County Courts Act (Northern Ireland) 1959

1959 CHAPTER 25

PART XIII

SUPERANNUATION

PENSIONS OF COUNTY COURT JUDGES

116 Pensions of judges.

(1) **[**[F1]The Treasury**]** may on the recommendation of the [[F2] Lord Chancellor] grant to any judge an annual sum by way of pension calculated in accordance with the provisions of Part I of the Second Schedule—

(a) if his office is vacated in pursuance of sub-section (4) of section one hundred and five; or

(b) if the [[F2] Lord Chancellor] is satisfied by means of a medical certificate that, by reason of infirmity of mind or body, he is incapable of discharging the duties of his office, and that the incapacity is likely to be permanent; or

(c) if he retires after fifteen years' service, and at the time of retirement has attained the age of sixty-five.

Subs. (2)(3) rep. by 1978 c. 23

(4) A person to whom, in consequence of such incapacity as aforesaid, a pension has been granted under this section shall, until the date on which that person could have been granted a pension under paragraph (*a*) or paragraph (*c*) of sub-section (1), be liable to be required by the [[F2] Lord Chancellor] to resume the duties of a judge with the salary attached thereto, and, if (being in a competent state of health) he declines when so required to resume those duties, or declines or neglects to execute those duties, he shall forfeit his right to the pension so granted to him.

(5) Where a person resumes his duties as aforesaid, the payment of the pension granted to him shall be suspended during the period of his resumed service, but, subject to the provisions of sub-section (4), at the end of that period the pension shall again be payable and be recalculated in accordance with the provisions of Part I of the Second Schedule, and for that purpose the period of his resumed service shall be added to the period of his former service.

[[F3](5A) The Lord Chancellor must consult the Lord Chief Justice before—

(a) making a recommendation in a case that falls within subsection (1)(b), or

(b) requiring a person to resume the duties of judge in accordance with subsection (4).

(5B) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (5A)—

(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

(b) a Lord Justice of Appeal (as defined in section 88 of that Act).**]**

Subs. (6) rep. by 1993 c. 8

[[F4](7) This Part shall not have effect in relation to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.**]**

[[F5](8) This Part is subject to section 18 of the Public Service Pensions Act 2013 (restrictions on benefits provided under existing schemes).**]**

F1 1991 NI 24
F2 1978 c. 23
F3 S. 116(5A)(5B) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 5 Pt. 1 para. 11; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(a)
F4 1993 c. 8
F5 S. 116(8) inserted (1.4.2014) by Public Service Pensions Act 2013 (c. 25), s. 41(2), **Sch. 8 para. 1** (with Sch. 11 para. 8); S.I. 2014/839, art. 4(2)(a)

[[F6]**116A**

(1) The provisions regulating the pensions which may be received under section 116 and Part I of the Second Schedule are to take effect subject to the modifications contained in this section.

(2) In this section—

"election" means an election made under sub#section (3);

"judges' pension scheme" means the occupational pension scheme constituted by this Act;

Definition rep. by SR 2003/482

(3) A person who is eligible for a pension in respect of his office as a judge shall while in that office;

(a) be deemed to be a member of the judges' pension scheme except during such time as an election is in force in respect of him; and

[[F7](b) be entitled at any time to serve on the Lord Chancellor a written notice of election not to be a member of the judges' pension scheme, to take effect on a date not less than one month after the date on which it was served.**]**

(4) At any time after a person has made an election and while he continues to hold office as a judge:

(a) he may make a written application to the Lord Chancellor requesting admission to membership of the judges' pension scheme; and

(b) the Lord Chancellor may, if satisfied that the applicant is in good health, admit him to that scheme on a date not less than three months after the date on which the application was served; and

(c) upon the date of the applicant's admission to the judges' pension scheme, his election shall cease to be in force.

(5) An applicant under sub#section (4) shall supply such evidence relating to his health as the Lord Chancellor may reasonably require and shall submit to any medical examination reasonably specified by the Lord Chancellor.

(6) The Lord Chancellor shall notify an applicant under sub#section (4) of his decision in writing within three months after the date on which the application was served.

(7) Subject to the provisions of sub#section (4), an election shall be irrevocable.

(8) An election shall not affect its maker's eligibility for a pension which accrued under a judicial pension scheme before that election came into force.

(9) While an election remains in force in respect of a person, his service shall not be counted as service in computing the pension for which he is eligible under any judical pension scheme.**]**

F6 SR 1989/100
F7 SR 2003/482

S. 117 rep. by SI 1973/2163; SR 1979/103

S. 118 rep. by 1978 c. 23

Changes to legislation:
There are currently no known outstanding effects for the County Courts Act (Northern Ireland) 1959.