

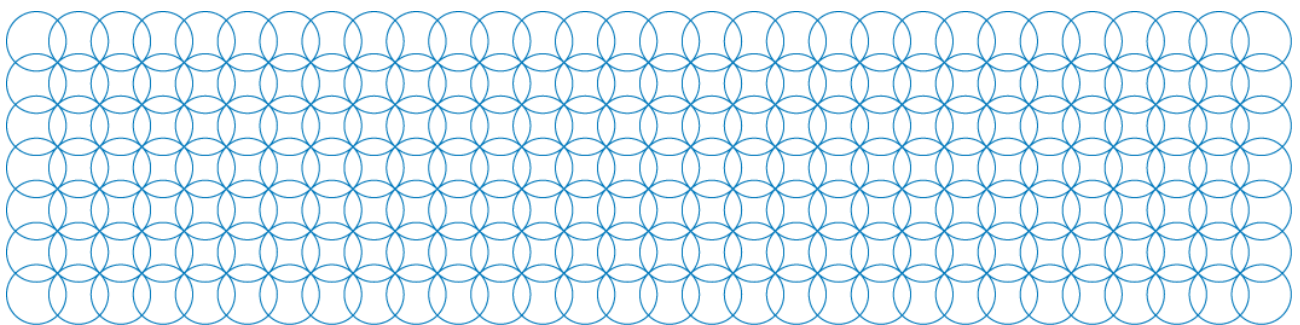


Ministry  
of Justice

# Consultation on Fee-Paid Judicial Pension Scheme Draft Regulations

This consultation begins on 15 September 2016

This consultation ends on 20 October 2016







Ministry  
of Justice

## **Consultation on Fee-Paid Judicial Pension Scheme Draft Regulations**

**A consultation produced by the Ministry of Justice. It is also available at  
<https://consult.justice.gov.uk/>**

## About this consultation

- To:** This consultation is aimed at current and former members of the judiciary, salaried and fee-paid who are entitled to be a member of a judicial pension scheme, legal professionals, pension industry professionals, as well as anyone with an interest in public service pensions in England and Wales, Scotland and Northern Ireland.
- Duration:** From 15 September to 20 October 2016
- Enquiries (including requests for the paper in an alternative format) to:** Surinder Sawali  
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- How to respond:** Please send your response by 20 October 2016 to:  
Surinder Sawali  
Fee Paid Judicial Pension Scheme  
Judicial Policy  
Ministry of Justice  
102 Petty France  
London SW1H 9AJ  
Email: FPJPSconsultation@justice.gsi.gov.uk
- Response paper:** A response to this consultation exercise is due to be published in the New Year at: <https://consult.justice.gov.uk/>

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## Foreword

Implementation of the new Fee-Paid Judicial Pension Scheme (FPJPS) is the way in which the government intends to meet the requirement to provide eligible fee-paid judicial office holders with pension benefits. The FPJPS will provide a remedy to those eligible office holders who, as a consequence of court and tribunal rulings on this issue, are entitled to the equivalent of the pension benefits provided to their salaried counterparts.

This consultation seeks views on our proposals for the FPJPS, including detailed draft regulations, as well as related changes to the Judicial Pensions Scheme Regulations 2015.

The aim of the proposals is to provide both the appropriate retrospective pension benefits for eligible fee-paid judicial office holders – mirroring, as far as possible the Judicial Pensions and Retirement Act 1993 scheme (JUPRA) – and the right future pension benefits for serving fee-paid judges.

Due to the nature of fee-paid service, the regulations have proven to be complex to develop and some provisions necessarily differ in practice from the scheme that applies for salaried judges. An explanation is provided for any differences. The intention is that the FPJPS terms will be no less favourable than for salaried judges and will comply with the decisions of the UK courts and tribunals.

At the same time we are also consulting on consequential amendments to the Judicial Pensions Regulations 2015 which take account of the creation of the FPJPS and ensure parity of treatment under those regulations between those with entitlement in existing pension schemes such as JUPRA and those with entitlements under the FPJPS.

