

Status: Point in time view as at 14/03/2012.

Changes to legislation: Tribunals, Courts and Enforcement Act 2007, Part 4 is up to date with all changes known to be in force on or before 20 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 9

TRIBUNALS: TRANSITIONAL PROVISION

PART 4

AMENDMENTS TO THE JUDICIAL PENSIONS AND RETIREMENT ACT 1993

- 14 The Judicial Pensions and Retirement Act 1993 (c. 8) is amended as follows.
- 15 (1) Section 1 (application of Part 1: judicial pensions) is amended as follows.
- (2) In subsection (1) (persons to whom Part 1 of the 1993 Act applies), after paragraph (d) insert “and
- (e) to any person appointed to a qualifying judicial office in circumstances falling within subsection (4A) below;”.
- (3) In subsection (1), after “but this subsection is subject to the following provisions of this Act” insert “ and to Part 3 of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007 (transitional arrangements for pensions of certain judges and other members of the First-tier Tribunal and Upper Tribunal) ”.
- (4) After subsection (4) insert—
- “(4A) The circumstances of a person's appointment to a qualifying judicial office (“the subsequent office”) fall within this subsection if—
- (a) the person, immediately before being appointed to the subsequent office, holds an office within subsection (4B) below (“the replacement tribunal office”);
- (b) the person held the replacement tribunal office on a salaried basis from when he became its holder until immediately before being appointed to the subsequent office; and
- (c) the person, before becoming the holder of the replacement tribunal office, had never held qualifying judicial office.
- (4B) The offices within this subsection are—
- (a) the office of judge of the First-tier Tribunal by virtue of being a transferred-in judge of the First-tier Tribunal,
- (b) the office of other member of the First-tier Tribunal by virtue of being a transferred-in other member of the First-tier Tribunal,
- (c) the office of judge of the Upper Tribunal by virtue of being a transferred-in judge of the Upper Tribunal, and
- (d) the office of other member of the Upper Tribunal by virtue of being a transferred-in other member of the Upper Tribunal.”
- 16 In section 9(4) (contribution towards cost of surviving spouse's, surviving civil partner's and surviving children's pension), for “or (d) above,” substitute “ , (d) or

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- (e) above or in the case of persons to whom this Part applies by virtue of paragraph 11(4) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007, ”.
- 17 (1) In section 12(1) (transfer of accrued benefits under judicial pension schemes in certain cases where person held qualifying judicial office before 31st March 1995)—
- (a) for “or (d)” substitute “, (d) or (e) ”,
 - (b) after “of section 1(1) above” insert “ or by virtue of paragraph 11(4) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007 ”, and
 - (c) omit paragraph (b) (which is superseded by the new section 12B inserted by this Part of this Schedule).
- (2) In the sidenote to section 12, for the words after “Transfer of rights” substitute “ under judicial pension schemes ”.
- 18 After section 12 insert—

“12A Transfer of rights under other public service pension schemes

- (1) Where this Part—
 - (a) begins, on or after the day on which this section comes into force, to apply to a person by virtue of section 1(1)(d) above, or
 - (b) begins to apply to a person—
 - (i) by virtue of section 1(1)(e) above, or
 - (ii) by virtue of paragraph 11(4) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007,
 any relevant public service pension rights of his shall be transferred to the scheme constituted by this Part.
- (2) Where a person's rights under a public service pension scheme are transferred under subsection (1) above—
 - (a) that scheme shall no longer have effect in relation to him, and
 - (b) no pension or lump sum under the scheme shall be paid to or in respect of him.
- (3) Regulations may make provision—
 - (a) for calculating, whether by actuarial assessment or otherwise, the amount or value of the rights transferred under subsection (1) above, and
 - (b) prescribing the manner in which those rights are to be given effect under this Part.
- (4) Without prejudice to the generality of paragraph (b) of subsection (3) above, regulations under that paragraph may provide for rights transferred under subsection (1) above to be given effect by crediting the person in question with such service, on or after the day on which this Part first applies to the person, as may be prescribed.
- (5) For the purposes of this section, a person's “relevant public service pension rights” are the person's accrued rights to benefit under any public service pension scheme, but this is subject to subsections (6) to (8) below.
- (6) A person's rights under a public service pension scheme are not “relevant public service pension rights” if the scheme is a judicial pension scheme other than—

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- (a) the principal civil service pension scheme, or
 - (b) the principal civil service pension scheme for the civil service of Northern Ireland.
- (7) A person's rights—
- (a) under the principal civil service pension scheme, or
 - (b) under the principal civil service pension scheme for the civil service of Northern Ireland,
- are not “relevant public service pension rights” if they are transferred under section 12 above.
- (8) A person's rights under a public service pension scheme are not “relevant public service pension rights” unless at least some of his service which was subject to the scheme was qualifying tribunal service and, in that event, all of his rights under the scheme shall be regarded as relevant public service pension rights.
- (9) In this section—
- “prescribe” means prescribe in regulations;
 - “public service pension scheme” means any public service pension scheme, as defined in—
 - (a) section 1 of the Pension Schemes Act 1993, or
 - (b) section 1 of the Pension Schemes (Northern Ireland) Act 1993;
 - “qualifying tribunal service” means—
 - (a) service as, or as a member of, a tribunal specified in a list in Schedule 6 to the Tribunals, Courts and Enforcement Act 2007 that has effect for the purposes of section 30 of that Act, or
 - (b) service as an authorised decision-maker for a tribunal, within the meaning given by section 31(4) of that Act;
 - “regulations” means regulations made by the Lord Chancellor with the concurrence of the Treasury.

12B Rate of pension etc. where rights transferred under section 12 or 12A

Entitlement to, and the rate or amount of, any judicial pension or derivative benefit payable under this Part to or in respect of a person whose rights are transferred under section 12 or 12A above shall be determined by reference to—

- (a) any rights of his that are transferred under section 12 above,
- (b) any rights of his that are transferred under section 12A above, and
- (c) his service in qualifying judicial office on or after the day on which this Part first applies to him.”

19 In section 23 (which provides that Schedule 2 does not apply to transfers under section 12), after “section 12” insert “or 12A ”.

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