



Resident Magistrates' Pensions Act (Northern Ireland) 1960

1960 CHAPTER 2

RETIREMENT AND PENSION

[^{F1}1 Retiring age of resident magistrates.

Every resident magistrate (whether appointed before or after the passing of this Act) shall vacate his office on the day on which he attains the age of seventy; but this section is subject to section 26(4) to (6) of the Judicial Pensions and Retirement Act 1993 (^{F2}. . . power to authorise continuance in office up to the age of 75).]

F1 1993 c. 8

F2 Words in s. 1 repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 13, Sch. 18 Pt. 3; S.I. 2006/1014, art. 2(a), Sch. 1 paras. 12(a), 30(c)

2 Pensions of resident magistrates.

(1) Subject to the provisions of this Act, [^{F3} the Treasury] on the recommendation of the Ministry of Home Affairs^{F4} (in this Act referred to as “the Ministry”) may, on the retirement of a resident magistrate who is appointed after the passing of this Act or who has elected, pursuant to section eleven that this Act shall apply to him, grant to him an annual sum by way of pension.

[^{F5}(1A) This Act shall not have effect in relation to a person to whom Part I of the Judicial Pensions and Retirement Act 1993 applies, except to the extent provided by or under that Act.]

(2) A pension granted under sub-section (1)—

(a) shall, if the resident magistrate is not a person to whom paragraph (b) applies, be calculated in accordance with Part I of the Schedule;

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- (b) shall, if the resident magistrate is a person to whom this paragraph applies, be calculated in accordance with Part II of the Schedule;
 - (c) shall be payable by such instalments, at such times and in such manner as^[F3] the Treasury] may think proper.
- (3) Without prejudice to sub-section (2) of section sixteen,^[F3] the Treasury] shall not grant a pension under this Act to a resident magistrate unless—
- (a) not being a person to whom paragraph (b) of sub-section (2) applies, he has completed^[F3] two years] ' service as a resident magistrate;
 - (b) being a person to whom paragraph (b) of sub-section (2) applies, either—
 - (i) he has completed five years' service as a resident magistrate; or
 - (ii) the aggregate of the periods of his service as a resident magistrate and of his service in whole-time employment to which the Superannuation Acts apply (in this Act referred to as “aggregated service”) is not less than ten years' service;
 - (c) he is not less than sixty-five years of age, except upon a medical certificate to the satisfaction of the Minister of Home Affairs^{F4} (in this Act referred to as “the Minister”) that he is incapable, from infirmity of mind or body, of discharging the duties of his office, and that the incapacity is likely to be permanent.
- (4) A resident magistrate to whom a pension has been granted under this section before he has attained the age of sixty-five in consequence of any such incapacity as is mentioned in paragraph (c) of sub-section (3) shall, until he has attained that age, be liable to be required by the Governor^{F6} to resume the duties of a resident magistrate with the salary attached thereto, and, if (being in a competent state of health) he declines when so required to resume those duties, or declines or neglects to execute those duties, his pension shall cease to be payable, unless^[F3] the Treasury] after consultation with the Minister otherwise directs.
- (5) Whenever a resident magistrate has resumed his duties as aforesaid, the payment of the pension granted to him shall be suspended during the period of his resumed service, but, subject to sub-section (4), at the end of that period the pension shall again be payable and be recalculated in accordance with Part I or Part II of the Schedule, as the case may require, and for that purpose the period of his resumed service shall be added to the period of his former service.
- (6) Paragraph (b) of sub-section (2) applies to—
- (a) a person who at the time of his appointment as a resident magistrate—
 - (i) is serving in whole-time employment to which the Superannuation Acts apply; and
 - (ii) has not become eligible for any superannuation benefits under those Acts; or
 - (b) a person who at any time before his appointment as a resident magistrate has retired from employment to which the Superannuation Acts apply in such circumstances that, on attaining a specific age, he would or might have become eligible for a superannuation allowance by virtue of sub-section (2) of section thirty-four^{F7} of the Superannuation Act (Northern Ireland), 1949 , but has not at the date of his appointment as a resident magistrate become eligible for such a superannuation allowance.

^[F8](7) The Lord Chancellor must consult the Lord Chief Justice before—

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- (a) satisfying himself as mentioned in subsection (3)(c), or
 - (b) requiring a person to resume the duties of resident magistrate in accordance with subsection (4).
- (8) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (7)—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002 (c. 26);
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

F3 1991 NI 24

F4 Now Lord Chancellor, SI 1978/2163

F5 1993 c. 8

F6 To be construed as a ref. to Lord Chancellor, SI 1973/2163

F7 1967 c.24; the allowance would now arise under a scheme made under 1972 NI 10

F8 S. 2(7)(8) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 148(1), Sch. 5 para. 14; S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(a)

[^{F9}2A

- (1) The provisions regulating the pensions which may be received under section 2 and the Schedule are to take effect subject to the modifications contained in this section.
- (2) In the section—
- “election” means an election made under sub#section (3);
Definition rep. by SR 2003/482
 - “resident magistrates; pension scheme” means the occupational pension scheme constituted by this Act.
- (3) A person who is eligible for a pension in respect of his office as a resident magistrate shall while in that office:
- (a) be deemed to be a member of the resident magistrates' pension scheme except during such time as an election is in force in respect of him; and
 - [be entitled at any time to serve on the Lord Chancellor a written notice of
 - ^{F10}(b) election not to be a member of the resident magistrates' pension scheme, to take effect on a date not less than one month after the date on which it was served.]
- (4) At any time after a person has made an election and while he continues to hold office as a resident magistrate:
- (a) he may make a written application to the Lord Chancellor requesting admission to membership of the resident magistrates' pension scheme; and
 - (b) the Lord Chancellor may, if satisfied that the applicant is in good health, admit him to that scheme on a date not less than three months after the date on which the application was served; and
 - (c) upon the date of the applicant's admission to the resident magistrates' pension scheme, his election shall cease to be in force.
- (5) An applicant under sub#section (4) shall supply such evidence relating to his health as the Lord Chancellor may reasonably require and shall submit to any medical examination reasonably specified by the Lord Chancellor.

