

*Status: Point in time view as at 29/03/1993. This version of this schedule contains provisions that are not valid for this point in time.*  
**Changes to legislation:** There are currently no known outstanding effects for the Judicial Pensions and Retirement Act 1993, SCHEDULE 4. (See end of Document for details)

## SCHEDULES

### SCHEDULE 4 U.K.

Section 25.

#### PENSIONS FOR SENIOR PUBLIC INVESTIGATIVE OFFICERS

VALID FROM 31/03/1995

#### PART I U.K.

##### THE COMPTROLLER AND AUDITOR GENERAL

1 For section 13 of the <sup>M1</sup>Superannuation Act 1972 (pension provision for the Comptroller and Auditor General) there shall be substituted—

#### “13 The Comptroller and Auditor General.

- (1) A person who first holds office on or after the appointed day as the Comptroller and Auditor General (in this section referred to as “the Comptroller”) shall be entitled, if he was a member of a judicial pension scheme immediately before he first holds that office, to elect between—
- (a) the scheme of pensions and other benefits under that judicial pension scheme (his “former scheme”);
  - (b) (if different from his former scheme) the scheme of pensions and other benefits constituted by Part I of the 1993 Act (“the 1993 scheme”); and
  - (c) the scheme of pensions and other benefits applicable under section 1 of this Act to the civil service of the State (“the civil service scheme”);

and, if he is not entitled to make an election under this subsection, or if he is so entitled but fails to make such an election, he shall be treated as if he had been so entitled and had elected for the civil service scheme.

- (2) If a person who held the office of Comptroller before the appointed day has made an election under the former enactments for the old judicial scheme, he shall be entitled to make an election under this subsection between—
- (a) the old judicial scheme; and
  - (b) the 1993 scheme;
- and, if he fails to make an election under this subsection, he shall be taken to have elected for the old judicial scheme.

- (3) If a person who held the office of Comptroller before the appointed day—
- (a) has made an election under the former enactments for the civil service scheme, or

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- (b) has failed to make an election under those enactments (so that he is taken to have elected for the civil service scheme),  
 he shall be treated as if he had been entitled to make an election under this section and had elected for the civil service scheme.
- (4) Where a person elects under this section for his former scheme, that scheme shall, subject to regulations under this section, apply as if his service as Comptroller were service which was subject, in his case, to that scheme.
- (5) A person who elects under subsection (1)(b) or (2)(b) above for the 1993 scheme, shall be entitled, when he ceases to hold office as Comptroller, to a pension under Part I of the 1993 Act at the appropriate annual rate (within the meaning of that Act) if he has held that office for at least 5 years and either—
- (a) he has attained the age of 65; or
  - (b) he is disabled by permanent infirmity for the performance of the duties of the office;
- and, subject to the following provisions of, and regulations under, this section, the provisions of Part I of that Act (other than sections 1(1) to (4) and 2) and of sections 19, 20 and 23 of, and Schedule 2 to, that Act (which provide for benefits in respect of earnings in excess of pension-capped salary, appeals and transfer of accrued rights) shall apply in relation to him and his service in the office of Comptroller as they apply in relation to a person to whom Part I of that Act applies.
- (6) Subject to regulations under this section, in the application of provisions of the 1993 Act by virtue of subsection (5) above, a person who elects for the 1993 scheme shall be treated—
- (a) as if the office of Comptroller were a qualifying judicial office (within the meaning of that Act) by virtue of inclusion among the offices specified in Part I of Schedule 1 to that Act;
  - (b) as if his election under this section were an election such as is mentioned in paragraph (d) of section 1(1) of that Act (so that, in particular, section 12 of that Act, which provides for the transfer of accrued rights into the scheme, applies);
  - (c) as if his pension by virtue of this section were a pension under section 2 of that Act (and, accordingly, a judicial pension, within the meaning of that Act); and
  - (d) for the purpose of determining, in the event of his death, the rate of any surviving spouse's or children's pension payable under sections 5 to 8 of that Act in respect of his service as Comptroller, as if references in those sections to the annual rate of the deceased's judicial pension were references—
    - (i) where a pension had commenced to be paid to him by virtue of subsection (5) above, to the appropriate annual rate of that pension; or
    - (ii) where no such pension had commenced to be paid to him, to the rate that would have been the appropriate annual rate of the pension payable to him by virtue of subsection (5)(b) above, had he not died, but been

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disabled by permanent infirmity for the performance of the duties of his office on and after the date of death;

and, in the application of that Act to the Comptroller (whether by virtue of subsection (1)(a) or (b) or (2)(b) above) the references to the appropriate Minister in sections 13 (election for personal pension), 19 (benefits in respect of earnings in excess of pension-capped salary) and 20 (appeals) of, and Schedule 2 (transfer of accrued rights) to, that Act shall be taken as references to the Treasury and the power conferred by paragraph 2 of that Schedule to make regulations shall be exercisable by the Treasury.

