Judicial Pensions and Retirement Act 1993

1993 CHAPTER 8

PART I

NEW ARRANGEMENTS FOR JUDICIAL PENSIONS

Pensions for judicial officers

2 The judicial officer's entitlement to a pension.

(1) Any person to whom this Part applies—

(a) who retires from qualifying judicial office on or after the day on which he attains the age of 65, and

(b) who has, at the time of that retirement, completed, in the aggregate, at least 5 years' service in qualifying judicial office,

shall be entitled during his life to a pension at the appropriate annual rate.

(2) Any person to whom this Part applies—

(a) who retires from qualifying judicial office on or after the day on which he attains the age of 60, but before attaining the age of 65, and

(b) who has, at the time of that retirement, completed, in the aggregate, at least 5 years' service in qualifying judicial office,

shall be entitled during his life to a pension at the appropriate annual rate, actuarially reduced.

(3) In any case where—

(a) a person to whom this Part applies retires from qualifying judicial office before he has attained the age of 65 or before he has completed, in the aggregate, at least 5 years' service in such office, and

(b) the appropriate Minister is satisfied by means of a medical certificate that, by reason of infirmity of mind or body, the person is incapable of discharging the duties of his qualifying judicial office and that the incapacity is likely to be permanent,

the person shall be entitled during his life to a pension at the appropriate annual rate (and subsection (2) above shall not have effect in relation to that retirement, notwithstanding that the conditions in paragraphs (a) and (b) of that subsection may be satisfied in the particular case).

[[F1](3A) Where the appropriate minister is the Lord Chancellor, he must, before satisfying himself as mentioned in subsection (3)(b)—

(a) consult the Lord Chief of Justice of England and Wales, if the person in question holds office in England and Wales;

(b) consult the Lord Chief of Justice of Northern Ireland, if the person in question holds office in Northern Ireland.**]**

(4) Where a person to whom this Part applies is removed from a qualifying judicial office, his removal from that office shall be treated for the purposes of this Part as his retirement from qualifying judicial office; and if—

(a) he has not attained the age of 60 at the date of that retirement, and

(b) the appropriate Minister recommends that his accrued rights under this Part should be given immediate effect,

the person shall be entitled during his life to a pension at the appropriate annual rate, actuarially reduced.

(5) Where a person to whom a pension under this section has commenced to be paid resumes service in qualifying judicial office—

(a) the resumption of service shall not affect his entitlement to payment of the pension for any period before the resumption,

(b) he shall not be entitled to payment of the pension for any period during the resumed service, and

(c) at the end of the period of resumed service—

(i) his entitlement (and that of any other person) to a pension or other benefit under this Part, and

(ii) the rate or amount of any such pension or other benefit,

shall be determined (subject to section 4(4) below) as if no pension under this section had previously commenced to be paid to him.

(6) A pension under this section shall be payable at such intervals, not exceeding three months, as the Treasury may determine.

(7) For the purposes of this Part—

(a) in determining the length of a person's period of service in any qualifying judicial office, it is immaterial whether he works full-time or part-time, but if he holds two or more qualifying judicial offices concurrently, no day shall be counted more than once;

(b) in determining the length of a person's period of service in any qualifying judicial office, there shall be left out of account—

(i) any service in such office before the day on which this Part first applied to him (except to the extent to which it is given effect under or by virtue of section 12 below);

(ii) in the case of an office which becomes a qualifying judicial office by virtue of an order under section 1(8) above, any service in that office before the day on which it becomes such an office (except to the extent to which it is given effect under or by virtue of section 12 below);

(iii) any service in qualifying judicial office at a time when an election under section 13 below is in force in respect of him; and

(iv) any service in such office in respect of which he has taken a cash equivalent in accordance with paragraph 6 of Schedule 2 to this Act;

(c) in any case falling within subsection (3) above where, at the date of the retirement, the person has not attained the age of 65, the aggregate length of his period of service shall **[**[F2](subject to subsection (7A))**]** be increased by the addition of a period equal in length to one half of that which—

(i) begins immediately after the date of the retirement; and

(ii) ends with the day on which he would attain the age of 65;

(d) where any payment in respect of a pension under this section has become due, the pension shall be treated as commencing to be paid, notwithstanding that no payment has in fact been made in respect of it, and for this purpose a payment in respect of a pension shall be treated as becoming due on the first day of the period for which it is payable;

(e) "actuarially reduced", in relation to the rate of a pension, means reduced by such amount as may be prescribed in, or determined in accordance with, regulations made under this section by the appropriate Minister with the concurrence of the Treasury;

(f) where a person ceases to hold qualifying judicial office in consequence of infirmity of mind or body, the cessation (however brought about) shall be taken for the purposes of this Part to constitute retirement, not removal, from such office.

