

SCHEDULES

SCHEDULE 4

PENSIONS FOR SENIOR PUBLIC INVESTIGATIVE OFFICERS

PART I

THE COMPTROLLER AND AUDITOR GENERAL

- 1 For section 13 of the 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
- (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.

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- (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 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

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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 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.

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(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.”