- (7) Where a person elects under this section for the civil service scheme, the principal civil service pension scheme within the meaning of section 2 of this Act and for the time being in force shall, subject to regulations under this section, apply as if his service as Comptroller were service in employment in the civil service of the State.
- (8) Where a person elects under this section for the old judicial scheme, that scheme and the former enactments shall, subject to regulations under this section, continue to have effect in relation to him and his service in the office of Comptroller.
- (9) Any power to make an election under this section shall be exercisable within such time and in such manner as may be prescribed in regulations under this section.
- (10) The Treasury may make regulations for purposes supplementary to the other provisions of this section.
- (11) Any such regulations may, without prejudice to section 38 or 39A of the Superannuation Act 1965 (employment in more than one public office), make special provision with respect to the pensions and other benefits payable to or in respect of a person to whom—
  - (a) his former scheme,
  - (b) the 1993 scheme,
  - (c) the civil service scheme, or
  - (d) the old judicial scheme,applies, or has applied, in respect of any service other than service as Comptroller.
- (12) The provision that may be made by virtue of subsection (11) above includes provision—
  - (a) for aggregating—
    - (i) other service falling within his former scheme, the 1993 scheme or the old judicial scheme with service as Comptroller, or
    - (ii) service as Comptroller with such other service,for the purpose of determining qualification for, or entitlement to, or the amount of, benefit under the scheme in question;
  - (b) for increasing the amount of the benefit payable under any of the schemes mentioned in paragraph (a)(i) above, in the case of a person to whom that scheme applied in respect of an office held by him before appointment as Comptroller, up to the amount that would have been payable under that scheme if he had retired from

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that office on the ground of permanent infirmity immediately before his appointment.

(13) Any statutory instrument made by virtue of this section shall be subject to annulment in pursuance of a resolution of the House of Commons.

(14) Any pension or other benefit granted by virtue of this section shall be charged on, and issued out of, the Consolidated Fund.

(15) In this section—

“the 1981 Act” means the Judicial Pensions Act 1981;

“the 1993 Act” means the Judicial Pensions and Retirement Act 1993;

“the appointed day” means the day on which Part I of Schedule 4 to the 1993 Act comes into force;

“the former enactments” means section 13 of this Act, as it had effect from time to time before the appointed day;

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

(a) section 66(1) of the Social Security Pensions Act 1975, or

(b) Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975,

under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices, within the meaning of the 1993 Act, but does not include the civil service scheme;

“the old judicial scheme” means the statutory scheme of pensions and other benefits applicable under or by virtue of the 1981 Act to the judicial offices listed in section 1 of that Act.”

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**Marginal Citations**

**M1** 1972 c. 11.

VALID FROM 31/03/1995

**PART II U.K.**

THE PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION

2

For Schedule 1 to the <sup>M2</sup>Parliamentary Commissioner Act 1967 (pension provision for the Parliamentary Commissioner for Administration) there shall be substituted—

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“SCHEDULE

Section 2.

1 U.K.

PENSIONS AND OTHER BENEFITS

*Persons taking office after the appointed day*

- 1 A person who first holds office as the Commissioner on or after the appointed day shall be entitled, if he was a member of a judicial pension scheme immediately before he first holds that office, to elect between—
- (a) the scheme of pensions and other benefits under that judicial pension scheme (his “former scheme”);
  - (b) (if different from his former scheme) the scheme of pensions and other benefits constituted by Part I of the 1993 Act (“the 1993 scheme”); and
  - (c) the scheme of pensions and other benefits applicable under section 1 of the Superannuation Act 1972 to the civil service of the State (“the civil service scheme”);
- and, if he is not entitled to make an election under this paragraph, or if he is so entitled but fails to make such an election, he shall be treated as if he had been so entitled and had elected for the civil service scheme.

*Transitional provision for persons appointed before the appointed day*

- 2 (1) If a person who held the office of Commissioner before the appointed day has made an election under the former enactments for the old judicial scheme, he shall be entitled to make an election under this sub-paragraph between—
- (a) the old judicial scheme; and
  - (b) the 1993 scheme;
- and, if he fails to make an election under this sub-paragraph, he shall be taken to have elected for the old judicial scheme.
- (2) If a person who held the office of Commissioner before the appointed day—
- (a) has made an election under the former enactments for the civil service scheme, or
  - (b) has failed to make an election under those enactments (so that he is taken to have elected for the civil service scheme),
- he shall be treated as if he had been entitled to make an election under this Schedule and had elected for the civil service scheme.

