

*Status: Point in time view as at 31/03/1995.*

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Judicial Pensions and Retirement Act 1993, Part V. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 4

#### PENSIONS FOR SENIOR PUBLIC INVESTIGATIVE OFFICERS

##### PART V

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

- 6 (1) The <sup>M1</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

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—

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- (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 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—

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- (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), 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.

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### *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 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;

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“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 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

M1 1969 c. 10 (N.I.).

- 7 (1) The <sup>M2</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.

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**M2** 1969 c. 25 (N.I.).

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