

EXPLANATORY MEMORANDUM TO
THE JUDICIAL PENSIONS AND RETIREMENT ACT 1993 (ADDITION OF
QUALIFYING JUDICIAL OFFICES) (No.2) ORDER 2008

2008 No. [2947]

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government, with the exception of section 6 for which the Ministry of Justice is responsible. It is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The purpose of the Order is to amend the Judicial Pensions and Retirement Act 1993 (“JUPRA”) by adding the office of the President of the Valuation Tribunal for England to the Schedule of qualifying offices, in Schedule 1 to JUPRA, enabling the holder of the office to be a member of the judicial pension scheme under JUPRA.

3. Matters of special interest to the Joint Committee on Statutory Instruments.

3.1 None.

4. Legislative Background

4.1 This Order is made in exercise of the powers conferred by section 1(8) of JUPRA. Section 1(8) allows the Lord Chancellor, as the appropriate Minister (see the definition in section 30(1)), to amend Schedule 1 to JUPRA by adding offices to those already specified in the Schedule. Any office added to Schedule 1 becomes a qualifying judicial office for the purposes of JUPRA, allowing persons holding that office on a salaried basis to benefit from the JUPRA pension scheme.

4.2 The Valuation Tribunal for England was established by section 219 of the Local Government and Public Involvement in Health Act 2007 (“the 2007 Act”), by giving effect to Schedule 15 to the Act. That Schedule amends Schedule 11 to the Local Government Finance Act 1988 (“the 1988 Act”). Before the jurisdiction of the existing valuation tribunals in England can be transferred to the Valuation Tribunal for England, the President and Vice-President must be appointed. Schedule 15 to the 2007 Act, save for paragraph A2 (transfer of the jurisdiction of the existing English tribunals), paragraph A3 (arbitration) and paragraph A18 (member of the Tribunal unable to act in an appeal), was brought into force on 1st April 2008 by article 2(1)(w) of the Local Government and Public Involvement in Health Act 2007 (Commencement No. 5 and Transitional, Saving and Transitory Provision) Order 2008 (S.I. 2008/917) to facilitate the appointment of those officers and

the exercise by them of certain functions preparatory to the transfer of that jurisdiction. Section 219(1) (which introduces Schedule 15) was brought into force by article 2(1)(r) in so far as the provisions in that Schedule were themselves brought into force by the Order.

4.3 It is for the Lord Chancellor to appoint the President under paragraph A7(1) of Schedule 11 to the 1988 Act. It is for the Secretary of State for Communities and Local Government to determine under paragraph A13 of Schedule 11 to the 1988 Act what (if any) pension is payable to, or in respect of, a person who has held office as President.

5. Territorial Extent and Application

5.1 This instrument extends to the United Kingdom, but applies in relation to England only.

6. European Convention on Human Rights

The Lord Chancellor has made the following statement regarding Human Rights:

“In my view the provisions of the Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) (No. 2) Order 2008 are compatible with the Convention rights.”

7. Policy background

7.1 Paragraph A13 of Schedule 11 to the 1988 Act provides that it is for the Secretary of State for Communities and Local Government to determine what, if any, payment and pension is payable to the President of the Valuation Tribunal for England. The Secretary of State intends to align the terms and conditions of the President’s appointment as closely as possible with those of the Lord Chancellor’s standard judicial appointment terms and conditions in the interests of consistency. The Secretary of State has determined that the office of President of the Valuation Tribunal for England should be a salaried appointment. The Lord Chancellor has consented to the addition of the office of President to Schedule 1 to JUPRA so that, as with other similar judicial offices, a past President of the Valuation Tribunal for England may receive a judicial pension. (JUPRA allows office holders to opt out of receiving a judicial pension.)

7.2 Pensions attributable to persons who have held office as President of the Valuation Tribunal for England will be paid by the Valuation Tribunal Service in accordance with paragraph A14 of Schedule 11 to the 1988 Act. Should the office holder opt out of receiving a judicial pension, the Secretary of State is required by paragraph A13(b) of Schedule 11 to determine the amount (if any) payable towards provision for the payment of a pension to, or in respect of, the office-holder.

7.3 The President of the Valuation Tribunal for England is expected to be appointed and take up office in December 2008.

7.3 The Secretary of State for Communities and Local Government has determined that the office of Vice-President will be fee paid. It will not therefore attract a pension under JUPRA because such pensions are limited to judicial offices held on a salaried basis.

7.4 The subject of pension arrangements for salaried members of the Valuation Tribunal for England was not specifically consulted on

8. Impact

8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 This instrument has no impact on small businesses.

8.3 There are marginal public pension cost implications.

9. Contact

Nageen Haroon at the Department for Communities and Local Government (tel: 020 7944 6937 or e-mail: valuation.tribunal@communities.gsi.gov.uk) can answer any queries regarding the instrument.

Department for Communities and Local Government

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