*Effect of election to continue in former scheme*

- 3 Where a person elects under this Schedule for his former scheme, that scheme shall, subject to regulations under this Schedule, apply as if his service as Commissioner were service which was subject, in his case, to that scheme.

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*Effect of election for the 1993 scheme*

- 4 (1) A person who elects under paragraph 1(b) or 2(1)(b) above for the 1993 scheme, shall be entitled, when he ceases to hold office as Commissioner, to a pension under Part I of the 1993 Act at the appropriate annual rate (within the meaning of that Act) if he has held that office for at least 5 years and either—

- (a) he has attained the age of 65; or
- (b) he is disabled by permanent infirmity for the performance of the duties of the office;

and, subject to the following provisions of, and regulations under, this Schedule, the provisions of Part I of that Act (other than sections 1(1) to (4) and 2) and of sections 19, 20 and 23 of, and Schedule 2 to, that Act (which provide for benefits in respect of earnings in excess of pension-capped salary, appeals and transfer of accrued rights) shall apply in relation to him and his service in the office of Commissioner as they apply in relation to a person to whom Part I of that Act applies.

- (2) Subject to regulations under this Schedule, in the application of provisions of the 1993 Act by virtue of sub-paragraph (1) above, a person who elects for the 1993 scheme shall be treated—

- (a) as if the office of Commissioner were a qualifying judicial office (within the meaning of that Act) by virtue of inclusion among the offices specified in Part I of Schedule 1 to that Act;
- (b) as if his election under this Schedule were an election such as is mentioned in paragraph (d) of section 1(1) of that Act (so that, in particular, section 12 of that Act, which provides for the transfer of accrued rights into the scheme, applies);
- (c) as if his pension by virtue of this Schedule were a pension under section 2 of that Act (and, accordingly, a judicial pension, within the meaning of that Act); and
- (d) for the purpose of determining, in the event of his death, the rate of any surviving spouse's or children's pension payable under sections 5 to 8 of that Act in respect of his service as Commissioner, as if references in those sections to the annual rate of the deceased's judicial pension were references—
  - (i) where a pension had commenced to be paid to him by virtue of sub-paragraph (1) above, to the appropriate annual rate of that pension; or
  - (ii) where no such pension had commenced to be paid to him, to the rate that would have been the appropriate annual rate of the pension payable to him by virtue of sub-paragraph (1)(b) above, had he not died, but been disabled by permanent infirmity for the performance of the duties of his office on and after the date of death;

and, in the application of that Act to the Commissioner (whether by virtue of paragraph 1(a) or (b) or 2(1)(b) above) the references to the appropriate Minister in sections 13 (election for personal pension), 19 (benefits in respect of earnings in excess of pension-capped salary) and 20 (appeals) of, and Schedule 2 (transfer of accrued rights) to, that Act shall be taken

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as references to the Treasury and the power conferred by paragraph 2 of that Schedule to make regulations shall be exercisable by the Treasury.

*Effect of election for, or to continue in, the civil service scheme*

- 5 Where a person elects under this Schedule for the civil service scheme, the principal civil service pension scheme within the meaning of section 2 of the Superannuation Act 1972 and for the time being in force shall, subject to regulations under this Schedule, apply as if his service as Commissioner were service in employment in the civil service of the State.

*Effect of election to continue in the old judicial scheme*

- 6 Where a person elects under this Schedule for the old judicial scheme, that scheme and the former enactments shall, subject to regulations under this Schedule, continue to have effect in relation to him and his service in the office of Commissioner.

*Time for, and manner of, election*

- 7 Any power to make an election under this Schedule shall be exercisable within such time and in such manner as may be prescribed in regulations under this Schedule.

