



# Judicial Pensions and Retirement Act 1993

## 1993 CHAPTER 8

### PART II

#### MISCELLANEOUS, GENERAL AND SUPPLEMENTARY PROVISIONS

##### *Additional benefits in respect of disregarded earnings*

#### **19 Benefits in respect of earnings in excess of pension-capped salary.**

- (1) This section applies in any case where—
  - (a) a pension or lump sum is payable under Part I above to or in respect of a person to whom that Part applies (the “judicial officer”); and
  - (b) the amount which constitutes the judicial officer’s pensionable pay is less than it would have been, had pension-capped salary fallen to be determined under section 3(3)(b) above, in his case, without the limit imposed by reference to the permitted maximum there mentioned;but nothing in this subsection applies in relation to any additional benefits provided under section 10 above.
- (2) Where this section applies, payments by way of pension or lump sum shall be made to or in respect of the judicial officer amounting to the difference between—
  - (a) the rate or amount payable in respect of the pension or lump sum referred to in subsection (1) above; and
  - (b) the rate or amount that would have been payable in respect of that pension or lump sum, had pension-capped salary fallen to be determined under section 3(3)(b) above, in his case, without the limit imposed by reference to the permitted maximum there mentioned.
- (3) No contributions shall be payable under or by virtue of section 9 above in respect of the cost of the liability to make payments under this section.
- (4) <sup>F1</sup> .....

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- (5) The appropriate Minister may by regulations make provision for implementing this section; and any such regulations may, in particular, make provision—
- (a) for or with respect to the calculation of benefits under this section;
  - (b) for or with respect to the time at which and method by which payments under this section are to be made.

#### Textual Amendments

- F1** S. 19(4) omitted (6.4.2006) by virtue of [The Taxation of Judicial Pensions \(Consequential Provisions\) Order 2006 \(S.I. 2006/497\)](#), [art. 6](#)

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

- C1** S. 19 applied (with modifications) (31.3.1995) by 1967 c. 13, [Sch.1 para. 4\(1\)](#) (as substituted (31.3.1995) by 1993 c. 8, s. 25, [Sch. 4 Pt. II para. 2](#)); S.I. 1995/631, [art. 2](#)
- S. 19 applied (with modifications) (31.3.1995) by S.I. 1987/460 (N.I. 5), [art. 4A](#) (as inserted (31.3.1995) by 1993 c. 8, s. 25, [Sch. 4 Pt. IV para. 5\(4\)](#)); S.I. 1995/631, [art. 2](#)
- S. 19 applied (with modifications) (31.3.1995) by 1969 c. 10 (N.I.), [Sch.1A para. 4\(1\)](#) (as inserted (31.3.1995) by 1993 c. 8, s. 25, [Sch. 4 Pt. V para. 6\(6\)](#)); S.I. 1995/631, [art. 2](#)
- S. 19 extended (with modifications) (16.7.1996) by S.I. 1996/1297 (N.I. 7), [art. 4\(4\)](#), [Sch. 1 para. 6\(2\)\(3\)\(4\)](#)
- S. 19 extended (with modifications) (16.7.1996) by S.I. 1996/1298 (N.I. 8), [art. 5\(4\)](#), [Sch. 1 para. 6\(2\)\(3\)\(4\)](#)

#### *General provisions connected with the new schemes*

## 20 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 person to whom Part I above applies or has applied;
  - (b) the [<sup>F2</sup>widow, widower or surviving civil partner], or any surviving dependant, of a person who served in qualifying judicial office but who has died; and
  - (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 person to whom Part I above applies 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.

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(5) The administrators shall be entitled to appear and be heard on any appeal under this section.

(6) In this section—

“regulations” means regulations made by the appropriate Minister;

“relevant pension scheme” means any scheme constituted under or by virtue of Part I or section 19 above for the payment of pensions or other benefits;

“rules”, in relation to a relevant pension scheme, means the provisions of Part I and section 19 above and of any regulations or orders made under or by virtue of that Part or that section.

