para. 32](#)  
**F79** Words repealed by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 78(3), 125(7), [Sch. 20](#)  
**F80** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 125(3), [Sch. 18 para. 32](#)  
**F81** Entry in Sch. 1 para. 1 repealed (31.3.1995) by 1993 c. 8, s. 31(2)(4), [Sch.9](#); S.I. 1995/631, [art. 2](#)

#### *Relevant service*

- 2 (1) In this Schedule “relevant service” in relation to any office of the Supreme Court listed in paragraph 1 above means service in that or any other office of the Supreme Court so listed, or as president of the Transport Tribunal.
- (2) In this Schedule “relevant service”, in relation to the office of county court registrar, or assistant county court registrar, means service in either of those offices.
- (3) In this Schedule “relevant service”, in relation to the office of the president of the Transport Tribunal, means service in that office, or in any office of the Supreme Court listed in paragraph 1 above.

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*Person within principal civil service pension scheme prior to appointment*

- 3 (1) This paragraph has effect as respects a person who at the time of his appointment to an office within paragraph 1 above was employed in the civil service of the State and was subject to the principal civil service pension scheme.
- (2) If such a person so elects—
- (a) he shall continue to be subject to the principal civil service pension scheme as if service in an office within paragraph 1 above were employment in the civil service of the State, and
  - (b) the provisions of Parts II, III, and IV of this Schedule, and of Part II of this Act, shall not apply to him.
- (3) An election under this paragraph shall be made by notice in writing in such form and within such period as may be prescribed by the Lord Chancellor.

**PART II**

PENSION BENEFITS

*Personal pension*

- 4 (1) An officer to whom this Schedule applies may be granted a pension—
- (a) if he retires after not less than [<sup>F82</sup>the prescribed number of years of][<sup>F82</sup>15 years] relevant service and at the time of his retirement he has attained the age of 65, or
  - (b) if he retires after not less than [<sup>F83</sup>2 years] relevant service, and—
    - (i) at the time of his retirement he has attained the age of 72, or
    - (ii) if [<sup>F84</sup>the Treasury] is satisfied by means of a medical certificate that he is incapable from infirmity of mind or body of discharging the duties of his office and that the infirmity is likely to be permanent.
- <sup>F85</sup>(2) In sub-paragraph (1)(a) above the prescribed number of years is—
- (a) where the officer is the Lord Chancellor's Legal Visitor, 10 years,
  - (b) in any other case, 15 years.]
- (3) The annual rate of the pension payable under this paragraph to a person retiring after not less than 20 years relevant service shall not exceed one half of his last annual salary.
- (4) The annual rate of the pension payable under this paragraph to a person retiring after less than 20 years relevant service shall not exceed—
- <sup>F86</sup>(a) if the period of relevant service amounts to less than 5 (but not less than 2) years, 6/80ths of his last annual salary,
  - (aa) if the period of relevant service amounts to less than 10 years (but not less than 5), 15/80ths of his last annual salary plus 1/80th for each completed year of relevant service exceeding 5,
  - (b) if the period of relevant service amounts to not less than 10 years (but less than 20 years) one quarter of that salary plus 2/80ths for each completed year of relevant service after the first 10 years.

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#### Textual Amendments

- F82** “15 years” substituted (E.W.) for “the prescribed number of years of” by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(1), [Sch. 5 para. 2\(b\)\(i\)](#)
- F83** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 83(1)(c)
- F84** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 118(4)(b)
- F85** [Sch. 1 para. 1\(2\)](#) repealed (E.W.) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(1), [Sch. 5 para. 2\(b\)\(ii\)](#), Sch. 7
- F86** [Sch. 1 para. 1\(4\)\(a\)](#) and “(aa)” substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 83(4)

#### *Retirement for ill-health*

- 5 An officer to whom this Schedule applies who retires on the ground of ill-health, and who is not eligible for a lump sum under Part II of this Act, may be granted a lump sum not exceeding—
- (a) if his relevant service is less than 2 years, 5/60ths of his last annual salary,
  - (b) if his relevant service is not less than 2 years, 7/60ths of his last annual salary for each completed year of relevant service.

#### *Retirement before qualifying for pension*

- 6 An officer to whom this Schedule applies who—
- (a) retires after not less than 2 years relevant service, otherwise than on the ground of ill-health, and
  - (b) has attained the age of 60, and
  - (c) is not eligible for a lump sum under Part II of this Act,
- may be granted a lump sum not exceeding 2/60ths of his last annual salary for each completed year of relevant service.

#### *Premature retirement on abolition of office*

- 7 An officer to whom this Schedule applies may on retirement in consequence of the abolition of his office, or of the reorganisation of his department, be granted a special allowance or allowances by way of compensation, not exceeding what might be granted if he retired on the ground of ill-health.

#### *Discharge for inefficiency*

- 8 (1) If an officer to whom this Schedule applies is removed from his office on the ground of his inability to discharge efficiently the duties of his office, and he is ineligible for a pension under paragraph 4 above, [<sup>F87</sup>the Treasury] may, if he thinks the special circumstances of the case justify it, grant him such a pension as [<sup>F87</sup>the Treasury] thinks just and proper, but not exceeding the amount for which the officer’s length of relevant service would qualify him under paragraph 4 above.
- (2) Before making any grant under this paragraph [<sup>F87</sup>the Treasury] shall consider any representations which the officer may have submitted [<sup>F88</sup>to it].

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- (3) The reasons for making any grant under this paragraph, and the amount of any such grant, shall be set out by [<sup>F87</sup>the Treasury] in a minute which shall be laid before Parliament within 14 days after being made.

#### Textual Amendments

- F87** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(b)  
**F88** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(7)(a)

#### *Re-employment after retirement*

- 9 (1) If a person to whom a pension has been granted under paragraph 4 or 7 above is appointed to an office in any public department the pension shall not be paid for any period after that appointment if his annual salary in that office (“the new salary”) is equal to his last annual salary in the office from which he retired when the pension was granted (“the salary before retirement”).
- (2) If the new salary is less than the salary before retirement the amount of the pension shall not exceed the difference.
- (3) In sub-paragraph (1) above the reference to an office in a public department includes a reference to employment in any body or institution listed in Schedule 1 to the <sup>M11</sup>Superannuation Act 1972, or to an office so listed.

#### Marginal Citations

- M11** 1972 c. 11.

#### *Allocation of benefit to spouse or dependant*

- 10 (1) In this paragraph and paragraphs 11 and 12 below—
- (a) “retiring officer” means an officer to whom this Schedule applies who is granted a pension under paragraph 4, 7 or 8 above otherwise than on the ground of ill-health,
  - (b) “the personal pension” means that pension,
  - (c) “the date of retirement” means the beginning of the period in respect of which the personal pension is paid,
  - (d) a “derivative pension” means a pension granted under sub-paragraph (2) below,
  - (e) “prescribed” means prescribed by rules under this paragraph.
- (2) [<sup>F89</sup>The Treasury] may make rules for securing that, in the prescribed circumstances, and subject to the prescribed conditions as to proof of good health and other prescribed matters, a retiring officer of a prescribed class shall be allowed to surrender, as from the date of retirement, the prescribed part, not exceeding one third, of the personal pension in return for the grant of a pension to the retiring officer’s spouse, or to a dependant of his.
- (3) The derivative pension shall be of such value as, according to tables prepared from time to time by the Government Actuary, is actuarially equivalent to the value of the part of the personal pension which is surrendered.