Following consideration of responses, the Ministry of Justice intends to issue a formal consultation response in the New Year and seek Parliament's approval of the final regulations. Our aim is for the FPJPS to come into force by 1<sup>st</sup> April 2017.

**The Right Honourable Elizabeth Truss MP**  
**Lord Chancellor and Secretary of State for Justice**

## Introduction

### Background

1. The UK courts and tribunals considered the terms and conditions of current and former fee-paid judicial office holders in a number of cases, including the case of *O'Brien* and *Miller*. They found that a historic lack of pension and other specified benefits amounted to less favourable treatment of some fee-paid judicial office holders in comparison to salaried judges doing the same or broadly similar work. This less favourable treatment was on grounds of their part-time status. In particular, they found that eligible fee-paid judicial office holders were entitled to benefits that were no less favourable than those provided at the time to salaried judges by the scheme established under the Judicial Pensions and Retirement Act 1993 (JUPRA).
2. This led to a commitment by the Ministry of Justice to implement a retrospective remedy – a Fee-Paid Judicial Pension Scheme – in respect of reckonable fee-paid service from 7 April 2000. This is the date when the Part-Time Workers Directive, under which less favourable treatment should have been eliminated, came into force.
3. Over the same period, in line with wider public service pension reform, a new judicial pension scheme was established on 1 April 2015. The Judicial Pension Scheme 2015 (JPS 2015) is for serving salaried and fee-paid office holders who were first appointed to judicial office on or after 1 April 2015 and for judicial office holders who were appointed prior to 1 April 2015 and do not have transitional protection allowing them to remain in their existing scheme.
4. The FPJPS therefore needs to provide pension benefits for eligible current and former judicial office holders in respect of their service from 7 April 2000 (the majority of those judicial office holders who had not yet retired became members of the JPS 2015). It also needs to provide pension benefits for eligible current and former fee-paid judicial office holders in respect of their service from 1 April 2015 if they are entitled to transitional protection.
5. Litigation is ongoing about pension entitlement in respect of fee-paid service prior to 7 April 2000. The MoJ does not want, however, to delay commencement of the FPJPS until that is resolved. If the legal position changes, the MoJ will make provision to comply with its obligations.
6. Litigation is also ongoing in respect of fee-paid judicial office holders who the MoJ believes are not entitled to pension benefits equivalent to the JUPRA scheme. The MoJ's view is that they are entitled to another form of pension benefit. For example, the MoJ considers that some office holders are entitled to pension benefits which are no less favourable than those provided to salaried office holders which were “by analogy” to membership of the Principal Civil Service Pension Scheme. The MoJ does not want to delay commencement of the FPJPS until this litigation is resolved. Individuals eligible for a remedy other than the FPJPS will be provided for separately; their position is not within scope of this consultation.



7. It is the MoJ's position that fee-paid judges (and where applicable, non-legally qualified chairs) who sat in the following tribunals: Her Majesty's Land Registry (HMLR), Asylum Support Tribunal (AST), Residential Property Tribunal Service (RPTS) and Criminal Injuries Compensation (CIC) should receive pensions under FPJPS which mirror the arrangements in place for salaried office holders in their respective jurisdictions at the relevant time. This includes periods where salaried office holders received pension arrangements other than through JUPRA.
8. The MoJ has set out detailed proposals to the Employment Tribunal in respect of each of the above Tribunals setting out what retrospective arrangements should apply. The Tribunal has circulated these proposals to all affected claimants. The matter was stayed pending the outcome of a related appeal at the Employment Appeal Tribunal which has recently been determined in the MoJ's favour. The Employment Tribunal is likely to reinstate directions which require affected claimants to state whether they agree with the MoJ's proposed methodology. If not, the Tribunal will determine this issue.
9. The MoJ is currently considering how it will give effect to these proposals (e.g. whether it will be within FPJPS, for example by providing an appropriate amount of service credit for periods when salaried office holders would have received none JUPRA pension arrangements, or otherwise) and will provide a further update in due course.
10. For the purposes of the draft regulations, Schedule 1 sets out where an affected office will only receive reckonable service under FPJPS after a set date. This is because prior to this date, salaried office holders in the relevant jurisdictions did not have access to a JUPRA pension. These dates are as follows:
  - Eligible roles within the First-tier Tribunal Property Chamber (Residential Property) – service after 1 July 2013 will be reckonable under FPJPS.
  - Deputy Adjudicator (fee-paid) to HMLR – service after 1 January 2009 will be reckonable under FPJPS.
  - Eligible roles within the Asylum Support Tribunal – service after 1 April 2007 will be reckonable under FPJPS.
  - Eligible roles within the Criminal Injuries Compensation Appeal Panel –service after 3 November 2008 will be reckonable under FPJPS.

