STATUTORY INSTRUMENTS

2025 No. 271

PENSIONS

The Judicial Pensions (European Court of Human Rights) (Amendment) Order 2025

Made - - - -	*4th March 2025*
Laid before Parliament	*6th March 2025*
Coming into force - -	*3rd April 2025*

The Lord Chancellor and, in relation to any judicial office whose jurisdiction is exercisable exclusively in relation to Scotland, the Secretary of State, make this Order in exercise of the powers conferred on them by section 18(6) of, and Schedule 4 to, the Human Rights Act 1998(**a**).

Citation, commencement and extent

1.—(1) This Order may be cited as the Judicial Pensions (European Court of Human Rights) (Amendment) Order 2025 and comes into force on 3rd April 2025.

(2) This Order extends to England and Wales, Scotland and Northern Ireland.

Amendment of the Judicial Pensions (European Court of Human Rights) Order 1998

2. The Judicial Pensions (European Court of Human Rights) Order 1998(**b**) ("the 1998 Order") is amended in accordance with this Order.

Amendment to article 2

3. In article 2—

(a) after the definition of "the 1993 Act" insert—

> ""the 2009 Resolution" means the Council of Europe's Resolution CM/Res(2009)5 on the status and conditions of service of judges of the European Court of Human Rights and of the Commissioner for Human Rights.
>
> "the 2017 Regulations" means the Judicial Pensions (Additional Voluntary Contributions) Regulations 2017(**c**).

(**a**) 1998 c. 42; by virtue of paragraph 1 of Schedule 4, the power to make this Order is vested in "the appropriate Minister". This expression is defined in paragraph 4 of that Schedule as the Secretary of State, in relation to any judicial office whose jurisdiction is exercisable exclusively in relation to Scotland, and, otherwise, as the Lord Chancellor. Paragraph 4 of Schedule 4 was amended by section 27 of, and paragraph 26 of Schedule 8 to, the Public Service Pensions Act 2013 (c. 25).
(**b**) S.I. 1998/2768, as amended by S.I. 2012/489.
(**c**) S.I. 2017/512 as amended by S.I. 2022/319 and S.I. 2023/766.

"the 2022 Regulations" means the Judicial Pensions Regulations 2022(**a**).";

(b) after the definition of "ECHR service" insert—

""Pensionable Earnings" has the meaning given in regulation 16 of the 2022 Regulations.".

Amendment of article 3

4. In article 3—

(a) for "or the 1993 Act" substitute ", the 1993 Act or the 2022 Regulations";

(b) after "Part 1 of the 1993 Act applies" insert ", or becomes, or ceases to be, a member of the judicial pension scheme constituted by the 2022 Regulations".

Amendment of article 4

5. In article 4—

(a) in paragraph (3)(a) for "articles 5 to 7" substitute "articles 5, 6 and 7";

(b) after paragraph (3) insert—

"(4) Articles 5A, 6 and 9 of this Order apply, for the purposes of the 2022 Regulations, to an ECHR judge who, immediately before being appointed as an ECHR judge, was a member of the judicial pension scheme constituted by the 2022 Regulations and who, upon being appointed as an ECHR judge, elects not to become a member of the pension scheme offered by the Council of Europe in accordance with Article 10 of the 2009 Resolution.

(5) Where the ECHR judge becomes a member of the pension scheme offered by the Council of Europe in accordance with Article 10 of the 2009 Resolution, that judge shall be deemed to have opted out of the scheme constituted by the 2022 Regulations in accordance with regulation 14 of the 2022 Regulations.".

Insertion of new article 5A

6. After article 5 insert—

"5A. During the whole of their ECHR service, the ECHR judge's Pensionable Earnings, for the purpose of the 2022 Regulations, shall be treated as being those which would be calculated on that judge's behalf if the judge had not been appointed as an ECHR judge and had continued to perform the duties of the UK judicial office.".

Amendment of article 6

7. In article 6—

(a) for "1981 Act and" substitute "1981 Act,";

(b) after "the 1993 Act" insert ", regulation 9(2) of the 2017 Regulations and Part 9 of the 2022 Regulations".

Insertion of new article 9

8. After article 8, insert—

(**a**) S.I. 2022/319 as amended by S.1. 2023/766 and S.I. 2023/1267.

"Judicial Pensions Regulations 2022

9. The ECHR judge shall, during the whole of the judge's ECHR service, be treated as holding, and serving in, the UK judicial office, which shall be treated as a qualifying judicial office.".

Shabana Mahmood
Lord Chancellor
Ministry of Justice

3rd March 2025

Ian Murray
Secretary of State for Scotland
Office of the Secretary of State for Scotland

4th March 2025

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Judicial Pensions (European Court of Human Rights) Order 1998 ("the 1998 Order"), made under the powers conferred by section 18(6) of, and Schedule 4 to, the Human Rights Act 1998. In particular:

Article 5 updates the 1998 Order so that an ECHR judge may continue to accrue benefits in the pension scheme constituted by the Judicial Pensions Regulations 2022 ("the Judicial Pension Scheme 2022") in circumstances where the judge is a member of that scheme immediately prior to their appointment as an ECHR judge. It also provides that, if the ECHR judge opts to become a member of the pension scheme offered by the Council of Europe, then they will be deemed as having opted out of the Judicial Pension Scheme 2022.

Article 6 inserts a new provision which establishes that, for the purposes of the Judicial Pension Scheme 2022, the ECHR judge's pensionable earnings will be treated as being those that the judge would have received, had they continued to perform the duties of their UK judicial office.

Article 8 inserts a new provision which establishes that, for the purposes of the Judicial Pension Scheme 2022, the ECHR judge will be treated as holding, and serving in, their UK judicial office, and that their UK judicial office will be treated a qualifying judicial office for the purposes of the Judicial Pensions Regulations 2022.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. An Explanatory Memorandum has been published alongside this Order on http://www.legislation.gov.uk.

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