

SCHEDULES

SCHEDULE 1

Article 4(4).

PENSIONS AND OTHER BENEFITS

Interpretation

1. In this Schedule—

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

“the 1993 scheme” means the scheme of pensions and other benefits constituted by Part I of the 1993 Act;

“the civil service scheme” means the scheme of pensions and other benefits applicable under Article 3 of the Superannuation (Northern Ireland) Order 1972 to the civil service of Northern Ireland;

“judicial pension scheme” means any public service pension scheme, as defined in—

(a) section 1 of the Pensions Schemes Act 1993; or

(b) section 1 of the Pension Schemes (Northern Ireland) Act 1993,

under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices, within the meaning of the 1993 Act, but does not include the civil service scheme.

Persons holding office before 31 March 1995

2. Notwithstanding any provision in this Order, the Parliamentary Commissioner for Administration and Commissioner for Complaints (Pension) Order (Northern Ireland) 1973 shall continue to apply in relation to a person who held office as Commissioner at any time before 31 March 1995.

Persons taking office on or after 31 March 1995

3. A person who first holds office as Commissioner on or after 31 March 1995 shall be entitled, if he was a member of a judicial pension scheme immediately before he first holds that office, to elect between—

(a) the scheme of pensions and other benefits under that judicial pension scheme (his “former scheme”);

(b) (if different from his former scheme) the 1993 scheme; and

(c) the civil service scheme,

and, if he is not entitled to make an election under this paragraph, or if he is so entitled but fails to make such an election, he shall be treated as if he had been so entitled and had elected for the civil service scheme.

Status: This is the original version (as it was originally made).

Effect of election to continue in former scheme

4. Where a person elects under this Schedule for his former scheme, that scheme shall, subject to regulations made under this Schedule, apply as if his service as Commissioner were service which was subject, in his case, to that scheme.

Effect of election for the civil service scheme

5. Where a person elects under this Schedule for the civil service scheme, the principal civil service pension scheme within the meaning of Article 4 of the Superannuation (Northern Ireland) Order 1972 and for the time being in force shall apply as if his service as Commissioner were service in employment in the civil service of Northern Ireland.

Effect of election for the 1993 scheme

6.—(1) A person who elects under paragraph 3(b) for the 1993 scheme, shall be entitled, when he ceases to hold office as Commissioner, to a pension under Part I of the 1993 Act at the appropriate annual rate (within the meaning of that Act) if he has held that office for at least 5 years and either—

- (a) he has attained the age of 65; or
- (b) he is disabled by permanent infirmity for the performance of the duties of the office.

(2) Subject to the following provisions of, and regulations made under, this Schedule, the provisions of Part I of the 1993 Act (other than sections 1(1) to (4) and 2) and of sections 19, 20 and 23 of, and Schedule 2 to, that Act (which provide for benefits in respect of earnings in excess of pension-capped salary, appeals and transfer of accrued rights) shall apply in relation to him and his service in the office of Commissioner as they apply in relation to a person to whom Part I of that Act applies.

(3) Subject to regulations made under this Schedule, in the application of provisions of the 1993 Act by virtue of sub-paragraph (2), a person who elects for the 1993 scheme shall be treated—

- (a) as if the office of Commissioner were a qualifying judicial office (within the meaning of that Act) by virtue of inclusion among the offices specified in Part I of Schedule 1 to that Act;
- (b) as if his election under this Schedule were an election such as is mentioned in paragraph (d) of section 1(1) of that Act (so that, in particular, section 12 of that Act, which provides for the transfer of accrued rights into the scheme, applies);
- (c) as if his pension by virtue of this Schedule were a pension under section 2 of that Act (and, accordingly, a judicial pension, within the meaning of that Act); and
- (d) for the purpose of determining, in the event of his death, the rate of any surviving spouse's or children's pension payable under sections 5 to 8 of that Act in respect of his service as Commissioner, as if references in those sections to the annual rate of the deceased's judicial pension were references—
 - (i) where a pension had commenced to be paid to him by virtue of sub-paragraph (1), to the appropriate annual rate of that pension; or
 - (ii) where no such pension had commenced to be paid to him, to the rate that would have been the appropriate annual rate of the pension payable to him by virtue of sub-paragraph (1)(b), had he not died, but been disabled by permanent infirmity for the performance of the duties of his office on and after the date of death.

(4) In the application of the 1993 Act to the Commissioner (whether by virtue of paragraph 3(a) or (b)) the references to the appropriate Minister in sections 13 (election for personal pension), 19 (benefits in respect of earnings in excess of pension-capped salary) and 20 (appeals) of, and

Schedule 2 (transfer of accrued rights) to, that Act shall be taken as references to the Minister for the Civil Service and the power conferred by paragraph 2 of that Schedule to make regulations shall be exercisable by the Minister for the Civil Service.

Time for, and manner of, election

7. Any power to make an election under this Schedule shall be exercisable within such time and in such manner as may be prescribed in regulations under this Schedule.

