



# Judicial Pensions and Retirement Act 1993

## 1993 CHAPTER 8

### PART II

#### MISCELLANEOUS, GENERAL AND SUPPLEMENTARY PROVISIONS

##### *Retirement date for certain judicial officers etc*

#### **26 Retirement date for holders of certain judicial offices etc.**

- (1) Subject to the following provisions of this section, a person holding any of the offices for the time being specified in Schedule 5 to this Act (a “relevant office”) shall vacate that office on the day on which he attains the age of [F<sup>1</sup>75] or such lower age as may for the time being be specified for the purpose in the enactments and instruments relating to that office, whenever passed or made.
- (2) Any reference in this section to a person’s holding an office includes a reference to his being a member of, or otherwise included in, any panel or list of persons appointed, nominated, approved or otherwise selected to serve from time to time in that office (whether or not the panel or list is required by or under any enactment); and any reference in this section or Schedule 5 to this Act to any particular office or to an office of any class or description, or to a person’s appointment to, or vacation of, an office, shall be construed accordingly.
- (3) Subject to the transitional provision referred to in subsection (11) below, subsection (1) above applies whether the person was appointed to the office before or after the coming into force of this section; but nothing in this Act, or in any amendment made by it, shall be taken—
  - (a) to preclude a person from vacating his office before the compulsory retirement date for that office in his case; or
  - (b) to prevent a person’s appointment to an office coming to an end before that date, in accordance with the terms on which he was appointed.

F<sup>2</sup>(4) .....

F<sup>2</sup>(5) .....

*Changes to legislation: There are currently no known outstanding effects for the Judicial Pensions and Retirement Act 1993, Cross Heading: Retirement date for certain judicial officers etc. (See end of Document for details)*

<sup>F2</sup>(6) .....

(7) After the day on which a person attains the age of 75, he shall not hold any relevant office nor shall he—

- (a) be a member of the Judicial Committee of the Privy Council <sup>F3</sup> . . . ;
- <sup>F4</sup>(b) act as a judge of the Supreme Court under section 38 of the Constitutional Reform Act 2005;
- (c) act as a judge under or by virtue of section 9(1) of the <sup>M1</sup><sup>F5</sup> Senior Courts Act 1981;
- <sup>F6</sup>(d) .....
- (e) sit and act as a judge under or by virtue of section 7 of the <sup>M2</sup>Judicature (Northern Ireland) Act 1978;
- <sup>F7</sup>(f) .....
- <sup>F8</sup>(g) .....
- <sup>F9</sup>(ga) .....
- (h) hold any office—
  - (i) to which appointments are made by or under any Act or statutory instrument;
  - (ii) for which there would, apart from this paragraph, be no compulsory retirement date; and
  - (iii) for appointment to which only persons who have held relevant office are eligible;

and this subsection applies whether or not the person was invited to act as a judge, or was appointed to the office in question, or to some other office by virtue of which he would (apart from this subsection) hold the office in question, before the appointed day.

(8) After the day on which a person attains the age of [<sup>F10</sup>75], he shall not be appointed or re-appointed as—

- (a) <sup>F11</sup> .....
- <sup>F12</sup>(b) .....
- (c) an assessor assisting with an inquiry under section [<sup>F13</sup> 61 of the Merchant Shipping Act 1995];
- <sup>F14</sup>(d) .....
- <sup>F15</sup>(e) .....
- <sup>F15</sup>(f) .....
- (g) an arbitrator, or (in Scotland) an arbiter, under paragraph 9(2) of Schedule 10 to the <sup>M3</sup>Electricity Act 1989;
- <sup>F16</sup>(h) .....
- <sup>F15</sup>(j) .....

(9) The appropriate Minister may by order—

- (a) amend Schedule 5 to this Act by adding offices to those for the time being specified in that Schedule; or
- (b) amend subsection (8) above by adding offices to those for the time being specified in that subsection.

**Changes to legislation:** There are currently no known outstanding effects for the Judicial Pensions and Retirement Act 1993, Cross Heading: Retirement date for certain judicial officers etc. (See end of Document for details)

(10) As from the appointed day, the enactments and instruments mentioned in Schedule 6 to this Act shall have effect with the amendments specified in that Schedule; but those amendments are subject to section 27 below and Schedule 7 to this Act.

<sup>F17</sup>(11) .....

(12) In this section—

“the appointed day” means the day appointed under section 31 below for the coming into force of this section;

<sup>F18</sup> ...

