

Status: Point in time view as at 01/06/2009.

Changes to legislation: *Judicial Pensions and Retirement Act 1993, SCHEDULE 7 is up to date with all changes known to be in force on or before 12 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

SCHEDULES

SCHEDULE 7

Section 26.

RETIREMENT DATES: TRANSITIONAL PROVISIONS

Modifications etc. (not altering text)

- C1** Sch. 7 restricted (1.1.1996) by S.I. 1995/3192, **art. 4(b)(iii)**
Sch. 7 modified (27.9.1999) by 1999 c. 22, ss. 105, 108(3), **Sch. 14 Pt. V para. 25** (with Sch. 14 para. 7(2))
Sch. 7 continued (14.2.2000) by 1999 c. 33, s. 169(2), **Sch. 15 para. 3(4)**; S.I. 2000/168, art. 2, **Sch.** (with art. 3)

Interpretation

- 1 (1) In this Schedule—
- “potential retirement date”, in relation to any office, shall be construed in accordance with paragraph 5 below;
- “re-appointment” to an office includes extension of a subsisting appointment to the office, otherwise than by the exercise of a continuation power.
- (2) For the purposes of this Schedule, a person’s office—
- (a) is “salaried” if and so long as his service in the office is remunerated by payment of a salary; and
- (b) is “fee-paid” if and so long as his service in the office is remunerated by the payment of fees;
- and any reference in this Schedule to a person’s being “salaried” or “fee-paid” shall be construed accordingly.
- (3) Subsection (3) of section 26 of this Act applies for the purposes of this Schedule as it applies for the purposes of that section.
- (4) Expressions used in this Schedule and in section 26 of this Act have the same meaning in this Schedule as they have in that section.
- (5) This Schedule is without prejudice to subsections (4) to (6) of section 26 of this Act, but is subject to subsection (7) of that section and to section 27 of this Act.
- [^{F1}(6) Paragraph 2(2) has effect subject to paragraph 8(2) of Schedule 9 to the Tribunals, Courts and Enforcement Act 2007 (certain cases where the post-commencement office is that of judge, or other member, of the First-tier Tribunal or the Upper Tribunal).]

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Textual Amendments

F1 Sch. 7 para. 1(6) inserted (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(2), 148(5), Sch. 9 para. 8(3); S.I. 2008/2696, art. 5(d) (with art. 3)

Salaried offices

- 2 (1) This paragraph applies to any person who for the time being holds, or who is seeking appointment or re-appointment to, a salaried relevant office (in this paragraph referred to as his “post-commencement office”), if—
- (a) immediately before the appointed day, he was holding that or any other salaried relevant office (in this paragraph referred to as his “pre-commencement office”);
 - (b) he has at all times on and after that day held some one or other salaried relevant office (whether the same office or not); and
 - (c) his potential retirement date by reference to his pre-commencement office falls later than the date that would, apart from this paragraph, be the compulsory retirement date for the post-commencement office in his case.
- (2) If and so long as this paragraph applies to a person—
- (a) nothing in section 26 of, and no amendment made by Schedule 6 to, this Act shall—
 - (i) require him to vacate his post-commencement office before his potential retirement date by reference to his pre-commencement office; or
 - (ii) affect his eligibility for appointment or re-appointment to the post-commencement office; and
 - (b) that potential retirement date shall be taken for the purposes of section 26 of this Act (and, accordingly, of this Schedule) to be the compulsory retirement date for the post-commencement office in his case.
- (3) If a person has two or more pre-commencement offices (so that he would, apart from this sub-paragraph, have two or more potential retirement dates) his potential retirement date for the purposes of this paragraph—
- (a) shall be determined by reference only to that one of his pre-commencement offices to which he was first appointed, or
 - (b) shall be such later date, falling on or before the day on which he attains the age of 75, as may be agreed in writing by him and the appropriate Minister, determined by reference to that pre-commencement office;
- and any reference in this Schedule to the person’s potential retirement date by reference to his pre-commencement office shall be construed accordingly.
- (4) If immediately before the appointed day—
- (a) a person who holds a salaried relevant office (“office A”) also holds another relevant office (“office B”), but
 - (b) in consequence of holding office A, he is either—
 - (i) unremunerated in respect of his service in office B, or
 - (ii) remunerated by payment of a supplement, in respect of that service, to the salary payable in respect of his service in office A,

