

EXPLANATORY MEMORANDUM TO
THE JUDICIAL PENSIONS AND RETIREMENT ACT 1993 (ADDITION OF
QUALIFYING JUDICIAL OFFICES) ORDER 2015

2015 No. 109

1. This Explanatory Memorandum has been prepared by the Scotland Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

This instrument adds the judicial offices of summary sheriff and stipendiary magistrate, both in Scotland, to the list of offices in Schedule 1 to the Judicial Pensions and Retirement Act 1993 (“the 1993 Act”), enabling the holders of those offices to be members of the judicial pension scheme under that Act

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

None.

4. Legislative Context

Section 1(8) of the 1993 Act gives the appropriate Minister the power to amend either Part of Schedule 1 to that Act. Section 30(1) of that Act provides that the appropriate Minister for judicial offices whose jurisdiction is exercised exclusively in relation to Scotland is the Secretary of State. Any office added to Part 1 of Schedule 1 becomes a qualifying judicial office for the purposes of the 1993 Act, allowing persons holding that office on a salaried basis to benefit from the pension scheme under the 1993 Act.

5. Territorial Extent and Application

This instrument extends to the United Kingdom.

6. European Convention on Human Rights

As this instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 It has been agreed between the UK Government and the Scottish Government that the existing office of stipendiary magistrate and the new office of summary sheriff, both in Scotland, are to be added to the list of qualifying judicial offices in Part 1 (Judges) of

Schedule 1 to the 1993 Act for the purpose of securing pension provision under Part 1 of the 1993 Act. Part 1 of the 1993 Act sets down the arrangements for judicial pensions for those persons who hold, on a salaried basis, any one or more of the offices specified in Schedule 1 to that Act. It has also been agreed that these two offices will then be added to the new Judicial Pension Scheme being created under the Public Service Pensions Act 2013 from 1 April 2015. This will be achieved through the Public Service Pensions Act 2013 (Judicial Offices) Order 2015, as appropriate.

7.2 The office of stipendiary magistrate was established in its current form under the Criminal Proceedings etc. (Reform) (Scotland) Act 2007. There are currently three salaried stipendiary magistrates in Glasgow. Summary sheriffs have yet to be appointed following the introduction of this new office in the Courts Reform (Scotland) Act 2014, which received Royal Assent on 10 November 2014. Both offices are salaried judicial offices and therefore meet the criteria to be added to Part 1 of Schedule 1 to the 1993 Act.

8. Consultation outcome

No consultation has taken place for this instrument due to its specific nature and limited effect. However, the terms of the Order have been agreed by all the relevant departments within the UK government and the Scottish Government.

9. Guidance

No additional guidance is required for this Order.

10. Impact

An Impact Assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

11. Regulating small business

The legislation does not apply to small business.

12. Monitoring & review

The Order does not create new policy or frameworks and therefore no monitoring or review of the effects of this Order are required.

13. Contact

Emma Lopinska at the Scotland Office (Tel: 0131 244 9016 or email: emma.lopinska@scotlandoffice.gsi.gov.uk) can answer any queries regarding the instrument.