[F3]**[**[F4](7A) Subsection (7)(c) does not apply where, at the date of the retirement, the person—

(a) is a member of a scheme under section 1 of the Public Service Pensions Act (Northern Ireland) 2014; and

(b) is entitled under that scheme to early payment of benefits on the grounds of ill-health.**]**

[[F5](7A) Subsection **[**[F3](7)(c)**]** does not apply where, at the date of retirement, the person—

(a) is a member of a scheme under section 1 of the Public Service Pensions Act 2013; and

(b) is entitled under that scheme to early payment of benefits on the grounds of ill-health.**]**

(8) In this Act "judicial pension" means a pension under this section.

[[F6](9) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005) to exercise his functions under this section.

(10) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under this section—

(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).**]**

Textual Amendments

F1 S. 2(3A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 227(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11

F2 Words in s. 2(7)(c) inserted (1.4.2015) by The Judicial Pensions Regulations 2015 (S.I. 2015/182), reg. 1(4), **Sch. 3 para. 12(2)(a)** (with regs. 148, 160) and (N.I.) by The Judicial Pensions Regulations (Northern Ireland) 2015 (S.R. 2015/76), reg. 1(3), **Sch. 3 para. 11(2)(a)**

F3 Word in s. 2(7A) substituted (10.3.2022 for specified purposes, 1.4.2022 in so far as not already in force) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), **ss. 106**, 131(1)(2)(f)

F4 S. 2(7A) inserted (N.I.) (1.4.2015) by The Judicial Pensions Regulations (Northern Ireland) 2015 (S.R. 2015/76), reg. 1(3), **Sch. 3 para. 11(2)(b)**

F5 S. 2(7A) inserted (1.4.2015) by The Judicial Pensions Regulations 2015 (S.I. 2015/182), reg. 1(4), **Sch. 3 para. 12(2)(b)** (with regs. 148, 160)

F6 S. 2(9)(10) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 4 para. 227(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 11

3 The appropriate annual rate.

(1) In the case of a person who has, at the time of his retirement from qualifying judicial office, completed, in the aggregate, at least 20 years' service in such office, the "appropriate annual rate" for the purposes of this Act is an annual rate equal to one-half of his pensionable pay.

(2) In the case of a person not falling within subsection (1) above, the "appropriate annual rate" for the purposes of this Act is an amount equal to one-fortieth of his pensionable pay, multiplied by the aggregate length of his service in qualifying judicial office (expressed in years and fractions of a year).

(3) For the purposes of this Act—

(a) a person's "pensionable pay" is the greater of the following amounts, that is to say—

(i) the pension-capped salary payable to him in respect of his service in qualifying judicial office in the period of twelve months ending with the day on which [F7]. . . his participation in the scheme constituted by this Part ceases; and

(ii) the greatest amount of pension-capped salary payable to him in respect of such service in any other period of twelve consecutive months falling within the period of three years ending with that day;

(b) a person's "pension-capped salary" for any period of twelve months is so much of his aggregate salary in respect of service in qualifying judicial office in that period as **[**[F8]does not exceed the permitted maximum for the tax year**]** in which his participation in the scheme constituted by this Part ceases;

(c) a person's salary in respect of service in any qualifying judicial office shall be taken to accrue due from day to day, at the rate for the time being in force, throughout the period for which he holds the office;

(d) if, in consequence of periods of ill-health, the rate at which a person's salary in respect of service in any qualifying judicial office is payable to him for any period falling within the three years mentioned in paragraph (a)(ii) above is less than it would have been apart from the periods of ill-health, he shall be treated as if that salary had been payable to him throughout that period at the rate at which it would have been payable, apart from the periods of ill-health;

(e) in determining a person's salary in respect of his service in qualifying judicial office, there shall be left out of account any part of the salary which is paid on terms which preclude rights to pensions and other benefits accruing by reference to it;

but paragraphs (a) and (b) above are subject to regulations under subsections (4) and (5) below.