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then, in determining for the purposes of sub-paragraph (3) above the number of pre-commencement offices which that person has, and to which of them he was first appointed, he shall be taken to hold office B at that time as a salaried relevant office and to have been so holding it at all previous times when the conditions in paragraphs (a) and (b) above were fulfilled.

Modifications etc. (not altering text)

C2 Sch. 7 para. 2(2)(b) excluded (3.11.2008) by Tribunals, Courts and Enforcement Act 2007 (c. 15), ss. 48(2), 148(5), Sch. 9 para. 8(2); S.I. 2008/2696, art. 5(d) (with art. 3)

Fee-paid offices

- 3 (1) This paragraph applies to any person who for the time being holds, or who is seeking re-appointment to, a fee-paid relevant office, if—
- (a) immediately before the appointed day, he was holding that office as a fee-paid office;
 - (b) he has at all times on and after that day held that office as a fee-paid office; and
 - (c) his potential retirement date by reference to that office falls later than the date that would, apart from this paragraph, be the compulsory retirement date for that office in his case.
- (2) If and so long as this paragraph applies to a person—
- (a) nothing in section 26 of, and no amendment made by Schedule 6 to, this Act shall—
 - (i) require him to vacate the office referred to in sub-paragraph (1) above before his potential retirement date by reference to that office; or
 - (ii) affect his eligibility for re-appointment to that office as a fee-paid office; and
 - (b) that potential retirement date shall be taken for the purposes of section 26 of this Act (and, accordingly, of this Schedule) to be the compulsory retirement date for that office in his case.

Persons holding a relevant office by virtue of a continuation power

- 4 Where, immediately before the appointed day, a person was holding a relevant office by virtue of the exercise of a continuation power, nothing in section 26 of this Act or this Schedule, and no amendment made by Schedule 6 to this Act, shall affect the continuing validity of that exercise of that power in relation to that person.

Ascertainment of potential retirement date

- 5 (1) For the purposes of this Schedule, a person's potential retirement date by reference to an office is—
- (a) in a case where, immediately before the appointed day, he was holding that office otherwise than by virtue of the exercise of a continuation power, the day on which he would have been required by any enactment or statutory

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instrument to vacate that office, apart from this Act and apart from any continuation power;

- (b) in a case where, immediately before the appointed day, he was holding that office by virtue of the exercise of a continuation power, the last day of the period for which he is authorised to continue in that office by virtue of that exercise of the continuation power; or
- (c) in the case of an office to which any of the following sub-paragraphs applies (offices for which there was no compulsory retirement date before the appointed day, but whose standard terms of appointment, or whose arrangements with respect to retirement, are reflected in the provisions of the sub-paragraph in question), the day specified in the sub-paragraph as the appropriate day.

(2) This sub-paragraph applies to each of the following offices, as a salaried office—

- (a) Social Security Commissioner appointed before 23rd May 1980;
- (b) President or other member ^{F2}. . . of the Lands Tribunal for Scotland, set up under the ^{M1}Lands Tribunal Act 1949;
- (c) Commissioner for the special purposes of the Income Tax Acts, appointed under section 4 of the Taxes Management Act 1970;
- (d) President or other member of the Immigration Appeal Tribunal;
- (e) Chairman of the Foreign Compensation Commission;
- (f) Chief or other Commons Commissioner;
- (g) Chairman of [^{F3}employment tribunals], appointed in pursuance of regulations under [^{F4}section 1(1) of [^{F3}the Employment Tribunals Act 1996]];
- (h) Chairman of industrial tribunals or of the Fair Employment Tribunal, appointed in pursuance of regulations under [^{F5}Article 3 of the Industrial Tribunals (Northern Ireland) Order 1996] or appointed under [^{F6}Article 82(1) (c) of the Fair Employment and Treatment (Northern Ireland) Order 1998];
- (j) president of the Industrial Court appointed in pursuance of Article 91 of the ^{M2}Industrial Relations (Northern Ireland) Order 1992;
- (k) President of Pensions Appeal Tribunals;

and the appropriate day in the case of an office to which this sub-paragraph applies is the last day of the completed year of service in that office in which the person attains the age of 72.

