EXPLANATORY MEMORANDUM TO

THE JUDICIAL PENSIONS AND RETIREMENT ACT 1993 (ADDITION OF QUALIFYING JUDICIAL OFFICES) (No 3) ORDER 2008

2008 No. 3139

1. This Explanatory Memorandum has been prepared by the Ministry of Justice and is laid before Parliament by Command of Her Majesty.

   This Memorandum contains information for the Joint Committee on Statutory Instruments.

2. Purpose of the Instrument

2.1 The purpose of this Order is to add Deputy Adjudicators (namely persons authorised by the Adjudicator to HM Land Registry to carry out non-administrative functions, i.e. judicial functions) to Schedules 1 and 5 of the Judicial Pensions and Retirement Act 1993 (JUPRA). This means that Deputy Adjudicators qualify for membership of the judicial pension scheme established under JUPRA, and are also covered by the retirement provisions in JUPRA. Although Deputy Adjudicators will be covered by those pension and retirement provisions when they are transferred into the unified tribunals structure (established under the Tribunals, Courts and Enforcement Act 2007), this Order will enable those Adjudicators to become members of the JUPRA pension scheme before that transfer occurs.

3. Matters of Special Interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 This Statutory Instrument is made in exercise of statutory powers to add offices to Schedules 1 and 5 of JUPRA. Any office added to Schedule 1 becomes a "qualifying judicial office" for the purposes of JUPRA, allowing persons serving on a salaried basis in that office to benefit from the JUPRA pension scheme.

4.2 An office added to Schedule 5 becomes subject to the retirement provisions of JUPRA (broadly speaking, retirement at age of 70, with the possibility of annual extensions thereafter).

5. Territorial Extent and Application

5.1 This Statutory Instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 The Lord Chancellor has made the following statement regarding Human Rights:

"In my view the provisions of the Judicial Pensions and Retirement Act 1993 (Addition of Qualifying Judicial Offices) (No 3) Order 2008 are compatible with the Convention rights."

7. Policy Background

- **What is being done and why**

7.1 Deputy Adjudicators exercise judicial functions in connection with the land registration process. They are appointed under paragraph 3 of Schedule 9 to the Land Registration Act 2002, and there are currently 3 Deputy Adjudicators. Before a person may be appointed as a Deputy Adjudicator, he must satisfy the judicial-appointment eligibility condition on a 7-year basis. This is the same eligibility requirement as for appointments to the office of Adjudicator.

7.2 The current policy intention is that Deputy Adjudicators will be transferred to the unified tribunals structure under the Tribunals, Courts and Enforcement Act 2007 in 2010, at which point they would become 'transferred-in judges' of the First-tier or Upper Tribunal, and would be covered by the pension and retirement provisions of JUPRA. The purpose of this Order is to enable Deputy Adjudicators to join the JUPRA pension scheme before that transfer occurs, if they so wish to recognise that they are acting as members of the judiciary and to enable a smooth transition to the new Tribunals regime. (The JUPRA pension scheme has a more favourable accrual rate than the existing pension scheme.) Alternatively, they may if they prefer remain in their existing pension scheme, broadly analogous to the PCSPS Premium Scheme.

7.3 The Order also brings Deputy Adjudicators within the retirement regime of JUPRA (broadly speaking, retirement at age of 70, with the possibility of annual extensions thereafter).

8. Consultation Outcome

8.1 Given the very limited application of this Order, there has been no public consultation. The Ministry of Justice has notified the three current Deputy Adjudicators about this Order, and has taken into account their views.

9. Guidance

9.1 Deputy Adjudicators will be provided with appropriate information about the effect of the Order.

10. Impact

10.1 There is no impact on businesses, charities or voluntary bodies.

10.2 There is a marginal impact on the public sector, in that this Order enables those concerned to join the judicial pension scheme which has a more favourable rate of accrual than their current scheme.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating Small Business

11.1 This Order does not apply to small businesses.

12. Monitoring and Review

12.1 This Order will be reviewed as appropriate.

13. Contact

13.1 David Staff at the Ministry of Justice Tel: 020 3334 3473 David.Staff@Justice.gsi.gov.uk) can answer queries regarding the instrument.