
STATUTORY INSTRUMENTS

1995 No. 634

PENSIONS

The Judicial Pensions (Preservation of Benefits) Order 1995

Made - - - - *7th March 1995*
Laid before Parliament *9th March 1995*
Coming into force - - *31st March 1995*

The Lord Chancellor (in relation to holders of qualifying judicial office in England and Wales and Northern Ireland) and the Secretary of State for Scotland (in relation to holders of qualifying judicial office in Scotland), as the appropriate authorities designated for the purposes of section 141 of the Pension Schemes Act 1993(1) and section 137 of the Pension Schemes (Northern Ireland) Act 1993(2) as having responsibility for the public service pension scheme established under the Judicial Pensions and Retirement Act 1993(3), in exercise of the powers conferred on them by those sections, hereby make the following Order:—

Title and commencement

1. This Order may be cited as the Judicial Pensions (Preservation of Benefits) Order 1995 and shall come into force on 31st March 1995.

Interpretation

2.—(1) In this Order—

“the 1993 Act” means the Judicial Pensions and Retirement Act 1993;

“full rate” means the rate at which a pension might have been paid to an office-holder if his service had continued until normal pension age, but calculated by reference to—

- (a) the pensionable pay (as defined by section 3(3)(a) of the 1993 Act), or
- (b) in respect of a pension payable under section 19 of the 1993 Act, the pensionable pay if the pension-capped salary had fallen to be determined under section 3(3)(b) of the 1993 Act without the limit imposed by reference to the permitted maximum there mentioned,

(1) 1993 c. 48. Section 141(1) provides that an Order under that section shall be made by the “appropriate authority” which, by virtue of section 141(2), shall be the Minister of the Crown or government department designated by the Treasury as having responsibility for the pension scheme in question.
(2) 1993 c. 49. Section 137 makes similar provision in respect of the “appropriate authority” to section 141 of the Pension Schemes Act 1993.
(3) 1993 c. 8.

attaching to the office of the office-holder at the date he ceased (within the meaning of article 4 below) to hold office;

“normal pension age” means the earliest age at which an office-holder would have been able to retire with a pension immediately payable under section 2(1) of the 1993 Act;

“office-holder” means a person who holds, or has held, qualifying judicial office;

“qualifying judicial office” has the meaning given to it in section 1(6) of the 1993 Act;

“relevant service” means service in qualifying judicial office.

Application

3. This order shall apply to an office-holder with a pension payable under the scheme constituted by Part I of the 1993 Act and to an office-holder with a pension payable under section 19 of that Act.

Ceasing to hold office

4. An office-holder shall be treated as not ceasing to hold office for the purpose of this Order where—

- (a) he moves from one qualifying judicial office to another; or
- (b) at the time that he ceases to hold qualifying judicial office he is entitled to a pension under section 2(2), 2(3), or 24) of the 1993 Act; or
- (c) he holds qualifying judicial office on the last day of service but has made no election under section 1(2) of the 1993 Act for Part I of the 1993 Act to apply to him.

Preserved pension

5.—(1) An office holder who has completed two years of relevant service, but who ceases to hold qualifying judicial office before normal pension age, shall be eligible for a pension when he reaches normal pension age.

(2) The annual rate at which that pension shall be paid shall be calculated in accordance with the formula

$$(A/B) \times C$$

where—

- a A is the number of years and days of completed relevant service (expressed in years and fractions of years as appropriate) of the office-holder;
- b B is the number of years and days of completed relevant service (expressed in years and fractions of years as appropriate) which the office-holder would have served if that service had continued until normal pension age; and
- c C is the full rate.

(3) Where the office-holder has entered into one or more contracts to purchase added years under the Judicial Added Years Scheme constituted under Part IV of the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995(4), then for the purposes of the calculation in paragraph (2), the number of years included in A in paragraph (2)(a) shall be increased by the result of the calculation of the formula

$$(D/E) \times F$$

applied to each contract entered into where—

- a D is the number of years and days (expressed in years and fractions of years as appropriate) during which added years were purchased by the office-holder;
- b E is the number of years and days (expressed in years and fractions of years as appropriate) during which added years would have been purchased if the office-holder had continued in service until normal pension age; and
- c F is the number of added years that the office-holder contracted to purchase.

Preserved lump sum and derivative benefits

6.—(1) Sections 4(1), 5(1) to (4) and sections 6 to 9 (except section 8(4)) of the 1993 Act shall apply in relation to an office-holder whose pension has been preserved by virtue of this Order, including, where appropriate, any officer who dies before payment of the preserved pension, as they apply in relation to an office-holder who becomes entitled to a pension on retirement at normal pension age or who dies in service.

(2) For the purposes of sections 5 and 8 of the 1993 Act, “the annual rate of the deceased’s judicial pension” shall mean the annual rate of the reduced judicial pension as set out in article 5(2).

Inalienability

7. Any assignment (or, in Scotland, assignation) of, or charge on, or any agreement to assign or charge, any pension or lump sum which may be granted by virtue of this Order shall (unless made by an office-holder in favour of his surviving spouse or eligible children as defined by section 6 of the 1993 Act) be void.

Dated 6th March 1995

Mackay of Clashfern, C.

Dated 7th March 1995

Ian Lang
One of Her Majesty’s Principle Secretaries of
State

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 provides for a reduced pension and derivative benefits (lump sums, surviving spouses' and children's pensions) to be preserved and become payable in the case of a member of the pension scheme constituted by Part I of the Judicial Pensions and Retirement Act 1993 who ceases to hold qualifying office before reaching normal pension age.