### **Previous consultation**

11. The draft regulations are informed by the MoJ's previous consultation on the proposed design of the Fee-Paid Judicial Pension Scheme which ran in autumn 2014. There were 51 responses to this consultation from 39 members of the judiciary, eight judicial and legal associations and four other respondents.
12. The majority of responses (51%) were from active or retired fee-paid judicial office holders and covered themes such as: eligibility; legislative approach; transitional protection; calculating pension; time limit for reckonable service; historical contributions; medical retirement; judicial added years scheme; and the equalities impact. The subsequent response issued by MoJ on 23 March 2015, set out the Government's position in relation to the comments received.

### **Remedy payments**

13. Whilst the scheme is being developed, provision has been made for interim payments to eligible retired fee-paid judicial office holders in respect of pension benefits that they would have received, or will receive, from their retirement up to any point before 31 March 2017. This is to mitigate any financial detriment in relation to pension and lump sum payments pending the commencement of the scheme. Any additional sums due in respect of this period will be paid under the scheme once it has commenced.

### **Purpose of the FPJPS**

14. The FPJPS will provide pension benefits to current and former fee-paid judicial office holders who have succeeded – or who have succeeded with – with pension benefit claims under the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000. The FPJPS seeks to provide benefits that are no less favourable than those provided to salaried judges under JUPRA. As far as possible, the regulations therefore mirror JUPRA. Where is this not possible, due to the particular characteristics of fee-paid working, our intention is to provide benefits which are no less favourable than the JUPRA
15. In order to mirror, as far as possible, the JUPRA scheme on a pro-rata basis, the MoJ has used the Pension Schemes Act 2015 to insert a new Part 1A in JUPRA which confers a power on the Lord Chancellor to create a scheme for eligible members of the fee-paid judiciary.
16. The draft regulations, provided for consultation with this paper, will establish and set out the FPJPS which must be approved by Parliament in order to come into force.
17. **Subject to such approval, the Ministry of Justice aims to have the FPJPS in force from 1 April 2017.**

## Scope of Consultation

18. The consultation is focused on the draft regulations to create the FPJPS, which have been designed to represent the policy that was set out in detail in the previous consultation and the government's response, mirroring as far as possible the 1993 JUPRA scheme reflecting the outcome of the *O'Brien* and *Miller* litigation.
19. The draft regulations required to create the FPJPS will give effect to commitments made by the MoJ in response to the *O'Brien* and *Miller* judgements. The consultation is aimed at both former and serving members of the judiciary in the United Kingdom.

### About this document

20. This consultation also sets out eligibility for the FPJPS, the features of the scheme, options for members and information about leaving the scheme, and how and where the draft regulations achieve this.
21. Annexed to this consultation are both the draft FPJPS regulations, and also the draft consequential amendment regulations.

### Next Steps

22. Following consultation, the MoJ will issue a formal response and finalise the draft regulations before they are laid in Parliament for approval.
23. Copies of the consultation paper are being sent to:
  - Lord Chief Justice of England and Wales
  - Lord Chief Justice of Northern Ireland
  - Lord President of the Court of Session, Scotland
  - President of the UK Supreme Court
  - Senior President of Tribunals
  - Association of High Court Judges
  - Association of High Court Masters
  - Association of HM District Judges
  - Association of Part Time Judges
  - Council of Appeal Tribunal Judges
  - Council of District Judges (Magistrates' Courts)
  - Council of Employment Judges
  - Council of HM Circuit Judges
  - Council of Immigration Judges
  - Council of Upper Tribunal Judges