#### Textual Amendments

**F2** Words in s. 20(3)(b) substituted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 75](#)

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

**C2** S. 20 applied (with modifications) (31.3.1995) by 1967 c. 13, [Sch.1 para. 4\(1\)](#) (as substituted (31.3.1995) by 1993 c. 8, s. 25, [Sch 4 Pt. II para. 2](#); S.I. 1995/631, [art. 2](#))

S. 20 applied (with modifications) (31.3.1995) by S.I. 1987/460 (N.I. 5), [art.4A](#) (as inserted (31.3.1995) by 1993 c. 8, s. 25, [Sch. 4 Pt. IV para. 5\(4\)](#); S.I. 1995/631, [art. 2](#))

S. 20 applied (with modifications) (31.3.1995) by 1969 c. 10 (N.I.), [Sch.1A para. 4\(1\)](#) (as inserted (31.3.1995) by 1993 c. 8, s. 25, [Sch. IV Pt. V para. 6\(6\)](#); S.I. 1995/631, [art. 2](#))

S. 20 extended (with modifications) (16.7.1996) by S.I. 1996/1297 (N.I. 7), art. 4(4), [Sch. 1 para. 6\(2\)\(3\)\(4\)](#)

S. 20 extended (with modifications) (16.7.1996) by S.I. 1996/1298 (N.I. 8), art. 5(4), [Sch. 1 para. 6\(2\)\(3\)\(4\)](#)

## 21 Pensions payable to judicial officers etc. by local authorities in England and Wales.

(1) This section applies in any case where—

(a) an order under section 1(8) above amends Schedule 1 to this Act by the addition of any office (“the office”) to those for the time being specified in that Schedule; and

(b) immediately before the coming into force of the order, a local authority was under a liability to defray, whether in whole or in part, pensions or other benefits payable in respect of service in the office.

(2) Where this section applies, the appropriate Minister may by order made with the consent of the Treasury—

(a) provide for the local authority to be discharged, to such extent as may be prescribed, from the liability to pay pensions or other benefits in respect of such service in the office as may be prescribed; and

(b) require the local authority instead to make prescribed payments to the Treasury.

(3) In framing the provisions of an order under subsection (2) above, regard shall be had to the desirability of securing so far as reasonably practicable—

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- (a) that the payments required to be made by the local authority are such as to reimburse the Treasury in respect of so much of—
- (i) any pension or lump sum payable under Part I above, or
- to or in respect of any person to whom Part I above applies as may reasonably be regarded as attributable to his service in the office; and
- (b) that the local authority is discharged, to a corresponding extent, from the liability to pay any pension or other benefit to or in respect of such a person in respect of his service in the office.
- (4) In this section—
- “local authority” means any county council, [<sup>F3</sup>county borough council,] district council, London Borough Council or the Common Council of the City of London;
- “prescribed” means specified in, or determined in accordance with, an order under subsection (2) above.
- (5) Nothing in this section applies in relation to any pension or other benefits payable under or by virtue of section 10 above.

#### **Textual Amendments**

**F3** Words in s. 21(4) inserted (1.4.1996) by 1994 c. 19, s. 66(6), **Sch. 16 para. 100** (with ss. 54(5)(7), 55(5), Sch. 17 para. 22(1), 23(2)); S.I. 1996/396, art. 4, **Sch. 2**

## **22 Application of the Pensions (Increase) Act 1971.**

- (1) In the <sup>M1</sup>Pensions (Increase) Act 1971, in Schedule 2 (which specifies the pensions and other benefits which fall to be increased under or by virtue of that Act) after paragraph 4 (and beneath the heading relating to the administration of justice) there shall be inserted—
- “4A A pension payable under Part I or section 19 of the Judicial Pensions and Retirement Act 1993, other than a pension payable under or by virtue of section 10 of that Act.”
- (2) The pensions in relation to which the <sup>M2</sup>Pensions (Increase) Act 1971 extends to Northern Ireland shall include pensions payable under Part I or section 19 above, other than pensions payable under or by virtue of section 10 above; and, accordingly, in section 19(2)(a) of that Act, after the words “Pension Fund” there shall be inserted the words “ or payable under Part I or section 19 of the Judicial Pensions and Retirement Act 1993 (otherwise than under or by virtue of section 10 of that Act) ”.
- (3) In subsection (2) above, “pensions” has the same meaning as it has in the Pensions <sup>M3</sup>(Increase) Act 1971.

#### **Marginal Citations**

**M1** 1971 c. 56.  
**M2** 1971 c. 56.  
**M3** 1971 c. 56.

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## 23 Transfer of accrued benefits.

Schedule 2 to this Act shall have effect with respect to the transfer of accrued rights into and out of the pension schemes constituted by Part I or section 19 above (other than any such transfer which falls to be made under section 12 [<sup>F4</sup>or 12A] above).

