



# Judicial Pensions and Retirement Act 1993

## 1993 CHAPTER 8

### PART II

#### MISCELLANEOUS, GENERAL AND SUPPLEMENTARY PROVISIONS

##### *Miscellaneous and supplementary provisions*

#### **28 Payments charged on Consolidated Fund etc.**

- (1) There shall be charged on, and paid out of, the Consolidated Fund—
  - (a) any pension or lump sum under Part I above payable to or in respect of a person who has held any of the qualifying judicial offices specified in Part I of Schedule 1 to this Act; and
  - (b) any payments by way of pension or lump sum authorised under section 19 above to be made to or in respect of such a person.
- (2) Except as provided by subsection (1) above—
  - (a) any pension or lump sum payable under Part I above,
  - [<sup>F1</sup>(aa) any pension or other benefits payable under a scheme made under section 18A above,] and
  - (b) any payment authorised to be made under section 19 above, shall be met out of money provided by Parliament.
- (3) There shall be charged on, and paid out of, the Consolidated Fund any increase attributable to the provisions of this Act in the sums charged on, and payable out of, that Fund by or under any other enactment.
- (4) There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable out of money so provided under any other enactment.
- (5) Any administrative expenses incurred under this Act by a Minister of the Crown or government department shall be defrayed out of money provided by Parliament.

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- (6) Any sums received by the Treasury under section 21 above shall be paid into the Consolidated Fund.
- (7) Nothing in this section applies in relation to any pension or other benefits payable under or by virtue of <sup>F2</sup>—
- (a) section 10 above, or
  - (b) provision made under section 18A above that is corresponding or similar to the provision that may be made by regulations under section 10 above.]

#### Textual Amendments

- F1** S. 28(2)(aa) inserted (3.3.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(1)(c), **Sch. 5 para. 6(2)** (with s. 87)
- F2** Words in s. 28(7) substituted (3.3.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(1)(c), **Sch. 5 para. 6(3)** (with s. 87)

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

- C1** S. 28(6) modified (31.3.1995) by [S.I. 1995/633](#), **art. 7(1)** (with art. 11)

### <sup>F3</sup>28A Northern Ireland

The Lord Chancellor and the Department of Justice in Northern Ireland may make arrangements under which the Department is to make contributions to the cost of the liabilities under this Act for pensions, lump sums or other payments in respect of persons' service in qualifying judicial office in Northern Ireland <sup>F4</sup> or as a fee-paid judge in Northern Ireland (within the meaning given by section 18A)] .]

#### Textual Amendments

- F3** S. 28A inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), 15(5), **Sch. 18 para. 49** (with arts. 28-31); [S.I. 2010/977](#), art. 1(2)
- F4** Words in s. 28A inserted (3.3.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(1)(c), **Sch. 5 para. 7** (with s. 87)

### 29 Regulations and orders.

- (1) Any power conferred by this Act to make regulations or an order shall be exercisable by statutory instrument.
- (2) A statutory instrument which contains (whether alone or with other provisions) regulations or an order under this Act, other than <sup>F5</sup> regulations under section 18A above or] an order under section 31(2) below, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- <sup>F6</sup>(2A) A statutory instrument which contains regulations under section 18A may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.]
- (3) Any power conferred by this Act to make regulations or an order includes power, exercisable in the same manner, to make such transitional, consequential,

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supplementary or incidental provision or savings as may appear to the authority making the regulations or order to be necessary or expedient for the purposes of, or in connection with, the regulations or order.

- (4) The provision that may be made under or by virtue of subsection (3) above includes provision modifying the operation of this Act or any other enactment.
- (5) The amendment by this Act of any provision contained in regulations or an order shall not be taken to have prejudiced any power to make further regulations or orders amending or revoking that provision.
- (6) Regulations and orders under this Act may make different provision for different cases or classes of case.

#### Textual Amendments

- F5** Words in s. 29(2) inserted (3.3.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(1)(c), **Sch. 5 para. 8(2)** (with s. 87)
- F6** S. 29(2A) inserted (3.3.2015) by [Pension Schemes Act 2015 \(c. 8\)](#), s. 89(1)(c), **Sch. 5 para. 8(3)** (with s. 87)

## 30 Interpretation.

(1) In this Act—

“the 1981 Act” means the <sup>M1</sup>Judicial Pensions Act 1981;

“actuarially reduced” has the meaning given by section 2(7)(e) above;

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

“appropriate annual rate”, in relation to a judicial pension, shall be construed in accordance with section 3 above;

“the appropriate Minister” means—

(a) in relation to any judicial office whose jurisdiction is exercised exclusively in relation to Scotland, the Secretary of State; or

(b) subject to paragraph (a) above, the Lord Chancellor;

“children’s pension” has the meaning given by section 6 above;

“commence to be paid”, in relation to any judicial pension, shall be construed in accordance with section 2(7)(d) above;