- District Judges Association (Northern Ireland)
- Forum of Tribunal Organisations
- HM County Judges in Northern Ireland
- Judges' Council (Northern Ireland)
- Judges' Council (Scotland)
- Judicial Pensions Committee
- Part Time Sheriffs' Association
- Salaried Tribunal Judges Association
- Sheriffs' Association
- Tribunal Chamber Presidents
- First Minister of Northern Ireland
- First Minister of Scotland
- First Minister of Wales

24. This list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this paper.

## The proposals

### Eligibility for membership

25. Membership of the FPJPS will be open to current and former fee-paid judicial office holders in England, Wales, Scotland and Northern Ireland who have been determined as eligible for pension rights that are no less favourable than those provided to salaried judges under JUPRA. This is either as a result of decisions of the Employment Tribunal (and subsequent appeals) or by consent.
26. The FPJPS is for eligible fee-paid judicial office holders with reckonable service from 7 April 2000 (this date is currently subject to ongoing litigation) up to 31 March 2015. Transitional or tapering arrangements may apply in respect of service after 31 March 2015, where the fee-paid judicial office holder meets the relevant criteria for transitional protection in respect of their transfer to the JPS 2015.
27. Like JUPRA, the FPJPS is closed to new members. The MoJ has agreed (in a document described as the pensions' moratorium) that fee-paid judges who held an eligible office on or after 2 December 2012 (and prior to 1 April 2015) will be eligible to be a member of FPJPS in respect of service in that particular office. Fee-paid judges who held an eligible office which terminated (or they died) prior to 2 December 2012 will only be eligible to be a FPJPS member in respect of their service in that fee-paid office if they issued a part-time worker pension claim (or one was issued on their behalf) and:
  - (i) it was presented in time;
  - (ii) the MoJ agrees that it is just and equitable to extend time; or
  - (iii) the Employment Tribunal orders that it is just and equitable to extend time

### Summary of eligibility for FPJPS

28. The Supreme Court decision in *O'Brien v MoJ* established that recorders were entitled to pension benefits that were no less favourable than those provided to their full-time comparable worker (full-time Circuit Judges) under the JUPRA scheme. Following the Supreme Court's decision in *O'Brien v MoJ* (February 2013) the entitlement of other types of fee-paid judicial office holder to pro-rata pension rights has been established (with a small number of issues yet to be determined) through a combination of:
  - various decisions by the Employment Tribunal (and subsequent appeals) where the existence of a comparable full-time worker for the purpose of the regulations has been a matter of dispute;
  - publication of lists of fee-paid offices which the MoJ accepts have a comparator for the purposes of establishing eligibility for membership of FPJPS or other pension benefits;
  - various decisions by the Employment Tribunal about the particular pension remedy to which eligible fee-paid judicial office holders in particular jurisdictions are entitled – either pension benefits that are no less favourable than those provided under the JUPRA scheme (which the MoJ will provide through the

FPJPS) or other pension benefits (which the MoJ will provide separately, outside the scope of this consultation).

### Summary of eligibility for membership for the FPJPS

Scenario	Eligibility
In eligible fee-paid office as at 1 April 2015	Eligible in respect of service in that fee-paid office
Their appointment to an eligible fee-paid office terminated on or after 2 December 2012 (by reason of retirement or otherwise)	Eligible as covered by the moratorium <sup>1</sup>
Their appointment to an eligible fee-paid office terminated before 2 December 2012 (by reason of retirement or otherwise) and made a part time worker claim to the Employment Tribunal for a pension in respect of service in that particular office within 3 months from the date of termination of the appointment to that particular office (or they were provided with an extension to this deadline by the Employment Tribunal or with the MoJ's consent).	Eligible

### Transitional provisions

29. From 1 April 2015, reckonable fee-paid service will be pensioned under the JPS 2015, except where transitional provisions apply. As part of the reforms of public service pensions, scheme members who were holding office on 1 April 2012 and who were within 10 years or less of scheme retirement age (65) are fully protected and allowed to remain in their current pension arrangements. More limited tapering protection is available to those members who were within 13.5 years of scheme retirement age at 1 April 2012. These arrangements will apply to the fee-paid scheme.
30. For service beyond 1 April 2015, the pension scheme under which a fee-paid judicial office holder will accrue benefits will depend upon their eligibility for transitional protection. The table below shows how the transitional arrangements apply.