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- (4) Rules under this paragraph may prescribe classes of persons for the purposes of this paragraph by reference to the age which they have attained at a prescribed date.
- (5) Rules under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F89** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(b)

- 11 (1) A derivative pension for the benefit of the spouse of a retiring officer shall, according as the retiring officer may, in conformity with rules under paragraph 10 above, elect, be payable either—
  - (a) in respect of the period, if any, for which the spouse survives the retiring officer, or
  - (b) in respect both of the period of their joint lives (from the date of retirement) and of the period, if any, for which the spouse survives the retiring officer, and the rules may provide for the pension under paragraph (b) above to be at one rate during the joint lives, and at a higher rate thereafter.
- (2) A derivative pension for the benefit of a dependant (not being the spouse) of a retiring officer shall be payable for the period, if any, for which the dependant survives the retiring officer.
- 12 (1) Any suspension of a pension under paragraph 9 above shall be disregarded in determining the date of retirement as defined in paragraph 10(1)(c) above.
- (2) In applying paragraph 9 above to a pension part of which is surrendered under paragraph 10 above the salary before retirement, as defined in paragraph 9 (1) above, shall be treated as reduced by the annual amount so surrendered.
- 13 The fact that Part II of this Act applies to a person shall not affect any rights of his under paragraphs 10 to 12 above, and any calculation to be made under Part II of this Act shall be made as if any surrender under those paragraphs of a part of a pension had not been made.

#### *Allocation of benefit on marriage after retirement*

- 14 (1) This paragraph has effect as respects an officer to whom this Schedule applies—
  - (a) who is retired and has not attained the age of 70, and
  - (b) who has married since his retirement, and
  - (c) who has been, or is to be, granted a pension (“the personal pension”) under paragraph 4, 7 or 8 above otherwise than on the ground of ill-health.
- (2) [<sup>F90</sup>The Treasury] may make rules for securing that, in the prescribed circumstances, and subject to the prescribed conditions as to proof of good health and other prescribed matters, any such officer shall be allowed to surrender, as from the date of his marriage, the prescribed part of the personal pension in return for the grant of a pension (the “derivative pension”) to the officer’s spouse.
- (3) The part of the personal pension so surrendered, together with any part thereof surrendered under paragraph 10 above, shall not exceed one third of the personal pension.

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- (4) The derivative pension shall be of such value as, according to tables prepared from time to time by the Government Actuary, is actuarily equivalent, at the date of the marriage, to the value of that part of the personal pension which is surrendered.
- (5) The derivative pension shall, according as the officer may, in conformity with rules under this paragraph, elect be payable either—
  - (a) in respect of the period, if any, for which the spouse survives the officer, or
  - (b) in respect both of the period of their joint lives (from the date of the marriage) and of the period, if any, for which the spouse survives the officer,
 and the rules may provide for the pension under paragraph (b) above to be at one rate during the joint lives, and a higher rate thereafter.
- (6) In applying paragraph 9 above to a pension part of which is surrendered under this paragraph in respect of any period after the marriage the salary before retirement, as defined in paragraph 9(1) above, shall be treated as reduced by the annual amount so surrendered.
- (7) In this paragraph “prescribed” means prescribed by rules under this paragraph.
- (8) Rules under this paragraph shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

**F90** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(b)

### PART III

#### PERSONS INJURED, OR CONTRACTING DISEASE, IN DISCHARGE OF THEIR DUTIES

- 15 (1) This paragraph applies where an officer to whom this Schedule applies—
  - (a) is injured in the actual discharge of his duty by some injury specifically attributable to the nature of his duty which is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, or
  - (b) is injured while in an area outside the United Kingdom for the purposes of his employment, and the injury is directly attributable to the existence in or near that area of a state of war, revolution, or serious and widespread internal disturbance, or is the direct result of deliberate acts of the local population or of sporadic political disturbances, and is not wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct, or
  - (c) contracts a disease to which he is exposed by the nature of his duty, not being a disease wholly or mainly due to, or seriously aggravated by, his own serious and culpable negligence or misconduct.
- (2) [<sup>F91</sup>The Treasury] may grant to the officer, and, if he dies as a direct result of the injury or disease, to all or any of the following persons, that is to say—
  - (a) his widow [<sup>F92</sup>or, in the case of a female officer, her widower],

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- (b) his mother, or, where his mother is dead, his father, if his mother, or, as the case may be, his father, is wholly or mainly dependent on him at the time of his death.
- (c) his children, and
- (d) where he has no children who are, under the terms of the warrant hereinafter mentioned, eligible for the grant of a gratuity or allowance under this paragraph, any brother or sister of his who is wholly or mainly dependent on him at the time of his death,

such gratuity or annual allowance as [<sup>F91</sup>the Treasury] may consider reasonable, and as may be permitted by the terms of a warrant of [<sup>F91</sup>the Treasury] under this paragraph.

(3) <sup>F93</sup> .....

(4) Where an officer to whom this Schedule applies is employed outside the United Kingdom for the purposes of Her Majesty’s Government in the United Kingdom and suffers an aggravation of a disease from which he is already suffering, being an aggravation to which he is exposed by the nature of his duty outside the United Kingdom and which is not wholly or mainly due to his own serious and culpable negligence or misconduct, this paragraph shall apply in relation to him as if, when he sustained the aggravation, he had contracted such a disease as is mentioned in subparagraph (1)(c) above.

(5) A warrant under this paragraph may be revoked or varied by a subsequent warrant of [<sup>F91</sup>the Treasury] thereunder.

(6) In this paragraph, unless the context otherwise requires—  
“brother” includes, in relation to a person, every male child of his father or mother,  
“child”, in relation to a person, includes an illegitimate child, a stepchild and an adopted child,  
“father” includes, in relation to a person, his stepfather and a male person by whom he has been adopted,  
“mother” includes, in relation to a person, his stepmother and a female person by whom he has been adopted,  
“sister” includes, in relation to a person, every female child of his father or mother.

(7) [<sup>F91</sup>The Treasury] may treat a person for all or any of the purposes of this paragraph as wholly or mainly dependent on another person notwithstanding that for the time being he is not in fact so dependent on him, if [<sup>F94</sup>it is satisfied] that it is reasonable to expect that the first-mentioned person will again become dependent on the second-mentioned person and is further satisfied that the break in dependence ought in all the circumstances to be regarded as a temporary one.

**Textual Amendments**

- F91** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(b)
- F92** Words inserted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(3), Sch. 18 para. 33; S.I. 1991/2730, art. 2, Sch.
- F93** Sch. 1 para. 15(3) repealed (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(7), Sch. 20; S.I. 1991/2730, art. 2, Sch.

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**F94** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 118(7)(b)

- 16 (1) Any annual allowance granted under paragraph 15 above to the officer who is injured or contracts the disease shall not, together with—
- (a) any pension under paragraph 4 above, and
  - (b) the annuity value of any lump sum under section 17(1) of this Act, or Part II of this Schedule,
- for which he is otherwise eligible, exceed five-sixths of the annual salary of his office.
- (2) In this paragraph “annuity value”, in relation to any lump sum, means its value computed in accordance with the Tables for immediate life annuities framed under Part II of the <sup>M12</sup>Government Annuities Act 1929 which are in force when the officer retires.
- (3) Any reduction which, under section 23 or 24 of this Act, or paragraph 23 of Schedule 2 to this Act, is, or is to be, effected in any lump sum payable under section 17(1) of this Act shall be left out of account for the purposes of this paragraph, and accordingly the annuity value of that lump sum shall be determined as if no such reduction had been made.

#### Marginal Citations

**M12** 1929 c. 29.

- 17 (1) If a warrant under paragraph 15 above authorises [<sup>F95</sup>the Treasury] to take into account, as against any sums otherwise payable under the warrant, any damages which are recovered or recoverable by or on behalf of the recipient of the payments under that paragraph in respect of the injury, disease or death in consequence of which the payments are made, and [<sup>F95</sup>the Treasury] makes any payments without taking such damages into account, then if and when [<sup>F95</sup>the Treasury] is satisfied that there are any damages to be so taken into account [<sup>F96</sup>it shall] have the right to recover from the recipient—
- (a) where the amount of the payments made by [<sup>F95</sup>the Treasury] is less than the net amount of the damages, the amount of those payments,
  - (b) where the amount of those payments is not less than the net amount of the damages, such part of those payments as is equal to the net amount of the damages.
- (2) So far as any amount recoverable under this paragraph represents a payment made by [<sup>F95</sup>the Treasury] from which income tax has been deducted before payment, the proper allowance shall be made in respect of the amount so deducted, and in this paragraph “the net amount of the damages” means the amount of the damages after deducting any tax payable in the United Kingdom or elsewhere to which the damages are subject.
- (3) No proceeding shall be brought to recover any amount under this paragraph—
- (a) after the death of the recipient of the payments, or
  - (b) after the expiration of two years from the date on which the amount of the damages taken into account in arriving at the amount so recoverable is finally determined (whether in court proceedings or in arbitration proceedings or by agreement between the parties) or from the date on which the

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final determination of that amount first came to the knowledge of [<sup>F95</sup>the Treasury], whichever date is the later.

