

SCHEDULES

SCHEDULE 1

Article 5(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 Northern Ireland Parliamentary Commissioner for Administration at any time before 31 March 1995.

Persons taking office on or after 31 March 1995

3. A person who first holds office as Ombudsman 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.

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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 Ombudsman 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 Ombudsman 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 Ombudsman, 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 Ombudsman 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 Ombudsman 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 Ombudsman, 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 Ombudsman (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 Ombudsman.

(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 Ombudsman, or
 - (ii) service as Ombudsman 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 Ombudsman, 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 8(1).

DEPARTMENTS AND OTHER AUTHORITIES SUBJECT TO INVESTIGATION
Civil Service Commissioners for Northern Ireland
Department of Agriculture

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Department of Economic Development
Department of Education
Department of the Environment
Department of Finance and Personnel
Department of Health and Social Services
Office of the Director General of Electricity Supply for Northern Ireland
Office of the Director General of Gas for Northern Ireland

NOTES:

1. The reference to the Department of Economic Development includes the Registry of Credit Unions.
2. The reference to the Department of the Environment includes the Land Registry, the Public Record Office and the Registry of Deeds.
3. The reference to the Department of Finance and Personnel includes the General Register Office and the office of the Commissioner of Valuation.
4. In relation to any function exercisable by a department or authority for the time being listed in this Schedule which was previously exercisable on behalf of the Crown by a department or authority not so listed, the reference to the department or authority so listed includes a reference to the other department or authority.

SCHEDULE 3

Article 9(4).

TRIBUNALS REFERRED TO IN ARTICLE 9(4)

The Lands Tribunal for Northern Ireland established under section 1 of the Lands Tribunal and Compensation Act (Northern Ireland) 1964.

A tribunal constituted under Schedule 11 of the Health and Personal Social Services (Northern Ireland) Order 1972.

The Water Appeals Commission established under Article 7 of the Water and Sewerage Services (Northern Ireland) Order 1973.

Rent assessment committees constituted under Article 28 of the Rent (Northern Ireland) Order 1978.

Tribunals constituted in Northern Ireland under regulations made under section 4 of the Vaccine Damage Payments Act 1979.

Industrial tribunals established by regulations made under Article 30 of the Industrial Training (Northern Ireland) Order 1984.

The Mental Health Review Tribunal for Northern Ireland constituted under Article 70 of the Mental Health (Northern Ireland) Order 1986.

The Fair Employment Tribunal for Northern Ireland established under regulations under section 2 of the Fair Employment (Northern Ireland) Act 1989.

The Planning Appeals Commission constituted under Article 110 of the Planning (Northern Ireland) Order 1991.

Child support appeal tribunals constituted under Article 23 of the Child Support (Northern Ireland) Order 1991.

The Industrial Court constituted under Article 91 of the Industrial Relations (Northern Ireland) Order 1992.

Social security appeal tribunals constituted under section 39 of the Social Security Administration (Northern Ireland) Act 1992.

Disability appeal tribunals constituted under section 41 of that Act.

Medical appeal tribunals constituted under section 48 of that Act.

Registered Homes Tribunals constituted under Part V of the Registered Homes (Northern Ireland) Order 1992.

The tribunal established to adjudicate on claims under the scheme for compensation for loss of employment through civil unrest.

SCHEDULE 4

Article 10(1).

MATTERS NOT SUBJECT TO INVESTIGATION

1. Action taken in matters certified by the head of a department to affect relations or dealings between the Government of Northern Ireland and any other Government.
2. The commencement or conduct of any civil or criminal proceedings before any court of law in the United Kingdom, or of proceedings before any international court or tribunal.
3. Action taken by any member of the administrative staff of a tribunal listed in Schedule 3, so far as that action is taken at the direction, or on the authority (whether express or implied), of any person acting in his capacity as a member of the tribunal.
4. Action taken on behalf of the Department of Health and Social Services by—
 - (a) a health and social services board;
 - (b) a special health and social services agency;
 - (c) the Northern Ireland Central Services Agency for the Health and Social Services; or
 - (d) a health and social services trust.
- 5.—(1) Subject to sub-paragraph (2), action taken in matters relating to contractual or other commercial transactions (whether in Northern Ireland or elsewhere) which are transactions of—
 - (a) a department or authority to which this Order applies; or
 - (b) any such body as is mentioned in Article 11(2).(2) This paragraph does not apply to transactions for or relating to—
 - (a) the acquisition of land compulsorily or in circumstances in which it could be acquired compulsorily;
 - (b) the disposal as surplus of land acquired compulsorily or in circumstances in which it could have been acquired compulsorily.
- 6.—(1) Subject to sub-paragraph (2), action taken in respect of appointments or removals, pay, discipline, superannuation or other personnel matters in relation to—
 - (a) service in any office or employment under the Crown or under any authority to which this Order applies;
 - (b) service—
 - (i) in any office or employment; or

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(ii) under any contract for services,

in respect of which power to take action, or to determine or approve the action to be taken, in such matters is vested in any department or other authority to which this Order applies.