### Textual Amendments

- F4** Words in s. 23 inserted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(2), 148(5), **Sch. 9 para. 19**; S.I. 2008/2696, **art. 5(d)** (with art. 3)

### Modifications etc. (not altering text)

- C3** S. 23 applied (with modifications) (31.3.1995) by 1967 c. 13, **Sch.1 para. 4(1)** (as substituted (31.3.1995) by 1993 c. 8, s. 25, **Sch. 4 pt. II para. 2**; S.I. 1995/631, **art. 2**)  
S. 23 applied (with modifications) (31.3.1995) by S.I. 1987/460 (N.I. 5), **art.4A** (as inserted (31.3.1995) by 1993 c.8, s. 25, **Sch. 4 Pt. IV para. 5(4)**; S.I. 1995/631, **art. 2**)  
S. 23 applied (with modifications) (31.3.1995) by 1969 c. 10 (N.I.), **Sch.1A para. 4(1)** (as inserted (31.3.1995) by 1993 c. 8, s. 25, **Sch. 4 Pt. V para. 6(6)**; S.I. 1995/631, art. 2)  
S. 23 extended (with modifications) (16.7.1996) by S.I. 1996/1297 (N.I. 7), art. 4(4), **Sch. 1 para. 6(2)(3)(4)**  
S. 23 extended (with modifications) (16.7.1996) by S.I. 1996/1298 (N.I. 8), art. 5(4), **Sch. 1 para. 6(2)(3)(4)**

## [<sup>F5</sup>23A Pension credits

Schedule 2A to this Act shall have effect with respect to the creation and implementation of pension credits affecting a pension scheme constituted by Part I or Section 19 of this Act.]

### Textual Amendments

- F5** S. 23A inserted (1.12.2000) by S.I. 2000/2986, **reg. 2**

## 24 Corresponding minor amendments to other enactments.

Schedule 3 to this Act (which makes certain minor amendments corresponding to provisions of this Act) shall have effect.

*Pensions for senior public investigative officers*

## 25 The Comptroller and Auditor General and the Parliamentary and Health Service Commissioners etc.

The amendments made by Schedule 4 to this Act shall have effect, as from the coming into force of this section, with respect to the pensions and other benefits payable to or in respect of a person (whenever appointed) who holds, or has held, any one or more of the following offices, that is to say—

- (a) Comptroller and Auditor General;
- (b) Parliamentary Commissioner for Administration;
- (c) Health Service Commissioner for England;

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- (d) <sup>F6</sup> .....
- (e) Health Service Commissioner for Wales;
- (f) Comptroller and Auditor General for Northern Ireland;
- <sup>F7</sup>(g) .....
- <sup>F8</sup>(h) .....

#### **Textual Amendments**

- F6** S. 25(d) omitted (14.7.2004) by virtue of [The Scottish Public Services Ombudsman Act 2002 \(Consequential Provisions and Modifications\) Order 2004 \(S.I. 2004/1823\)](#), [art. 15](#)
- F7** S. 25(g) repealed (16.7.1996) by [S.I. 1996/1298 \(N.I. 8\)](#), [art. 21\(2\)](#), [Sch. 6](#)
- F8** S. 25(h) repealed (16.7.1996) by [S.I. 1996/1297 \(N.I. 7\)](#), [art. 23\(2\)](#), [Sch. 5](#)

#### *Retirement date for certain judicial officers etc*

### **26 Retirement date for holders of certain judicial offices etc.**

- (1) Subject to the following provisions of this section, a person holding any of the offices for the time being specified in Schedule 5 to this Act (a “relevant office”) shall vacate that office on the day on which he attains the age of 70 or such lower age as may for the time being be specified for the purpose in the enactments and instruments relating to that office, whenever passed or made.
- (2) Any reference in this section to a person’s holding an office includes a reference to his being a member of, or otherwise included in, any panel or list of persons appointed, nominated, approved or otherwise selected to serve from time to time in that office (whether or not the panel or list is required by or under any enactment); and any reference in this section or Schedule 5 to this Act to any particular office or to an office of any class or description, or to a person’s appointment to, or vacation of, an office, shall be construed accordingly.
- (3) Subject to the transitional provision referred to in subsection (11) below, subsection (1) above applies whether the person was appointed to the office before or after the coming into force of this section; but nothing in this Act, or in any amendment made by it, shall be taken—
  - (a) to preclude a person from vacating his office before the compulsory retirement date for that office in his case; or
  - (b) to prevent a person’s appointment to an office coming to an end before that date, in accordance with the terms on which he was appointed.
- (4) Subsections (5) and (6) below apply in relation to any holder (whenever appointed) of a relevant office for which the compulsory retirement date in his case falls on or after the day on which he attains the age of 70, except—
  - (a) [<sup>F9</sup>Judge of the Supreme Court];
  - (b) judge of the [<sup>F10</sup>Senior Courts] of England and Wales;
  - (c) Lord President of the Court of Session, Lord Justice Clerk or other judge of the Court of Session;
  - (d) Lord Chief Justice of Northern Ireland or Lord Justice of Appeal, or judge of the High Court, in Northern Ireland.