(3) In the case of the office of immigration adjudicator (whose usual terms of appointment, whether as a salaried or a fee-paid office, require the holder to vacate it on the day on which he attains the age of 70)—

- (a) this sub-paragraph applies only in those cases where, immediately before the appointed day, the office is held on terms which require the person in question to vacate it on the day on which he attains the age of 72; and
- (b) where this sub-paragraph applies, the appropriate day is the day on which that person attains that age;

and, accordingly, no person shall have a potential retirement date by reference to that office (whether held as a salaried or a fee-paid office) in any other case.

(4) This sub-paragraph applies to the office of deputy judge of the High Court, as a fee-paid office; and the appropriate day in the case of an office to which this sub-paragraph applies is the day on which the person attains the age of 75.

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- (5) This sub-paragraph applies to each of the following offices, as a fee-paid office—
- (i) in the case of appointments under subsection (1) of section 91 of the ^{M3}Supreme Court Act 1981 otherwise than by virtue of subsection (3) of that section, each of the following offices—
 - (a) deputy or temporary Master, Queen’s Bench Division;
 - (b) deputy or temporary Admiralty Registrar;
 - (c) deputy or temporary Master, Chancery Division;
 - (d) deputy or temporary Registrar in Bankruptcy of the High Court;
 - (e) deputy or temporary Taxing Master of the Supreme Court;
 - (f) deputy or temporary Registrar of Civil Appeals;
 - (g) ^{F7}
 - (ii) assistant Recorder;
 - ^{F8}(iii)
 - ^{F8}(iv)
 - (v) Chairman of the Foreign Compensation Commission;
 - (vi) Commons Commissioner;
 - (vii) chairman of [^{F3}employment tribunals], appointed in pursuance of regulations under [^{F9}section 1(1) of [^{F3}the Employment Tribunals Act 1996]];
 - (viii) chairman of industrial tribunals or of the Fair Employment Tribunal, appointed in pursuance of regulations under [^{F5}Article 3 of the Industrial Tribunals (Northern Ireland) Order 1996]or appointed under [^{F6}Article 82(1)(c) of the Fair Employment and Treatment (Northern Ireland) Order 1998];
 - (ix) president of the Industrial Court appointed in pursuance of Article 91 of the ^{M4}Industrial Relations (Northern Ireland) Order 1992;
 - (x) President or other member ^{F2}. . . of the Lands Tribunal for Scotland, set up under the ^{M5}Lands Tribunal Act 1949;
 - (xi) Commissioner for the special purposes of the Income Tax Acts, appointed under section 4 of the ^{M6}Taxes Management Act 1970;
 - (xii) deputy Special Commissioner, appointed under section 4A of the Taxes Management Act 1970;
 - (xiii) President or other member of the Immigration Appeal Tribunal;
 - (xiv) President or other member of Pensions Appeal Tribunals;
 - (xv) Chairman or member of a Mental Health Review Tribunal constituted under the ^{M7}Mental Health Act 1983;
 - (xvi) member of the Financial Services Tribunal appointed by the Lord Chancellor;
 - (xvii) chairman of a tribunal constituted for the purposes of sections 14 and 15 of the ^{M8}Misuse of Drugs Act 1971;
 - (xviii) chairman of an advisory body constituted for the purposes of section 14 of the ^{M9}Misuse of Drugs Act 1971;
 - (xix) appointed member of the Restrictive Practices Court, within the meaning of section 3 of the ^{M10}Restrictive Practices Court Act 1976;