- (4) A certificate issued by [<sup>F95</sup>the Treasury] and stating the date on which the final determination of any amount of damages first came to the knowledge of [<sup>F95</sup>the Treasury] shall be admissible in any proceedings as sufficient evidence of that date.
- (5) The provisions of this paragraph are without prejudice to any right of [<sup>F95</sup>the Treasury] under any such warrant to take damages into account by withholding or reducing any further sums otherwise payable to the recipient of the payment.

#### Textual Amendments

- F95** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(b)  
**F96** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(7)(c)

## PART IV

### SUPPLEMENTAL

#### *Temporary abatement of salary to be disregarded*

- 18 Any reference in this Schedule to the salary of an office is, as regards any period in respect of which any temporary abatement of salary of that office has been made for the purpose of effecting economy in national expenditure, a reference to the salary which would have been payable to the holder of the office but for that abatement.

#### *Service in the armed forces*

- 19 An officer to whom this Schedule applies shall not be entitled to reckon the same period of time both for the purpose of a pension or lump sum under Part II of this Schedule, and for the purpose of naval, military or air force non-effective pay.

#### *Distribution of money without representation*

- 20 (1) Where on the death of an officer to whom this Schedule applies any sum not exceeding [<sup>F97</sup>£5000] is due from a government department in respect of any civil pay, superannuation, or other allowance, annuity or gratuity, then if the responsible authority so direct, but subject to regulations (if any) made by [<sup>F98</sup>the Treasury], proof of the title of the personal representatives of that person may be dispensed with, and the said sum may be paid or distributed to or among the persons appearing to the department to be beneficially entitled to the personal or moveable estate of that person, or to or among any one or more of those persons or, in the case of the illegitimacy of that person or his children, to or among such persons as the department think fit, and the department shall be discharged from all liability in respect of any such payment or distribution.
- (2) In this paragraph the “responsible authority” means the government department prescribed by order of [<sup>F98</sup>the Treasury] for the purpose of this paragraph.

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An order under this paragraph shall be contained in a statutory instrument which shall be subject to annulment in pursuance of a resolution of either House or Parliament.

- (3) In sub-paragraph (1) above references to a government department include references to any body or institution listed in Schedule 1 to the <sup>M13</sup>Superannuation Act 1972.
- (4) Sub-paragraph (1) above shall be included among the provisions with respect to which the Treasury may make an order under section 6(1) of the <sup>M14</sup>Administration of Estates (Small Payments) Act 1965 substituting for references to £500 such higher amount as may be specified in the order.

#### Textual Amendments

**F97** Figure substituted by [S.I. 1984/539, art. 3](#)

**F98** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\), s. 118\(4\)\(b\)](#)

#### Marginal Citations

**M13** 1972 c. 11.

**M14** 1965 c. 32.

#### *Delegation of Minister's power to grant pensions or other benefits*

- 21 The [<sup>F99</sup>Treasury] may, to such extent and subject to such conditions as [<sup>F99</sup>it thinks] fit, delegate to any Minister or officer of the Crown any power of granting a pension or other benefit under this Schedule.

#### Textual Amendments

**F99** Word(s) substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\), s. 118\(7\)\(d\)](#)

#### *Minister to determine certain questions*

- 22 The decision of [<sup>F100</sup>the Treasury] shall be final on any question which arises—
- (a) as to the claim of any person or class of persons under paragraph 4 or 6 above.
  - (b) as to the application of any provision in Part II or III, or this Part, of this Schedule to any person,
  - (c) as to the amount of any pension or lump sum under this Schedule,
  - (d) as to the reckoning of service for any pension or lump sum under this Schedule.

The reference in head (b) above to provisions of this Schedule does not include a reference to paragraph 9 or 23 of this Schedule.

#### Textual Amendments

**F100** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\), s. 118\(4\)\(b\)](#)

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### *President of the Transport Tribunal*

- 23 (1) Any pension benefit paid to or in respect of any person as having been president of the Transport Tribunal shall, subject to sub-paragraph (2) below, be defrayed as part of the expenses of that Tribunal.
- (2) Where the pension benefit mentioned in sub-paragraph (1) above is only partly in respect of service as a president of the Transport Tribunal, it shall be defrayed only as to a proportion as part of the expenses of the Tribunal, and that proportion shall be determined by [<sup>F101</sup>the Treasury], regard being had to the relevant length of service and rate of remuneration in the relevant offices.
- (3) In this paragraph “pension benefit” includes any superannuation or other retiring allowance or gratuity, and benefits payable to or in respect of the pensioner under Part II of this Act.

#### **Textual Amendments**

**F101** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 118(2)

PROSPECTIVE

## [<sup>F102</sup>SCHEDULE 1A

### TRANSFER OF ACCRUED BENEFITS

#### **Textual Amendments**

**F102** [Sch. 1A](#) inserted (*prosp.*) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 81, 124, [Sch. 13](#)

#### **PART I**

##### GENERAL

##### *Interpretation]*

- 1 In this Schedule—
- “authorised insurance company” means an insurance company authorised under section 3 or 4 of the Insurance Companies Act <sup>M15</sup>1982 (or any similar previous enactment) to carry on ordinary long-term insurance business;
- “disregarded service”, in relation to any member of a scheme, means any period of service in judicial office during which an election under section 14A(9) above is in force in respect of the qualifying member;

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“normal pension age” means the earliest age at which, if his service had continued until retirement at that age, a member of a scheme might have been entitled to receive a pension under the scheme;

“prescribed” means prescribed by regulations;

“protected rights” has the same meaning as in the [<sup>F103</sup>the Pension Schemes Act 1993] and, in relation to Northern Ireland, the [<sup>F104</sup>the Pension Schemes (Northern Ireland) Act 1993];

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

“qualifying service” means the service, or relevant 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 this Act or the Sheriffs’ Pensions (Scotland) Act <sup>M16</sup>1961.

#### Textual Amendments

**F103** Words in *Sch. 1A para. 1* substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 14(a)** (with s. 164); S.I. 1994/86, **art. 2**

**F104** Words in *Sch. 1A para. 1* substituted (N.I.) (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 18(a)**; S.R. 1994/17, **art. 2**

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

**C17** *Sch. 1A para. 1* amended (1.7.1994) by S.I. 1994/1696, reg. 68, **Sch. 8 Pt. I para. 7(2)**

#### Marginal Citations

**M15** 1982 c. 50 (67).

**M16** 1961 c. 42 (71:2).

### *Regulations*

- 2 Regulations for the purposes of this Schedule—
- (a) may be made, with the concurrence of the Treasury, by the Lord Chancellor or, in relation to Scotland, the Secretary of State;
  - (b) shall be made by statutory instrument;
  - (c) shall be subject to annulment in pursuance of a resolution of either House of Parliament;
  - (d) may make different provision for different cases; and
  - (e) may make provision for consequential, transitional and incidental matters.

### *Other provisions about transfer values*

- 3 [<sup>F105</sup>Chapter 1 of Part 4ZA of the Pension Schemes Act 1993] (transfer values) and [<sup>F106</sup>Chapter 1 of Part 4ZA 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.



