

EXPLANATORY MEMORANDUM TO
THE JUDICIAL PENSIONS AND RETIREMENT ACT 1993 (ADDITION OF
QUALIFYING JUDICIAL OFFICES) (No. 2) ORDER 2007

2007 No. 2185

1. This explanatory memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The purpose of this Statutory Instrument is to amend the Judicial Pensions and Retirement Act 1993 ("JUPRA") by adding the offices of the President and members of the chairmen's panel of the Tribunal generally known as the Care Standards Tribunal, established under the Protection of Children Act 1999 (as amended), to the Schedule of qualifying offices (in Schedule 1 to the Act) enabling the holders of the offices to be members of the judicial pension scheme under the Act: and by also adding these offices to Schedule 5 to the Act so that the retirement provisions of the 1993 Act should also apply to them. The Statutory Instrument also deletes the transitional provision at Article 3 of the Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) Order 2007 (S.I. 2007 / 675); the effect of this deletion is that the serving Chief Asylum Support Adjudicator is now brought within the offices in Schedule 1 to the Act.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative background

4.1 This Statutory Instrument is made in exercise of the powers conferred by Sections 1(8), 26(9) and 29(3) of JUPRA . Section 1(8) allows the Lord Chancellor, as the appropriate Minister, to amend Schedule 1 to JUPRA by adding offices to those already specified in the Schedule. Any office added to Schedule 1 becomes a qualifying judicial office for the purposes of JUPRA, allowing persons holding that office on a salaried basis to benefit from the JUPRA pension scheme. Section 26(9) enables the Lord Chancellor, as the appropriate Minister, to amend Schedule 5 to JUPRA by adding offices to those already specified in that Schedule. Such an amendment means that a person is deemed to hold a relevant office for the purpose of the retirement provisions in section 26 of JUPRA. Section 26(9) provides that any power to make regulations or an order under JUPRA includes the power to make such transitional, consequential, supplementary or incidental provision or savings as appear to the Lord Chancellor, as the appropriate authority, to be appropriate.

5. Extent

5.1 This Statutory Instrument extends to the United Kingdom.

6. European Convention on Human Rights

6.1 The Lord Chancellor has made the following statement regarding Human Rights:

‘In my view the provisions of the Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) (No. 2) Order 2007 are compatible with the Convention Rights.’

7. Policy background

7.1 Administrative responsibility for the Tribunal generally known as the Care Standards Tribunal has been transferred to the Tribunals Service which is an executive agency of the Ministry of Justice. The inclusion in Schedules 1 and 5 of JUPRA of the President and Chairmen of the Tribunal means that they may now belong to the judicial pension scheme under that Act and become subject to the general judicial retirement arrangements. The transitional provision at Article 3 of the earlier Statutory Instrument, which otherwise added the Asylum Support Adjudicators to Schedule 1 to the 1993 Act, excluded the serving Chief Asylum Support Adjudicator from its ambit. Article 4 of this Statutory Instrument deletes the earlier Article 3, so that the serving Chief Asylum Support Adjudicator is now brought within the ambit of Schedule 1 to the 1993 Act.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared of this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There are marginal public pension cost implications.

9. Contact

9.1 David Staff at the Ministry of Justice (Tel: 020 7210 8936 or email: david.staff@justice.gsi.gov.uk) can answer any queries regarding the instrument.