

**EXPLANATORY MEMORANDUM TO
THE JUDICIAL PENSIONS AND RETIREMENT ACT 1993 (ADDITION OF
QUALIFYING JUDICIAL OFFICES) ORDER 2006**

S.I. 2006 No. 391

1. This explanatory memorandum has been prepared by Northern Ireland Court Service and is laid before Parliament by Command of Her Majesty.

2. Description

This Order amends the Judicial Pensions and Retirement Act 1993 (1993 c.8) (“the 1993 Act”) by adding -

- (a) the office of coroner appointed under section 2(1) of the Coroners Act (Northern Ireland) 1959 (1959 c.15) (“the 1959 Act”) to the list of judicial offices that qualify for a judicial pension; and
- (b) the offices of coroner appointed under section 2(1) of the 1959 Act and deputy coroner appointed under section 2(1) of the 1959 Act to the list of qualifying judicial offices that are subject to the statutory retirement age of 70.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Part I of the 1993 Act provides for the pension arrangements for persons holding those qualifying judicial offices listed in Schedule 1 to the Act.

4.2 Section 26 of the 1993 Act provides for a statutory retirement age of 70 in respect of those judicial office-holders listed in Schedule 5 to the Act.

4.3 Section 2(1) of the 1959 Act gives the Lord Chancellor the power to appoint coroners and deputy coroners.

4.4 Section 6(2) of the 1959 Act provides that the Lord Chancellor may appoint a coroner or other suitable person to exercise the duties of a coroner for a specified period if the latter is unable to do so.

4.5 This Order is being made under powers conferred by sections 1(8) and 26(9)(a) of the 1993 Act and is being made under the negative resolution procedure.

5. Extent

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

The Minister for Constitutional Affairs has made the following statement regarding Human Rights:

In my view the provisions of the Judicial Pensions and Retirement Act (Addition of Qualifying Judicial Offices) Order 2006 are compatible with the Convention rights.

7. Policy background

7.1 A report entitled, “Death Certification and Investigation in England, Wales and Northern Ireland” (otherwise known as the Luce report) was published in 2003, recommending that the Coroners Service should become a full-time, legally-qualified service. In light of this and following a public consultation, the Northern Ireland Court Service issued its own paper entitled “Modernising the Coroners Service in Northern Ireland”.

7.2 One of the key proposals in that paper was the replacement of the current coronial structure of one full-time coroner and six part-time coroners and their deputies, with three full-time coroners. It is the policy intention that these three full-time coroners be regarded as full-time judicial posts. It is consistent with this policy that they be included within the judicial pension and retirement structure and listed in Schedules 1 and 5 of the 1993 Act.

7.3 Accordingly, coroners appointed under section 2(1) of the 1959 Act will be entitled to a pension under the 1993 Act as full-time judicial appointments. However, as they are not full-time judicial officers, deputy coroners will not have the same entitlement; although it is considered appropriate that they should be subject to the statutory retirement age.

7.4 Finally, it is not considered appropriate that coroners who may be appointed from time to time under section 6(2) of the 1959 Act be included in the 1993 Act, since these are not full-time judicial appointments but appointments for a specified period.

8. Impact

A Regulatory Impact Assessment has not been prepared for this instrument, as it has no impact on business, charities or voluntary bodies.

9. Contact

Michael Kelly at Northern Ireland Court Service (Tel: 028 90 412394 or e-mail: michaelkelly@courtsni.gov.uk) can answer any queries regarding the instrument.