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- (6) The Lord Chancellor shall notify an applicant under sub#section (4) of his decision in writing within three months after the date on which the application was served.
- (7) Subject to the provisions of sub#section (4), an election shall be irrevocable.
- (8) An election shall not affect its maker's eligibility for a pension which accrued under a judicial pension scheme before that election came into force.
- (9) While an election remains in force in respect of a person, his service shall not be counted as service in computing the pension for which he is eligible under any judicial pension scheme.]

F9 SR 1989/100

F10 SR 2003/482

LUMP SUM ON RETIREMENT OR DEATH

3 Lump sum on retirement or death.

- (1) Where a resident magistrate on retirement becomes eligible for a pension, [^{F11} the Treasury] may in addition grant to him a lump sum equal to twice the annual amount of that pension.
- (2) Where a serving resident magistrate dies who, if, at the time of his death, he had retired on the ground of permanent infirmity, would have become eligible under this Act for a pension, subject to sub-section (3) of section eighteen, [^{F11} the Treasury] may grant to his representatives a lump sum equal to—
 - (a) twice the annual amount of the pension for which he would have been so eligible; or
 - (b) his last annual salary;
 whichever is the greater.
- (3) Where—
 - (a) a person to whom paragraph (b) of sub-section (2) of section two applies dies after he has completed less than five years' service as a resident magistrate; and
 - (b) his aggregated service is not less than five years' service but less than ten years' service;
 [^{F11}the Treasury] may grant to his representatives a lump sum equal to his last annual salary.
- (4) Where a resident magistrate on retirement becomes eligible for a pension but dies so soon after his retirement that the sums paid or payable to him on account of that pension when added to an amount equal to twice the annual amount of that pension fall short of the amount of the lump sum which would have been granted under sub-section (2) to his representatives if, at the time of his retirement from service as a resident magistrate, he had died while serving as a resident magistrate, [^{F11} the Treasury] may grant to his representatives a lump sum equal to the deficiency.

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F11 1991 NI 24

[^{F12}3A

For the purpose of the calculation of any lump sum under this Act, in respect of a person who is eligible for a pension for service in any judicial office, there shall be left out of account any period of service during which an election under section 2A was in force in respect of that person.]

F12 SR 1989/100

[^{F13}WIDOWS', SURVIVING CIVIL PARTNERS' AND CHILDREN'S PENSIONS]

F13 SI 2005/3325

4 [^{F14}Power to grant widows', surviving civil partners' and children's pensions].

[^{F14}(1)] Subject to the provisions of this Act, on the death after the passing of this Act of a resident magistrate (in this Act referred to as “the deceased”) who—

- (a) had become eligible for a pension; or
- (b) was serving as a resident magistrate at the time of his death and would, if he had then retired on the ground of permanent infirmity, have become eligible for a pension;

[^{F15}the Treasury] may grant—

- (i) where he leaves a widow, a pension to that widow (in this Act referred to as a “widow's pension”);
- [^{F14}(ia) where he leaves a surviving civil partner, a pension to that surviving civil partner (in this Act referred to as a “surviving civil partner's pension”); and]
- [^{F14}(ii) where he had a wife or a civil partner at any time during his service as a resident magistrate, or, where he was a person to whom paragraph (b) of subsection (2) of section two applied, during his service as a resident magistrate or his service in whole-time employment to which the Superannuation Acts apply (whether or not the marriage or civil partnership continued until his death and whether or not a widow's pension or surviving civil partner's pension is or can be granted), a pension for the benefit of any relevant children (in this Act referred to as a “children's pension”).]

[^{F14}(2) In subsection (1)(ii), “relevant children” means—

- (a) in relation to a marriage, any children of the marriage, and
 - (b) in relation to a civil partnership, any children of the family,
- and in paragraph (b) “children of the family” is to be construed in accordance with Article 2(2) of the Children (Northern Ireland) Order 1995.]

F14 SI 2005/3325

F15 1991 NI 24

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[^{F16}4A

For the purpose of the calculation of any widow's^[F17], surviving civil partner's] or children's pension under this Act, in respect of a person who is eligible for a pension for service in any judicial office, there shall be left out of account any period of service during which an election under section 2A was in force in respect of that person.]

F16 SR 1989/100

F17 SI 2005/3325

[^{F18}4A Widowers'^[F19] and surviving civil partners'] pensions.

(1) section 4] shall have effect in relation to the death of a female person^[F19] who has, or has had, a husband or civil partner] as it has effect in relation to the death of a male person^[F19] who has, or has had, a wife or civil partner] but as if—

- (a) for the words “widow”, “widow's pension” and “wife” there were substituted “widower”, “widower's pension” and “husband”;
- (b) for the words “his” and “him” there were substituted “ her ”; and
- (c) for the word “he” there were substituted “ she ”.

(2) The transitional provisions set out in^[F19] Part 1 of Schedule 2] to this Act shall effect in relation to widowers' pensions.

^[F19](3) The transitional provisions set out in Part 2 of Schedule 2 shall have effect in relation to surviving civil partners' pensions.]

F18 1991 NI 24

F19 SI 2005/3325

[^{F20}5 [^{F21}Widows', widowers' and surviving civil partners' pensions].

(1) No^[F21] widow's, widower's or surviving civil partner's] pension may be granted if the marriage^[F21] or formation of the civil partnership] with the deceased took place after he or she retired from relevant service.

(2) A^[F21] widow's, widower's or surviving civil partner's] pension shall come to an end on the death of the^[F21] widow, widower or surviving civil partner].