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### Textual Amendments

**F105** Words in Sch. 1A para. 3 substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\), s. 89\(3\)\(b\)](#), [Sch. 4 para. 1](#) (with s. 87)

**F106** Words in Sch. 1A para. 3 substituted (6.4.2015) by [Pension Schemes Act 2015 \(c. 8\), s. 89\(3\)\(b\)](#), [Sch. 4 para. 47](#) (with s. 87)

## PART II

### TRANSFERS OUT

#### *Qualifying members*

- 4 (1) Where the conditions mentioned in sub-paragraph (2) 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 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 judicial office is disregarded service, which would have so accrued if his service in 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 and which has not been withdrawn,
- whichever is the later.

#### *Method of taking cash benefit*

- 6 (1) A qualifying member who acquires a right to a cash equivalent under paragraph 5 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—

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- (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>F107</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), such requirements may provide that pension arrangements or a scheme or annuity must satisfy such requirements of the 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) 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>F108</sup>section 7 of the Pension Schemes Act 1993], [<sup>F109</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 Occupational Pension Schemes (Transfer Values) Regulations <sup>M17</sup>1985, regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) <sup>M18</sup>1985, regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations <sup>M19</sup>1987, regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) <sup>M20</sup>1987 or any other prescribed provision,
 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),
- paragraph 5, this paragraph and paragraph 7 are to be read as conferring on the member an option only in respect of the reduced cash equivalent.

**Status:** Point in time view as at 22/08/1996. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Judicial Pensions Act 1981 is up to date with all changes known to be in force on or before 10 May 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)

- (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) 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

- F107** Words in Sch. 1A para. 6(2)(c) substituted (1.12.2001) by 1990 c. 41 (as amended (1.12.2001) by S.I. 2001/3649, art. 326(1)(5))
- F108** Words in Sch. 1A para. 6(6)(a)(ii) substituted (7.2.1994) by 1993 c. 48, s. 190, Sch. 8 para. 14(c) (with s. 164); S.I. 1994/86, art. 2
- F109** Words in Sch. 1A para. 6(6)(a)(ii) substituted (N.I.) (7.2.1994) by 1993 c. 49, s. 184, Sch. 7 para. 18(c); S.R. 1994/17, art. 17, art. 2

#### Marginal Citations

- M17** S.I. 1985/1931.
- M18** S.R. 1985 No. 358.
- M19** S.I. 1987/1112.
- M20** S.R. 1987 No. 290.

- 6 (1) A qualifying member who acquires a right to a cash equivalent under paragraph 5 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 insurance companies—
    - (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), such requirements may provide that pension arrangements or a scheme or annuity must satisfy such requirements of the 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.

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- (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) 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>F126</sup>section 7 of the Pension Schemes Act 1993], [<sup>F127</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 Occupational Pension Schemes (Transfer Values) Regulations <sup>M39</sup>1985, regulation 2D of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) <sup>M40</sup>1985, regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations <sup>M41</sup>1987, regulation 2A of the Personal Pension Schemes (Transfer Values) Regulations (Northern Ireland) <sup>M42</sup>1987 or any other prescribed provision,
 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),
- paragraph 5, this paragraph and paragraph 7 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) 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

**F126** Words in Sch. 1A para. 6(6)(a)(ii) substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 14(c)** (with s. 164); S.I. 1994/86, **art. 2**

**F127** Words in Sch. 1A para. 6(6)(a)(ii) substituted (N.I.) (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 18(c)**; S.R. 1994/17, **art. 17, art. 2**

#### Marginal Citations

**M39** S.I. 1985/1931.

**M40** S.R. 1985 No. 358.

**M41** S.I. 1987/1112.

**M42** S.R. 1987 No. 290.

**Status:** Point in time view as at 22/08/1996. This version of this Act contains provisions that are not valid for this point in time.

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### *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) 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) 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), 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.

### *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), 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—

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- (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).
- (3) A qualifying member who withdraws an application may make another.

### 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) 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);
  - “qualifying scheme” means—
- (a) an occupational pension scheme, a personal pension scheme, or an annuity purchased from an authorised insurance company, which satisfies prescribed requirements; or
  - (b) other prescribed pension arrangements; and
- “the appropriate Minister” means the Lord Chancellor, or, in relation to a member serving in an office existing only in Scotland, the Secretary of State.

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### *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, 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;
  - (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.

## SCHEDULE 2

Section 36.

### TRANSITORY PROVISIONS

#### PART I

##### *The Higher Judiciary*

- 1 (1) In the <sup>M21</sup>case of a person holding high judicial office on 17 December 1959 who did not elect that sections 1 and 2 of the Judicial Pensions Act 1959 should apply to him section 2 of this Act shall have effect as if the provisions about retirement on attaining the age of 70 were omitted.
- (2) The reference in section 3(1) of this Act to the judicial offices described in Part I of Schedule 1 to the <sup>M22</sup>House of Commons Disqualification Act 1975 shall include a reference to judge of a county court in England and Wales or any other office listed in paragraph 1(1) or (2) of Schedule 2 to the <sup>M23</sup>Courts Act 1971 (judicial offices abolished by that Act).
- (3) Nothing in Chapter I of Part I of this Act, or in the repeals made by this Act in the <sup>M24</sup>Judicial Pensions Act 1959, shall affect the rate or amount of any pension or benefit payable to or in respect of a person who retired or died before 17 December 1959.
- (4) Subject to sub-paragraph (3) above Chapter I of Part I of this Act shall apply in relation to persons who retired or died before the commencement of this Act.

#### **Marginal Citations**

**M21** 1959 (8 & 9 Eliz. 2) c. 9.

**Status:** Point in time view as at 22/08/1996. This version of this Act contains provisions that are not valid for this point in time.

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- M22** 1975 c. 24.  
**M23** 1971 c. 23.  
**M24** 1959 (8 & 9 Eliz. 2) c.9.

### *Circuit judges*

- 2 (1) Section 5 and the other provisions of this Act relating to Circuit judges have effect subject to Part II of Schedule 2 to the <sup>M25</sup>Courts Act 1971 (office-holders becoming Circuit judges).
- (2) The city council of Liverpool and the city council of Manchester shall be liable to pay to the Lord Chancellor under section 10(2) of the <sup>M26</sup>Criminal Justice Administration Act 1956, at such times as may be agreed between him and the council concerned, one-half or such other part as may with the concurrence of [<sup>F110</sup>the Treasury] be so agreed, of any sums payable under that Act on account of any pension or other benefit payable after 1st January 1972 in respect of any person's service as Recorder of Liverpool or Recorder of Manchester before that date.

#### **Textual Amendments**

**F110** Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 118(4)(c)

#### **Marginal Citations**

**M25** 1971 c. 23.  
**M26** 1956 c. 34.

### *Stipendiary magistrates in England and Wales*

- 3 In the case of a person who at a time immediately before 1st April 1974 held office as a stipendiary magistrate under section 29 of the Justices of the <sup>M27</sup>Peace Act 1949 contributions to his pension under section 7 of this Act, and to any derivative benefit, shall be paid and borne under the law in force at that time, and as if his service as a stipendiary magistrate after the beginning of April 1974 had been service as a metropolitan stipendiary magistrate.

#### **Marginal Citations**

**M27** 1949 c. 101.

- 4 This Act shall not apply to a pension or other benefit payable wholly in respect of service, as a stipendiary magistrate in England or Wales, ending before 1st April 1974, or affect the person by whom or manner in which any such benefits are to be paid or borne.
- 5 In relation to persons who did not serve as stipendiary magistrates in England and Wales after the beginning of April 1974, in the Table in section 16 of this Act for the entry relating to such magistrates substitute—

“Metropolitan police magistrate

Service as a metropolitan police magistrate or as a stipendiary magistrate.



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Stipendiary magistrate pensionable under section 33 of the Justices of the Peace Act 1949	Service as a stipendiary magistrate or as a metropolitan police magistrate.”
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*Application of Part II to certain abolished offices*

6 (1) Section 16 of this Act shall have effect as if the Table included the following entries.