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- (xx) chairman or other member of the tribunal constituted by section 706 of the ^{M11}Income and Corporation Taxes Act 1988;
- (xxi) ^{F10}
- (xxii) chairman or deputy-chairman of an Agricultural Land Tribunal;
- (xxiii) President of the Aircraft and Shipbuilding Industries Arbitration Tribunal;
- (xxiv) Chairman of a tribunal established by section 29 of the ^{M12}Betting, Gaming and Lotteries Act 1963;
- (xxv) chairman or deputy chairman of the Copyright Tribunal;
- (xxvi) chairman or deputy chairman of [^{F11}the Information Tribunal];
- (xxvii) ^{F12}
- (xxviii) president of a tribunal constituted under Schedule 3 to the ^{M13}Industry Act 1975;
- (xxix) chairman of the tribunal constituted under Schedule 9 to the ^{M14}National Health Service Act 1977;
- (xxx) Chairman of the Plant Varieties and Seeds Tribunal;
- (xxxi) chairman of a Registered Homes Tribunal constituted under the ^{M15}Registered Homes Act 1984;
- (xxxii) [^{F13}President of the tribunal established under section 9 of the ^{M16}Wireless Telegraphy Act 1949;]
- (xxxiii) wreck commissioner appointed under section 82 of the ^{M17}Merchant Shipping Act 1970;
- (xxxiv) Chairman of a Reinstatement Committee constituted under the ^{M18}Reserve Forces (Safeguard of Employment) Act 1985;

and the appropriate day in the case of an office to which this sub-paragraph applies is the last day of the completed year of service in the office in which the person attains the age of 72.

- (6) This sub-paragraph applies to each of the following offices, as a fee-paid office—
- (a) deputy or temporary district judge of the principal registry of the Family Division appointed under subsection (1) of section 91 of the ^{M19}Supreme Court Act 1981 otherwise than by virtue of subsection (3) of that section;
 - (b) deputy district judge appointed under section 102 of the ^{M20}Supreme Court Act 1981, except in a case where the person in question has previously held office as a district judge for a district registry;
 - (c) deputy district judge appointed under section 8 of the ^{M21}County Courts Act 1984, except in a case where the person in question has previously held office as a district judge for a county court district;
 - (d) Deputy Resident Magistrate, appointed under the ^{M22}Magistrates' Courts Act (Northern Ireland) 1964;
 - (e) member of an Agricultural Land Tribunal, other than chairman, deputy chairman or an assessor added to the Tribunal under paragraph 16(2) of Schedule 9 to the ^{M23}Agriculture Act 1947;
 - (f) chairman or other member of Rent Assessment Committees appointed by the Lord Chancellor under Schedule 10 to the ^{M24}Rent Act 1977;

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and the appropriate day in the case of an office to which this sub-paragraph applies is the last day of the completed year of service in that office in which the person attains the age of 70.

- (7) This sub-paragraph applies to the office of member of the Employment Appeal Tribunal appointed under [^{F14}section 22(1)(c) of [^{F3}the Employment Tribunals Act 1996]], as a fee-paid office; and the appropriate day in the case of an office to which this sub-paragraph applies is the 31st March next following the day on which the person attains the age of 70.

