Citation.

**2.** This Act may be cited as the Lord High Commissioner (Church of Scotland) Act, 1959; and the Lord High Commissioner (Church of Scotland) Act, 1948, and this Act may be cited together as the Lord High Commissioner (Church of Scotland) Acts, 1948 and 1959.

## CHAPTER 9

### *Judicial Pensions Act*, 1959

ARRANGEMENT OF SECTIONS

Section

1. Rate of pension of holders of certain high judicial offices.
2. Retiring age.
3. Option for existing judges.
4. Special provisions as to former holders of other judicial offices.
5. Rate of Lord Chancellor's pension.
6. Provision against double pensions.
7. Pensions granted before commencement of this Act.
8. Last annual salary for purposes of lump sum and pension.
9. Consequential amendments, etc.
10. Interpretation.
11. Financial provision.
12. Short title.

SCHEDULES:

First Schedule—Judicial offices to which s. 1 applies.
Second Schedule—Consequential amendments.
Third Schedule—Enactments repealed.

An Act to amend the law with respect to the pensions and other benefits attaching to certain high judicial offices, to regulate the age of retirement from such offices, and to increase certain pensions and other benefits granted to or in respect of persons who have held such offices.

[17th December, 1959]

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Rate of pension of holders of certain high judicial offices.

**1.**—(1) The amount of the pension which may be granted under the relevant pension enactment to a person retiring from any judicial office listed in the First Schedule to this Act when qualified for such a pension shall be the amount prescribed by this section.

(2) Where the period of the relevant service of any such person is fifteen years or more, the annual amount of the pension shall be one half of his last annual salary.

(3) Where the period of the relevant service of any such person is less than fifteen years, the annual amount of the pension shall be as follows, that is to say—

(*a*) if that period does not exceed five years, one quarter of his last annual salary;

(*b*) if that period exceeds five years, one quarter of that salary plus one fortieth of that salary for each completed year of relevant service exceeding five.

Retiring age.

**2.**—(1) A person who holds an office listed in the First Schedule to this Act shall vacate that office on the day on which he attains the age of seventy-five years.

(2) A pension under the relevant pension enactment may be granted to a person who retires from any such office, notwithstanding that he is not otherwise qualified, if at the time of his retirement he has attained the age of seventy years.

Option for existing judges.

**3.**—(1) The foregoing provisions of this Act shall not apply to any person who holds an office listed in the First Schedule to this Act at the commencement of this Act, unless he elects that those provisions shall apply to him; and in default of such an election the annual amount of the pension which may be granted under the relevant pension enactment to any such person who retires when qualified for such a pension shall be one half of his last annual salary.

(2) Where such an election is made by a person who has attained the age of seventy-five years, subsection (1) of section two of this Act shall apply to him as if he had not attained that age until the end of the calendar year in which the election is made.

(3) An election under this section shall be made within the period of three months beginning with the commencement of this Act and shall be made in writing addressed to the Treasury.

Special provisions as to former holders of other judicial offices.

5 & 6 Eliz. 2. c. 20.

**4.**—(1) The following provisions of this section shall apply to any holder of a judicial office listed in the First Schedule to this Act who, immediately before his appointment to an office so listed, was the holder of any other of the judicial offices described in Part I of the First Schedule to the House of Commons Disqualification Act, 1957, being an office in respect of which pensions are payable in pursuance of any public general Act or under any other enactment, scheme or arrangements approved for the purposes of this section by the Lord Chancellor.

(2) Where a person to whom this section applies retires from his office having qualified otherwise than by virtue of subsection

(2) of section two of this Act for a pension under the relevant pension enactment, then, if he so elects—

(*a*) the amount of the pension which may be paid to him under the relevant pension enactment shall be an amount equal to the pension for which he would have been eligible if he had continued to serve in his former office until his retirement at the salary then payable to a holder of that office; and

14 & 15 Geo. 6. c. 11.

(*b*) any lump sum payable in his case under Part I of the Administration of Justice (Pensions) Act, 1950, shall be calculated as if his last annual salary were the salary payable at the date of his retirement to a holder of his former office.

(3) Where a person to whom this section applies dies while holding his office, and his legal personal representatives so elect, any derivative benefit payable in respect of him under the said Act of 1950 shall be calculated as if the pension for which he would have been eligible if he had retired at the time of his death were a pension of the amount described in paragraph (*a*) of subsection (2) of this section, and as if his last annual salary were the salary payable at the time of his death to a holder of his former office.