*Regulations*

- 8 (1) The Treasury may make regulations for purposes supplementary to the other provisions of this Schedule.
- (2) Any such regulations may, without prejudice to section 38 or 39A of the Superannuation Act 1965 (employment in more than one public office), make special provision with respect to the pensions and other benefits payable to or in respect of a person to whom—
- (a) his former scheme,
  - (b) the 1993 scheme,
  - (c) the civil service scheme, or
  - (d) the old judicial scheme,
- applies, or has applied, in respect of any service other than service as Commissioner.
- (3) The provision that may be made by virtue of sub-paragraph (2) above includes provision—
- (a) for aggregating—
    - (i) other service falling within his former scheme, the 1993 scheme or the old judicial scheme with service as Commissioner, or
    - (ii) service as Commissioner with such other service,for the purpose of determining qualification for, or entitlement to, or the amount of, benefit under the scheme in question;
  - (b) for increasing the amount of the benefit payable under any of the schemes mentioned in paragraph (a)(i) above, in the case of



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a person to whom that scheme applied in respect of an office held by him before appointment as Commissioner, up to the amount that would have been payable under that scheme if he had retired from that office on the ground of permanent infirmity immediately before his appointment.

- (4) Any statutory instrument made by virtue of this Schedule shall be subject to annulment in pursuance of a resolution of the House of Commons.

*Pensions and benefits to be charged on the Consolidated Fund*

- 9 Any pension or other benefit granted by virtue of this Schedule shall be charged on, and issued out of, the Consolidated Fund.

*Interpretation*

- 10 In this Schedule—

“the 1981 Act” means the Judicial Pensions Act 1981;

“the 1993 Act” means the Judicial Pensions and Retirement Act 1993;

“the appointed day” means the day on which Part II of Schedule 4 to the 1993 Act comes into force;

“the former enactments” means Schedule 1 to this Act, as it had effect from time to time before the appointed day;

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

- (a) section 66(1) of the Social Security Pensions Act 1975, or
- (b) Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975,

under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices, within the meaning of the 1993 Act, but does not include the civil service scheme;

“the old judicial scheme” means the statutory scheme of pensions and other benefits applicable under or by virtue of the 1981 Act to the judicial offices listed in section 1 of that Act.”

**Marginal Citations**

M2 1967 c. 13.



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### PART III U.K.

#### THE HEALTH SERVICE COMMISSIONERS

##### *The Health Service Commissioners for England and for Wales*

- 3 (1) Section 107 of the <sup>M3</sup>National Health Service Act 1977 (which makes provision with respect to the salaries and pensions of the Health Service Commissioners for England and for Wales) shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (2) (which applies Schedule 1 to the <sup>M4</sup>Parliamentary Commissioner Act 1967 in relation to persons who have held office as a Health Service Commissioner) for the words “who have held office”, in both places where they occur, there shall be substituted the words “ who hold, or have held, office ”.
- (3) In subsection (6) (persons not to make simultaneously different elections in pursuance of paragraph 1 of that Schedule in respect of different offices)—
- (a) in paragraph (a), after the words “paragraph 1” there shall be inserted the words “ or 2 ”; and
- (b) in paragraph (b), for the words “that paragraph” there shall be substituted the words “ either of those paragraphs ”.
- (4) In subsection (7) (which, among other things, provides for different regulations to be made under paragraph 4 of that Schedule in relation to different offices) for the words “paragraph 4” there shall be substituted the words “ paragraph 8 ”.
- (5) The amendments made by sub-paragraphs (2) to (4) above have effect only in relation to Schedule 1 to the Parliamentary Commissioner Act 1967, as substituted by Part II above; and accordingly in any case where—
- (a) a person makes an election under paragraph 2(1)(a) of that Schedule for the old judicial scheme there mentioned, and
- (b) the former enactments mentioned in paragraph 6 of that Schedule continue to apply by virtue of that paragraph,
- the amendments made by sub-paragraphs (3) and (4) above shall be disregarded in the continuing application of section 107 of the National Health Service Act 1977 in relation to those former enactments as they continue to have effect in relation to that person and that scheme.

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#### Marginal Citations

**M3** 1977 c. 49.

**M4** 1967 c. 13.

##### *The Health Service Commissioner for Scotland*

- 4 (1) Section 91 of the <sup>M5</sup>National Health Service (Scotland) Act 1978 (which makes provision with respect to the salary and pension of the Health Service Commissioner

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for Scotland) shall be amended in accordance with the following provisions of this paragraph.