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- (5) If, in a case where this subsection applies, the <sup>F11</sup>[appropriate person] considers it desirable in the public interest that the holder of a relevant office should continue in that office after his compulsory retirement date, he may authorise the person to continue in office, either generally or for such purpose as he may notify to the person, for a period not exceeding one year and not extending beyond the day on which the person attains the age of 75.
- (6) If, on the expiration of the period for which a person is authorised to continue in office—
- (a) by virtue of subsection (5) above, or
  - (b) by any previous exercise of the power conferred by this subsection,
- the <sup>F11</sup>[appropriate person] considers it desirable in the public interest to retain the person in office for a further period, he may authorise him to continue in office, either generally or for such purpose as he may notify to the person, for a further period not exceeding one year and not extending beyond the day on which the person attains the age of 75.
- (7) After the day on which a person attains the age of 75, he shall not hold any relevant office nor shall he—
- (a) be a member of the Judicial Committee of the Privy Council <sup>F12</sup>. . . ;
  - <sup>F13</sup>(b) act as a judge of the Supreme Court under section 38 of the Constitutional Reform Act 2005;]
  - (c) act as a judge under or by virtue of section 9(1) of the <sup>M4</sup><sup>F14</sup> Senior Courts Act 1981];
  - (d) hold office as a deputy Circuit judge, within the meaning of section 24 of the <sup>M5</sup>Courts Act 1971;
  - (e) sit and act as a judge under or by virtue of section 7 of the <sup>M6</sup>Judicature (Northern Ireland) Act 1978;
  - (f) act as a deputy, or as a temporary additional officer, under subsection (1) of section 91 of the <sup>M7</sup><sup>F14</sup> Senior Courts Act 1981] by virtue of subsection (3) of that section <sup>F15</sup>(holders of relevant office);]
  - <sup>F16</sup>(g) hold office as a deputy district judge if either section 102(1B) of that Act (former district judge appointed as deputy in the High Court) or section 8(1ZB) of the County Courts Act 1984 (former district judge appointed as deputy in the county courts) applied to the appointment;]
  - <sup>F17</sup>(ga) hold office as a deputy judge of the Upper Tribunal if—
    - (i) section 94B of the Constitutional Reform Act 2005 applied to the appointment, and
    - (ii) his corresponding qualifying office was listed in section 6(1) of the Tribunals, Courts and Enforcement Act 2007;]
  - (h) hold any office—
    - (i) to which appointments are made by or under any Act or statutory instrument;
    - (ii) for which there would, apart from this paragraph, be no compulsory retirement date; and
    - (iii) for appointment to which only persons who have held relevant office are eligible;

and this subsection applies whether or not the person was invited to act as a judge, or was appointed to the office in question, or to some other office by virtue of which he

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would (apart from this subsection) hold the office in question, before the appointed day.

(8) After the day on which a person attains the age of 70, he shall not be appointed or re-appointed as—

- (a) <sup>F18</sup> . . . . .
- (b) the person, or one of the persons, constituting a tribunal for the purposes of section 150(3) of the <sup>M8</sup>Mines and Quarries Act 1954, or as an assessor assisting such a tribunal;
- (c) an assessor assisting with an inquiry under section [<sup>F19</sup> 61 of the Merchant Shipping Act 1995];
- <sup>F20</sup>(d) . . . . .
- <sup>F21</sup>(e) . . . . .
- <sup>F21</sup>(f) . . . . .
- (g) an arbitrator, or (in Scotland) an arbiter, under paragraph 9(2) of Schedule 10 to the <sup>M9</sup>Electricity Act 1989;
- (h) chairman of a tribunal constituted under [<sup>F22</sup>Schedule 3 to the Education Act 2005];
- <sup>F21</sup>(j) . . . . .

(9) The appropriate Minister may by order—

- (a) amend Schedule 5 to this Act by adding offices to those for the time being specified in that Schedule; or
- (b) amend subsection (8) above by adding offices to those for the time being specified in that subsection.

(10) As from the appointed day, the enactments and instruments mentioned in Schedule 6 to this Act shall have effect with the amendments specified in that Schedule; but those amendments are subject to section 27 below and Schedule 7 to this Act.

(11) Schedule 7 to this Act shall have effect for the purpose of making transitional provision in relation to persons holding relevant offices immediately before the appointed day; and—

- (a) subsections (1) and (3) above are subject to the provisions of that Schedule; and
- (b) any reference in this section to the compulsory retirement date for an office shall be construed in accordance with those provisions.