Textual Amendments

- F2** Words in Sch. 7 para. 5(2)(b)(5)(x) omitted (1.6.2009) by virtue of [The Transfer of Tribunal Functions \(Lands Tribunal and Miscellaneous Amendments\) Order 2009 \(S.I. 2009/1307\)](#), art. 5(1)(2), **Sch. 1 para. 250** (with Sch. 5)
- F3** Words in Sch. 7 para. 5(2)(g)(5)(viii)(7) substituted (1.8.1998) by [1998 c. 8, ss. 1\(2\), 16\(3\)\(d\)](#) (with s. 16(2)); [S.I. 1998/1658](#), **art. 2**
- F4** Words in Sch. 7 para. 5(2)(g) substituted (E.W.S.) (22.8.1996) by [1996 c. 17, ss. 43, 46](#), **Sch. 1 para. 10(4)(a)** (with s. 38)
- F5** Words in Sch. 7 para. 5(2)(h)(5)(viii) substituted (24.9.1996) by [S.I. 1996/1921 \(N.I. 18\)](#), art. 26, **Sch. 1 para. 9(c)**
- F6** Words in Sch. 7 paras. 5(2)(h)(5)(viii) substituted (1.3.1999) by [1998/3162 \(N.I. 21\)](#), art. 105(1), Sch. 3; [S.R. 1999/81](#), **art. 3(1)**
- F7** Sch. 7 para. 5(5)(i)(g) omitted (with saving) (1.10.2007) by virtue of [Mental Capacity Act 2005 \(c. 9\)](#), ss. 67(1), 68(1)-(3), **Sch. 6 para. 38(4)** (with ss. 27, 28, 29, 62); [S.I. 2007/1897](#), **art. 2(c)(d)**
- F8** Sch. 7 para. 5(iii)(iv) repealed (29.11.1999 except for specified purposes) by [1998 c. 14, s. 86\(2\)](#), **Sch. 8**; [S.I. 1999/3178](#), **art. 2(1)(2)**, **Sch. 1** (subject to transitional provisions in Schs. 21-23)
- F9** Words in Sch. 7 para. 5(5)(vii) substituted (E.W.S.) (22.8.1996) by [1996 c. 17, ss. 43, 46](#), **Sch. 1 para. 10(4)(a)** (with s. 38)
- F10** Sch. 7 para. 5(5)(xxi) repealed (19.10.2006) by [The Regulatory Reform \(Agricultural Tenancies\) \(England and Wales\) Order 2006 \(S.I. 2006/2805\)](#), art. 18, **Sch. 2** (with art. 10)
- F11** Words in Sch. 7 para. 5(5)(xxvi) substituted (14.5.2001) by [2000 c. 36, s. 18\(4\)](#), **Sch. 2 Pt. I para. 12**; [S.I. 2001/1637](#), **art. 2(b)**
- F12** Sch. 7 para. 5(5)(xxvii) repealed (1.9.2003 for E.S.N.I. and 1.1.2004 for W.) by [Education Act 2002 \(c. 32\)](#), ss. 215(2), 216(4), **Sch. 22 Pt. 3** (with ss. 210(8), 214(4)); [S.I. 2003/1667](#), **art. 4** (with transitional provisions and savings in Sch. 1) (as amended by [S.I. 2004/571](#) and [S.I. 2005/2570](#)); [S.I. 2003/2961](#), **art. 6**, Sch. Pt. 3
- F13** Sch. 7 para. 5(5)(xxxii) 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(2)**
- F14** Words in Sch. 7 para. 5(7) substituted (E.W.S.) (22.8.1996) by [1996 c. 17, ss. 43, 46](#), **Sch. 1 para. 10(4)(b)** (with s. 38)

Marginal Citations

- M1** 1949 c. 42.
M2 [S.I. 1992/807 \(N.I. 5\)](#).
M3 1981 c. 54.
M4 [S.I. 1992/807 \(N.I. 5\)](#).
M5 1949 c. 42.
M6 1970 c. 9.
M7 1983 c. 20.
M8 1971 c. 38.

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- M9** 1971 c. 38.
- M10** 1976 c. 33.
- M11** 1988 c. 1.
- M12** 1963 c. 2.
- M13** 1975 c. 68.
- M14** 1977 c. 49.
- M15** 1984 c. 23.
- M16** 1949 c. 54.
- M17** 1970 c. 36.
- M18** 1985 c. 17.
- M19** 1981 c. 54.
- M20** 1981 c. 54.
- M21** 1984 c. 28.
- M22** 1964 c. 21 (N.I.).
- M23** 1947 c. 48.
- M24** 1977 c. 42.

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