- (2) In subsection (2) (which applies Schedule 1 to the <sup>M6</sup>Parliamentary Commissioner Act 1967 in relation to persons who have held office as the Health Service Commissioner) for the words “who have held office”, in both places where they occur, there shall be substituted the words “ who hold, or have held, office ”.
- (3) In subsection (6) (persons not to make simultaneously different elections in pursuance of paragraph 1 of that Schedule in respect of different offices)—
  - (a) in paragraph (a), after the words “paragraph 1” there shall be inserted the words “ or 2 ”; and
  - (b) in paragraph (b), for the words “that paragraph” there shall be substituted the words “ either of those paragraphs ”.
- (4) In subsection (7) (which, among other things, provides for different regulations to be made under paragraph 4 of that Schedule in relation to different offices) for the words “paragraph 4” there shall be substituted the words “ paragraph 8 ”.
- (5) The amendments made by sub-paragraphs (2) to (4) above have effect only in relation to Schedule 1 to the <sup>M7</sup>Parliamentary Commissioner Act 1967, as substituted by Part II above; and accordingly in any case where—
  - (a) a person makes an election under paragraph 2(1)(a) of that Schedule for the old judicial scheme there mentioned, and
  - (b) the former enactments mentioned in paragraph 6 of that Schedule continue to apply by virtue of that paragraph,

the amendments made by sub-paragraphs (3) and (4) above shall be disregarded in the continuing application of section 91 of the <sup>M8</sup>National Health Service (Scotland) Act 1978 in relation to those former enactments as they continue to have effect in relation to that person and that scheme.

#### **Marginal Citations**

**M5** 1978 c. 29.  
**M6** 1967 c. 13.  
**M7** 1967 c. 13.  
**M8** 1978 c. 29.

VALID FROM 31/03/1995

#### **PART IV N.I.**

##### THE COMPTROLLER AND AUDITOR GENERAL FOR NORTHERN IRELAND

- 5 (1) The <sup>M9</sup>Audit (Northern Ireland) Order 1987 shall be amended in accordance with the following provisions of this paragraph.
- (2) In Article 2(2) (interpretation), in the definition of “the appointed day” after the word “means” there shall be inserted the words “ (except in Article 4A) ”.

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(3) In paragraph (4) of Article 4 (pension of the Comptroller and Auditor General), after the words “Northern Ireland” (where they occur for the second time) there shall be inserted the words “ unless he elects under Article 4A for it to be treated otherwise ”.

(4) After that Article there shall be inserted the following Article—

*“ Pension of Comptroller and Auditor General: supplementary*

4A (1) This Article applies to a person—

- (a) who first holds office on or after the appointed day as the Comptroller and Auditor General; and
- (b) who, immediately before he first holds that office, is a member of a judicial pension scheme.

(2) A person to whom this Article applies shall be entitled to elect between—

- (a) the scheme of pensions and other benefits under the judicial pension scheme mentioned in paragraph (1)(b) (his “former scheme”);
- (b) (if different from his former scheme) the scheme of pensions and other benefits constituted by Part I of the 1993 Act (“the 1993 scheme”); and
- (c) the scheme of pensions and other benefits applicable under the Superannuation (Northern Ireland) Order 1972 to the civil service of Northern Ireland (“the civil service scheme”);

and, if he fails to make an election under this paragraph, he shall be treated as if he had elected for the civil service scheme.

(3) Where a person elects under this Article for his former scheme, that scheme shall, subject to regulations under this Article, apply as if his service as Comptroller and Auditor General were service which was subject, in his case, to that scheme.

(4) A person who elects under paragraph (2)(b) for the 1993 scheme, shall be entitled, when he ceases to hold office as Comptroller and Auditor General, to a pension under Part I of the 1993 Act at the appropriate annual rate (within the meaning of that Act) if he has held that office for at least 5 years and either—

- (a) he has attained the age of 65; or
- (b) he is disabled by permanent infirmity for the performance of the duties of the office;

and, subject to the following provisions of, and regulations under, this Article, the provisions of Part I of that Act (other than sections 1(1) to (4) and 2) and of sections 19, 20 and 23 of, and Schedule 2 to, that Act (which provide for benefits in respect of earnings in excess of pension-capped salary, appeals and transfer of accrued rights) shall apply in relation to him and his service in the office of Comptroller and Auditor General as they apply in relation to a person to whom Part I of that Act applies.

(5) Subject to regulations under this Article, in the application of provisions of the 1993 Act by virtue of paragraph (4), a person who elects for the 1993 scheme shall be treated—

