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STATUTORY INSTRUMENTS

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**1995 No. 2647**

**PENSIONS**

**The Judicial Pensions (Guaranteed  
Minimum Pension etc) Order 1995**

<i>Made</i>	- - - -	<i>10th October 1995</i>
<i>Laid</i>	- - - -	<i>11th October 1995</i>
<i>Coming into force</i>	- -	<i>1st November 1995</i>

The Lord Chancellor (in relation to holders of qualifying judicial office in England and Wales) and the Secretary of State (in relation to holders of qualifying judicial office in Scotland), as the appropriate authorities designated for the purposes of section 141 of the Pensions Schemes Act 1993<sup>(1)</sup> as having responsibility for the public service pension scheme established under the Judicial Pensions and Retirement Act 1993,<sup>(2)</sup> in exercise of the powers conferred on them by that section, hereby make the following Order —

**Title and Commencement**

1. This Order may be cited as the Judicial Pensions (Guaranteed Minimum Pension etc) Order 1995 and shall come into force on 1st November 1995.

**Interpretation**

2. In this Order —

“the Act” means the Pension Schemes Act 1993;

“the 1993 Act” means the Judicial Pensions and Retirement Act 1993;

“office-holder” means a person who holds, or has held, qualifying judicial office;

“pensionable age” has the meaning given to it in the Act;

“Principal Appointed Day” means the day designated by an order under section 180 of the Pensions Act 1995<sup>(3)</sup> as the principal appointed day for the purposes of Part III of that Act;

“qualifying judicial office” has the meaning given to it in section 1(6) of the 1993 Act; and

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(1) 1993 c. 48. Section 141(1) provides that an Order under section 141 shall be made by the “appropriate authority” which, by virtue of section 141(2), shall be the Minister of the Crown or government department designated by the Treasury as having responsibility for the pension scheme in question.

(2) 1993 c. 8.

(3) 1995 c. 26.

“the scheme” means the occupational pension scheme constituted by Part I of the 1993 Act.

### **Application**

3. This Order shall apply in relation to an office-holder who is a member of the scheme by virtue of section 1 of the 1993 Act.

### **Entitlement to a pension**

4.—(1) An office-holder who attains pensionable age and who has ceased to hold qualifying judicial office shall be entitled to receive, from that age, not less than the guaranteed minimum pension, the weekly rate of which shall be calculated in accordance with section 14, section 16(1) and (5) and section 18 of the Act, unless his accrued rights have been extinguished under section 60 of the Act.

- (2) The commencement of the office-holder’s guaranteed minimum pension may be postponed —
- (a) for a period, not exceeding five years, for which he continues to hold qualifying judicial office after attaining pensionable age;
  - (b) with his consent, for a period exceeding five years for which he continues to hold qualifying judicial office after attaining pensionable age; or
  - (c) with his consent, for a period for which he continues in employment after attaining pensionable age otherwise than in qualifying judicial office;

and in such a case section 15 of the Act shall apply to the calculation of the guaranteed minimum pension.

- (3) An office-holder —
- (a) who attains pensionable age;
  - (b) who has ceased to hold qualifying judicial office;
  - (c) to whom section 13(2) of the Act applies; and
  - (d) who does not have a guaranteed minimum under sections 14 to 16 of the Act, shall be entitled to receive, from that age, a pension not less than the amount which would be determined as the office-holder’s guaranteed minimum, calculated in accordance with paragraph (1), were section 14(3)(b) not to apply to that office-holder.
- (4) The pension payable under this article shall continue for the life of the office-holder.

### **Surviving spouse’s guaranteed minimum pension**

5.—(1) As from the date of death of an office-holder, whether before or after attaining pensionable age, his surviving spouse shall be entitled to receive a guaranteed minimum pension the weekly rate of which shall be no less than the guaranteed minimum ascertained in accordance with section 17(2) and (3) or (4) of the Act as appropriate.

(2) Paragraph (1) shall apply, in the case of a widow, for the period mentioned in section 17(5) of the Act and, in the case of a widower, in the circumstances prescribed under section 17(6) of that Act.

- (3) Paragraph (1) shall not apply if —
- (a) at the date of his death the office-holder’s accrued rights to a guaranteed minimum pension have been extinguished under section 60 of the Act; or
  - (b) the surviving spouse’s accrued rights are extinguished under that section.