(3) Where a^[F21] widow's, widower's or surviving civil partner's] pension is payable the Treasury may, on or at any time after —

- [[] the remarriage of, or formation of a civil partnership by, the widow or^{F21}(a) widower, or
- (b) the formation of a subsequent civil partnership by, or the marriage of, the surviving civil partner,]

direct that it shall cease to be payable.

(4) Where such a direction has been given the Treasury may at any time direct that payment of the pension is to be resumed.

(5) The annual amount of a^[F21] widow's, widower's or surviving civil partner's] pension may be one half of the annual amount of the personal pension.]

F20 1991 NI 24

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F21 SI 2005/3325

6 Children's pension: beneficiaries.

- (1) A children's pension may be granted if, and be paid so long as and whenever, there are persons for whose benefit it can enure.
- (2) Subject to the provisions of this section, the persons for whose benefit a children's pension can enure are any such children as are referred to in section four who are for the time being in their period of childhood and full-time education.
- (3) ^{F22} A children's pension cannot enure for the benefit of any person conceived or adopted by the deceased after the end of his service as a resident magistrate.
- (4) A children's pension cannot enure for the benefit of a female person who at the time of the death of the deceased was married^[F23] or a person who at the time of the death of the deceased was a civil partner^[F23] and if, after the death of the deceased, a female person marries^[F23] or a person forms a civil partnership^[F23], she^[F23] or he^[F23] shall thereupon cease to be a person for whose benefit a children's pension can enure.
- (5) A children's pension cannot enure for the benefit of any children of a resident magistrate who, by virtue of paragraph (c) of sub-section (5) of section nine, is not required to make any contribution towards the cost of the liabilities assumed under this Act for the benefit of his widow and children.

F22 Mod., 1966 c. 27 (NI)

F23 SI 2005/3325

7 Meaning of “period of childhood and full-time education”.

- (1) A person shall, subject to sub-section (2), be deemed for the purposes of section six to be in his period of childhood and full-time education while—
 - (a) he is under the age of sixteen; or
 - (b) he is receiving full-time instruction at any university, college, school or other educational establishment; or
 - (c) he is undergoing training by any person (in this Act referred to as “the employer”) for any trade, profession or vocation in such circumstances that—
 - (i) he is required to devote the whole of his time to the training for a period of not less than two years; and
 - (ii) while he is undergoing the training, the emoluments receivable by him, or payable by the employer in respect of him,^[F24] do not exceed the maximum allowable remuneration^[F24], exclusive of any emoluments receivable or payable by way of return of any premium paid in respect of the training.
- (2) A person shall not be deemed for the purposes of this section to satisfy the conditions specified in paragraph (b) or paragraph (c) of sub-section (1) unless there has not up till then been any time since he attained the age of sixteen when he did not satisfy one or other of those conditions.
- (3) Any period of whole-time service in the armed forces of the Crown under the National Service Acts, 1948 to 1955, shall be ignored for the purposes of sub-section (2).

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- (4) In sub-section (1) “emoluments” means any salary, fees, wages, perquisites or profits or gains whatsoever, and includes the value of free board, lodging or clothing, and, for the purposes of sub-paragraph (ii) of paragraph (c) of that sub-section, where a premium has been paid in respect of the training of a person, all emoluments at any time receivable by him, or payable by the employer in respect of him, shall be deemed to be receivable or payable by way of return of the premium, unless and except to the extent that the amount thereof exceeds in the aggregate the amount of the premium.
- [^{F24}(4A) For the purposes of subsection (1)(c)(ii), the "maximum allowable remuneration" at any time is an annual rate (£1,614 a year, at the passing of the Judicial Pensions and Retirement Act 1993) equal to that at which a pension of £250 a year—
- (a) first awarded under the principal civil service pension scheme (within the meaning of that Act) on 1st June 1972, and
 - (b) increased from time to time by the amount of increase that would be applied under the Pensions (Increase) Act 1971 to such a pension,
- would (as so increased) be payable at that time, rounding any resulting fraction of £1 up to the next whole £1.]
- (5) As respects any period during which neither of the conditions specified in paragraphs (b) and (c) of sub-section (1) is satisfied in relation to a person, [^{F25} the Treasury] may, if it thinks fit, and is satisfied that a person's full-time education ought not to be regarded as completed, direct—
- (a) that that period shall be ignored for the purposes of sub-section (2); or
 - (b) that that period shall be so ignored and shall also be treated as part of his period of childhood and full-time education for all the other purposes of section six.

F24 1993 c. 8

F25 1991 NI 24

8 ^{F26} **Children's pension: rate and mode of payment.**

- (1) Only one children's pension shall be granted in respect of the service of any one person, but—
 - (a) the rate thereof may vary according to the number of persons for whose benefit it can for the time being enure; and
 - (b) it shall be paid to such person or persons as [^{F27} the Treasury] may from time to time direct, and different parts thereof may be directed to be paid to different persons; and
 - (c) the person to whom all or any part thereof is paid shall apply the sum paid to him, without distinction, for the benefit of all the persons for whose benefit the pension can for the time being enure or for the benefit of such of them as the Ministry of Finance from time to time directs.
- (2) Where the deceased [^{F27} leaves no widow [^{F28}, widower or surviving civil partner] and, if he or she leaves a widow [^{F28}, widower or surviving civil partner], after his or her death], the annual amount of a children's pension—
 - (a) while the persons for whose benefit it can enure are three or more in number, may amount to one-third of the annual amount of the personal pension;
 - (b) while those persons are two in number, may amount to one-quarter of the annual amount of the personal pension;