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- (a) as if the office of the Comptroller and Auditor General were a qualifying judicial office (within the meaning of that Act) by virtue of inclusion among the offices specified in Part I of Schedule 1 to that Act;
- (b) as if his election under this Article were an election such as is mentioned in paragraph (d) of section 1(1) of that Act (so that, in particular, section 12 of that Act, which provides for the transfer of accrued rights into the scheme, applies);
- (c) as if his pension by virtue of this Article were a pension under section 2 of that Act (and, accordingly, a judicial pension, within the meaning of that Act); and
- (d) for the purpose of determining, in the event of his death, the rate of any surviving spouse's or children's pension payable under sections 5 to 8 of that Act in respect of his service as Comptroller and Auditor General, as if references in those sections to the annual rate of the deceased's judicial pension were references—
  - (i) where a pension had commenced to be paid to him by virtue of paragraph (4), to the appropriate annual rate of that pension; or
  - (ii) where no such pension had commenced to be paid to him, to the rate that would have been the appropriate annual rate of the pension payable to him by virtue of paragraph (4)(b), had he not died, but been disabled by permanent infirmity for the performance of the duties of his office on and after the date of death;

and, in the application of that Act to the Comptroller and Auditor General (whether by virtue of paragraph (2)(a) or (b)) the references to the appropriate Minister in sections 13 (election for personal pension), 19 (benefits in respect of earnings in excess of pension-capped salary) and 20 (appeals) of, and Schedule 2 (transfer of accrued rights) to, that Act shall be taken as references to the Treasury and the power conferred by paragraph 2 of that Schedule to make regulations shall be exercisable by the Treasury.

- (6) Where a person elects under this Article for the civil service scheme, Article 4(4) shall apply in relation to his service as Comptroller and Auditor General.
- (7) Any power to make an election under this Article shall be exercisable within such time and in such manner as may be prescribed in regulations under this Article.
- (8) The Treasury may make regulations for purposes supplementary to the other provisions of this Article.
- (9) Any such regulations may, without prejudice to section 38 of the Superannuation Act (Northern Ireland) 1967 or section 39A of the Superannuation Act 1965 (employment in more than one public office), make special provision with respect to the pensions and other benefits payable to or in respect of a person to whom—
  - (a) his former scheme,
  - (b) the 1993 scheme, or
  - (c) the civil service scheme,

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applies, or has applied, in respect of any service other than service as Comptroller and Auditor General.

- (10) The provision that may be made by virtue of paragraph (9) includes provision—
- (a) for aggregating—
- (i) other service falling within his former scheme or the 1993 scheme with service as Comptroller and Auditor General, or
- (ii) service as Comptroller and Auditor General with such other service,
- for the purpose of determining qualification for, or entitlement to, or the amount of, benefit under the scheme in question;
- (b) for increasing the amount of the benefit payable under either of the schemes mentioned in sub-paragraph (a)(i), in the case of a person to whom that scheme applied in respect of an office held by him before appointment as Comptroller and Auditor General, up to the amount that would have been payable under that scheme if he had retired from that office on the ground of permanent infirmity immediately before his appointment.
- (11) Regulations made under this Article shall be subject to annulment in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.
- (12) Any pension or other benefit granted by virtue of this Article (except a pension or other benefit under the civil service scheme) shall be charged on, and issued out of, the Consolidated Fund of the United Kingdom.
- (13) In this Article—
- “the 1993 Act” means the Judicial Pensions and Retirement Act 1993;
- “the appointed day” means the day on which Part IV of Schedule 4 to the 1993 Act comes into force;
- “judicial pension scheme” means any public service pension scheme, as defined in—
- (a) section 66(1) of the Social Security Pensions Act 1975, or
- (b) Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975,
- under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices, within the meaning of the 1993 Act, but does not include the civil service scheme.”

#### Marginal Citations

M9 [S.I. 1987/460 \(N.I. 5\)](#).

*Status: Point in time view as at 29/03/1993. This version of this schedule contains provisions that are not valid for this point in time.*  
**Changes to legislation:** There are currently no known outstanding effects for the Judicial Pensions and Retirement Act 1993, SCHEDULE 4. (See end of Document for details)

VALID FROM 31/03/1995

**PART V N.I.**

THE NORTHERN IRELAND PARLIAMENTARY COMMISSIONER FOR ADMINISTRATION  
 AND THE NORTHERN IRELAND COMMISSIONER FOR COMPLAINTS

- 6 (1) The <sup>M10</sup>Parliamentary Commissioner Act (Northern Ireland) 1969 shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (3) of section 2 (power to determine the pension and other benefits payable to person who has held office as Commissioner) at the beginning there shall be inserted the words “ Subject to subsections (4A) and (4B), ”.
- (3) After subsection (4) of that section there shall be inserted the following subsections—
- “(4A) Subsection (3) shall not apply in relation to pension and other benefits payable to or in respect of a person who first holds the office of Commissioner on or after the day appointed for the coming into force of Part V of Schedule 4 to the Judicial Pensions and Retirement Act 1993.
- (4B) The provisions of Schedule 1A shall have effect with respect to the pensions and other benefits to be paid to or in respect of persons who have held office as Commissioner.”
- (4) In subsection (5) of that section, at the end there shall be added the words “ or by virtue of Schedule 1A ”.
- (5) In subsection (6) of that section, at the beginning there shall be inserted the words “ Except insofar as Schedule 1A otherwise provides ”.
- (6) Immediately before Schedule 1 there shall be inserted the following Schedule—

“SCHEDULE  
 1A N.I.