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Judge appointed for a district under the <sup>M28</sup> County Courts Act 1934.	Service as a judge appointed for a district under the County Courts Act 1934.
Industrial Injuries Commissioner.	Salaried service as an Industrial Injuries Commissioner, or in any other capacity if service in that other capacity counts for pension as an Industrial Injuries Commissioner.
President of Industrial Court.	Service as president of the Industrial Court, or in any other capacity counting for pension under the Superannuation (President of the <sup>M29</sup> Industrial Court) Act 1954.
Recorder of Liverpool or Manchester.	Service as judge of the Crown Courts at Liverpool and Manchester.

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(2) The entry at the end of the Table in section 16 of this Act (certain Supreme Court officers) shall have effect as if paragraph 1 of Schedule 1 to this Act included the offices of Official Referee and Clerk of Assize.

**Marginal Citations**

**M28** 1934 c. 53.

**M29** 1954 c. 37.

*Officers within Schedule 1 to this Act*

7 (1) This paragraph has effect as respects an officer of the Supreme Court within paragraph 1 of Schedule 1 to this Act, or a president of the Transport Tribunal, who retired or died before 20 December 1960, after not less than 5 years relevant service.

(2) The annual rate of the pension which is or would be payable to him under paragraph 4 of Schedule 1 to this Act shall not exceed 10/80ths of his last annual salary plus 3/160ths for each completed year of relevant service exceeding 5, but the maximum shall be one half of his last annual salary.

(3) This paragraph applies instead of paragraph 4(3) and (4) of Schedule 1 to this Act, and has effect subject to paragraph 12(3) below.

8 (1) This paragraph has effect as respects a county court registrar or assistant registrar who retired or died before 1st December 1969 after not less than 5 years relevant service.

**Status:** Point in time view as at 22/08/1996. This version of this Act contains provisions that are not valid for this point in time.

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- (2) The annual rate of the pension which is or would be payable to him under paragraph 4 of Schedule 1 to this Act shall not exceed 1/12th of his last annual salary plus 1/48th for each completed year of relevant service exceeding 5, but the maximum shall be one half of his last annual salary.
- (3) This paragraph applies instead of paragraph 4(3) and (4) of Schedule 1 to this Act, and has effect subject to paragraph 12(3) below.
- 9 (1) Schedule 1 to this Act shall not apply to a county court registrar appointed before 16th July 1956 who gave notice under proviso (a) of section 21(1) of the <sup>M30</sup>County Courts Act 1934 (election for pension provisions for persons in court service).
- (2) In determining the relevant service of a county court registrar or assistant registrar for the purpose of section 16 of, and Schedule 1 to, this Act no account shall be taken of service as an assistant registrar before 16th July 1956.

**Marginal Citations**

**M30** 1934 c. 53.

*High Court registry at Liverpool or Manchester*

- 10 (1) The repeals made by this Act in the County Courts Act 1924 shall not affect any pension payable under that Act to a person who retired before the commencement of this Act, and any such pension shall continue to be payable accordingly.
- (2) Section 16 of this Act shall have effect as if the Table included the following entry—

Registrar of the district registry of the High Court at Liverpool or Manchester	Service as a registrar of the district registry of the High Court at Liverpool or Manchester.
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*Judicial offices within Chapter II of Part I*

- 11 Subject to the preceding provisions of this Schedule, Chapter II of Part I of this Act and Schedule 1 to this Act shall apply to persons who retired or died before the commencement of this Act.

**PART II**

DERIVATIVE BENEFITS

*Person serving on 15 December 1950: election against all derivative benefits*

- 12 (1) This paragraph applies to a person in whose case an election is in force under section 11(1) of the <sup>M31</sup>Administration of Justice (Pensions) Act 1950 (election by person serving in a judicial office on 15 December 1950).
- (2) Eligibility for a pension in relation to which that service was relevant service shall not satisfy the conditions under which a lump sum or widow's or children's pension may be granted under Part II of this Act.

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- (3) Part I of this Act, paragraph 4 of Schedule 1 to this Act and paragraphs 7 and 8 above shall have effect in relation to a person to whom this paragraph applies as if for any reference to his last annual salary there were substituted a reference to the amount of that salary increased by one-third, and a corresponding adjustment shall be made in determining the amount of a pension under section 10 of this Act.
- (4) In applying this paragraph and paragraph 13 below account shall be taken of any revocation of the election in question under section 10(4)(c) of the <sup>M32</sup>Administration of Justice Act 1973, or under any provision of the <sup>M33</sup>Administration of Justice (Pensions) Act 1950.

#### Marginal Citations

- M31** 1950 (14 & 15 Geo. 6) c. 11.  
**M32** 1973 c. 15.  
**M33** 1950 (14 & 15 Geo. 6) c. 11.

#### *Persons serving on 15 December 1950: election against benefits for widow and children*

- 13 (1) This paragraph applies to a person in whose case an election is in force under subsection (2) of the said section 11 (alternative election by person serving in a judicial office on 15 December 1950).
- (2) Eligibility for a pension in relation to which that service was relevant service shall not satisfy the conditions under which a widow's or children's pension may be granted under Part II of this Act.
- (3) Any lump sum payable in respect of that service shall not be reduced under paragraph 23 below, or under section 23 or 24 of this Act.

#### *Relevant service wholly before 18 April 1973*

- 14 (1) Where the relevant service was wholly before 18 April 1973 Part II of this Act shall have effect subject to Part III of this Schedule.
- (2) This paragraph and the said Part III have effect subject to paragraphs 12 and 13 above.

#### *Persons serving on 18 April 1973: election for application of paragraph 14 above*

- 15 (1) [<sup>F111</sup>Subject to paragraph 28 below,] this paragraph applies in relation to a person in whose case an election is in force under section 10(4)(b) of the <sup>M34</sup>Administration of Justice Act 1973 (election by person serving on 18 April 1973 not to accept the provisions of that section).
- (2) For the purposes of this Part of this Schedule that person shall be treated as if his relevant service was wholly before 18 April 1973.
- [<sup>F112</sup>(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.]

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#### Textual Amendments

- F111** Words inserted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(3), **Sch. 18 para. 34**; S.I. 1991/2730, art. 2, **Sch.**  
**F112** Sch. 2 para. 15(3) inserted by S.I. 1988/1417, reg. 3, **Sch. para. 3(a)**

#### Marginal Citations

- M34** 1973 c. 15.

#### *Pension not wholly attributable to service after 17 April 1973*

- 16 (1) [<sup>F113</sup>Subject to paragraph 28 below,] this paragraph applies in determining the amount of a pension under section 19 or 22 of this Act which is payable partly in respect of relevant service after 17 April 1973 but is not attributable wholly to that service.
- (2) The annual value of the widow's pension or children's pension that may be granted shall be determined in accordance with the following formula.

$$\frac{P1 \times RS1}{RS1 + RS2} + \frac{P2 \times RS2}{RS1 + RS2}$$

where—

- P1 is the annual amount of the pension that might be granted under Part II of this Act with the modifications in Part III of this Schedule,  
 P2 is the annual amount of the pension that might be granted under Part II of this Act without those modifications,  
 RS1 is the length of relevant service before 18 April 1973,  
 RS2 is the remainder of the relevant service.

[<sup>F114</sup>(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.]

- (3) For the purposes of this paragraph there shall be left out of account so much (if any) of the relevant service before 18 April 1973 as does not add to the amount of the personal pension, and accordingly this paragraph shall not apply if none of the relevant service before that date adds to the amount of the personal pension.

#### Textual Amendments

- F113** Words inserted (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 125(3), **Sch. 18 para. 34**; S.I. 1991/2730, art. 2, **Sch.**  
**F114** Sch. 2 para. 16(2A) inserted by S.I. 1988/1417, reg. 3, **Sch. para. 3(b)**

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*Persons serving on 18 April 1973: election for pensions  
wholly attributable to service on or after that date*

- 17 (1) This paragraph applies in relation to a person in whose case an election is in force under section 10(4)(a) of the <sup>M35</sup>Administration of Justice Act 1973 (election by person serving on 18 April 1973).
- (2) For the purposes of this Part of this Schedule that person shall be treated as if his relevant service was wholly after 17 April 1973.