- (c) while there is only one such person, may amount to one-sixth of the annual amount of the personal pension.
- (3) Subject to sub-section (4), where the deceased leaves a widow^[F28], widower or surviving civil partner], the annual amount of a children's pension during her^[F27] or his] life—
- (a) while the persons for whose benefit it can enure are four or more in number, may amount to one-third of the annual amount of the personal pension;
- (b) while those persons are three in number, may amount to one-quarter of the annual amount of the personal pension;
- (c) while those persons are two in number, may amount to one-sixth of the annual amount of the personal pension;
- (d) while there is only one such person, may amount to one-twelfth of the annual amount of the personal pension.
- (4) Notwithstanding anything in this section, where the deceased
- ^[F28](a) leaves a widow or widower who remarries or forms a civil partnership, or
- (b) leaves a surviving civil partner who forms a subsequent civil partnership or marries,]

a children's pension shall not be payable as respects any period when she has a husband^[F28] or civil partner]^[F27] or he has a wife]^[F28] or civil partner] unless^[F27] the Treasury] specially directs that such a pension shall be so payable, but, if^[F27] the Treasury] does specially so direct, it may, if it thinks fit, further direct that sub-section (2) shall apply as respects any such period notwithstanding that the^[F28] widow, widower or surviving civil partner is] alive.

F26 Children's pensions increased, 1973 c. 15

F27 1991 NI 24

F28 SI 2005/3325

CONTRIBUTIONS

VALID FROM 03/01/2012

^[F29]8A Contributions towards cost of pension etc

- (1) The Lord Chancellor may, by regulations made with the consent of the Treasury, make provision for and in connection with requiring contributions to be made towards the cost of the liability for relevant benefits.
- (2) The prescribed contributions are to be—
- (a) made by the person to or in respect of whom the relevant benefits are to be, or may be, provided;
- (b) made for the person's period of relevant service;
- (c) in the form of deductions from the salary payable for that service.
- (3) But no contribution is to be made by a person—

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- (a) for any period of service during which an election under section 2A is in force in respect of the person;
 - (b) for any period of service after the person has completed, in the aggregate, 20 years' relevant service;
 - (c) for any other prescribed period of service;
 - (d) in any prescribed circumstances.
- (4) For the purposes of subsection (3)(b), it does not matter whether the person's relevant service was service before or after the commencement of paragraph 1 of Schedule 5 to the Pensions Act 2011 (but no contribution is to be made for a person's service before that commencement).
- (5) In this section—
 “prescribed” means specified in, or determined in accordance with, regulations;
 “relevant benefits” means—
 (a) a pension under section 2;
 (b) a lump sum under section 3;
 “relevant service” means service as a district judge (magistrates' courts) in Northern Ireland.
- (6) Regulations under this section may make provision for consequential, transitional and incidental matters.
- (7) Regulations made under this section shall be subject to annulment in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.]

F29 S. 8A inserted (3.1.2012) by [Pensions Act 2011 \(c. 19\)](#), ss. 34(2), 38(4), [Sch. 5 para. 1\(2\)](#); S.I. 2011/3034, [art. 3\(g\)\(j\)](#)

9 Contribution towards cost of widow's and children's pension.

- ^{F30}(1) A contribution towards the cost of the liabilities assumed under this Act for the the benefit of a resident magistrate's widow^[F31] widower] and children shall be made, taking the form of a reduction in the lump sum which may be granted under this Act.
- ^{F32}(1A) No contribution shall be made by a person under sub#section (1) for any period of service during which an election under section 2A is in force in respect of that person.]
- (2) The amount of the contribution shall, subject to sub-sections (3) and (4), be equal to the annual amount of the personal pension.
- (3) Where a resident magistrate (not being a person to whom paragraph (b) of sub-section (2) of section two applies) last had a wife^[F31] or a husband] at a time before the end of his^[F31] or her] service (leaving out of account any marriage after the end of that service) the amount of the contribution shall be the annual amount of the personal pension—
 (a) multiplied by the number of years of his^[F31] or her] service completed before that time; and
 (b) divided by the number of years of his^[F31] or her] service completed in all.

- (4) Where a resident magistrate (being a person to whom paragraph (b) of sub-section (2) of section two applies) last had a wife^{F31} or a husband] at a time before the end of his^{F31} or her] service as a resident magistrate or of his^{F31} or her] service in whole-time employment to which the Superannuation Acts apply (leaving out of account any marriage after the end of his^{F31} or her] service as a resident magistrate), the amount of the contribution shall be the annual amount of the personal pension—
- (a) multiplied by the number of years of his^{F31} or her] aggregated service completed before that time; and
 - (b) divided by the number of years of his^{F31} or her] aggregated service completed in all.
- (5) A contribution shall not be made—
- (a) in the case of a^{F31} person] (not being a person to whom paragraph (b) of sub-section (2) of section two applies) who had not a wife^{F31} or a husband] at any time during his^{F31} or her] service as a resident magistrate; or
 - (b) in the case of a^{F31} person] (being a person to whom paragraph (b) of sub-section (2) of section two applies) who had not a wife^{F31} or a husband] at any time during his^{F31} or her] service as a resident magistrate or his^{F31} or her] service in whole-time employment to which the Superannuation Acts apply; or
 - (c) in the case of a^{F31} person] (being a person to whom paragraph (b) of sub-section (2) of section two applies) who—
 - (i) was not a participant in the Widows' and Children's Pension Scheme established under the Superannuation Act (Northern Ireland), 1949 ; and
 - (ii) last had a wife^{F31} or a husband] at a time before his^{F31} or her] appointment as a resident magistrate.

^{F33}(5A) The foregoing provisions of this section shall not apply in the case of a man continuing to serve after 17th April 1973 unless, in pursuance of regulations made under Schedule 3 to the Administration of Justice Act 1973 , he elects that this Act shall apply to him as if that Schedule had not been passed.]

F30 Contributions increased for higher pensions, 1973 c. 15

F31 1991 NI 24

F32 SR 1989/100

F33 SR 1974/178

^{F34}9A Voluntary contributions.

