
STATUTORY INSTRUMENTS

1995 No. 633

PENSIONS

The Judicial Pensions (Qualifying Judicial Offices etc.) (City of London) Order 1995

<i>Made</i>	- - - -	<i>7th March 1995</i>
<i>Laid before Parliament</i>		<i>9th March 1995</i>
<i>Coming into force</i>	- -	<i>31st March 1995</i>

The Lord Chancellor in exercise of the powers conferred on him by sections 1(8), 21(2) and 29(4) of the Judicial Pensions and Retirement Act 1993(1) and (except as to article 3) with the consent of the Treasury, hereby makes the following Order:—

Title and commencement

1. This Order may be cited as the Judicial Pensions (Qualifying Judicial offices etc.) (City of London) Order 1995 and shall come into force on 31st March 1995.

Interpretation

2. In this Order—

“the 1993 Act” means the Judicial Pensions and Retirement Act 1993, and any reference to a Part, Schedule or section by number alone shall be construed as a reference to the Part, Schedule or section so numbered in that Act;

“the appointed day” shall be construed in accordance with section 1(10);

“the appropriate financial year” has the meaning given by article 5(4)(b) below;

“the Common Council” means the Common Council of the City of London;

“relevant office” means the office of Recorder of London or Common Serjeant inserted in Schedule 1 by article 3.

Qualifying judicial offices

3. In Part I of Schedule 1 (the offices which may be qualifying judicial offices), after the words “Judge of the Court of Session” there shall be added the following—

(1) 1993 c. 8; by virtue of sections 1(8) and 21(2) of that Act, the power to make this Order is vested in “the appropriate Minister” which expression is defined in section 30(1) as, so far as is relevant to this Order, the Lord Chancellor.

“Recorder of London
Common Serjeant”.

Discharge of the Common Council’s liability to pay pensions etc.

- 4.—(1) The Common Council shall—
- (a) be discharged, to the extent specified in this Order, from the liability to pay pensions or other benefits mentioned in paragraph (2) in respect of a person’s service in relevant office in any of the circumstances specified in paragraph (3); and
 - (b) instead make payments to the Treasury determined in accordance with article 5.
- (2) The pensions or other benefits are—
- (a) any pension or lump sum payable under Part I, or
 - (b) any sums payable by way of pension or lump sum under section 19,
- to or in respect of any person who has held relevant office and to whom Part I applies.
- (3) The circumstances are that—
- (a) the person first held relevant office on or after the appointed day; or
 - (b) the person—
 - (i) holds relevant office on the appointed day; and
 - (ii) held such office at any time before that day; and
 - (iii) has elected under section 1(2) for Part I to apply to him; or
 - (c) the person—
 - (i) held relevant office on the appointed day; and
 - (ii) held such office at any time before that day; and
 - (iii) notwithstanding that he satisfied the requirements in sub-paragraph (i) and (ii), has not elected under section 1(2) for Part I to apply to him; and
 - (iv) was appointed to some other qualifying judicial office, service in which would (apart from the 1993 Act) have been subject, in his case, to some other judicial pension scheme.

Required payments

- 5.—(1) In August of each year, the Treasury shall submit a request in writing to the Common Council specifying the payments that are to be made by the Common Council to the Treasury.
- (2) The payments required under paragraph (1) are that part of the amount which the Common Council would be liable to pay (apart from this Order) in the appropriate financial year by way of pensions and other benefits in respect of the service of a person who has ceased to hold relevant office which is attributable to a person’s service in relevant office.
- (3) Any request made under paragraph (1) shall show the calculations made, by reference to—
- (a) the length of service in relevant office; and
 - (b) the salary received,
- for the purpose of determining the required payments in respect of the appropriate financial year.
- (4) In this article—
- (a) “financial year” means a year commencing on 1 April and ending on 31 March; and

- (b) “the appropriate financial year” means the financial year during which a request is made in August in that year;

and in the following provisions of this Order any reference to an appropriate financial year shall be construed accordingly.

Timing of payments

6. The payments required under article 5(1) shall be paid to the Treasury in September following a request made in August in that year.

Payments into Consolidated Fund and Civil Superannuation Fund

7.—(1) Notwithstanding the provisions of section 28(6) (requirement for sums received by the Treasury under section 21 to be paid into the Consolidated Fund), any payments received by the Treasury by virtue of this Order shall be paid into—

- (a) the Consolidated Fund; and
- (b) the Civil Superannuation Fund,

in accordance with the provisions of this article; and the operation of section 28(6) shall be modified accordingly.