**Marginal Citations**

**M35** 1973 c. 15.

*Saving for provisions about elections*

- 18 The repeals made by this Act shall not affect any election, or revocation of an election, mentioned in this Part of this Schedule, or the power of making regulations as respects those elections which is conferred by section 10(4) of the Administration of Justice Act 1973.

**PART III**

MODIFICATION OF PART II IN RELATION TO SERVICE BEFORE APRIL 1973

- 19 In the cases specified in paragraphs 14 and 15 above Part II of this Act shall have effect subject to the modifications in this Part of this Schedule.

*Widow's pension*

- 20 In section 19(3) for “one half” substitute “ one third ”.

*Children's pension*

- 21 In section 22 for subsections (2) and (3) substitute—
- “(2) Where the deceased leaves no widow and, if he leaves a widow, after her death, the annual amount of a children's pension—
- (a) while the persons for whose benefit it can enure are three or more in number, may amount to one-third of the annual amount of the personal pension;
  - (b) while the said persons are two in number, may amount to one-quarter of the annual amount of the personal pension;
  - (c) while there is only one such person, may amount to one-sixth of the annual amount of the personal pension.
- (3) Subject to the provisions of the next succeeding subsection where the deceased leaves a widow, the annual amount of a children's pension during her life—

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- (a) while the persons for whose benefit it can enure are four or more in number, may amount to one-third of the annual amount of the personal pension;
- (b) while the said persons are three in number, may amount to one-quarter of the annual amount of the personal pension;
- (c) while the said persons are two in number, may amount to one-sixth of the annual amount of the personal pension;
- (d) while there is only one such pension, may amount to one-twelfth of the annual amount of the personal pension.”

#### *Contributions*

22 Neither section 23, nor any regulations under that section, shall apply, and except where section 24 applies (judicial office held by a woman) contributions towards the cost of any pension or pensions under section 19 or 22 of this Act shall be made in accordance with paragraph 23 below.

- 23 (1) The contribution shall take the form of a reduction in the lump sum which may be granted under section 17 of this Act in respect of the man’s service.
- (2) The amount of the contribution shall be equal to the annual amount of the personal pension:

Provided that where the man last had a wife at a time before the end of his relevant service (leaving out of account any marriage after the end of that service) the amount of that contribution shall be the annual amount of the personal pension—

- (a) multiplied by the number of years of his relevant service completed before that time, and
  - (b) divided by the number of his years of relevant service completed in all.
- (3) No contribution shall be made in the case of a man who at no time during his relevant service had a wife.

### [<sup>F115</sup> PART IV

#### WIDOWER’S PENSIONS

##### **Textual Amendments**

**F115** Sch. 2 Pt. IV (paras. 24–28) inserted (E.W.S.) (1.1.1992) by [Courts and Legal Services Act 1990 \(c. 41, SIF 67:1\)](#), s. 79(2), [Sch. 12](#); S.I. 1991/2730, art. 2, [Sch.](#)

#### *General*

- <sup>F116</sup>24 In this Part of this Schedule—
- “the commencement date” means the date on which Schedule 12 to the Courts and Legal Services Act 1990 came into force;
- “the publication date” means the date of publication, by order of the House of Lords, of the Bill for the Courts and Legal Services Act 1990, that is to say 7th December 1989; and

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“member” means a female person who holds judicial office and to or in respect of whom benefits are payable under this Act, or the <sup>M36</sup>Sheriffs’ Pensions (Scotland) Act 1961, on her retirement.

#### Textual Amendments

**F116** Sch. 2 Pt. IV (paras. 24-28) inserted (E.W.S.) (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 67:1), s. 79(2), Sch. 12; S.I. 1991/2730, art. 2, Sch

#### Marginal Citations

**M36** 1961 c. 42

#### *Service wholly before the commencement date*

**F117**<sup>25</sup> Subject to paragraph 26, no widower’s pension shall be payable in respect of a member who retires on or before the commencement date.

#### Textual Amendments

**F117** Sch. 2 Pt. IV (paras. 24-28) inserted (E.W.S.) (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 67:1), s. 79(2), Sch. 12; S.I. 1991/2730, art. 2, Sch.

#### *Members retiring between publication and commencement date*

**F118**<sup>26</sup> (1) A member who retires—

- (a) on or after the publication date; but
- (b) before the commencement date,

may, before the end of the period of six months beginning with the commencement date, opt for her husband to be entitled to a widower’s pension on her death.

(2) Regulations may make provision as to—

- (a) the manner and form in which an option under this paragraph is to be exercised;
- (b) the payment, by any member exercising such an option, of a contribution towards the cost of liability for the widower’s pension; and
- (c) the annual value of a widower’s pension granted as a result of the exercise of the option given by this paragraph.

#### Textual Amendments

**F118** Sch. 2 Pt. IV (paras. 24-28) inserted (E.W.S.) (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 67:1), s. 79(2), Sch. 12; S.I. 1991/2730, art. 2

#### *Service partly before and partly after the commencement date*

**F119**<sup>27</sup> (1) No widower’s pension shall be payable in respect of a member who—

- (a) holds judicial office on or before the commencement date; and
- (b) continues to do so after that date,

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unless, before the end of the period of six months beginning with that date, she opts for her husband to be entitled to a widower's pension on her death.

- (2) A member exercising such an option shall specify whether the annual value of the widower's pension is to be calculated—
- (a) under sub-paragraph (3); or
  - (b) on the assumption that all her relevant service fell after the commencement date.
- (3) Where the annual value of a widower's pension falls to be calculated under this sub-paragraph its value shall be determined by applying the formula—

$$WP1 \times \frac{WP2 \times RS1}{RS2}$$

where—

WP1 is the annual value of the widower's pension,

WP2 is the annual value of the widower's pension that would be payable on the assumption mentioned in sub-paragraph (2)(b),

RS1 is the length of the member's relevant service after the commencement date, and

RS2 is the whole of her relevant service.

- (4) No period of service during which an election under section 14A is in force in respect of the member concerned shall be taken into account for the purposes of any calculation under sub-paragraph (3).
- (5) For the purposes of this paragraph there shall be left out of account so much (if any) of the relevant service before the commencement date as does not add to the amount of the personal pension and accordingly this paragraph shall not apply if none of the relevant service before that date adds to the amount of the personal pension.

#### Textual Amendments

**F119** Sch. 2 Pt. IV (paras. 24-28) inserted (E.W.S.) (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 67: 1), s. 79(2), Sch. 12; S.I. 1991/2730, art. 2, Sch.

#### *Pension not wholly attributable to service after 17 April 1973*

- <sup>F120</sup>28 (1) This paragraph applies to a member who, apart from this paragraph, would be a person to whom paragraph 15 or 16 of Part II of this Schedule applies.
- (2) Where such a member has exercised an option under paragraph 26 or 27, this paragraph shall apply in respect of her, and paragraph 15 or, as the case may be, paragraph 16 shall cease to apply.
- (3) For the purposes of calculating the annual value of—
- (a) the widower's pension payable in respect of such a member; and
  - (b) any children's pension so payable,
- the member shall be treated as if none of her relevant service fell before 18 April 1973.]