- (1) The Lord Chancellor shall by regulations, made with the consent of the Treasury, make provision
- ^{F35}(a) [entitling any member of a judicial pension scheme constituted by this Act to make voluntary contributions towards the cost of the provision of additional benefits^{F35} whether under the scheme or otherwise; or]
 - ^{F35}(b) [imposing conditions with respect to the exercise by any such person of any entitlement (whether or not under paragraph (a)) which he may have to make any such voluntary contributions.]

^{F35}(1A) [The regulations may make provision for the purpose of imposing, in a case where a member makes voluntary contributions, upper limits with respect to—

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- (a) the aggregate value of the aggregable benefits which may be paid to or in respect of any such member; and
 - (b) the amount which any such member may pay by way of such contributions;
- and, without prejudice to the generality of paragraph (b), the regulations may in particular, impose such an upper limit on the amount which a member may pay by way of voluntary contributions as will, so far as reasonably practicable, secure that the aggregate value referred to in paragraph (a) will not exceed the limit prescribed under that paragraph.

(1B) The regulations may—

- (a) prescribe the manner in which aggregable benefits are to be valued for the purpose of any such aggregation as is mentioned in subsection (1A);
- (b) confer on the administrators of a judicial pension scheme power to require a member who is making, or who wishes to make, voluntary contributions to provide such information as they may require concerning any retained benefits of his;
- (c) permit the disclosure by those administrators of any information which they may obtain concerning any such retained benefits—
 - (i) to, or to any officers of, the Commissioners of Inland Revenue; or
 - (ii) to, or to any servants or agents of, any authorised provider who is, or may be, concerned in the investment of the voluntary contributions or the provision of the additional benefits in question.]

(2) The regulations—

- (a) may not prohibit the payment of voluntary contributions;
- (b) may not impose any limit on the amount which any member may pay by way of voluntary contributions other than^{F35} either or both of the following, that is to say—
 - [such upper limit as may be imposed by virtue of subsection (1A)(b);^{F35}(i) or]
 - [an upper limit corresponding to that for the time being fixed by or^{F35}(ii) under section 594 of the Income and Corporation Taxes Act 1988 (exempt statutory schemes);
- (c) must secure that any voluntary contributions paid by a member of a scheme are used to provide prescribed additional benefits for or in respect of him; and
- (d) must secure that the value of such additional benefits is reasonable, having regard to—
 - (i) the amount paid by way of voluntary contributions;
 - (ii) the value of the other benefits provided under the scheme; and
 - [the general value of benefits available to a person under any contract^{F36}(iii) of life insurance entered into by him with an insurer;]

[^{F35}but paragraphs (c) and (d) have effect only in relation to a voluntary contributions scheme constituted by or under this Act.]

(3) The regulations may, in particular—

- (a) provide that the value of additional benefits offered on payment of voluntary contributions shall be determined in accordance with prescribed rules based on tables prepared for the purposes of the regulations by the Government Actuary,^{F35} . . .

- (b) prescribe the manner in which it is to be determined in any case whether the amount of a person's contributions exceed any^{F35} such limit as is mentioned in] subsection (2)(b).
- [^{F35}(c) provide for any administrative expenses incurred by any person by virtue of this section to be defrayed out of sums received by way of voluntary contributions;
- (d) provide for the manner in which voluntary contributions are to be made;
- (e) make provision for, and in connection with, the valuation of a person's accrued rights—
 - (i) under any occupational or personal pension scheme, which are to be transferred into a voluntary contributions scheme, or
 - (ii) under any voluntary contributions scheme, which on termination of his membership of that scheme may fall to be transferred into another scheme;
- (f) prescribe the additional benefits which are to be available under a voluntary contributions scheme and the rates and times at which those benefits are to be payable;
- (g) make provision for and in connection with the making of elections between different benefits available under voluntary contributions schemes;
- (h) provide for the terms on which a person may terminate his membership of a voluntary contributions scheme;
- (i) provide for the terms on which surplus funds may be refunded to a person who has made payments by way of voluntary contributions to a voluntary contributions scheme;
- (j) specify any authorised providers—
 - (i) who are to invest any prescribed voluntary contributions, or
 - (ii) who are to provide any prescribed additional benefits,and, if two or more authorised providers are so specified, may make provision entitling any person who makes prescribed payments by way of voluntary contributions to elect between those authorised providers.]

Subs. (4) rep. by 1993 c. 8

[The regulations may provide for such additional benefits arising under or by virtue of^{F35}(4A) this section as may be prescribed—

- (a) to be charged on, and paid out of, the Consolidated Fund of the United Kingdom; or
 - (b) to be paid out of money provided by the Parliament of the United Kingdom.]
- (5) Regulations made under this section may make provision for consequential and incidental matters, including, in particular, consequential provision as to any statutory provision referring to or relating to lump sums payable under this Act.
- (6) Regulations made under this section shall be subject to annulment in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

[In this section—^{F35}(7) “administrators”, in relation to any scheme, means the persons entrusted with the administration of that scheme;
“aggregable benefits” means—

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Changes to legislation: There are currently no known outstanding effects for the Resident Magistrates' Pensions Act (Northern Ireland) 1960. (See end of Document for details)

- (a) any pensions or other benefits under a judicial pension scheme, other than such additional benefits as are mentioned in subsection (1);
- (b) such additional benefits so mentioned as may be prescribed; and
- (c) such retained benefits as may be prescribed;

[^{F36}“authorised provider”, in relation to the investment of any sums paid by way of voluntary contributions or the provision of any benefit, means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to invest such sums or, as the case may be, to provide that benefit;
- (b) an EEA firm of a kind mentioned in paragraph 5(a), (b) or (c) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit and which satisfies the conditions applicable to it which are specified in subsection (7B), (7C) or (7D); or
- (c) an EEA firm of a kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to invest such sums or, as the case may be, to provide that benefit.]