(4) An election under this section shall be made within the period of three months beginning with the retirement or death of the person by or in respect of whom it is made, and shall be made in writing addressed to the Treasury.

Rate of Lord Chancellor's pension. 2 & 3 Will. 4. c. 111.

**5.** The annual amount of any pension granted under the Lord Chancellor's Pension Act, 1832, for service as Lord Chancellor shall, in the case of a person who resigns that office after the commencement of this Act, be five thousand pounds, and any Letters Patent issued under that Act before the commencement of this Act shall have effect accordingly.

Provision against double pensions.

**6.**—(1) Not more than one pension shall be paid to the same person under the relevant pension enactments, or under those enactments and the Lord Chancellor's Pension Act, 1832.

(2) This section applies to any derivative benefit within the meaning of the Administration of Justice (Pensions) Act, 1950, which depends upon eligibility for any such pension as aforesaid as it applies to the pension.

Pensions granted before commencement of this Act. 7 & 8 Eliz. 2. c. 50.

**7.**—(1) The annual amount of any pension payable under the relevant pension enactment to a person who retired before the ninth day of July, nineteen hundred and fifty-nine (being the date of the passing of the Pensions (Increase) Act, 1959) shall be increased by twelve per cent.

(2) In ascertaining the rate of a widow's or children's pension payable under Part I of the Administration of Justice (Pensions) Act, 1950, by reference to a pension which is increased under subsection (1) of this section, no account shall be taken of the increase.

(3) The annual amount of any pension payable under the relevant pension enactment, the amount of any lump sum payable under the said Part I and the annual amount of any widow's or children's pension payable under the said Part I to or in respect of a person who, at any time after the tenth day of November, nineteen hundred and fifty-nine and before the commencement of this Act, retired from an office listed in the First Schedule to this Act, or died while holding such an office, shall be the amount which would have been payable if this Act had been in force at the time of his retirement or death; and if before the commencement of this Act there was made to any such person or his legal personal representatives any payment by way of lump sum of an amount less than that payable under this subsection, there may be paid to him or them an amount equal to the deficiency.

**Last annual salary for purposes of lump sum and pension. 2 & 3 Eliz. 2. c. 27.**

**8.**—(1) The proviso to subsection (1) of section one of the Judges' Remuneration Act, 1954 (which provided that the increase in salary effected by that subsection should not affect the amount of any pension or other benefit payable under certain of the relevant pension enactments or under the Administration of Justice (Pensions) Act, 1950) shall cease to have effect.

(2) In relation to any person in whose case an election is in force under subsection (1) of section eleven of the said Act of 1950 (which subsection enabled persons serving at the commencement of that Act to opt out of the provisions of that Act for the grant of lump sums and widow's and children's pensions) this Act shall have effect as if for any reference to his last annual salary there were substituted a reference to the amount of that salary increased by one third.

**Consequential amendments, etc.**

**9.**—(1) The enactments described in the first column of the Second Schedule to this Act shall have effect subject to the amendments set out in the second column of that Schedule, being amendments consequential on the foregoing provisions of this Act:

Provided that the amendments relating to the qualification for pension of persons retiring after the age of seventy years shall apply only to persons to whom sections one and two of this Act apply.

(2) The enactments described in the Third Schedule to this Act are hereby repealed to the extent specified in the third column of that Schedule.

(3) In relation to the person who holds the office of Chairman of the Scottish Land Court at the commencement of this Act, subsection (1) of section three of this Act shall have effect as if for the words "one half" there were substituted the words "nine sixteenths".

(4) This Act (except section seven) does not affect any pension or other benefit payable to or in respect of a person who retired or died before the commencement of this Act.

Interpretation.

**10.** In this Act the following expressions have the meanings hereby respectively assigned to them, that is to say:—

"public general Act" includes a public general Act of the Parliament of Northern Ireland;

"relevant pension enactment", in relation to any office listed in the First Schedule to this Act, means the enactment set out in relation to that office in the second column of that Schedule, as amended by any subsequent enactment;

"relevant service", in relation to any person, means service which qualifies for a pension under the relevant pension enactment.

Financial provision.

**11.** There shall be charged on and paid out of the Consolidated Fund of the United Kingdom any increase attributable to the provisions of this Act in the sums payable out of that Fund under any other enactment.

Short title.

**12.** This Act may be cited as the Judicial Pensions Act, 1959.

# SCHEDULES

## FIRST SCHEDULE

Sections 1, 2, 3, 4.

