



Public Service Pensions and Judicial Offices Act 2022

2022 CHAPTER 7

PART 3

JUDICIAL OFFICES

Judicial pay and conditions

121 Retirement date for holders of judicial offices etc

Schedule 1 makes provision about the retirement date for holders of judicial offices.

122 Allowances for judicial office holders

Schedule 2 makes provision in respect of allowances payable to certain judicial office holders.

Sitting in retirement offices

123 Sitting in retirement offices

- (1) For each judicial office listed in Schedule 3 (an “original office”) there is to be a corresponding office (a “sitting in retirement office”).
- (2) A sitting in retirement office is to have the name of the corresponding original office followed by the words “(sitting in retirement)”.
- (3) In this Part, “original office” and “sitting in retirement office” have the meaning given in subsection (1).

124 Appointment to sitting in retirement offices

- (1) The appointing authority may appoint an eligible person to a sitting in retirement office if —
- (a) it appears to the appointing authority that it is expedient to make the appointment to facilitate the disposal of business in any court or tribunal to which a person appointed to the office in question may be deployed, and
 - (b) the person is qualified for appointment to the corresponding original office.
- (2) “The appointing authority”, in relation to a sitting in retirement office, means—
- (a) where the corresponding original office is listed in Part 1 of Schedule 3, the Lord Chief Justice;
 - (b) where the corresponding original office is listed in Part 2 of Schedule 3, the Senior President of Tribunals;
 - (c) where the corresponding original office is listed in Part 3 of Schedule 3, the Lord Chief Justice of Northern Ireland;
 - (d) where the corresponding original office is listed in Part 4 of Schedule 3, the Northern Ireland Judicial Appointments Commission;
 - (e) where the corresponding original office is listed in Part 5 of Schedule 3, the President of Welsh Tribunals;
 - (f) where the corresponding original office is listed in Part 6 of Schedule 3, the Lord President of the Court of Session.
- (3) “An eligible person”, in relation to an appointment to a sitting in retirement office, means a person who—
- (a) holds or has held a prescribed office, and
 - (b) is a person of such further description as may be prescribed.
- (4) In subsection (3), “prescribed” means prescribed by regulations made by—
- (a) where the corresponding original office is listed in Part 1 of Schedule 3, the Lord Chancellor with the concurrence of the Lord Chief Justice;
 - (b) where the corresponding original office is listed in Part 2 of Schedule 3, the Lord Chancellor with the concurrence of the Senior President of Tribunals;
 - (c) where the corresponding original office is listed in Part 3 of Schedule 3, the Lord Chancellor with the concurrence of the Lord Chief Justice of Northern Ireland;
 - (d) where the corresponding original office is listed in Part 4 of Schedule 3, the Department of Justice in Northern Ireland;
 - (e) where the corresponding original office is listed in Part 5 of Schedule 3, the Welsh Ministers with the concurrence of the President of Welsh Tribunals;
 - (f) where the corresponding original office is listed in Part 6 of Schedule 3, the Lord Chancellor with the concurrence of the Lord President of the Court of Session.
- (5) Before making an appointment under this section, the Lord Chief Justice, the Senior President of Tribunals or the Lord Chief Justice of Northern Ireland must obtain the agreement of the Lord Chancellor.
- (6) Before making an appointment under this section, the Northern Ireland Judicial Appointments Commission must obtain the agreement of the Department of Justice in Northern Ireland.

- (7) Before making an appointment under this section, the President of Welsh Tribunals must obtain the agreement of—
- (a) where the appointment is to an office to which subsection (8) applies, the Welsh Ministers, or
 - (b) in any other case, the Lord Chancellor.
- (8) This subsection applies to—
- (a) the office of Member of the Adjudication Panel for Wales (sitting in retirement), and
 - (b) the office of Legal member of the Welsh Language Tribunal (sitting in retirement).
- (9) The Lord Chief Justice may nominate a judicial office holder as defined in section 109(4) of the Constitutional Reform Act 2005 to exercise functions of the Lord Chief Justice under this section.
- (10) The Lord Chief Justice of Northern Ireland may nominate either of the following persons to exercise functions of the Lord Chief Justice of Northern Ireland under this section—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).
- (11) Regulations under this section are subject to the negative procedure.

125 Appointment to sitting in retirement offices: further provision

- (1) This section applies to an appointment of a person under section 124.
- (2) Subject to subsection (3), the person appointed is to be treated for all purposes as, and accordingly may perform any of the functions of, a person appointed to the corresponding original office.
- (3) Subsection (2) does not apply for the purposes of any enactment relating to—
- (a) the appointment, removal or disqualification of office holders of the corresponding original office;
 - (b) the tenure of office or oaths to be taken by such office holders;
 - (c) the remuneration, allowances or pensions of such office holders.
- (4) Subject as follows, the person appointed is to hold and vacate office in accordance with the terms of the person's appointment, which are to be such as the appropriate person may determine.
- (5) The appointment may not extend beyond the day on which the person appointed attains the age of 75.
- (6) The person appointed is to be paid such remuneration and such allowances as the appropriate person may determine.
- (7) A determination under subsection (6) is subject to any approval that is required in respect of the equivalent determination in relation to the corresponding original office.