“employment” has the same meaning as it has in the [^{F37} Pension Schemes (Northern Ireland) Act 1993] (and accordingly includes employment as a self-employed earner, within the meaning of [^{F37} section 2 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992];

[^{F36}“insurer” means—

- (a) a person who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance;
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;]

“judicial pension scheme” means a scheme constituted by this Act;

“member” means member of a judicial pension scheme;

“occupational pension scheme” has the meaning given by [^{F37} section 1 of the Pension Schemes (Northern Ireland) Act 1993];

“personal pension scheme” has the meaning given by [^{F37} section 1 of the Pension Schemes (Northern Ireland) Act 1993];

“prescribed” means specified in, or determined in accordance with, the regulations;

“relevant benefits” has the meaning given by section 612(1) of the Income and Corporation Taxes Act 1988;

“retained benefits”, in the case of any person, means any rights retained by him to relevant benefits under any occupational or personal pension scheme which has, or which may be expected to qualify for, tax#exemption or tax#approval, being rights which accrued during some previous employment;

“surplus funds”, in relation to a person and any voluntary contributions scheme, means any funds which are, or have been, held for the purposes of that voluntary contributions scheme and which fall to be returned to him in consequence of any such limit as is mentioned in subsection (2)(b);

“tax#exemption” and “tax#approval” have the meaning given by^[F37] section 176(1) of the Pension Schemes (Northern Ireland) Act 1993];

“voluntary contributions”, in relation to any member of a judicial pension scheme, means voluntary contributions towards the provision of additional benefits, whether under that scheme or otherwise;

“voluntary contributions scheme” means any occupational pension scheme if and to the extent that it is a scheme under which such additional benefits as are mentioned in subsection (1) are, or are to be, provided;

and, where a person's voluntary contributions are made by deduction from salary, any reference to payment of, or by way of, voluntary contributions shall be taken to include a reference to the making of voluntary contributions by deduction or, as the case may require, to any voluntary contributions so made.

^{F36} [In subsection (7), the definitions of “authorised provider” and “insurer” must be read (7A) with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section; and
- (c) Schedule 2 to that Act.

(7B) If the EEA firm concerned is of the kind mentioned in paragraph 5(a) of Schedule 3 to the Financial Services and Markets Act 2000, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on a service falling within section A or C of the Annex to the Investment Services Directive; and
- (b) that the firm is authorised by its home state authorisation to carry on that service.

(7C) If the EEA firm concerned is of the kind mentioned in paragraph 5(b) of that Schedule, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive; and
- (b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions.

(7D) If the EEA firm concerned is of the kind mentioned in paragraph 5(c) of that Schedule, the conditions are—

- (a) that, in investing of the sums in question, or in providing the benefit in question, the firm is carrying on an activity falling within Annex 1 to the Banking Consolidation Directive;
- (b) that the activity in question is one in relation to which an authority in the firm's home State has regulatory functions; and
- (c) that the firm also carries on the activity in question in its home State.

(7E) Expressions used in subsections (7B) to (7D) which are also used in Schedule 3 to the Financial Services and Markets Act 2000 have the same meaning in those subsections as they have in that Schedule.]

(8) Without prejudice to subsections (3)(c) and (d) and (4A), there may be paid out of money provided by the Parliament of the United Kingdom—

- (a) any sums required for or in connection with the operation or administration of any prescribed voluntary contributions scheme; or

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Changes to legislation: There are currently no known outstanding effects for the Resident Magistrates' Pensions Act (Northern Ireland) 1960. (See end of Document for details)

- (b) any administrative expenses incurred under or by virtue of this section by a Minister of the Crown or government department.
- (9) Any sums received under this section may be paid into the Consolidated Fund of the United Kingdom.]]

F34 1991 NI 24
F35 1993 c. 8
F36 SI 2001/3649
F37 1993 c. 49

SPECIAL CASES

10 Resident magistrates serving again after retirement.

Where any person after retirement from service as a resident magistrate resumes^{F38} . . . service, that retirement shall be left out of account for all the purposes of this Act except that—

- (a) if a lump sum was granted on that retirement without any contribution being made, then unless that person, on resumption of^{F38} . . . service as a resident magistrate or within three months of^{F38} . . . marrying^{F39} or forming a civil partnership] while again serving as a resident magistrate, refunds by way of contribution one-half of the lump sum, a pension shall not be granted to any^{F38} widow, widower^{F39}, surviving civil partner] or child of that person]; and
- (b) any lump sum granted on that retirement, less any refund, shall be set off against any lump sum subsequently granted in respect of^{F38} that person's] service.

F38 1991 NI 24
F39 SI 2005/3325

11 Resident magistrates already serving.

F40

F40 S. 11 repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15(2), 146, 148(1), Sch. 5 para. 15, Sch. 18 Pt. 3; S.I. 2006/1014, art. 2(a), Sch. 1 paras. 12(a), 30(c)

GENERAL AND FINANCIAL

12 Allocation of part of pension to dependants.

- (1) [^{F41}The Treasury] may make rules for securing that, in such circumstances and subject to such conditions as to proof of good health and other matters as may be specified in the rules, a retiring resident magistrate who retires from office otherwise than on the ground of ill-health, after the passing of this Act, shall be allowed to surrender, as

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from the date of his retirement, in return for the benefits allowed under the rules such part, not exceeding one-third of his personal pension, as may be specified in the rules, and for enabling^[F41 the Treasury] to grant to the wife or to a dependant of the retiring resident magistrate a pension of such value as, according to tables to be prepared from time to time by^[F41 the Treasury], is actuarially equivalent, at that date, to the value of that part of the personal pension which is surrendered.