JUDICIAL OFFICES TO WHICH S. 1 APPLIES

| Description of office | Relevant pension enactment |
|---|---|
| Lord of Appeal in Ordinary ... | The Appellate Jurisdiction Act, 1876. |
| Lord Chief Justice, Master of the Rolls, President of the Probate, Divorce and Admiralty Division, Lord Justice of Appeal, Puisne Judge of the High Court of Justice. | The Supreme Court of Judicature (Consolidation) Act, 1925, section fourteen. |
| Lord Justice General, Lord Justice Clerk, Senator of the College of Justice in Scotland. | The Judges' Pensions (Scotland) Act, 1808. |
| Lord Chief Justice of Northern Ireland, Lord Justice of Appeal in Northern Ireland, Judge of the High Court of Justice in Northern Ireland. | The Supreme Court of Judicature (Ireland) Act, 1877, section nineteen. |

## SECOND SCHEDULE

Section 9.

CONSEQUENTIAL AMENDMENTS

| Enactment | Amendment |
|---|---|
| The Judges' Pensions (Scotland) Act, 1808. 48 Geo. 3. c. 145. | In section one, the words from " not exceeding " to " resignation thereof " shall be omitted, and at the end of the proviso there shall be added the words " or has resigned after attaining the age of seventy years ". |
| The Appellate Jurisdiction Act, 1876. 39 & 40 Vict. c. 59. | In section seven, after the words " his office " there shall be inserted the words " or retires after attaining the age of seventy years ", and the words from " not exceeding " to " three thousand seven hundred and fifty pounds " (being words inserted by the Administration of Justice (Pensions) Act, 1950) shall be omitted. |

2ND SCH.

| Enactment | Amendment |
|---|---|
| The Supreme Court of Judicature (Ireland) Act, 1877. 40 & 41 Vict. c. 57. | In section nineteen, after the words " his office " there shall be inserted the words " or retires after attaining the age of seventy years ", and the words from " of the amount following " to the end of the section shall be omitted. |
| The Supreme Court of Judicature (Consolidation) Act, 1925. 15 & 16 Geo. 5. c. 49. | In section fourteen, for the words " any of the judges hereinafter mentioned " there shall be substituted the words " any judge (other than the Lord Chancellor) ", after the words " his office " there shall be inserted the words " or who retires after attaining the age of seventy years ", and the words from " In the case of ", in the first place where those words occur, to the end of the section shall be omitted. |

Section 9.

## THIRD SCHEDULE

ENACTMENTS REPEALED

| Session and Chapter | Short Title | Extent of Repeal |
|---|---|---|
| 48 Geo. 3. c. 145. | The Judges' Pensions (Scotland) Act, 1808. | In section one, the words from " not exceeding " to " resignation thereof ". |
| 39 & 40 Vict. c. 59. | The Appellate Jurisdiction Act, 1876. | In section seven, the words from " not exceeding " to " three thousand seven hundred and fifty pounds ". |
| 40 & 41 Vict. c. 57. | The Supreme Court of Judicature (Ireland) Act, 1877. | In section nineteen, the words from " of the amount following " to the end of the section. |
| 15 & 16 Geo. 5. c. 49. | The Supreme Court of Judicature (Consolidation) Act, 1925. | In section fourteen, the words from "In the case of", in the first place where those words occur, to the end of the section. |
| 16 & 17 Geo. 5. c. 44. | The Supreme Court of Judicature of Northern Ireland Act, 1926. | In section one, subsection (2). |

3RD SCH.

| Session and Chapter | Short Title | Extent of Repeal |
|---|---|---|
| 14 & 15 Geo. 6. c. 11. | The Administration of Justice (Pensions) Act, 1950. | Section one, so far as it relates to pensions for service in any of the offices listed in the First Schedule to this Act, or for service as Lord Chancellor in the case of a person who resigns that office after the commencement of this Act.<br>In section nineteen, the words " other than that of the Appellate Jurisdiction Act, 1876."<br>In the Second Schedule the amendments of the Judges' Pensions (Scotland) Act, 1808, the Appellate Jurisdiction Act, 1876, the Supreme Court of Judicature (Ireland) Act, 1877, and the Supreme Court of Judicature of Northern Ireland Act, 1926, the amendments of section fourteen of the Supreme Court of Judicature (Consolidation) Act, 1925, and, so far as it relates to a person who resigns after the commencement of this Act, the amendment of the Lord Chancellor's Pension Act, 1832. |
| 2 & 3 Eliz. 2. c. 27. | The Judges' Remuneration Act, 1954. | In section one, in subsection (1), the words from " Provided that " to the end of the subsection. |