

Status: Point in time view as at 05/12/2005.

*Changes to legislation: There are currently no known outstanding effects for the
Judicial Pensions Act 1981, SCHEDULE 2. (See end of Document for details)*

SCHEDULES

SCHEDULE 2

Section 36.

TRANSITORY PROVISIONS

PART I

The Higher Judiciary

- 1 (1) In the ^{M1}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 ^{M2}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 ^{M3}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 ^{M4}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

- M1** 1959 (8 & 9 Eliz. 2) c. 9.
M2 1975 c. 24.
M3 1971 c. 23.
M4 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 ^{M5}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 ^{M6}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 [^{F1}the Treasury] be so agreed, of any sums payable under that Act on account of any pension or other benefit

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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

F1 Words substituted by [Courts and Legal Services Act 1990 \(c. 41, SIF 76:1\)](#), s. 118(4)(c)

Marginal Citations

M5 1971 c. 23.

M6 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 ^{M7}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

M7 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.
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.”

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.

Judge appointed for a district under the ^{M8} 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

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	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 ^{M9} Industrial Court) Act 1954.
Recorder of Liverpool or Manchester.	Service as judge of the Crown Courts at Liverpool and Manchester.

- (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

- M8** 1934 c. 53.
M9 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.
- (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 ^{M10}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.

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Marginal Citations

M10 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 ^{M11}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.
- (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 ^{M12}Administration of Justice Act 1973, or under any provision of the ^{M13}Administration of Justice (Pensions) Act 1950.

Marginal Citations

M11 1950 (14 & 15 Geo. 6) c. 11.

M12 1973 c. 15.

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M13 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) [^{F2}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 ^{M14}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.
- [^{F3}(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.]

Textual Amendments

- F2** 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.
- F3** Sch. 2 para. 15(3) inserted by S.I. 1988/1417, reg. 3, **Sch. para. 3(a)**

Marginal Citations

- M14** 1973 c. 15.

Pension not wholly attributable to service after 17 April 1973

- 16 (1) [^{F4}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.

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- (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.

- [^{F5}(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

- F4** 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.](#)
- F5** [Sch. 2 para. 16\(2A\)](#) inserted by [S.I. 1988/1417](#), reg. 3, [Sch. para. 3\(b\)](#)

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 ^{M15}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

- M15** 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.

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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—

- (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:

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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.

[^{F6} PART IV

WIDOWER'S PENSIONS

Textual Amendments

- F6** 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

- ^{F7}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
 - “member” means a female person who holds judicial office and to or in respect of whom benefits are payable under this Act, or the ^{M16}Sheriffs’ Pensions (Scotland) Act 1961, on her retirement.

Textual Amendments

- F7** 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

- M16** 1961 c. 42

Service wholly before the commencement date

- ^{F8}25 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

- F8** 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.

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Members retiring between publication and commencement date

- ^{F9}26 (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

F9 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

- ^{F10}27 (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,
- 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.

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- (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

F10 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

- ^{F11}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.]

Textual Amendments

F11 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.

[^{F12}PART 5

SURVIVING CIVIL PARTNERS' PENSIONS

Textual Amendments

F12 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

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“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^{F13}, on his or her retirement.

Textual Amendments

F13 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).
- (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.]

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