
STATUTORY INSTRUMENTS

1996 No. 2893

PENSIONS

**The Judicial Pensions (Miscellaneous)
(Amendment) Regulations 1996**

<i>Made</i>	- - - -	<i>18th November 1996</i>
<i>Laid before Parliament</i>		<i>19th November 1996</i>
<i>Coming into force</i>	- -	<i>16th December 1996</i>

The Lord Chancellor and, in relation to the judicial offices whose jurisdiction is exercised exclusively in Scotland, the Secretary of State, in exercise of the powers conferred on them by section 1(2), (3) and (4) of the Judicial Pensions and Retirement Act 1993⁽¹⁾, hereby make the following Regulations:

1. These Regulations may be cited as the Judicial Pensions (Miscellaneous) (Amendment) Regulations 1996 and shall come into force on 16th December 1996.
2. These Regulations shall apply to an election under section 1(2) of the Judicial Pensions and Retirement Act 1993, written notification of which is received by the appropriate Minister on or after 16th December 1996.
3. For Part II of the Judicial Pensions (Miscellaneous) Regulations 1995⁽²⁾ there shall be substituted—

“PART II

Election for New Pension Arrangements

Interpretation

3. In this Part—

“election” means an election under section 1(2) of the 1993 Act by or in respect of an office-holder; and

“office-holder” means a person to whom section 1(2) of the 1993 Act applies.

(1) 1993 c. 8; the power to make these regulations is vested in the “appropriate Minister” which expression is defined in section 30(1) as (a) in relation to any judicial office whose jurisdiction is exercised exclusively in relation to Scotland, the Secretary of State, or, (b) subject to (a), the Lord Chancellor.

(2) S.I.1995/632.

Method of making election

4.—(1) An office-holder shall make an election by notifying the appropriate Minister in writing of his wish that Part I should apply to him and of the date on which he wishes the election to take effect.

(2) A personal representative shall make an election by notifying the appropriate Minister in writing of his wish that Part I should apply to the deceased office-holder.

(3) A notice given under paragraph (1) shall be signed and dated by the office-holder and shall contain his full name and either—

- (a) his current qualifying judicial office; or
- (b) where he has ceased to hold qualifying judicial office, his last qualifying judicial office.

(4) A notice given under paragraph (2) shall be signed and dated by the personal representative, and shall give the full name of the deceased office-holder and his qualifying judicial office at the date of death or at the date he ceased to hold qualifying judicial office.

(5) A personal representative shall supply with the notice of election evidence of his entitlement to act as personal representative.

Time limit for making election

5.—(1) An office-holder may not make an election later than six months after the date on which he ceases to hold qualifying judicial office.

(2) An office-holder may also not make an election later than the day before the date on which any payment of pension or other benefit is made under a judicial pension scheme in respect of the service in the last qualifying judicial office held by the office-holder.

(3) A personal representative may not make an election later than

- (a) six months after the date on which the deceased office-holder ceased to hold qualifying judicial office; or, if later,
- (b) three months after the date of grant of probate or letters of administration (or, in Scotland, three months after the date of confirmation).

(4) A personal representative may also not make an election later than the day before the date upon which any payment of surviving spouse's pension is made under a judicial pension scheme (in this paragraph and paragraph (5) called 'an existing scheme') in respect of the service in the last qualifying judicial office held by the deceased office-holder unless—

- (a) the office-holder died in service; and
- (b) the amount of pension which the surviving spouse is receiving under an existing scheme does not exceed the amount of pension to which he would have been entitled if Part I had applied to the deceased office-holder from the date of death or, where this is not the case, the condition referred to in paragraph (5) is satisfied.

(5) The condition referred to in paragraph (4)(b) is that the surviving spouse had agreed, in respect of the period prior to the making of an election, to accept an amount on account of the pension which he is eligible to receive under an existing scheme which does not exceed the amount of pension to which he would be entitled if Part I had applied to the deceased office-holder from the date of death.

(6) The date on which a person makes an election is the date on which the appropriate Minister receives his notification given in accordance with regulation 4.

Date of taking effect of the election

6.—(1) An election made by an office-holder while he holds qualifying judicial office shall take effect:

- (a) no earlier than the date on which the office-holder makes the election; and
- (b) no later than the date on which he ceases to hold qualifying judicial office.

(2) Subject to paragraph (1), an election made by an office-holder while he holds qualifying judicial office shall take effect on the date that the office-holder makes the election or, if later, the date the office-holder specifies in accordance with regulation 4(1) as the date he wishes the election to take effect.

(3) An election made by an office-holder after he has ceased to hold qualifying judicial office shall take effect as from his ceasing to hold such office.

(4) Where a personal representative makes an election in respect of an office-holder who died whilst holding qualifying judicial office or after having retired from such office with a pension immediately payable, then, for the purposes of sections 4(3) and 5 to 8 of the 1993 Act, Part I shall be treated as applying to the deceased office-holder—

- (a) where he died before ceasing to hold qualifying judicial office, as from the date of death; or
- (b) where he died after retirement, as from his retirement from qualifying judicial office.

(5) Where a personal representative makes an election in respect of a person who died after ceasing to hold qualifying judicial office and who left such office without a pension becoming immediately payable, the provisions of the Judicial Pensions (Preservation of Benefits) Order 1995⁽³⁾ or the Judicial Pensions (Preservation of Benefits) Order (Northern Ireland) 1995⁽⁴⁾ shall be treated as applying to the deceased office-holder as from his ceasing to hold such office.”

Dated 18th November 1996

*Mackay of Clashfern, C.
M. Forsyth*

Dated 15th November 1996

One of Her Majesty's Principal Secretaries of
State

⁽³⁾ S.I. 1995/634.

⁽⁴⁾ S.R. 1995 No. 388.

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 Regulations)

These Regulations substitute a new Part II of the Judicial Pensions (Miscellaneous) Regulations 1995 (election for new pension arrangements). They make new provision for when an election for Part I of the Judicial Pensions and Retirement Act 1993 to apply to an office-holder is to take effect. They extend the time limit within which personal representatives have to make an election on behalf of a deceased office-holder. They also permit an election to be made by a personal representative, notwithstanding that a children's pension or, in certain circumstances, a surviving spouse's pension, under an existing judicial pension scheme has come into payment.