- (2) Any such pension as aforesaid for the benefit of a dependant (not being a wife) of a retiring resident magistrate shall be payable in respect of the period, if any, for which the dependant survives the resident magistrate, and any such pension as aforesaid for the benefit of the wife of a resident magistrate shall, according as the resident magistrate may, in conformity with the rules under this section, elect, be payable—
 - (a) in respect of the period, if any, for which the wife survives the resident magistrate; or
 - (b) in respect both of the period of their joint lives subsequent to the retirement and of the period, if any, for which the wife survives the resident magistrate;and the rules may provide that a pension payable thereunder in respect of the periods mentioned in paragraph (b) shall be paid at one rate in respect of the first of those periods and at a higher rate in respect of the second.
- (3) If a resident magistrate has, in accordance with rules made under this section, surrendered part of his pension, any lump sum or widow's or children's pension payable under this Act apart from this section shall be calculated as if that surrender had not been made.
- (4) Rules made under this section shall be subject to negative resolution.

F41 1991 NI 24

13 Allocation by certain retired resident magistrates of part of their pensions to their wives.

- (1) ^[F42The Treasury] may make rules for securing that, in such circumstances and subject to such conditions as to proof of good health and other matters as may be specified in the rules, a retired resident magistrate under the age of seventy who has retired from office (otherwise than on the ground of ill-health) after the passing of this Act, and who has married since his retirement shall, subject to sub-section (2), be allowed to surrender, as from the date of his marriage, in return for the benefits allowed under the rules such part of his personal pension as may be specified in the rules, and for enabling^[F42 the Treasury] to grant to his wife a pension of such value as, according to tables prepared from time to time by^[F42 the Treasury], is actuarially equivalent, at that date, to the value of that part of the personal pension which is surrendered.
- (2) The part of a personal pension surrendered by a person under this section, together with any part thereof surrendered under section twelve, shall not exceed one-third of that pension.
- (3) Sub-sections (2) and (3) of section twelve, so far as they apply to surrenders made for the benefit of wives and pensions granted to wives, shall apply also to surrenders under this section and pensions granted by virtue thereof, but as if any reference to the date of retirement was a reference to the date of the marriage.
- (4) Rules made under this section shall be subject to negative resolution.

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F42 1991 NI 24

S. 14 rep. by 1993 c. 8

[^{F43}15 **Effect of certain nullity decrees**

Where a marriage or civil partnership which is voidable, but not void from the beginning, is annulled by any court, the same results shall follow under this Part as would have followed if the marriage or the civil partnership had not been voidable but had been dissolved at the date of the annulment.]

F43 SI 2005/3325

16 **Evidence as to health.**

- (1) Subject to sub-sections (2) to (4), a person about to be appointed a resident magistrate shall, before being so appointed, furnish to the Minister satisfactory evidence that his health is suitable for the discharge of the duties of that office.
- (2) A person about to be appointed a resident magistrate may elect that he shall not, before being so appointed, furnish evidence as to his health, and where a person is appointed as a resident magistrate after having made such an election, then, subject to sub-section (3), as respects him, the specified provisions shall not have effect until he has completed ten years' service.
- (3) Where the Minister is satisfied that the health of a resident magistrate who has made an election under sub-section (2) has throughout his service been such that it has enabled him duly to discharge the duties of his office, the Minister may, after the completion of ten years' service by that resident magistrate, direct that the specified provisions shall have effect as if he had not made that election.
- (4) A resident magistrate who has made an election under sub-section (2) may at any time during his tenure of office furnish to the Minister satisfactory evidence that his health is suitable for the discharge of the duties of his office, and the Minister may thereupon direct that for the purposes of the specified provisions that resident magistrate shall be treated as if he had not made that election.
- (5) In this section “the specified provisions” means sub-sections (1) and (2) of section two, sections three to ten and section twelve.

17 **Application of Superannuation Acts.**

- (1) The Superannuation Acts shall not apply to—
 - (a) resident magistrates appointed after the passing of this Act;
 - (b) resident magistrates who have elected under section eleven that this Act shall apply to them;
 and, accordingly, sub-section (5) (except paragraph (b)) of section six of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland), 1935 (which applies the Superannuation Acts to resident magistrates), is hereby repealed in so far as it applies to any such resident magistrates.

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- (2) Where a person appointed as a resident magistrate is a person referred to in paragraph (b) of sub-section (6) of section two, the Superannuation Acts shall cease to apply to him and, accordingly, [F44 the Treasury] shall not grant any superannuation benefits under those Acts in respect of his service in whole-time employment to which those Acts apply.

F44 1991 NI 24

18 Persons receiving other superannuation benefits.

- (1) Where a person (other than a person referred to in paragraph (b) of sub-section (6) of section two) appointed as a resident magistrate has received or become eligible for any superannuation benefits under the Superannuation Acts, he may be treated, for the purposes of this Act, as a person to whom paragraph (b) of sub-section (2) of section two applies if, at the time of his appointment as a resident magistrate or within three months thereof—
- (a) he pays to [F45 the Treasury]
 - (i) an amount equal to the lump sum or gratuity, if any, granted to him under the Superannuation Acts; and
 - (ii) an amount equal to the sums, if any, paid to him under those Acts in respect of his pension for the period after the time of his appointment as a resident magistrate; and
 - (b) he releases, in such manner as [F45 the Treasury] may approve, any superannuation benefits payable to or in respect of him under those Acts.
- (2) Where at the time of his retirement from the office of resident magistrate, a resident magistrate is receiving any superannuation allowances under the Superannuation Acts or the Superannuation Acts, 1834 to 1950, and the aggregate of—
- (a) the annual amounts of those allowances; and
 - (b) the annual amount of the pension for which, but for this sub-section, he would be eligible under this Act;
- exceeds the greatest of the following amounts, that is to say—
- (i) one-half of his retiring salary as a resident magistrate; or
 - (ii) one-half of his retiring salary in the employment by virtue of which he became eligible for an allowance under the Superannuation Acts; or
 - (iii) one-half of his retiring salary in the employment by virtue of which he became eligible for an allowance under the Superannuation Acts, 1834 to 1950;
- his pension under this Act shall be abated by the amount of the excess.
- (3) Where a resident magistrate has received any lump sum—
- (a) under the Superannuation Acts; or
 - (b) under the Superannuation Acts, 1834 to 1950;
- and he has not paid to [F45 the Treasury] an amount equal to the lump sum paid to him under the Superannuation Acts, the amount of the lump sum, if any, granted under sub-section (2) of section three to his representatives shall be equal to—
- (i) twice the annual amount of the pension for which he would have been eligible if, at the time of his death, he had retired on the ground of permanent infirmity; or