Regulations

8.—(1) The Minister for the Civil Service may make regulations for purposes supplementary to the other provisions of this Schedule.

(2) Any such regulations may, without prejudice to section 38 of the Superannuation Act (Northern Ireland) 1967 or section 39A of the Superannuation Act 1965 (employment in more than one public office), make special provision with respect to the pensions and other benefits payable to or in respect of a person to whom—

- (a) his former scheme, —
- (b) the 1993 scheme, or
- (c) the civil service scheme,

applies, or has applied, in respect of any service other than service as Commissioner.

(3) The provision that may be made by virtue of sub-paragraph (2) includes provision—

- (a) for aggregating—
 - (i) other service falling within his former scheme or the 1993 scheme with service as Commissioner, or
 - (ii) service as Commissioner with such other service,for the purpose of determining qualification for, or entitlement to, or the amount of, benefit under the scheme in question;
- (b) for increasing the amount of the benefit payable under any of the schemes mentioned in head (a)(i), in the case of a person to whom that scheme applied in respect of an office held by him before appointment as Commissioner, up to the amount that would have been payable under that scheme if he had retired from that office on the ground of permanent infirmity immediately before his appointment.

(4) Regulations made under this Schedule shall be subject to annulment in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

Pensions and benefits to be charged on the Consolidated Fund of the United Kingdom

9. Any pension or other benefit granted by virtue of this Schedule (except a pension or other benefit under the civil service scheme) shall be charged on, and issued out of, the Consolidated Fund of the United Kingdom.

SCHEDULE 2

Article 7(1).

BODIES SUBJECT TO INVESTIGATION

The Agricultural Research Institute of Northern Ireland.

Status: This is the original version (as it was originally made).

The Arts Council of Northern Ireland.

The Council for Catholic Maintained Schools.

A district council, a joint committee appointed by two or more district councils for a purpose in which they are jointly interested, and any committee or sub-committee of a district council or joint committee.

An education and library board.

Enterprise Ulster.

The Equal Opportunities Commission for Northern Ireland.

The Fair Employment Commission for Northern Ireland.

The Fire Authority for Northern Ireland.

The Fisheries Conservancy Board for Northern Ireland.

The General Consumer Council for Northern Ireland.

A harbour authority within the meaning of the Harbours Act (Northern Ireland) 1970.

The Health and Safety Agency for Northern Ireland.

A health and social services board.

A health and social services council.

A health and social services trust.

An industrial training board.

The Labour Relations Agency.

The Laganside Corporation.

The Livestock and Meat Commission for Northern Ireland.

The Local Enterprise Development Unit.

The Local Government Staff Commission for Northern Ireland.

The Mental Health Commission for Northern Ireland.

The National Board for Nursing, Midwifery and Health Visiting for Northern Ireland.

A new town commission established under the New Towns Acts (Northern Ireland) 1965 to 1968 and any committee or sub-committee thereof.

The Northern Ireland Central Services Agency for the Health and Social Services.

The Northern Ireland Community Relations Council.

The Northern Ireland Council for the Curriculum, Examinations and Assessment.

The Northern Ireland Council for Postgraduate Medical and Dental Education.

The Northern Ireland Fishery Harbour Authority.

The Northern Ireland Housing Executive.

The Northern Ireland Local Government Officers' Superannuation Committee.

The Northern Ireland Museums Council.

The Northern Ireland Tourist Board.

Office of the Certification Officer for Northern Ireland.

Office of the Northern Ireland Commissioner for Protection Against Unlawful Industrial Action.

Office of the Northern Ireland Commissioner for the Rights of Trade Union Members.

The Rural Development Council for Northern Ireland.

A special health and social services agency.
The Sports Council for Northern Ireland.
The Staff Commission for Education and Library Boards.
The Trustees of the Ulster Folk and Transport Museum.
The Trustees of the Ulster Museum.
Ulster Sheltered Employment Limited.
The Youth Council for Northern Ireland.

SCHEDULE 3

Article 9(1).

MATTERS NOT SUBJECT TO INVESTIGATION

1. The commencement or conduct of any civil or criminal proceedings before a court of law in the United Kingdom, or of proceedings before any international court or tribunal.

2. Action which is or may be investigated by the Attorney General with a view to the institution of proceedings under section 31 or 46(9) of the Local Government Act (Northern Ireland) 1972.

Provided that, if, after the Attorney General has decided not to proceed with such an investigation into such action or not to institute such proceedings in respect of it, or after the final determination of any such proceedings in respect of such action, a person aggrieved complains that such action resulted in his sustaining injustice in consequence of maladministration and that such injustice has not been remedied, the Commissioner may, if satisfied that there are reasonable grounds for that complaint investigate such action, notwithstanding any limitation of time imposed by Article 10(6).