Section 2.

PENSIONS AND OTHER BENEFITS

*Persons taking office after the appointed day*

- 1 A person who first holds office as the Commissioner on or after the appointed day shall be entitled, if he was a member of a judicial pension scheme immediately before he first holds that office, to elect between—
- (a) the scheme of pensions and other benefits under that judicial pension scheme (his “former scheme”);
- (b) (if different from his former scheme) the scheme of pensions and other benefits constituted by Part I of the 1993 Act (“the 1993 scheme”); and



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(c) the scheme of pensions and other benefits applicable under Article 3 of the Superannuation (Northern Ireland) Order 1972 to the civil service of Northern Ireland (“the civil service scheme”);

and, if he is not entitled to make an election under this paragraph, or if he is so entitled but fails to make such an election, he shall be treated as if he had been so entitled and had elected for the civil service scheme.

*Transitional provision for persons appointed before the appointed day*

2 If a person who held the office of Commissioner before the appointed day has made an election under the former enactment for the old judicial scheme, he shall be entitled to make an election under this sub-paragraph between—

- (a) the old judicial scheme; and
- (b) the 1993 scheme;

and, if he fails to make an election under this sub-paragraph, he shall be taken to have elected for the old judicial scheme.

*Effect of election to continue in former scheme*

3 Where a person elects under this Schedule for his former scheme, that scheme shall, subject to regulations under this Schedule, apply as if his service as Commissioner were service which was subject, in his case, to that scheme.

*Effect of election for the 1993 scheme*

4 (1) A person who elects under paragraph 1(b) or 2(b) for the 1993 scheme, shall be entitled, when he ceases to hold office as Commissioner, to a pension under Part I of the 1993 Act at the appropriate annual rate (within the meaning of that Act) if he has held that office for at least 5 years and either—

- (a) he has attained the age of 65; or
- (b) he is disabled by permanent infirmity for the performance of the duties of the office;

and, subject to the following provisions of, and regulations under, this Schedule, the provisions of Part I of that Act (other than sections 1(1) to (4) and 2) and of sections 19, 20 and 23 of, and Schedule 2 to, that Act (which provide for benefits in respect of earnings in excess of pension-capped salary, appeals and transfer of accrued rights) shall apply in relation to him and his service in the office of Commissioner as they apply in relation to a person to whom Part I of that Act applies.

(2) Subject to regulations under this Schedule, in the application of provisions of the 1993 Act by virtue of sub-paragraph (1), a person who elects for the 1993 scheme shall be treated—

- (a) as if the office of Commissioner were a qualifying judicial office (within the meaning of that Act) by virtue of inclusion among the offices specified in Part I of Schedule 1 to that Act;
- (b) as if his election under this Schedule were an election such as is mentioned in paragraph (d) of section 1(1) of that Act (so that, in



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particular, section 12 of that Act, which provides for the transfer of accrued rights into the scheme, applies);

- (c) as if his pension by virtue of this Schedule were a pension under section 2 of that Act (and, accordingly, a judicial pension, within the meaning of that Act); and
- (d) for the purpose of determining, in the event of his death, the rate of any surviving spouse's or children's pension payable under sections 5 to 8 of that Act in respect of his service as Commissioner, as if references in those sections to the annual rate of the deceased's judicial pension were references—
  - (i) where a pension had commenced to be paid to him by virtue of sub-paragraph (1), to the appropriate annual rate of that pension; or
  - (ii) where no such pension had commenced to be paid to him, to the rate that would have been the appropriate annual rate of the pension payable to him by virtue of sub-paragraph (1)(b), had he not died, but been disabled by permanent infirmity for the performance of the duties of his office on and after the date of death;

and, in the application of that Act to the Commissioner (whether by virtue of paragraph 1(a) or (b) or 2(b)) the references to the appropriate Minister in sections 13 (election for personal pension), 19 (benefits in respect of earnings in excess of pension-capped salary) and 20 (appeals) of, and Schedule 2 (transfer of accrued rights) to, that Act shall be taken as references to the Treasury and the power conferred by paragraph 2 of that Schedule to make regulations shall be exercisable by the Treasury.

