



Judicial Pensions Act 1981

1981 CHAPTER 20

PART II

LUMP SUMS AND WIDOWS' AND CHILDREN'S PENSIONS

Modifications etc. (not altering text)

- C1** 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—

“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 [^{F1}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.

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Judicial Pensions Act 1981, Part II. (See end of Document for details)

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.
[^{F2} Any office pensionable under section 12 of this Act].	Relevant service as defined by section 12(5) of this Act.
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.

Textual Amendments

- F1** 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.](#)
- F2** S. 16: words in table entry substituted (1.8.1998) by [1998 c. 8](#), ss. 1(2), 15, 16(3)(b), [Sch. 1 para. 4](#); [S.I. 1998/1658](#), art. 2(1), [Sch. 1](#)

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[^{F3}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.]

Textual Amendments

F3 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 [^{F4}any] 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.

Textual Amendments

F4 Word in s. 17(4) substituted (1.8.1998) by 1998 c. 8, ss. 1(2), 15, 16(3)(b), Sch. 1 para. 5; S.I. 1998/1658, art. 2(1), Sch. 1

Modifications etc. (not altering text)

C2 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

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(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 [^{F5}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 [^{F6}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, [^{F6}the Treasury] may direct that the said exclusion in subsection (1)(ii) above shall not apply to the child.

^{F7}(3)

Textual Amendments

- F5** Words repealed for Northern Ireland by S.I. 1987/2203 (N.I. 22), art. 72(3), **Sch. 5 Pt. I**
- F6** Words substituted by **Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(a)**
- F7** 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)

- C3** S. 18 extended by **S.I. 1988/1418, arts. 3, 6** and by S.R. (N.I) 1988/293, art. 6 Table

[^{F8}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
- (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

- F8** 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.**

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Judicial Pensions Act 1981, Part II. (See end of Document for details)

[^{F9}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

F9 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 [^{F10}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 [^{F10}the Treasury] may direct that this subsection shall not apply to the child.

- (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.

^{F11}(6)

Textual Amendments

F10 Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 118(4)(a)

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Judicial Pensions Act 1981, Part II. (See end of Document for details)

F11 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)

C4 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, [^{F12}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.
- [^{F13}(3A) For the purposes of subsection (1)(c)(ii) above, the “maximum allowable remuneration” at any time is an annual rate (£1,614 a year, at the passing of the Judicial Pensions and Retirement Act 1993) equal to that at which a pension of £250 a year—
- (a) first awarded under the principal civil service pension scheme on 1st June 1972, and
 - (b) increased from time to time by the amount of increase that would be applied under the Pensions (Increase) Act 1971 to such a pension,
- would (as so increased) be payable at that time, rounding any resulting fraction of £1 up to the next whole £1.]
- (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, [^{F14}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

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- (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.

^{F15}(5)

^{F15}(6)

Textual Amendments

- F12** 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**
- F13** 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**
- F14** Words substituted by **Courts and Legal Services Act 1990** (c. 41, SIF 76:1), **s. 118(5)**
- F15** 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)

- C5** S. 21 extended by S.I. 1988/1418, **arts. 3, 6** and by S.R. (N.I) 1988/293, art. 6 Table
- C6** S. 21(1)(c)(ii) amended (8.4.1991) by virtue of S.I.1991/862, **art. 2**
- C7** 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—
- the rate thereof may vary according to the number of persons for whose benefit it can for the time being enure, and
 - it shall be paid to such person or persons as [^{F16}the Treasury] may from time to time direct, and different parts thereof may be directed to be paid to different persons, and
 - 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 [^{F16}the Treasury] from time to time directs.
- (2) Where the deceased [^{F17}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—
- 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,
 - 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 [^{F18}or widower], the annual amount of a children's pension during her life—
- 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,
 - while there is only one such person, may amount to one quarter of the annual amount of the personal pension.

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Judicial Pensions Act 1981, Part II. (See end of Document for details)

- (4) Notwithstanding anything in the preceding provisions of this section, where the deceased leaves a widow [^{F19}or widower] who remarries, no children's pension shall be payable as respects any period when she has a husband [^{F19}or he has a wife] unless the [^{F20}Treasury] specially directs that such a pension shall be so payable, but, [^{F20}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 [^{F19}or widower] is alive.

(5) ^{F21}

Textual Amendments

- F16** Words in s. 22(1) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(4)(a)
- F17** 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.
- F18** 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.
- F19** 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.
- F20** Words in s. 22(4) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), s. 118(6)(a)(b)
- F21** 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)

- C8** 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 [^{F22}person's] relevant service such contribution as may be prescribed by regulations made for the purposes of this section.
- [^{F23}(1A) No contribution shall be made by a [^{F22}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 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 [^{F24}the Treasury], by the Lord Chancellor or, in relation to pensions for service in offices existing only in Scotland, by the Secretary of State.

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Judicial Pensions Act 1981, Part II. (See end of Document for details)

- (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

- F22** 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.
F23 S. 23(1A) inserted as provided by S.I. 1988/1417, reg. 3, **Sch. para. 2(b)**
F24 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)

- C9** S. 23 extended by S.I. 1988/1418, **arts. 3, 6** and by S.R. (N.I.) 1988/293, art. 6 Table

F25 24

Textual Amendments

- F25** 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 ^{F26} . . . 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 ^{F26} . . . service, or within three months of ^{F26} . . . 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 [^{F27}the Treasury] may determine, no pension shall be granted to any [^{F28}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 [^{F29}that person's] service.

^{F30}(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 same as if the lump sum had been reduced by an amount equal to the refund and no refund had been made.

Textual Amendments

- F26** 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.**
F27 Words in s. 25(1)(a) substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 118(4)(a)**

Status: Point in time view as at 01/08/1998.

Changes to legislation: There are currently no known outstanding effects for the Judicial Pensions Act 1981, Part II. (See end of Document for details)

- F28** 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.
- F29** 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.**
- F30** 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 ^{M1}Social Security Act 1973 shall be left out of account.

Marginal Citations

M1 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)

C10 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 [^{F31}widower's] or children's pension conditional on eligibility for a pension requiring the recommendation to [^{F32}the Treasury or any Minister of the Crown] shall require the like recommendation.

Textual Amendments

- F31** 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.**
- F32** Words substituted by Courts and Legal Services Act 1990 (c. 41, SIF 76:1), **s. 118(3)**

Status:

Point in time view as at 01/08/1998.

Changes to legislation:

There are currently no known outstanding effects for the Judicial Pensions Act 1981, Part II.