[[F9](3A) In subsection (3)(b) above "the permitted maximum" means—

(a) in relation to the tax year 2005-06 and any earlier tax year, the permitted maximum within the meaning of section 590C(1) of the Income and Corporation Taxes Act 1988 (earnings cap) as it had effect for the tax year, and

(b) in relation to the tax year 2006-07 and any later tax year, the amount arrived at under subsection (3B) below.

(3B) The permitted maximum for the tax year 2006-07 and any later tax year is the permitted maximum for the previous tax year increased (if there is a relevant increase in the retail prices index for the tax year) by the appropriate percentage for the tax year.

(3C) There is a relevant increase in the retail prices index for a tax year if the retail prices index for the month of September before the tax year is higher than it was for the previous September.

(3D) And the appropriate percentage for the tax year is the same percentage as the percentage increase in the retail prices index.

(3E) But if the result of the application of subsection (3B) above in relation to a tax year would not be a multiple of £600, the permitted maximum for that tax year is what it would be apart from this subsection rounded up to the nearest amount which is such a multiple.**]**

(4) Regulations may make provision for any case where a person to whom this Part applies serves in qualifying judicial office neither—

(a) throughout the whole of the period of twelve months mentioned in subsection (3)(a)(i) above; nor

(b) throughout any other such period of twelve consecutive months as is mentioned in subsection (3)(a)(ii) above;

and any such regulations may, in particular, provide for such a person's pensionable pay and pension-capped salary to be determined for the purposes of this Act as if he had served in his qualifying judicial office (whether full-time or part-time) throughout the whole of the period of twelve months mentioned in paragraph (a) above and had been paid in respect of that service a salary of an amount determined by reference to the annual rate of salary payable in his case in respect of service in that office in that period.

(5) Regulations may also make provision for any case where the service in qualifying judicial office of a person to whom this Part applies is, or has at some time been, only part-time, within the meaning of the regulations; and any such regulations may, in particular, provide for the amount of salary by reference to which his pension-capped salary (and accordingly his pensionable pay) would fall to be determined, apart from this subsection, to be reduced, for the purpose of making any such determination, in accordance with the regulations.

(6) In this section, "regulations" means regulations made by the appropriate Minister with the concurrence of the Treasury **[**[F10],

"retail prices index", in relation to a month, means—

(a) the general index of retail prices (for all items) published by the **[**[F11]Statistics Board**]** for the month, or

(b) if that index is not published for the month, any substituted index or index figures published by **[**[F11]the Board**]** for the month, and

"tax year" and "the tax year 2006-07" (and corresponding expressions) have the meanings in **[**[F12]section 4 of the Income Tax Act 2007**].]**

Textual Amendments

F7 Words in s. 3(3)(a)(i) omitted (6.4.2006) by virtue of The Taxation of Judicial Pensions (Consequential Provisions) Order 2006 (S.I. 2006/497), **art. 3(2)(a)**

F8 Words in s. 3(3)(b) substituted (6.4.2006) by The Taxation of Judicial Pensions (Consequential Provisions) Order 2006 (S.I. 2006/497), **art. 3(2)(b)**

F9 S. 3(3A)-(3E) inserted (6.4.2006) by The Taxation of Judicial Pensions (Consequential Provisions) Order 2006 (S.I. 2006/497), **art. 3(3)**

F10 S. 3(6): definitions of "retail prices index" and ""tax year" and "the tax year 2006-2007"" inserted (6.4.2006) by The Taxation of Judicial Pensions (Consequential Provisions) Order 2006 (S.I. 2006/497), **art. 3(4)**

F11 Words in s. 3(6) substituted (1.4.2008) by Statistics and Registration Service Act 2007 (c. 18), ss. 60(1), 74(1), **Sch. 3 para. 8**; S.I. 2008/839, **art. 2**

F12 Words in s. 3(6) substituted (6.4.2007 with effect as mentioned in s. 1034(1) of the amending Act) by Income Tax Act 2007 (c. 3), ss. 1027, 1034(1), **Sch. 1 para. 352**

Status:
Point in time view as at 01/04/2022.

Changes to legislation:
There are currently no known outstanding effects for the Judicial Pensions and Retirement Act 1993, Cross Heading: Pensions for judicial officers.