“the compulsory retirement date” for an office means the day on which a holder of that office is or, apart from any continuation power, would be required by any enactment or statutory instrument to vacate that office, being either—

- (a) the day on which he attains a particular age; or
- (b) a day falling to be determined by reference to his attaining a particular age;

“continuation power” means a power conferred by an enactment or statutory instrument on a Minister of the Crown to authorise the holder of an office to continue in that office until a later day than that on which, apart from any exercise of the power, he would be required by any enactment or statutory instrument to vacate that office;

and any reference to vacating an office includes a reference to retiring from it.

<sup>F19</sup>(12A) .....

<sup>F19</sup>(12B) .....

<sup>F19</sup>(13) .....

<sup>F19</sup>(13A) .....

<sup>F19</sup>(14) .....

<sup>F19</sup>(15) .....

<sup>F19</sup>(16) .....

<sup>F19</sup>(17) .....

#### Textual Amendments

- F1** Word in s. 26(1) substituted (10.3.2022) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(a), **Sch. 1 para. 25(2)(a)** (with Sch. 1 para. 43)
- F2** S. 26(4)-(6) omitted (10.3.2022) by virtue of [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(a), **Sch. 1 para. 25(2)(b)** (with Sch. 1 para. 43)
- F3** Words in s. 26(7)(a)(b) repealed (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 146, 148, [Sch. 4 para. 228\(3\)](#), **Sch. 18 Pt. 2**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 11, 30
- F4** S. 26(7)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), **ss. 38(3)**, 148; S.I. 2009/1604, **art. 2(a)**
- F5** Words in s. 26 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 59, 148, **Sch. 11 para. 1(2)**; S.I. 2009/1604, **art. 2(d)**

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- F6** S. 26(7)(d) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(c), **Sch. 4 para. 8(2)**; S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F7** S. 26(7)(f) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(c), **Sch. 4 para. 8(2)**; S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F8** S. 26(7)(g) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(c), **Sch. 4 para. 8(2)**; S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F9** S. 26(7)(ga) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(c), **Sch. 4 para. 8(2)**; S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F10** Word in s. 26(8) substituted (10.3.2022) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(a), **Sch. 1 para. 25(2)(c)(i)** (with Sch. 1 para. 43)
- F11** S. 26(8)(a) repealed (25.7.2003 for specified purposes and 29.12.2003 for further specified purposes) by Communications Act 2003 (c. 21), ss. 406(7), 411(2), **Sch. 19(1)**, Note 1 (with Sch. 18); S.I. 2003/1900, **arts. 2(1)**, 3, Sch. 1; S.I. 2003/3142, **art. 3**
- F12** S. 26(8)(b) repealed (6.4.2015) by The Mines Regulations 2014 (S.I. 2014/3248), reg. 1(2), **Sch. 3 Pt. 2** (with reg. 1(3))
- F13** Words in s. 26(8)(c) substituted (1.1.1996) by 1995 c. 21, ss. 314(2), 316(2), **Sch. 13 para. 93(a)** (with s. 312(1))
- F14** S. 26(8)(d) repealed (29.11.1999) by S.I. 1998/1506 (N.I. 10), art. 78(2), **Sch. 7**; S.R. 1999/472, art. 2(1)(a)(2), **Sch. 1**
- F15** S. 26(8)(e)(f)(j) repealed (1.12.2001) by S.I. 2001/3649, **arts. 1**, 113
- F16** S. 26(8)(h) omitted (10.3.2022) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(a), **Sch. 1 para. 25(2)(c)(ii)** (with Sch. 1 para. 43)
- F17** S. 26(11) omitted (10.3.2022 for specified purposes, 1.10.2022 in so far as not already in force) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(c), **Sch. 4 para. 13(2)**; S.I. 2022/1014, reg. 2(d) (with reg. 3)
- F18** Words in s. 26(12) omitted (10.3.2022) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(a), **Sch. 1 para. 25(2)(d)** (with Sch. 1 para. 43)
- F19** S. 26(12A)-(17) omitted (10.3.2022) by virtue of Public Service Pensions and Judicial Offices Act 2022 (c. 7), s. 131(1)(4)(a), **Sch. 1 para. 25(2)(e)** (with Sch. 1 para. 43)

