

SCHEDULES

SCHEDULE 9

TRIBUNALS: TRANSITIONAL PROVISION

PART 2

JUDGES AND OTHER MEMBERS OF FIRST-TIER AND UPPER TRIBUNALS: RETIREMENT DATES

Interpretation of Part 2 of Schedule

- 3 (1) For the purposes of this Part of this Schedule—
- (a) “relevant judicial office” means—
 - (i) the office of transferred-in judge, or transferred-in other member, of the First-tier Tribunal or of the Upper Tribunal (see section 31(2)),
 - (ii) an office to which a person is appointed under paragraph 1(1) or 2(1) of Schedule 2 or 3 (judge, or other member, of the First-tier Tribunal or of the Upper Tribunal),
 - (iii) the office of deputy judge of the Upper Tribunal (whether under section 31(2) or under paragraph 7 of Schedule 3),
 - (iv) the office of Chamber President, or Deputy Chamber President, of a chamber of the First-tier Tribunal or of the Upper Tribunal, or
 - (v) the office of Senior President of Tribunals;
 - (b) “relevant day”, in relation to a person who holds a relevant judicial office, means the day when he was appointed to that office or, if he holds that office as the latest in an unbroken succession of different relevant judicial offices, the day when he was appointed to the first of the offices in that succession;
 - (c) an office is a “qualifying office” at any particular time (but see subparagraph (2)) if—
 - (i) the office is that of member of a tribunal which at that time is in a list in Schedule 6, or
 - (ii) the office itself is at that time in a list in Schedule 6,and (in either case) the list has effect at that time for the purposes of section 30;
 - (d) “the 1993 Act” means the Judicial Pensions and Retirement Act 1993 (c. 8).
- (2) Where—
- (a) a person held two or more qualifying offices (“the actual offices”) immediately before the relevant day, and
 - (b) at that time the person held at least one of the actual offices on a salaried basis and held at least one of the actual offices on a non-salaried basis,

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the person shall be treated for the purposes of paragraphs 6 and 7 as not having held immediately before the relevant day any of the actual offices that the person held on a non-salaried basis at that time.

- (3) For the purposes of sub-paragraph (2)—
- (a) a person holds an office on a salaried basis at any particular time if, at that time, the person's service in the office is remunerated by payment of a salary, and
 - (b) a person holds an office on a non-salaried basis at any particular time if, at that time, the person's service in the office—
 - (i) is remunerated by the payment of fees,
 - (ii) is remunerated by the payment of a supplement to the salary payable to him in respect of his service in another office, or
 - (iii) is unremunerated.

Retirement from First-tier and Upper Tribunals: application of paragraphs 5 to 8

- 4 Paragraphs 5 to 8 apply where a person holds a relevant judicial office.

Retirement later than age 70 in certain cases where office previously held in another tribunal

- 5 (1) Subject to paragraph 8(1) (persons who held certain judicial offices on 30th March 1995), sub-paragraphs (3) and (4) apply where the person has a personal retirement date under either or both of paragraphs 6 and 7.
- (2) In sub-paragraphs (3) and (4) and paragraph 8(1) and (2)—
- (a) if the person has a personal retirement date under just one of paragraphs 6 and 7 or has the same personal retirement date under each of those paragraphs, “the special date” means that date;
 - (b) if the person has a personal retirement date under each of those paragraphs and those dates are different, “the special date” means the later of those dates.
- (3) Subsection (1) of section 26 of the 1993 Act shall have effect (subject to the following provisions of that section) as if it provided for the person to vacate the relevant judicial office on the special date.
- (4) The special date is to be taken for the purposes of that section to be the compulsory retirement date for the relevant judicial office in the person's case.

Cases where retirement from existing office would be after age 70

- 6 (1) Sub-paragraphs (2) and (3) apply where, immediately before the relevant day, the person—
- (a) held a qualifying office, and
 - (b) was required to vacate the qualifying office on a day later than the day on which he attains the age of 70.
- (2) The person's personal retirement date under this paragraph is the later day mentioned in sub-paragraph (1)(b), subject to sub-paragraph (3).
- (3) If—
- (a) there are two or more qualifying offices each of which is one that, immediately before the relevant day, the person—

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- (i) held, and
 - (ii) was required to vacate on a day later than the day on which he attains the age of 70, and
- (b) the later day mentioned in paragraph (a)(ii) is not the same for each of those offices,
- the person's personal retirement date under this paragraph is the latest (or later) of those later days.

Cases where no requirement to retire from existing office

- 7 (1) Sub-paragraph (2) applies where—
- (a) immediately before the relevant day, the person held, on an unlimited basis, a qualifying office or two or more qualifying offices, and
 - (b) the relevant day falls after the day on which the person attains the age of 69.
- (2) The person's personal retirement date under this paragraph is the last day of the 12 months beginning with the day after the relevant day.
- (3) For the purposes of this paragraph, a person holds an office on an unlimited basis at a particular time if at that time he is not required to vacate the office at any particular later time.

Interaction between rules under paragraph 5, and rules under Schedule 7 to the 1993 Act, in cases where office held on 30th March 1995

- 8 (1) If—
- (a) sub-paragraph (2) of paragraph 2 of Schedule 7 to the 1993 Act (transitional provision where person held salaried relevant office on 30th March 1995) has effect in relation to retirement from the relevant judicial office in the person's case, and
 - (b) the date that, for the purposes of that paragraph, is the person's potential retirement date by reference to his pre-commencement office ("the retirement date preserved in 1995") is the same as, or later than, the special date,
- paragraph 5(3) and (4) do not apply.
- (2) If the special date is later than the retirement date preserved in 1995, paragraph 2(2) (b) of Schedule 7 to the 1993 Act does not have effect in relation to the relevant judicial office in the person's case.
- (3) Accordingly, in paragraph 1 of Schedule 7 to the 1993 Act, after sub-paragraph (5) insert—
- “(6) Paragraph 2(2) has effect subject to paragraph 8(2) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007 (certain cases where the post-commencement office is that of judge, or other member, of the First-tier Tribunal or the Upper Tribunal).”

Eligibility for appointment after having attained age of 70

- 9 (1) Sub-paragraph (3) applies in respect of a person on each day that—
- (a) is, or is later than, the day on which the person attains the age of 70,

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- (b) is a day on which the person holds a qualifying office, and
 - (c) is earlier than the day on which the person is required to vacate the qualifying office.
- (2) Sub-paragraph (3) also applies in respect of a person on each day that—
- (a) is, or is later than, the day on which the person attains the age of 70, and
 - (b) is a day on which the person holds, on an unlimited basis, a qualifying office.
- (3) Where this sub-paragraph applies in respect of a person on a day, the fact that the person has attained the age of 70 shall not (by itself) render him ineligible for appointment (or re-appointment) on that day to a relevant judicial office.
- (4) For the purposes of this paragraph, a person holds an office on an unlimited basis at a particular time if at that time he is not required to vacate the office at any particular later time.