(12) In this section—

“the appointed day” means the day appointed under section 31 below for the coming into force of this section;

[<sup>F23</sup>“the appropriate person” means—

- (a) the appropriate Minister in a case which falls within paragraph (a) of the definition of the expression in section 30;
- (b) in relation to any judicial office whose jurisdiction is exercised exclusively in relation to England and Wales, the Lord Chief Justice of England and Wales;
- (c) in relation to any judicial office whose jurisdiction is exercised exclusively in relation to Northern Ireland, the Lord Chief Justice of Northern Ireland[<sup>F24</sup>;



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- (d) the Senior President of Tribunals in the case of a person who holds a judicial office that—
  - (i) is specified in subsection (12A) below, and
  - (ii) is not in the person's case an office to which any of paragraphs (a) to (c) above applies;
- (e) the Lord Chief Justice of England and Wales in the case of a person who holds a judicial office that is not in the person's case an office to which any of paragraphs (a) to (d) applies;]]

“the compulsory retirement date” for an office means the day on which a holder of that office is or, apart from any continuation power, would be required by any enactment or statutory instrument to vacate that office, being either—

- (a) the day on which he attains a particular age; or
- (b) a day falling to be determined by reference to his attaining a particular age;

“continuation power” means a power conferred by an enactment or statutory instrument on a Minister of the Crown to authorise the holder of an office to continue in that office until a later day than that on which, apart from any exercise of the power, he would be required by any enactment or statutory instrument to vacate that office;

and any reference to vacating an office includes a reference to retiring from it.

[<sup>F25</sup>(12A) The judicial offices mentioned in paragraph (d) of the definition of “appropriate person” in subsection (12) above are—

- (a) Chamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of a chamber of the Upper Tribunal;
- (b) judge, or other member, of the First-tier Tribunal or of the Upper Tribunal appointed under paragraph 1(1) or 2(1) of Schedule 2 or 3 to the Tribunals, Courts and Enforcement Act 2007 (“the 2007 Act”);
- (c) deputy judge of the Upper Tribunal appointed under paragraph 7(1) of Schedule 3 to the 2007 Act, except in a case where the holding of the office by the person in question falls within subsection (7)(ga) above;
- (d) transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2) of the 2007 Act);
- (e) deputy judge of the Upper Tribunal by virtue of an order under section 31(2) of the 2007 Act;
- (f) an office held by a person if the person's holding of the office results in the person being a member of, or person who is, a tribunal in a list in Schedule 6 to the 2007 Act that has effect for the purposes of section 30 of that Act (but only if the office is specified in Schedule 5 to this Act);
- (g) <sup>F26</sup> .....
- (h) member of the Employment Appeal Tribunal appointed under section 22(1) (c) of the Employment Tribunals Act 1996;
- (i) member of a panel of chairmen of employment tribunals.

(12B) Neither paragraph (d) nor paragraph (e) of the definition of “appropriate person” in subsection (12) above applies to an office held by a person if provision about that person's continuation in the office after the compulsory retirement date for the office—

- (a) would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament, or

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- (b) would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly.]

[<sup>F27</sup>(13) Where the Lord Chief Justice of England or Wales or the Lord Chief Justice of Northern Ireland [<sup>F28</sup>or the Senior President of Tribunals] is the appropriate person, he must obtain the concurrence of the Lord Chancellor before exercising any functions under this section.

(14) The Lord Chief Justice of England or Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.