(2) On receipt by the Treasury of the payments, there shall be paid into the Consolidated Fund a sum equal to so much of—

- (a) any pension or lump sum payable under Part I; and
- (b) any sum payable by way of pension or lump sum under section 19,

which, in the appropriate financial year, to or in respect of any person to whom Part I applies is attributable to his service in relevant office.

(3) On receipt by the Treasury of the payments, it shall pay into the Civil Superannuation Fund a sum equal to so much of the amount which it is required to pay by way of increases in respect of any pension payable under Part I or section 19 in accordance with the provisions of section 22 (application of the Pensions (Increase) Act 1971(2) to pensions under the 1993 Act), in the appropriate financial year, to or in respect of any person to whom Part I applies as is attributable to his service in relevant office.

Meaning of “attributable to service in relevant office”

8.—(1) The amount that is attributable to a person’s service in relevant office shall be determined in accordance with this article.

(2) Where a person who has served in relevant office has not served in any other qualifying judicial office (other than any other relevant office), the amount shall be a sum equivalent to the whole of the pensions and other benefits payable by the Treasury to or in respect of that person.

(3) Where a person who has served in relevant office has also served in any other qualifying judicial office (other than any other relevant office), the amount shall be the appropriate proportion of the whole of the pensions and other benefits payable by the Treasury to or in respect of that person determined by reference to the total of the following fractions—

- (a) the fraction calculated in accordance with the formula set out in paragraph (4); and
- (b) the fraction calculated in accordance with the formula set out in paragraph (5).

(4) The formula is—

$$A = \frac{B}{B + C}$$

where—

- a A is the fraction mentioned in paragraph (3)(a);
- b B is the length of his period of service in relevant office;
- c C is the length of his period of service in qualifying judicial office (other than in a relevant office).

(5) The second formula is—

$$D = \frac{F - G}{F} \times \frac{C}{B + C}$$

where—

- a D is the fraction mentioned in paragraph (3)(b);
- b F is the pensionable pay of his relevant office;
- c G is the pensionable pay of that person calculated on the assumption that he continued to hold a qualifying judicial office (other than a relevant office) until his actual retirement from office; and, for the purpose of that assumption, the qualifying judicial office is the office which he held immediately before the commencement of his service in relevant office.
- d B has the meaning given by paragraph (4)(b);
- e C has the meaning given by paragraph (4)(c).

Recovery of payments due to the Treasury

9.—(1) In any case where—

- (a) a pension or lump sum is or becomes payable to a person to whom this Order applies, and
- (b) the Common Council has not made any payment to the Treasury in respect of that pension or lump sum by reason of the failure of the Treasury to include that payment in any request under article 5(1),

the Treasury shall pay such pension or lump sum due to or in respect of that person as if the Council had made the required payments; and paragraph (2) shall have effect.

(2) Where the Treasury are or will be liable to make any payments of pensions or lump sums under paragraph (1), they shall request the Common Council in writing to pay the Treasury that part of any sums so payable which are attributable to a person's service in relevant office, calculated in accordance with article 8; and such payment shall be made to the Treasury no later than 30 days following the date on which the request was made.

Adjustment of overpayment

10.—(1) In any case where any part of a pension or lump sum in respect of which the Common Council have made a payment to the Treasury pursuant to a request under article 5(1) is not paid to or in respect of a person entitled to such a pension or lump sum by the Treasury for any of the reasons set out in paragraph (2), the Treasury shall deduct a sum equivalent to that which they have already received from the Common Council (but not paid to that person) from any payment requested in the next request under article 5(1).

(2) The reasons are—

- (a) that person dies;

- (b) the recipient of a surviving spouse's pension dies or otherwise ceases to be entitled to the pension;
- (c) the recipient of a children's pension dies or otherwise ceases to be entitled to the pension;
- (d) that person resumes service in qualifying judicial office.

Additional benefits from voluntary contributions

11. Nothing in this Order applies in relation to any pension or other benefits payable by virtue of section 10 (additional benefits from voluntary contributions).

Dated 6th March 1995

Mackay of Clashfern, C.

We consent,

Dated 7th March 1995

Andrew Mitchell
Timothy Wood
Two of the Lords Commissioners of Her
Majesty's Treasury

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Part I of Schedule 1 to the Judicial Pensions and Retirement Act 1993 by adding the offices of Recorder of London and Common Serjeant to the list of judicial offices which may be qualifying judicial offices for the purposes of the new arrangements for judicial pensions contained in Part I of that Act.

It further makes provision for the Common Council of the City of London to be discharged from the liability to pay pensions or other benefits under Part I and section 19 of the 1993 Act in respect of persons who have held the office of Recorder of London or Common Serjeant in the circumstances set out in the Order. The Order requires the Common Council instead to make payments to the Treasury.