*Effect of election for, or to continue in, the civil service scheme*

- 5 Where a person elects under this Schedule for the civil service scheme, the principal civil service pension scheme within the meaning of Article 4 of the Superannuation (Northern Ireland) Order 1972 and for the time being in force shall apply as if his service as Commissioner were service in employment in the civil service of Northern Ireland.

*Effect of election to continue in the old judicial scheme*

- 6 Where a person elects under this Schedule for the old judicial scheme, that scheme and the former enactment shall continue to have effect in relation to him and his service in the office of Commissioner.

*Time for, and manner of, election*

- 7 Any power to make an election under this Schedule shall be exercisable within such time and in such manner as may be prescribed in regulations under this Schedule.

*Regulations*

- 8 (1) The Treasury may make regulations for purposes supplementary to the other provisions of this Schedule.

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- (2) Any such regulations may, without prejudice to section 38 of the Superannuation Act (Northern Ireland) 1967 or section 39A of the Superannuation Act 1965 (employment in more than one public office), make special provision with respect to the pensions and other benefits payable to or in respect of a person to whom—
- (a) his former scheme,
  - (b) the 1993 scheme,
  - (c) the civil service scheme, or
  - (d) the old judicial scheme,
- applies, or has applied, in respect of any service other than service as Commissioner.
- (3) The provision that may be made by virtue of sub-paragraph (2) includes provision—
- (a) for aggregating—
    - (i) other service falling within his former scheme, the 1993 scheme or the old judicial scheme with service as Commissioner, or
    - (ii) service as Commissioner with such other service,for the purpose of determining qualification for, or entitlement to, or the amount of, benefit under the scheme in question;
  - (b) for increasing the amount of the benefit payable under any of the schemes mentioned in paragraph (a)(i), in the case of a person to whom that scheme applied in respect of an office held by him before appointment as Commissioner, up to the amount that would have been payable under that scheme if he had retired from that office on the ground of permanent infirmity immediately before his appointment.
- (4) Regulations made under this Schedule shall be subject to annulment in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

*Pensions and benefits to be charged on the Consolidated Fund*

- 9 Any pension or other benefit granted by virtue of this Schedule (except a pension or other benefit under the civil service scheme or the old judicial scheme) shall be charged on, and issued out of, the Consolidated Fund of the United Kingdom.

*Interpretation*

- 10 In this Schedule—
- “the 1993 Act” means the Judicial Pensions and Retirement Act 1993;
- “the appointed day” means the day on which Part V of Schedule 4 to the 1993 Act comes into force;
- “the former enactment” means the Parliamentary Commissioner and Commissioner for Complaints (Pension) Order (Northern

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Ireland) 1973 as it had effect from time to time before the appointed day;

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

- (a) section 66(1) of the Social Security Pensions Act 1975, or
- (b) Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975,

under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices, within the meaning of the 1993 Act, but does not include the civil service scheme;

“the old judicial scheme” means the scheme of pensions and other benefits set out in Part II of the Parliamentary Commissioner and Commissioner for Complaints (Pension) Order (Northern Ireland) 1973.”

**Marginal Citations**

**M10** 1969 c. 10 (N.I.).

- 7 (1) The <sup>M10</sup>Commissioner for Complaints Act (Northern Ireland) 1969 shall be amended in accordance with the following provisions of this paragraph.
- (2) In subsection (2) of section 2 (remuneration), at the end there shall be added the words “ or payable by virtue of Schedule 1A ”.
- (3) In subsection (3) of that section, at the beginning there shall be inserted “ Except insofar as Schedule 1A otherwise provides ”.
- (4) After that subsection there shall be added—
- “(4) The provisions of Schedule 1A shall have effect with respect to the pensions and other benefits to be paid to or in respect of persons who have held office as Commissioner.”
- (5) After subsection (1) of section 13 (power to make provision by order) there shall be inserted the following subsection—
- “(1A) Paragraph (c) of subsection (1) shall not apply in relation to pension and other benefits payable to or in respect of a person who first holds the office of Commissioner on or after the day appointed for the coming into force of Part V of Schedule 4 to the Judicial Pensions and Retirement Act 1993.”
- (6) Immediately before Schedule 1 there shall be inserted as Schedule 1A the Schedule set out in paragraph 6(6) above.

**Marginal Citations**

**M11** 1969 c. 25 (N.I.).

**Status:**

Point in time view as at 29/03/1993. This version of this schedule contains provisions that are not valid for this point in time.

**Changes to legislation:**

There are currently no known outstanding effects for the Judicial Pensions and Retirement Act 1993, SCHEDULE 4.