(15) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F9** Words in s. 26(4)(a) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 35\(3\)](#), 148; S.I. 2009/1604, [art. 2\(a\)](#)
- F10** Words in s. 26(4)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59](#), 148, [Sch. 11 para. 4](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F11** Words in s. 26(5)(6) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15](#), 148, [Sch. 4 para. 228\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11
- F12** Words in s. 26(7)(a)(b) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15](#), 146, 148, Sch. 4 para. 228(3), [Sch. 18 Pt. 2](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 paras. 11, 30
- F13** S. 26(7)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 38\(3\)](#), 148; S.I. 2009/1604, [art. 2\(a\)](#)
- F14** Words in s. 26 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59](#), 148, [Sch. 11 para. 1\(2\)](#); S.I. 2009/1604, [art. 2\(d\)](#)
- F15** Words in s. 26(7)(f) substituted (19.9.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 48\(1\)](#), 148(5), [Sch. 8 para. 31\(3\)](#); S.I. 2007/2709, [art. 2\(c\)\(i\)](#)
- F16** S. 26(7)(g) substituted (19.7.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 56](#), 148(5), [Sch. 11 para. 12](#)
- F17** S. 26(7)(ga) inserted (3.11.2008) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 48\(1\)](#), 148(5), [Sch. 8 para. 31\(4\)](#); S.I. 2008/2696, [art. 5\(c\)\(i\)](#) (with art. 3)
- F18** S. 26(8)(a) repealed (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by [Communications Act 2003 \(c. 21\), ss. 406\(7\)](#), 411(2), [Sch. 19\(1\)](#), Note 1 (with Sch. 18); S.I. 2003/1900, [arts. 2\(1\)](#), 3, Sch. 1; S.I. 2003/3142, [art. 3](#)
- F19** Words in s. 26(8)(c) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), [Sch. 13 para. 93\(a\)](#) (with s. 312(1))
- F20** S. 26(8)(d) repealed (29.11.1999) by S.I. 1998/1506 (N.I. 10), [art. 78\(2\)](#), [Sch. 7](#); S.R. 1999/472, [art. 2\(1\)\(a\)\(2\)](#), [Sch. 1](#)
- F21** S. 26(8)(e)(f)(j) repealed (1.12.2001) by S.I. 2001/3649, [arts. 1](#), 113
- F22** Words in s. 26(8) substituted (1.9.2006) by [Education Act 2005 \(c. 18\), ss. 61](#), 125, [Sch. 9 para. 7](#); S.I. 2006/1338, [art. 4\(1\)](#), Sch. 2
- F23** S. 26(12): definition of "the appropriate person" inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15](#), 148, [Sch. 4 para. 228\(4\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 11
- F24** S. 26(12): paras. (d)(e) in definition of "the appropriate person" inserted (19.9.2007) by [Tribunals, Courts and Enforcement Act 2007 \(c. 15\), ss. 54\(2\)](#), 148(5); S.I. 2007/2709, [art. 2\(a\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Judicial Pensions and Retirement Act 1993, Part II. (See end of Document for details)*

- F25** S. 26(12A)(12B) inserted (19.9.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. **54(3)**, 148(5); S.I. 2007/2709, **art. 2(a)**
- F26** S. 26(12A)(g) omitted (15.2.2010) by virtue of The Transfer of Functions of the Asylum and Immigration Tribunal Order 2010 (S.I. 2010/21), art. 5(1)(4), **Sch. 1 para. 11** (with Sch. 4)
- F27** S. 26(13)-(15) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 228(5)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11
- F28** Words in s. 26(13) inserted (19.9.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. **54(4)**, 148(5); S.I. 2007/2709, **art. 2(a)**

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

- C4** S. 26 modified (27.9.1999) by 1999 c. 22, ss. 105, 108(3), **Sch. 14 Pt. V para. 25** (with Sch. 14 para. 7(2))
- C5** S. 26 applied (28.4.2003) by Land Registration Act 2002 (c. 9), ss. 107(3), 136(2), **Sch. 9 para. 1(3)** (with s. 129); S.I. 2003/1028, **art. 2(a)**
- C6** S. 26(1) applied (1.1.1996) by S.I. 1995/3192, **art. 4(a)**
- C7** S. 26(1) modified (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(2), 148(5), **Sch. 9 para. 5(3)**; S.I. 2008/2696, **art. 5(d)** (with art. 3)
- C8** S. 26(3)(11) restricted (1.1.1996) by S.I. 1995/3192, **art. 4(b)(i)(ii)**
- C9** S. 26(4)-(6) restricted (1.1.1996) by S.I. 1995/3192, **art. 5**
- C10** S. 26(5)(6) applied (18.3.2008) by Charities Act 1993 (c. 10), Sch. 1B para. 4 (as inserted by Charities Act 2006 (c. 50), ss. 8, 79, **Sch. 3 para. 1**; S.I. 2008/751, {art. 2,} Sch. (subject to arts. 3-12))
- C11** S. 26(5)(6) applied (N.I.) (25.9.2009) by Charities Act (Northern Ireland) 2008 (c. 12) (N.I.), ss. 12(2), 185, {Sch. 2 para. 4(2)}; S.R. 2009/324, **art. 2**

#### **Marginal Citations**

- M4** 1981 c. 54.  
**M5** 1971 c. 23.  
**M6** 1978 c. 23.  
**M7** 1981 c. 54.  
**M8** 1954 c. 70.  
**M9** 1989 c. 29.

## **27 Completion of proceedings after retirement.**

- (1) Notwithstanding that a person has vacated or otherwise ceased to hold an office to which this section applies—
- (a) he may act as if he had not ceased to hold the office for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary matter relating to, any case begun before him before he ceased to hold that office; and
- (b) for that purpose, and for the purpose of any proceedings arising out of any such case or matter, he shall be treated as being or, as the case may be, as having been a holder of that office;
- but nothing in this subsection shall authorise him to do anything if he ceased to hold the office by virtue of his removal from it.
- (2) Where a person has vacated or otherwise ceased to hold a qualifying judicial office but the office in question is one to which this section applies, then, notwithstanding anything in subsection (1) above, any remuneration that may be paid in respect of service of his in that office by virtue of that subsection shall be remuneration by payment of fees (and not a salary) and accordingly that service shall not be regarded as service in qualifying judicial office.