### **Contribution in the event of marriage during retirement**

6.—(1) Where an office-holder is unmarried on the date that he ceases to hold office, he may be required to undertake that, in return for payment of a lump sum to him under the scheme, he will on his first marriage afterwards pay a contribution in respect of the benefits that may become payable to his surviving spouse by virtue of article 5.

(2) The contribution referred to in paragraph (1) shall be calculated in accordance with the formula

$$((A \times B) / 200) \times 3.4$$

where—

- a A is the number of years and days of actual and notional service in the scheme (expressed in years and fractions of a year) during the relevant period which were —
- (i) completed by him before he obtained pensionable age, and
  - (ii) not years —
    - (1) during any part of which he was married, or
    - (2) preceding a marriage of his contracted before he ceased to hold qualifying judicial office; and
- b B is such amount of the office-holder's final annual salary which, expressed as a weekly rate, falls between the lower earnings limit and the upper earnings limit at the date he ceases to hold qualifying judicial office.

(3) In this article —

“final annual salary” in relation to an office-holder means the annual rate of salary he was receiving immediately before he ceased to hold qualifying judicial office;

“notional service” means the period of service credited to an office-holder who transfers into the scheme from another judicial pension scheme, on the date of his transfer into the scheme, calculated in accordance with the Judicial Pensions (Transfer Between Judicial Pension Schemes) Regulations 1995;(4); and

“relevant period” means, in the case of a male office-holder, the period commencing on 6th April 1978 and ending on the Principal Appointed Day and, in relation to a female office-holder, the period commencing on 6th April 1988 and ending on the Principal Appointed Day.

### **Time of payment**

7. Any pension to which there is an entitlement by virtue of this Order shall be payable at intervals of not more than three months.

### **Relationship to other benefits**

8. Any pension to which there is an entitlement by virtue of this Order shall be reckoned towards and treated as part of any pension paid in relation to the office-holder under the scheme.

### **The Judicial Pensions (Requisite Benefits) Order 1988(5)**

9. The Judicial Pensions (Requisite Benefits) Order 1988 shall be amended as follows —

- (a) in article 2, after the definition of pensionable age, there shall be inserted the following definition —

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(4) S.I.1995/636.

(5) S.I. 1988/1420.

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*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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“Principal Appointed Day” means the day designated by an order under section 180 of the Pensions Act 1995 as the principal appointed day for the purposes of Part III of that Act; and

- (b) in article 12(3), after the words “relevant service of his”, there shall be inserted the words “prior to the Principal Appointed Day”.

**The Judicial Pensions (Preservation of Benefits) Order 1995(6)**

**10.** The Judicial Pensions (Preservation of Benefits) Order 1995, in so far as it relates to Northern Ireland, is hereby revoked and in the preamble to that Order —

- (a) the words “and Northern Ireland” and “and section 137 of the Pension Schemes (Northern Ireland) Act 1993(7)” shall be omitted; and
- (b) for the words “those sections” there shall be substituted the words “that section”.

Dated 10th October 1995

*Mackay of Clashfern, C.*

Dated 6th October 1995

*M. B. Forsyth*  
One of Her Majesty’s Principal Secretaries of  
State

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(6) **S.I. 1995/634.**  
(7) 1993 c. 49.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order modifies the scheme constituted under Part I of the Judicial Pensions and Retirement Act 1993 in order to enable it to meet the contracting-out requirements laid down by the Pension Schemes Act 1993. It confers on an office-holder and his surviving spouse the right to receive a pension being not less than the guaranteed minimum pension calculated in accordance with the Pension Schemes Act 1993. It provides for the payment of contributions in respect of a surviving spouse's pension that may become payable by virtue of the Order where the office-holder marries after retirement.

The Order amends article 12 of the Judicial Pensions (Requisite Benefits) Order 1988. That article provides for the payment of contributions in respect of widows' pensions that may become payable by virtue of that Order where the office-holder marries after retirement. The amendment provides that the period of relevant service to be taken into account for the purpose of calculating the contribution to the widow's pension shall not extend beyond the day appointed under the Pensions Act 1995 after which contracted-out service will cease to earn rights to a guaranteed minimum pension or widow's guaranteed minimum pension.

The Order also revokes the Judicial Pensions (Preservation of Benefits) Order 1995 in so far as it relates to Northern Ireland. Provision for preservation of benefits in respect of holders of qualifying judicial office in Northern Ireland is made in the [Judicial Pensions \(Preservation of Benefits\) Order \(Northern Ireland\) 1995 \(SR 388\)](#).