“the deceased”, in connection with any surviving spouse’s [<sup>F7</sup>, surviving civil partner’s] or children’s pension, shall be construed in accordance with section 5 or 6 above, as the case may be;

“derivative benefit” means a lump sum under section 4 above or a surviving spouse’s [<sup>F8</sup>, surviving civil partner’s] or children’s pension;

“eligible children”, in relation to the deceased, shall be construed in accordance with section 6 above;

“judicial pension” means a pension under section 2 above;

“judicial pension scheme” means any public service pension scheme, as defined in—

(a) [<sup>F9</sup>section 1 of the Pension Schemes Act 1993], or

(b) [<sup>F10</sup>section 1 of the Pension Schemes (Northern Ireland) Act 1993],

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under which pensions and other benefits are payable in respect of service in one or more qualifying judicial offices (whether or not in respect of service in such offices alone);

“pensionable pay” has the meaning given by section 3(3) above;

“pension-capped salary” has the meaning given by section 3(3) above;

“the principal civil service pension scheme” means a scheme made under section 1 of the <sup>M2</sup>Superannuation Act 1972 which is the principal civil service pension scheme within the meaning of section 2 of that Act;

“the principal civil service pension scheme for the civil service of Northern Ireland” means a scheme made under Article 3 of the <sup>M3</sup>Superannuation (Northern Ireland) Order 1972 which is the principal civil service pension scheme within the meaning of Article 4 of that Order;

“qualifying judicial office” has the meaning given by section 1(6) above;

“serve” and “service”, in relation to qualifying judicial office, shall be construed in accordance with section 1(6) above;

“stipendiary magistrate”, in England and Wales, includes a metropolitan stipendiary magistrate;

[<sup>F11</sup>“surviving civil partner's pension” has the meaning given by section 5 above; ]

“surviving spouse’s pension” has the meaning given by section 5 above.

- (2) In the case of a person who has retired from qualifying judicial office on more than one occasion, references in this Act to his retirement from such office are references to the last of those occasions.
- (3) For the purposes of this Act, a person shall be regarded as vacating, or retiring from, an office at the end of the last day of his service in that office.
- (4) Any reference in this Act to a pension or lump sum, or any salary or other money, being paid or payable to a person includes a reference to its being paid or payable for him.
- (5) In determining for any purpose of this Act the accrued rights of a person under a judicial pension scheme which confers a power (but does not expressly impose a duty) to pay a pension or other benefit under the scheme, it shall be assumed that there is a duty to exercise the power (and to do so in such a way as will provide the greatest pension or other benefit authorised to be paid).
- (6) Where a calculation falls to be performed under this Act, any resulting fraction of £1 shall be rounded up to the next whole £1.

#### **Textual Amendments**

- F7** S. 30(1): words in definition of "the deceased" inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), **art. 76(2)(a)**
- F8** S. 30(1): words in definition of "derivative benefit" inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), **art. 76(2)(b)**
- F9** Words in s. 30(1) substituted (7.2.1994) by 1993 c. 48, s. 190, **Sch. 8 para. 46(4)** (with s. 6(8)); S.I. 1994/86, **art. 2**
- F10** Words in s. 30(1) substituted (7.2.1994) by 1993 c. 49, s. 184, **Sch. 7 para. 43(4)**; S.R. 1994/17, **art. 2**
- F11** S. 30(1): definition of "surviving civil partner's pension" inserted (5.12.2005) by [The Civil Partnership \(Judicial Pensions and Church Pensions, etc.\) Order 2005 \(S.I. 2005/3325\)](#), **art. 76(2)(c)**

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#### **Marginal Citations**

- M1** 1981 c. 20.
- M2** 1972 c. 11.
- M3** S.I. 1972/1073 (N.I. 10).

### **31 Short title, supplementary provisions and extent.**

- (1) This Act may be cited as the Judicial Pensions and Retirement Act 1993.
- (2) The provisions of this Act shall come into force on such day as the appropriate Minister may by order made by statutory instrument appoint; and different days may be appointed for different provisions or for different purposes of the same provision.
- (3) The enactments and instruments mentioned in Schedule 8 to this Act shall have effect with the amendments there specified (being minor amendments and amendments consequential on the provisions of this Act).
- (4) The enactments and instruments specified in Schedule 9 to this Act are repealed or revoked to the extent specified in the third column of that Schedule.
- (5) Section 21 above extends to England and Wales only.
- (6) The amendments, repeals and revocations in section 22 above and Schedules 3, 4, 6, 8 and 9 to this Act have the same extent as the enactment or instrument to which they relate.
- (7) Subject to subsections (5) and (6) above, this Act extends to Northern Ireland.

#### **Subordinate Legislation Made**

- P1** S. 31(2) power fully exercised (7.3.1995): 31.3.1995 appointed by [S.I. 1995/631, art. 2](#)

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