#### **Modifications etc. (not altering text)**

- C1** S. 26 modified (27.9.1999) by 1999 c. 22, ss. 105, 108(3), **Sch. 14 Pt. V para. 25** (with Sch. 14 para. 7(2))
- C2** S. 26 applied (28.4.2003) by Land Registration Act 2002 (c. 9), ss. 107(3), 136(2), **Sch. 9 para. 1(3)** (with s. 129); S.I. 2003/1028, **art. 2(a)**
- C3** S. 26(1) applied (1.1.1996) by S.I. 1995/3192, **art. 4(a)**
- C4** S. 26(1) modified (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(2), 148(5), **Sch. 9 para. 5(3)**; S.I. 2008/2696, **art. 5(d)** (with art. 3)
- C5** S. 26(3)(11) restricted (1.1.1996) by S.I. 1995/3192, **art. 4(b)(i)(ii)**
- C6** S. 26(4)-(6) restricted (1.1.1996) by S.I. 1995/3192, **art. 5**
- C7** S. 26(5)(6) applied (18.3.2008) by Charities Act 1993 (c. 10), Sch. 1B para. 4 (as inserted by Charities Act 2006 (c. 50), ss. 8, 79, **Sch. 3 para. 1**; S.I. 2008/751, {art. 2,} Sch. (subject to arts. 3-12))
- C8** S. 26(5)(6) applied (N.I.) (25.9.2009) by Charities Act (Northern Ireland) 2008 (c. 12) (N.I.), ss. 12(2), 185, {Sch. 2 para. 4(2)}; S.R. 2009/324, **art. 2**
- C9** S. 26(5)(6) applied (with modifications) (24.2.2020) by The Victims Payments Regulations 2020 (S.I. 2020/103), reg. 1(2), **Sch. 1 para. 5(6)**

#### **Marginal Citations**

- M1** 1981 c. 54.

**Changes to legislation:** There are currently no known outstanding effects for the Judicial Pensions and Retirement Act 1993, Cross Heading: Retirement date for certain judicial officers etc. (See end of Document for details)

- M2 1978 c. 23.
- M3 1989 c. 29.

## 27 Completion of proceedings after retirement.

- (1) Notwithstanding that a person has vacated or otherwise ceased to hold an office to which this section applies—
- (a) he may act as if he had not ceased to hold the office for the purpose of continuing to deal with, giving judgment in, or dealing with any ancillary matter relating to, any case begun before him before he ceased to hold that office; and
  - (b) for that purpose, and for the purpose of any proceedings arising out of any such case or matter, he shall be treated as being or, as the case may be, as having been a holder of that office;
- but nothing in this subsection shall authorise him to do anything if he ceased to hold the office by virtue of his removal from it.
- (2) Where a person has vacated or otherwise ceased to hold a qualifying judicial office but the office in question is one to which this section applies, then, notwithstanding anything in subsection (1) above, any remuneration that may be paid in respect of service of his in that office by virtue of that subsection shall be remuneration by payment of fees (and not a salary) and accordingly that service shall not be regarded as service in qualifying judicial office.
- (3) The offices to which this section applies are—
- (a) any relevant office, within the meaning of section 26 above;
  - (b) any office falling within any of the paragraphs of subsection (7) of that section;
  - (c) Queen’s Coroner and Attorney and Master of the Crown Office and Registrar of Criminal Appeals;
  - (d) Vice Judge Advocate General;
  - (e) Assistant Judge Advocate General;
  - <sup>F20</sup>(f) .....
  - <sup>F21</sup>(ff) .....
  - (g) Chairman of the Criminal Injuries Compensation Board.
  - [<sup>F22</sup>(h) Chief Coroner;
  - (i) Deputy Chief Coroner;
  - (j) senior coroners, area coroners and assistant coroners;
  - (k) traffic commissioners.]
- (4) If and to the extent that any prohibition imposed by subsection (7) of section 26 above would not, apart from this subsection, be regarded as a prohibition on the holding of an office, it shall be treated for the purposes of this section as if it were such a prohibition, and references in this section to office, or to vacating or otherwise ceasing to hold office, shall be construed accordingly.

### Textual Amendments

- F20** S. 27(3)(f) repealed (1.10.2001) by 2001 c. 19, ss. 34, 38, Sch. 6 Pt. 2 para. 10, Sch. 7 Pt. 3; S.I. 2001/3234, art. 2 (subject to art. 3)

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- F21** S. 27(3)(ff) repealed (S.) (30.5.2014) by [The Judicial Pensions and Retirement Act 1993 \(Part-time Sheriff, Stipendiary Magistrate and Justice of the Peace\) Order 2014 \(S.S.I. 2014/155\)](#), arts. 1(2), **2(2)**
- F22** S. 27(3)(h)-(k) inserted (10.3.2022 for specified purposes, 10.5.2022 in so far as not already in force) by [Public Service Pensions and Judicial Offices Act 2022 \(c. 7\)](#), s. 131(1)(4)(b)(i), **Sch. 1 para. 25(3)** (with Sch. 1 para. 43)

**Changes to legislation:**

There are currently no known outstanding effects for the Judicial Pensions and Retirement Act 1993, Cross Heading: Retirement date for certain judicial officers etc.