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### Textual Amendments

**F120** Sch. 2 Pt. IV (paras. 24-28) inserted (E.W.S.) (1.1.1992) by Courts and Legal Services Act 1990 (c. 41, SIF 67:1), s. 79(2), **Sch. 12**; S.I. 1991/2730, art. 2, **Sch.**

VALID FROM 05/12/2005

## <sup>F121</sup>PART 5

### SURVIVING CIVIL PARTNERS' PENSIONS

#### Textual Amendments

**F121** Sch. 2 Pt. 5 inserted (5.12.2005) by The Civil Partnership (Judicial Pensions and Church Pensions, etc.) Order 2005 (S.I. 2005/3325), art. 67

#### *General*

- 29 In this Part of this Schedule—
- “the relevant date” means 4th December 2005; and
  - “member” means a person who holds judicial office and to or in respect of whom benefits are payable under this Act, or the Sheriffs' Pensions (Scotland) Act 1961 <sup>F122</sup>, on his or her retirement.

#### Textual Amendments

**F122** 1961 c. 42.

#### *Service wholly on or before the relevant date*

- 30 No surviving civil partner's pension shall be payable in respect of a member who retires on or before the relevant date.

#### *Service on and after the relevant date*

- 31 (1) A member who—
- (a) holds judicial office on the relevant date; and
  - (b) continues to do so after that date,
- shall have the annual value of a surviving civil partner's pension in respect of the member calculated on the assumption that all of the member's relevant service fell after the relevant date.
- (2) Sub-paragraph (1) does not apply if, within six months of the date of the member's formation of a civil partnership, the member opts for the annual value of the surviving civil partner's pension to be calculated under sub-paragraph (3).

**Status:** Point in time view as at 22/08/1996. This version of this Act contains provisions that are not valid for this point in time.

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- (3) Where the annual value of a surviving civil partner's pension falls to be calculated under this sub-paragraph, its value shall be determined by applying the formula—

$$\text{CPP1} = (\text{CPP2} \times \text{RS1}) \text{divided by RS2}$$

where—

CPP1 is the annual value of the surviving civil partner's pension,

CPP2 is the annual value of the surviving civil partner's pension that would be payable on the assumption mentioned in sub-paragraph (1),

RS1 is the length of the member's relevant service after the relevant date, and

RS2 is the whole of the member's relevant service.

- (4) For the purposes of this paragraph there shall be left out of account so much (if any) of the relevant service on or before the relevant date as does not add to the amount of the personal pension and accordingly this paragraph shall not apply if none of the relevant service on or before that date adds to the amount of the personal pension.
- (5) An election under sub-paragraph (2) must be made in writing to the administrators.
- (6) An election under sub-paragraph (2) is irrevocable.]

### SCHEDULE 3

Section 36.

#### CONSEQUENTIAL AMENDMENTS

##### *Supreme Court of Judicature (Consolidation) Act 1925 (c. 49)*

- [<sup>F123</sup>1 Section 118 of the Supreme Court of Judicature (Consolidation) Act 1925 (which treats certain officers of the Supreme Court as employed in the civil service for the purposes of salary and pension) so far as it relates to pension shall not apply to any officer of the Supreme Court within paragraph 1 of Schedule 1 to this Act.]

#### **Textual Amendments**

**F123** Sch. 3 para. 1 repealed (E.W.) by [Supreme Court Act 1981 \(c. 54, SIF 37\)](#), s. 152(4), [Sch. 7](#)

##### *Superannuation Act 1965 (c. 74)*

- 2 In section 39A of the Superannuation Act 1965 (inserted by section 30 of the Administration of Justice Act 1969) for subsection (6) substitute—

“(6) In this section—

“judicial office” means any judicial office as defined in section 16 of the Judicial Pensions Act 1981, with paragraphs 5, 6 and 10 of Schedule 2 to that Act and any office to which Part II of that Act applies as it applies to a judicial office so defined,

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“judicial office remunerated out of central funds” means any judicial office with the exception of stipendiary magistrate pensionable under section 33 of the Justices of the Peace Act 1949, or recorder of Liverpool or Manchester,

“pension” has the meaning assigned to it by section 38(6) of this Act.”

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

**C18** The text of Sch. 3 paras. 2–5, 6(3)(4), 8, 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Parliamentary Commissioner Act 1967 (c. 13)*

- 3 (1) Schedule 1 to the Parliamentary Commissioner Act 1967 shall be amended as follows.
- (2) In paragraph 1 as amended by paragraph 63 of Schedule 6 to the Superannuation Act 1972 for “Schedule 1 to the Judicial Pensions Act 1959” substitute “ section 1 of the Judicial Pensions Act 1981 ”.
- (3) In paragraph 2 for the words from “Judicial Pensions Act 1959” to “dependants pensions)” substitute “ sections 2 to 4 and 17 to 24 of the Judicial Pensions Act 1981, ”, and for the words from “Schedule 1 to the said Act of 1959” to the end of the paragraph substitute “ section 1 of the Judicial Pensions Act 1981 and service in any such office ”.

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

**C19** The text of Sch. 3 paras. 2–5, 6(3)(4), 8, 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Superannuation (Miscellaneous Provisions) Act 1967 (c. 28)*

- 4 (1) The Superannuation (Miscellaneous Provisions) Act 1967 shall be amended as follows.
- (2) In section 3(3) for “the Administration of Justice (Pensions) Act 1950” substitute “section 6 of the Judicial Pensions Act 1981”.
- (3) For section 3(4) substitute—
- “(4) This section applies to the following offices—  
Sheriff principal or salaried sheriff in Scotland.  
Judge Advocate General.  
Member of Lands Tribunal, or Lands Tribunal for Scotland.  
Chairman of the Scottish Land Court.  
President of Industrial Tribunals, or other office pensionable under section 12 of the Judicial Pensions Act 1981.

**Status:** Point in time view as at 22/08/1996. This version of this Act contains provisions that are not valid for this point in time.

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Social Security Commissioner.

Any office within paragraph 1 of Schedule 1 to the Judicial Pensions Act 1981 (certain officers of Supreme Court in England and Wales, county court registrars and president of the Transport Tribunal).

Permanent Secretary to the Lord Chancellor.

Official Solicitor to the Supreme Court.

Registrar, Chancery Division of the Supreme Court.

Lord Chancellor’s Medical Visitor.

Member of the Restrictive Practices Court appointed under section 3(1) of the Restrictive Practices Act 1976.”

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

**C20** The text of Sch. 3 paras. 2–5, 6(3)(4), 8, 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Courts Act 1971 (c. 23)*

- 5 In section 19(5) of the Courts Act 1971 for “the Administration of Justice (Pensions) Act 1950” substitute “ section 16 of the Judicial Pensions Act 1981 ”.

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

**C21** The text of Sch. 3 paras. 2–5, 6(3)(4), 8, 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

- 6 (1) Schedule 2 to the <sup>M37</sup>Courts Act 1971 shall be amended as follows.
- (2) In paragraphs 5, 6, 7 and 8 references to section 19 of that Act shall include references to section 5 and Part II of this Act.
- (3) In paragraph 9(1)(a) for “19 of this Act” substitute “ 5 of the Judicial Pensions Act 1981 ”.
- (4) In paragraph 9(1)(b) for “subsection (5) of that section” substitute “ section 19(5) of this Act ”.

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

**C22** The text of Sch. 3 paras. 2–5, 6(3)(4), 8, 9 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M37** 1971 c. 23.

**Status:** Point in time view as at 22/08/1996. This version of this Act contains provisions that are not valid for this point in time.

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### *Pensions (Increase) Act 1971 (c. 56)*

- 7 (1) The Pensions (Increase) Act 1971 shall have effect in relation to the pensions specified in sub-paragraph (2) below as if they were included in Part I of Schedule 2 to that Act.
- (2) (a) pension payable under Part I of, or Schedule 1 to, this Act, other than a pension payable under section 11 of this Act.
- (b) A pension payable out of the Consolidated Fund, or out of money provided by Parliament, under Part II of this Act.
- (3) Sub-paragraph (2)(b) above includes a widow's [<sup>F124</sup>widower's] or children's pension in respect of service as chairman or deputy chairman of the Monopolies and Mergers Commission, or a pension payable out of money provided by Parliament in accordance with any recommendation under paragraph 5 of Schedule 1 to the Monopolies and Mergers Act 1965.
- (4) In the case of a pension under section 13 of this Act it shall be the duty of the Secretary of State to increase the pension in accordance with the <sup>M38</sup>Pensions (Increase) Act 1971.