Time period	Type of Judicial office holder	Pension Scheme
7 April 2000 – 31 March 2015	All judicial office holders	FPJPS
1 April 2015 – onwards	judicial office holders with transitional protection	FPJPS
1 April 2015 – onwards	judicial office holders with tapering protection	FPJPS (for a period) or JPS 2015
1 April 2015 – onwards	judicial office holders without transitional protection	JPS 2015

<sup>1</sup> On the 5 April 2013, the MoJ announced a moratorium in fee-paid judicial pension cases. The purpose of this moratorium was to remove the need for potential claimants who had been in service in an eligible office on or after 2 December 2012 to lodge a protective claim in respect of that office. The corresponding date for the Northern Ireland moratorium is 1 May 2013.

**Question 1: Do you agree that the FPJPS regulations as drafted provide a pension scheme for eligible fee-paid judges that is no less favourable than the pension provision for salaried judges under the JUPRA scheme?**

**Question 2: If you do not agree please explain why and specifically in relation to which part of the regulations?**

## Key Features of the Fee-Paid Judicial Pension Scheme

31. The key feature of the FPJPS is that it is designed to mirror as far as possible the judicial pension scheme for salaried judicial office holders established by JUPRA. To help with cross referencing between the two schemes, we have provided a reference to the relevant provision in JUPRA and the draft FPJPS regulations.

### Main Scheme Features – Table 1

32. Table 1 below reflects the main scheme features, highlighting any difference with JUPRA:

Scheme feature [FPJPS Regulations]	FPJPS	JUPRA [JUPRA Reference]
a. Tax status of the scheme	Not a Registered Scheme for tax purposes	Same as FPJPS
b. Pension benefits: annual pension and pension lump sum [regulations 5, 13, 25]	<p>Accrual rate of 1/40<sup>th</sup> for every year and part years' worth of reckonable service that a judicial office holder has completed prior to retirement</p> <p>Benefits are calculated using an appropriate annual salary which is defined as the highest daily fee in the final 3 years before retirement for the relevant office, multiplied by the divisor / multiplicand for that office.</p> <p>The daily fee is the higher of</p> <ul style="list-style-type: none"> <li>• the rate of the daily fee received in that office or</li> <li>• the daily fee that has otherwise been determined by an Employment Tribunal</li> </ul> <p>Pension lump sum is calculated by multiplying the annual pension by 2.25.</p>	<p>Same as FPJPS – accrual rate of 1/40<sup>th</sup> for every full time year and part years' worth of service that a judicial office holder has completed prior to retirement</p> <p>Pensionable pay is the highest 12 consecutive months of salary received before retirement</p> <p>[sections 3, 4]</p>
c. Maximum accruable service [regulation 5]	The maximum amount of reckonable service that can be used in calculating benefits is 20 years' worth of service (which can be accrued by a fee-paid judicial office holder over a period of more than 20 calendar years of appointment)	Same as FPJPS – the maximum amount of service that can be used in calculating benefits is 20 full time years of service [section 3]