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- (3) The offices to which this section applies are—
- (a) any relevant office, within the meaning of section 26 above;
  - (b) any office falling within any of the paragraphs of subsection (7) of that section;
  - (c) Queen’s Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals;
  - (d) Vice Judge Advocate General;
  - (e) Assistant Judge Advocate General;
  - <sup>F29</sup>(f) .....
  - [<sup>F30</sup>(ff) a part-time sheriff,]
  - (g) Chairman of the Criminal Injuries Compensation Board.
- (4) If and to the extent that any prohibition imposed by subsection (7) of section 26 above would not, apart from this subsection, be regarded as a prohibition on the holding of an office, it shall be treated for the purposes of this section as if it were such a prohibition, and references in this section to office, or to vacating or otherwise ceasing to hold office, shall be construed accordingly.

**Textual Amendments**

- F29** S. 27(3)(f) repealed (1.10.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 Pt. 2 para. 10, Sch. 7 Pt. 3; S.I. 2001/3234, art. 2 (subject to art. 3)
- F30** S. 27(3)(ff) inserted (S.) (9.8.2000) by 2000 asp 9, s. 12, Sch. para. 5(2)

*Miscellaneous and supplementary provisions*

**28 Payments charged on Consolidated Fund etc.**

- (1) There shall be charged on, and paid out of, the Consolidated Fund—
- (a) any pension or lump sum under Part I above payable to or in respect of a person who has held any of the qualifying judicial offices specified in Part I of Schedule 1 to this Act; and
  - (b) any payments by way of pension or lump sum authorised under section 19 above to be made to or in respect of such a person.
- (2) Except as provided by subsection (1) above—
- (a) any pension or lump sum payable under Part I above, and
  - (b) any payment authorised to be made under section 19 above,
- shall be met out of money provided by Parliament.
- (3) There shall be charged on, and paid out of, the Consolidated Fund any increase attributable to the provisions of this Act in the sums charged on, and payable out of, that Fund by or under any other enactment.
- (4) There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other enactment.
- (5) Any administrative expenses incurred under this Act by a Minister of the Crown or government department shall be defrayed out of money provided by Parliament.

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- (6) Any sums received by the Treasury under section 21 above shall be paid into the Consolidated Fund.
- (7) Nothing in this section applies in relation to any pension or other benefits payable under or by virtue of section 10 above.

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

**C12** S. 28(6) modified (31.3.1995) by [S.I. 1995/633](#), **art. 7(1)** (with [art. 11](#))

VALID FROM 12/04/2010

**[<sup>F31</sup>28A Northern Ireland**

The Lord Chancellor and the Department of Justice in Northern Ireland may make arrangements under which the Department is to make contributions to the cost of the liabilities under this Act for pensions, lump sums or other payments in respect of persons' service in qualifying judicial office in Northern Ireland.]

**Textual Amendments**

**F31** S. 28A inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(5), **Sch. 18 para. 49** (with arts. 28-31); [S.I. 2010/977](#), art. 1(2)

**29 Regulations and orders.**

- (1) Any power conferred by this Act to make regulations or an order shall be exercisable by statutory instrument.
- (2) A statutory instrument which contains (whether alone or with other provisions) regulations or an order under this Act, other than an order under section 31(2) below, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any power conferred by this Act to make regulations or an order includes power, exercisable in the same manner, to make such transitional, consequential, supplementary or incidental provision or savings as may appear to the authority making the regulations or order to be necessary or expedient for the purposes of, or in connection with, the regulations or order.
- (4) The provision that may be made under or by virtue of subsection (3) above includes provision modifying the operation of this Act or any other enactment.
- (5) The amendment by this Act of any provision contained in regulations or an order shall not be taken to have prejudiced any power to make further regulations or orders amending or revoking that provision.
- (6) Regulations and orders under this Act may make different provision for different cases or classes of case.

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### 30 Interpretation.