#### **Textual Amendments**

**F124** Word in [Sch. 3 para. 7\(3\)](#) inserted (1.1.1992) by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), ss. 124, 125(3), [Sch. 18 para. 35](#); S.I. 1991/2730, art. 2, [Sch.](#)

#### **Marginal Citations**

**M38** [1965 c. 50](#).

### *Superannuation Act 1972 (c. 11)*

- 8 (1) In section 13(1) of the Superannuation Act 1972 for “Schedule 1 to the Judicial Pensions Act 1959” substitute “ section 1 of the Judicial Pensions Act 1981 ”.
- (2) In subsection (2) of the said section 13 for the words from “the Judicial Pensions Act 1959” to “dependants’ pensions” substitute “ Chapter I of Part I and sections 17 to 24 of the Judicial Pensions Act 1981 ”, and for the words from “Schedule 1 to the said Act of 1959” to the end of the subsection substitute “ section 1 of that Act and service in any such office ”.

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

**C23** The text of [Sch. 3 paras. 2–5, 6\(3\)\(4\), 8, 9](#) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

### *Administration of Justice Act 1973 (c. 15)*

- 9 In section 9(4) of the Administration of Justice Act 1973 for “the Administration of Justice (Pensions) Act 1950” substitute “ section 16 of the Judicial Pensions Act 1981 ”.

**Status:** Point in time view as at 22/08/1996. This version of this Act contains provisions that are not valid for this point in time.  
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**Modifications etc. (not altering text)**  
**C24** The text of Sch. 3 paras. 2–5, 6(3)(4), 8, 10 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Social Security Act 1980 (c.30)*

F125 10 .....

**Textual Amendments**  
**F125** Sch. 3 para. 10 repealed (1.7.1992) by Social Security (Consequential Provisions) Act 1992 (c. 6), ss. 3, 7(2), Sch. 1 (subject as mentioned (6.3.1992) in Local Government Finance Act 1992 (c. 14), s. 118(5) (7) (with s. 118(1)(2)(4))).

SCHEDULE 4

Section 36.

REPEALS

**Modifications etc. (not altering text)**  
**C25** The text of Sch. 4 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

Chapter	Short Title	Extent of repeal
48 Geo. 3 c. 145.	Judges’ Pensions (Scotland) Act 1808.	The whole Act.
17 & 18 Vict. c. 94.	Public Revenue and Consolidated Fund Charges Act 1854.	In Schedule A the entry beginning “Pensions of the Judges in Scotland” and ending “cap. 145”.
14 & 15 Geo. 5. c. 17.	County Courts Act 1924.	Sections 4(2) and 10 and Schedule 1.
15 & 16 Geo. 5 c. 49.	Supreme Court of Judicature (Consolidation) Act 1925.	Section 128.  In Schedule 3 Part III.
24 & 25 Geo. 5 c. 53.	County Courts Act 1934.	The whole Act.
25 & 26 Geo. 5 c. 23.	Superannuation Act 1935.	In section 14(1) the proviso, and section 14(2).
12, 13 & 14 Geo. 6 c. 42.	Lands Tribunal Act 1949.	In section 2(6) the words “and to persons who have

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		been members thereof, such superannuation allowances”.
		In section 2(8) the words “and superannuation allowances of past members”.
14 & 15 Geo. 6. c. 2.	Superannuation Act 1950.	The whole Act.
14 & 15 Geo. 6 c. 11.	Administration of Justice (Pensions) Act 1950.	The whole Act.
14 & 15 Geo. 6 c. 46.	Courts-Martial (Appeals) Act 1951.	Section 34.
15 & 16 Geo. 6 & 1 Eliz. 2 c. 12.	Judicial Offices (Salaries,&c) Act 1952.	Section 5.
4 & 5 Eliz. 2 c. 46.	Administration of Justice Act 1956.	Section 12(7).
		Section 25.
7 & 8 Eliz. 2c. 22.	County Courts Act 1959.	In Schedule 2 paragraphs 2 and 4.
7 & 8 Eliz. 2 c. 72.	Mental Health Act 1959.	In Schedule 7, in Part II, the amendment of Schedule 1 to the Administration of Justice (Pensions) Act 1950.
8 & 9 Eliz. 2 c. 9.	Judicial Pensions Act 1959.	Section 1. Section 2(2). In section 3(1) the words from “and in default” to the end of the subsection. Section 4. Section 6. Sections 8 to 11. In Schedule I all the entries in column 2. Schedule 2.
9 & 10 Eliz. 2 c. 3.	Administration of Justice (Judges and Pensions) Act 1960.	Sections 3 and 4.
		Schedule 1.
10 & 11 Geo. 6. c. 46.	Transport Act 1962.	In Schedule 10 subparagraphs (2) to (5) of paragraph 8.
1965 c. 2.	Administration of Justice Act 1965.	Section 25.

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1965 c. 10.	Superannuation (Amendment) Act 1965.	Section 5.  Schedule 2.
1965 c. 32.	Administration of Estates (Small Payments) Act 1965.	In section 6(1)(b) the words “section 8 of the Superannuation Act 1887”.
1967 c. 28.	Superannuation (Miscellaneous Provisions) Act 1967.	Section 2(1).
1969 c. 58.	Administration of Justice Act 1969.	Section 31.  In section 36(2) and (3) the figure “31”.
1970 c. 31.	Administration of Justice Act 1970.	In Schedule 2 paragraph 17.
1971 c. 23.	Courts Act 1971.	In section 19 subsections (1) to (4) and (6) and in subsection (7) paragraphs (b) and (c).  In Schedule 8 paragraph 32.  In Schedule 10 paragraphs 11 and 12.
1971 c. 56.	Pensions (Increase) Act 1971.	In Schedule 2 paragraphs 5, 6, 9, 12 and 26.
1972 c. 11.	Superannuation Act 1972.	Section 23(1).  Schedule 5 except as applied by paragraph 1(2)(a) of Schedule 7.  In Schedule 6 paragraphs 7, 15 and 28.
1973 c. 15.	Administration of Justice Act 1973.	Section 2(4).  In section 10 subsections (1) to (7) except as applied by subsection (8), and subsection (9).  Section 11.  Section 13.  In section 20 subsection (1) (c), proviso (b) to subsection (5) and subsection (6)(a).



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		In Schedule 1 paragraphs 2 and 11. Schedule 4.
1973 c. 41.	Fair Trading Act 1973.	In Schedule 12 the amendment of the Pensions (Increase) Act 1971.
1975 c. 14.	Social Security Act 1975.	In Schedule 10 paragraphs 5 and 6.
1975 c. 18.	Social Security (Consequential Provisions) Act 1975.	In Schedule 2 paragraph 45.
1976 c. 33.	Restrictive Practices Court Act 1976.	Section 11(1).
1978 c. 44.	Employment Protection (Consolidation) Act 1978.	In Schedule 9 paragraph 11.

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#### STATUTORY INSTRUMENTS

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<b>Serial No.</b>	<b>Title</b>	<b>Extent of repeal</b>
S.I. 1965/1026.	Superannuation (Children's Pensions) (Earnings Limit) Order 1965.	The whole order.
S.I. 1974/983.	Pensions Increase (President and Chairmen of Industrial Tribunals) Regulations 1974.	The whole instrument.
S.I. 1974/984.	Pensions Increase (Judicial Pensions) (Amendment) Regulations 1974.	Regulation 3.
S.I. 1979/680.	Superannuation (Children's Pensions) (Earnings Limit) Order 1979.	The whole instrument.
S.I. 1979/1275.	Superannuation (Children's Pensions) (Earnings Limit) (No. 2) Order 1979.	The whole instrument.
S.I. 1980/1610.	Superannuation (Children's Pensions) (Earnings Limit) Order 1980.	The whole instrument.

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**Changes to legislation:**

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