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(ii) the amount, if any, by which his last annual salary exceeds the lump sum received by him under the Superannuation Acts or the Superannuation Acts, 1834 to 1950;

whichever is the greater.

(4) In this section “retiring salary” in relation to any employment to which the Superannuation Acts or the Superannuation Acts, 1834 to 1950, apply, means the amount of the average salary payable to a person during the three years immediately preceding the date of his retirement from that employment.

F45 1991 NI 24

19 Reckoning of unestablished service.

For the purposes of reckoning a person's service in relation to any provision of this Act, service in an unestablished capacity in whole-time employment to which the Superannuation Acts apply shall be taken into account only as to one-half of the period thereof in so far as that service was rendered before the eleventh day of August, nineteen hundred and forty-nine.

F46

F46 prosp. inserted by 1991 NI 24

20 Construction of certain superannuation enactments.

(1) It is hereby declared that for the purposes of section twenty of the Superannuation Act, 1834^{F47}, the office of resident magistrate is an office in a public department within the meaning of that section.

Subs. (2) spent

F47 1967 c. 24 (NI), see now ss. 38, 39 of that Act

21 Financial provisions.

(1) All sums payable under this Act shall be [^{F48} charged on and paid out of the Consolidated Fund of the United Kingdom].

(2) Any refund of a lump sum or any part thereof shall be paid into the [^{F48} Consolidated Fund of the United Kingdom].

F48 SI 1973/2163

[^{F49}21A Appeals.

(1) If any person to whom this section applies is aggrieved by any decision taken by the administrators of a relevant pension scheme concerning—

- (a) the interpretation of the rules of the scheme, or
- (b) the exercise of any discretion under the scheme,

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he shall have a right of appeal to the Lord Chancellor against that decision.

- (2) On deciding an appeal under this section, the Lord Chancellor may give to the administrators such directions as he considers necessary or expedient for implementing his decision.
- (3) The persons to whom this section applies are the following—
 - (a) any member of the scheme;
 - (b) the widow^{F50}, widower or surviving civil partner], or any surviving dependant, of a deceased member of the scheme;
 - (c) where the decision relates to the question—
 - (i) whether a person who claims to be such a person as is mentioned in paragraph (a) or (b) is such a person, or
 - (ii) whether a person who claims to be entitled to become a member of the scheme is so entitled,the person so claiming.
- (4) The Lord Chancellor may by regulations make provision as to the manner in which, and time within which, appeals under this section are to be brought.
- (5) Regulations made under this section shall be subject to annulment in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.
- (6) The administrators shall be entitled to appear and be heard on any appeal under this section.
- (7) In this section—

“the administrators”, in relation to a pension scheme, means the persons entrusted with the administration of the scheme;

“member”, in relation to a pension scheme, means a person whose service in an office is, was or is to be subject to the scheme;

“relevant pension scheme” means any pension scheme constituted under or by virtue of this Act;

“rules”, in relation to a relevant pension scheme, means the provisions of this Act, and of any regulations or orders made this Act, so far as relating to that scheme.]

F49 1993 c. 8

F50 SI 2005/3325

22 Interpretation.

- (1) In this Act—

“aggregated service” has the meaning assigned to it by section two;

“Minister” and “Ministry” have the meanings respectively assigned to them by section two;

“personal pension” in relation to a resident magistrate or to the widow^{F51}, widower or surviving civil partner] or children of a deceased resident magistrate, means the pension payable under this Act to that resident magistrate or for which he would have been eligible had he retired on the date of his death;

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Changes to legislation: There are currently no known outstanding effects for the Resident Magistrates' Pensions Act (Northern Ireland) 1960. (See end of Document for details)

“resident magistrate” means (except in section one)—

- (a) any resident magistrate appointed after the passing of this Act;
- (b) any resident magistrate who elects, pursuant to section eleven, that this Act shall apply to him;

“retiring salary” means the amount of the ...^{F52} salary (excluding sums payable by way of additional salary under sub-section (1) of section one of the Resident Magistrates (Belfast) Act, 1911) payable to a resident magistrate [^{F53} immediately before his retirement];

“Superannuation Acts” means the Superannuation Acts (Northern Ireland), 1921 to 1958, and includes any enactments thereby applied to the civil service of Northern Ireland.

Subs. (2) rep. by 1987 NI 22

F51 SI 2005/3325

F52 1973 c. 15

F53 1973 c. 15

23 Short title.

- (1) This Act may be cited as the resident Magistrates' Pensions Act (Northern Ireland), 1960.

Subs. (2) rep. by SLR 1973

Modifications etc. (not altering text)

- C1** Act may be cited (2.6.2008) as the District Judges (Magistrates' Courts) Pensions Act (Northern Ireland) 1960 by [District Judge \(Magistrates' Courts\) Order \(Northern Ireland\) 2008 \(S.R. 2008/154\)](#), [art. 3\(2\)](#)

Status:

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Changes to legislation:

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