(1) In this Act—

“the 1981 Act” means the <sup>M10</sup>Judicial Pensions Act 1981;

“actuarially reduced” has the meaning given by section 2(7)(e) above;

“the administrators”, in relation to a pension scheme, means the persons entrusted with the administration of the scheme;

“appropriate annual rate”, in relation to a judicial pension, shall be construed in accordance with section 3 above;

“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;

“children’s pension” has the meaning given by section 6 above;

“commence to be paid”, in relation to any judicial pension, shall be construed in accordance with section 2(7)(d) above;

“the deceased”, in connection with any surviving spouse’s [<sup>F32</sup>, surviving civil partner’s] or children’s pension, shall be construed in accordance with section 5 or 6 above, as the case may be;

“derivative benefit” means a lump sum under section 4 above or a surviving spouse’s [<sup>F33</sup>, surviving civil partner’s] or children’s pension;

“eligible children”, in relation to the deceased, shall be construed in accordance with section 6 above;

“judicial pension” means a pension under section 2 above;

“judicial pension scheme” means any public service pension scheme, as defined in—

(a) [<sup>F34</sup>section 1 of the Pension Schemes Act 1993], or

(b) [<sup>F35</sup>section 1 of the Pension Schemes (Northern Ireland) Act 1993],

under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices (whether or not in respect of service in such offices alone);

“pensionable pay” has the meaning given by section 3(3) above;

“pension-capped salary” has the meaning given by section 3(3) above;

“the principal civil service pension scheme” means a scheme made under section 1 of the <sup>M11</sup>Superannuation Act 1972 which is the principal civil service pension scheme within the meaning of section 2 of that Act;

“the principal civil service pension scheme for the civil service of Northern Ireland” means a scheme made under Article 3 of the <sup>M12</sup>Superannuation (Northern Ireland) Order 1972 which is the principal civil service pension scheme within the meaning of Article 4 of that Order;

“qualifying judicial office” has the meaning given by section 1(6) above;

“serve” and “service”, in relation to qualifying judicial office, shall be construed in accordance with section 1(6) above;

“stipendiary magistrate”, in England and Wales, includes a metropolitan stipendiary magistrate;

[<sup>F36</sup>“surviving civil partner’s pension” has the meaning given by section 5 above; ]

“surviving spouse’s pension” has the meaning given by section 5 above.

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- (2) In the case of a person who has retired from qualifying judicial office on more than one occasion, references in this Act to his retirement from such office are references to the last of those occasions.
- (3) For the purposes of this Act, a person shall be regarded as vacating, or retiring from, an office at the end of the last day of his service in that office.
- (4) Any reference in this Act to a pension or lump sum, or any salary or other money, being paid or payable to a person includes a reference to its being paid or payable for him.
- (5) In determining for any purpose of this Act the accrued rights of a person under a judicial pension scheme which confers a power (but does not expressly impose a duty) to pay a pension or other benefit under the scheme, it shall be assumed that there is a duty to exercise the power (and to do so in such a way as will provide the greatest pension or other benefit authorised to be paid).
- (6) Where a calculation falls to be performed under this Act, any resulting fraction of £1 shall be rounded up to the next whole £1.

#### Textual Amendments

- F32** S. 30(1): words in definition of "the deceased" inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 76\(2\)\(a\)](#)
- F33** S. 30(1): words in definition of "derivative benefit" inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 76\(2\)\(b\)](#)
- F34** Words in s. 30(1) substituted (7.2.1994) by 1993 c. 48, s. 190, [Sch. 8 para. 46\(4\)](#) (with s. 6(8)); S.I. 1994/86, [art. 2](#)
- F35** Words in s. 30(1) substituted (7.2.1994) by 1993 c. 49, s. 184, [Sch. 7 para. 43\(4\)](#); S.R. 1994/17, [art. 2](#)
- F36** S. 30(1): definition of "surviving civil partner's pension" inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), [art. 76\(2\)\(c\)](#)

#### Marginal Citations

- M10** 1981 c. 20.
- M11** 1972 c. 11.
- M12** S.I. 1972/1073 (N.I. 10).

### 31 Short title, supplementary provisions and extent.

- (1) This Act may be cited as the Judicial Pensions and Retirement Act 1993.
- (2) The provisions of this Act shall come into force on such day as the appropriate Minister may by order made by statutory instrument appoint; and different days may be appointed for different provisions or for different purposes of the same provision.
- (3) The enactments and instruments mentioned in Schedule 8 to this Act shall have effect with the amendments there specified (being minor amendments and amendments consequential on the provisions of this Act).
- (4) The enactments and instruments specified in Schedule 9 to this Act are repealed or revoked to the extent specified in the third column of that Schedule.
- (5) Section 21 above extends to England and Wales only.

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- (6) The amendments, repeals and revocations in section 22 above and Schedules 3, 4, 6, 8 and 9 to this Act have the same extent as the enactment or instrument to which they relate.
- (7) Subject to subsections (5) and (6) above, this Act extends to Northern Ireland.

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**Subordinate Legislation Made**

**P1** [S. 31\(2\)](#) power fully exercised (7.3.1995): 31.3.1995 appointed by [S.I. 1995/631, art. 2](#)



**Status:**

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**Changes to legislation:**

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