- (8) In this section, in relation to the exercise of a power in respect of a sitting in retirement office, “the appropriate person” means the person who may exercise the equivalent power in relation to the corresponding original office.
- (9) In this section, “enactment” includes—
- (a) an enactment comprised in subordinate legislation (within the meaning given by section 21 of the Interpretation Act 1978),
 - (b) an enactment comprised in, or in an instrument made under, a Measure or Act of Senedd Cymru,
 - (c) an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament, and
 - (d) an enactment comprised in, or in an instrument made under, Northern Ireland legislation.

126 Discipline and removal from office

- (1) A person appointed to a relevant sitting in retirement office may be removed from that office only on a qualifying ground and—
- (a) if the corresponding original office is the office of High Court Judge (England and Wales) or Lord Justice of Appeal (England and Wales), by the Lord Chancellor with the agreement of the Lord Chief Justice, or
 - (b) in any other case, by the appropriate person.
- (2) The exercise of the power under subsection (1)(b) is subject to any approval that is required in relation to the exercise of the equivalent power in relation to the corresponding original office.
- (3) In subsection (1), a “qualifying ground” is—
- (a) a ground specified in the person’s terms of appointment, or
 - (b) the ground of inability or misbehaviour.
- (4) Subsection (5) applies to a sitting in retirement office if—
- (a) the corresponding original office is listed in Schedule 14 to the Constitutional Reform Act 2005, or
 - (b) the corresponding original office is an office listed in section 109(5) of that Act (senior judges).
- (5) Chapter 3 of Part 4 of the Constitutional Reform Act 2005 (discipline) applies to the sitting in retirement office as it would apply if the office were listed in Schedule 14 to that Act.
- (6) Subsection (7) applies to a sitting in retirement office if the corresponding original office is listed in Part 3 or 4 of Schedule 3 to this Act.
- (7) Section 7 of the Justice (Northern Ireland) Act 2002 (removal from listed judicial offices) applies to the sitting in retirement office as it would apply if the office were listed in Schedule 1 to that Act.
- (8) In this section, a “relevant sitting in retirement office” is a sitting in retirement office for which the corresponding original office is listed in Part 1, 2, 5 or 6 of Schedule 3 to this Act.
- (9) In this section, “the appropriate person” has the meaning given by section 125.

127 Power to add new offices

- (1) The appropriate national authority may by regulations amend Schedule 3 so as to add a judicial office apart from an excluded Scottish office.
- (2) In this section, “the appropriate national authority” means—
 - (a) where the office is to be added to Part 4 of Schedule 3 and provision to add the office to that Part of the Schedule would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly, the Department of Justice in Northern Ireland;
 - (b) where the office is to be added to Part 5 of Schedule 3 and provision to add the office to that Part of the Schedule would be within the legislative competence of Senedd Cymru if it were included in an Act of Senedd Cymru, the Welsh Ministers;
 - (c) in any other case, the Lord Chancellor.
- (3) For the purposes of subsection (1), a judicial office is an “excluded Scottish office” if provision to add the office to Part 6 of Schedule 3 would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament.
- (4) Before making regulations under subsection (1) to add an office to Part 1, 2, 3, or 5 of Schedule 3, the appropriate national authority must consult the relevant office holder.
- (5) In subsection (4), the “relevant office holder” means—
 - (a) where the office is to be added to Part 1 of Schedule 3, the Lord Chief Justice;
 - (b) where the office is to be added to Part 2 of Schedule 3, the Senior President of Tribunals;
 - (c) where the office is to be added to Part 3 of Schedule 3, the Lord Chief Justice of Northern Ireland;
 - (d) where the office is to be added to Part 5 of Schedule 3, the President of Welsh Tribunals.
- (6) Regulations under this section are subject to the affirmative procedure.

Consequential etc provision

128 Consequential etc provision

- (1) Schedule 4 makes amendments consequential on, or related to, this Part.
- (2) The appropriate national authority may by regulations make provision that is consequential on this Part.
- (3) In this section, “the appropriate national authority” means—
 - (a) in relation to provision which would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of that Assembly made without the Secretary of State’s consent, the Department of Justice in Northern Ireland;
 - (b) in relation to provision which would be within the legislative competence of Senedd Cymru if it were included in an Act of Senedd Cymru, the Welsh Ministers;
 - (c) in any other case, the Lord Chancellor.

Status: This is the original version (as it was originally enacted).

- (4) Regulations under this section may amend, repeal, revoke or otherwise modify provision made by an enactment.
- (5) Regulations under this section that amend, repeal or revoke primary legislation are subject to the affirmative procedure.
- (6) Any other regulations under this section are subject to the negative procedure.
- (7) In this section—
 - “enactment” has the meaning given in section 125;
 - “primary legislation” means—
 - (a) an Act;
 - (b) retained direct principal EU legislation;
 - (c) an Act of the Scottish Parliament;
 - (d) a Measure or Act of Senedd Cymru;
 - (e) Northern Ireland legislation.