(2) This paragraph does not apply to service in the civil service of Northern Ireland in any department or other authority to which this Order applies.

SCHEDULE 5

Article 21(1).

AMENDMENTS

The Northern Ireland Constitution Act 1973 (c. 36)

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

For section 20(2)(d) substitute—

“(d) the Assembly Ombudsman for Northern Ireland;”.

In section 22(1) for “Commissioner” substitute “person”, for “Acts” substitute “statutory provisions” and for “Act” substitute “statutory provision”.

For section 22(2)(b) substitute—

“(b) Article 10(3)(b) of the Ombudsman (Northern Ireland) Order 1996;”.

For section 36(1)(a) substitute—

“(a) Assembly Ombudsman for Northern Ireland;”.

The Northern Ireland Act 1974 (c. 28)

In Schedule 1 in paragraph 4—

(a) in sub-paragraph (1) for “section 10(3) or (4) of the Parliamentary Commissioner Act (Northern Ireland) 1969” substitute “Article 17 of the Ombudsman (Northern Ireland) Order 1996” and for “subsection (5)(a) of the said section 10” substitute “Article 18(2)(a) of the Ombudsman (Northern Ireland) Order 1996”;

(b) for sub-paragraph (2) substitute—

“(2) During any part of the interim period for which there is no Assembly, any complaint under the Ombudsman (Northern Ireland) Order 1996 may be made to, and referred to the Assembly Ombudsman for Northern Ireland by, a member of the House of Commons; and references to a member of the Assembly in Articles 9, 11, 16 and 18 of that Order shall be construed accordingly.”.

The Northern Ireland Assembly Disqualification Act 1975 (c. 25)

In Part III of Schedule 1 for “Northern Ireland Parliamentary Commissioner for Administration” substitute “Assembly Ombudsman for Northern Ireland”.

The Finance Act 1989 (c. 26)

In section 182(1)(c) for “Northern Ireland Parliamentary Commissioner for Administration” substitute “Assembly Ombudsman for Northern Ireland”.

The Juries (Northern Ireland) Order 1996 (NI 6)

In Schedule 3 for “Northern Ireland Parliamentary Commissioner for Administration” substitute “Assembly Ombudsman for Northern Ireland”.

SCHEDULE 6

Article 21(2).

REPEALS

Chapter or Number	Short title	Extent of repeal
1969 c. 10 (N.I.).	The Parliamentary Commissioner Act (Northern Ireland) 1969.	The whole Act.
1972 NI 1.	The Prosecution of Offences (Northern Ireland) Order 1972.	Article 9(2).
1972 NI 14.	The Health and Personal Social Services (Northern Ireland) Order 1972.	In Part II of Schedule 16, paragraph 81.
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 Northern Ireland Parliamentary Commissioner for Administration.
1973 NI 24.	The Ministries (Northern Ireland) Order 1973.	Article 5(2).
1973 c. 36.	The Northern Ireland Constitution Act 1973.	Section 36(2), (3) and (4).
SI 1973 No. 2163.	The Northern Ireland (Modification of Enactments – No. 1) Order 1973.	In Article 2(4) the words “section 11(3) of the Parliamentary Commissioner Act (Northern Ireland) 1969 and”.
		In Schedule 5, paragraph 58.
1976 c. 25.	The Fair Employment (Northern Ireland) Act 1976.	Section 58(2)(b).
1982 NI 6.	The Departments (Northern Ireland) Order 1982.	Article 10(3).
		In Schedule 3, the amendment to the Parliamentary Commissioner Act (Northern Ireland) 1969.
1989 c. 6.	The Official Secrets Act 1989.	In Schedule 1, paragraph 1(b).
1990 NI 3.	The Health and Personal Social Services (Special Agencies) (Northern Ireland) Order 1990.	In the Schedule, paragraph 9(1).

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Chapter or Number	Short title	Extent of repeal
1991 NI 1.	The Health and Personal Social Services (Northern Ireland) Order 1991.	In Part I of Schedule 5, the amendment to the Parliamentary Commissioner Act (Northern Ireland) 1969.
1992 NI 1.	The Electricity (Northern Ireland) Order 1992.	In Schedule 1, paragraph 7.
1992 c. 40.	The Friendly Societies Act 1992.	In Part II of Schedule 21, paragraph 20.
1993 c. 8.	The Judicial Pensions and Retirement Act 1993.	Section 25(g). In Part V of Schedule 4, paragraph 6.
1993 c. 49.	The Pension Schemes (Northern Ireland) Act 1993.	In Schedule 7, paragraph 8.
1996 NI 2.	The Gas (Northern Ireland) Order 1996.	In Schedule 1, paragraph 7.