3. Action in the discharge of a professional duty by a medical or dental practitioner, pharmacist, nurse, midwife or member of a profession supplementary to medicine (within the meaning of the Professions Supplementary to Medicine Act 1960) in the course of diagnosis, treatment or care of a particular patient.

4. Action taken in respect of any matter which is within the scope of the powers of the Assembly Ombudsman for Northern Ireland.

SCHEDULE 4

Article 23(1).

AMENDMENTS

The Northern Ireland Constitution Act 1973 (c. 36)

In sections 19(1) and 21(4) for “Schedule 1 to the Commissioner for Complaints Act (Northern Ireland) 1969” substitute “Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996”.

For section 22(2)(c) substitute—

“(c) Article 9(3)(b) of the Commissioner for Complaints (Northern Ireland) Order 1996;”.

Status: This is the original version (as it was originally made).

The Northern Ireland Act 1974 (c. 28)

In Schedule 1 in paragraph 4(1), for “section 1 l(3) of the Commissioner for Complaints Act (Northern Ireland) 1969” substitute “Article 19 of the Commissioner for Complaints (Northern Ireland) Order 1996”.

SCHEDULE 5

Article 23(2).

REPEALS

Chapter or Number	Short title	Extent of repeal
1969 c. 25 (N.I.).	The Commissioner for Complaints Act (Northern Ireland) 1969.	The whole Act.
1972 c. 9 (N.I.).	The Local Government Act (Northern Ireland) 1972.	In Schedule 8, paragraphs 24 and 25.
1972 NI 14.	The Health and Personal Social Services (Northern Ireland) Order 1972.	In Part II of Schedule 16, paragraph 82.
1973 NI 14.	The Salaries (Comptroller and Auditor-General and Others) (Northern Ireland) Order 1973.	The whole Order, in so far as it relates to the Commissioner.
1973 NI 16.	The Enterprise Ulster (Northern Ireland) Order 1973.	In Schedule 1, paragraph 9(2).
SI 1973 No. 2163.	The Northern Ireland (Modification of Enactments – No. 1) Order 1973.	Article 2(4).
		In Schedule 5, paragraph 59.
1976 c. 25.	The Fair Employment (Northern Ireland) Act 1976.	Section 58(2)(c).
1979 c. 36.	The Nurses, Midwives and Health Visitors Act 1979.	In Schedule 7, paragraph 15.
1980 NI 3.	The County Courts (Northern Ireland) Order 1980.	In Part II of Schedule 1, the amendment to the Commissioner for Complaints Act (Northern Ireland) 1969.
1981 NI 3.	The Housing (Northern Ireland) Order 1981.	In Schedule 1, paragraph 10.
1981 NI 8.	The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981.	In Schedule 3, the amendment to the Commissioner for Complaints Act (Northern Ireland) 1969.
1984 NI 9.	The Industrial Training (Northern Ireland) Order 1984.	In Schedule 3, paragraph 4(a).

Chapter or Number	Short title	Extent of repeal
1984 NI 11.	The Fire Services (Northern Ireland) Order 1984.	In Schedule 3, paragraph 3.
1986 NI 3.	The Education and Libraries (Northern Ireland) Order 1986.	In Schedule 18, the amendment to the Commissioner for Complaints Act (Northern Ireland) 1969.
1986 NI 4.	The Mental Health (Northern Ireland) Order 1986.	In Schedule 4, paragraph 11.
1986 NI 25.	The Recreation and Youth Service (Northern Ireland) Order 1986.	Article 3(9).
1989 NI 2.	The Laganside Development (Northern Ireland) Order 1989.	In Schedule 1, paragraph 14.
1989 c. 6.	The Official Secrets Act 1989.	In Schedule 1, paragraph 1(c).
1989 NI 20.	The Education Reform (Northern Ireland) Order 1989.	In Schedule 9, the amendments to the Commissioner for Complaints Act (Northern Ireland) 1969.
1989 NI 22.	The Youth Service (Northern Ireland) Order 1989.	In the Schedule, paragraph 9.
1990 NI 3.	The Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990.	In the Schedule, paragraph 9(2).
1991 NI 1.	The Health and Personal Social Services (Northern Ireland) Order 1991.	In Part II of Schedule 5, the amendment to the Commissioner for Complaints Act (Northern Ireland) 1969.
1993 c. 8.	The Judicial Pensions and Retirement Act 1993.	Section 25(h).
1993 NI 12.	The Education and Libraries (Northern Ireland) Order 1993.	In Part V of Schedule 4, paragraph 7.
1993 NI 12.	The Education and Libraries (Northern Ireland) Order 1993.	In Schedule 4, the amendment to the Commissioner for Complaints Act (Northern Ireland) 1969.
1993 c. 49.	The Pension Schemes (Northern Ireland) Act 1993.	In Schedule 7, paragraph 9.
1995 NI 12.	The Trade Union and Labour Relations (Northern Ireland) Order 1995.	In Schedule 2, the amendments to the Commissioner for Complaints Act (Northern Ireland) 1969.