<b>Scheme feature [FPJPS Regulations]</b>	<b>FPJPS</b>	<b>JUPRA [JUPRA Reference]</b>
d. Pension age [regulations 12, 14, 17]	65 years and over – benefits payable unreduced.  Aged 60 to <65 benefits paid on an actuarially reduced basis.  Under age 60 benefits are preserved.	Same as FPJPS [section 2]
e. Surviving spouses' and civil partners' benefits [regulations 36, 37]	Pension payable to a surviving spouse or civil partner upon death during service.  For death in service the rate of pension at one-half of the pension to which the judicial office holder would have been entitled if they retired on grounds of ill health at the time of death. For death in retirement, a pension paid at a rate of one-half of the judicial pension actually in payment at the time of death.	Same as FPJPS [section 5]
f. Pension for children Definition of children [regulations 40, 41, 42, 43]	Payable in respect of a child or children under the age of 16, or over that age and in full-time education, at the time of the judicial office holder's death	Same as FPJPS [sections 6, 7, 8]
g. Contributions [regulations in Part 8 and 9]  See table in consultation	In respect of service 7 April 2000 – 31 March 2015 contributions are required for the cost toward spouses; civil partners' and children's pension  In respect of service 1 April 2012 – 31 March 2015 Personal contributions  Dependant pension contributions are payable in respect of service 7 April 2000 at a rate of 1.8%	Same except for tax treatment of dependant contributions up to 5 April 2006 ( net of tax to account for no tax relief)  [section 9 and in Judicial Pensions (Contributions) Regulations 1995 as amended]
h. Refund of contributions [regulations in Part 10]	Dependent Pension Contributions will be refunded with compound interest, when there is no liability or a partial refund if there is a partial liability.  Personal Contributions are not refundable	Same as FPJPS [Section 9 and in Judicial Pensions (Contributions) 1995 as amended]

Scheme feature [FPJPS Regulations]	FPJPS	JUPRA [JUPRA Reference]
i. Death in service benefits [regulation 45]	If an active member dies whilst holding judicial office, a lump sum death benefit equal to <b>twice</b> the amount of the applicable annual salary multiplied by that individuals <b>annualised reckonable service</b>	If an active member dies whilst holding judicial office, a lump sum death benefit equal to twice the amount of the <b>individual's pensionable pay</b> is payable [section 4]
j. Death in preservation and retirement [regulations 46 & 47]	For members with a preserved pension a lump sum is payable of <b>two and a quarter times</b> the member's pension.  For members who die soon after retirement a minimum benefit of five times the member's pension less payments (including the pension lump sum) made since retirement.	Same as FPJPS [section 4, and in the Judicial Pensions (Preservation of Benefits) Order 1995]
k. Partial retirement [Part 4]	Does not offer partial retirement for an individual office.  Where more than one office is held consecutively it is possible to take partial retirement.	No partial retirement
l. Medical retirement [regulations 19 – 23]	Immediate payment of a pension based on actual service and a lump sum of two and a quarter times the member's pension.  With enhancement if applicable.	Same as FPJPS [section 2]

**Other scheme features – Table 2**

<b>Scheme feature</b>	<b>FPJPS</b>	<b>JUPRA</b>
m. Multiple offices	The FPJPS provides pension entitlement in relation to any eligible office held (a qualifying fee paid day can only be counted once).	Same as FPJPS.
n. Pension sharing on divorce [Part 5]	When a Pension Sharing Order is made, the former spouse or civil partner of the judicial office holder becomes a member of the FPJPS in his or her own right. The value of the members accrued judicial pension rights to be shared will be determined at the date of the Decree Absolute or Final Order. A pension debit will be applied to the judicial office holder's pension benefits.	[Judicial Pensions (Implementation of Pension Credits) Regulations 2000 section 23A, Schedule 2A]
o. Revaluation of preserved and retirement members benefits	In line with Pension (Increase) Act 1971.	Same as FPJPS
p. Contracted out	The Department will apply for the Scheme to be contracted out for the period to 5 April 2016 so reduced National Insurance contributions rate should have been paid.  Post 5 April 2016 full rate National Insurance will be payable	To be same as the FPJPS The scheme was contracted out to 5 April 2016
q. Opting in/out [regulations 10 and 11]	The FPJPS allows members both to opt out of the scheme or to opt back in. The provisions follow those of JUPRA.	Same as FPJPS [section 13]
r. Appeals [Part 15]	In common with the provisions of JUPRA a regulation within the FPJPS provides for a right of appeal to the appropriate Minister against any decision made in the administration of the schemes constituted by the Regulations.	Same as FPJPS [section 20]
s. Times when pensions are payable [regulation 24]	The FPJPS regulations provide that a pension is payable at intervals not exceeding 3 months. This mirrors the corresponding provision in JUPRA. In practice pensions are paid on a monthly basis in arrears on the last working day of the month.	Same as FPJPS [section 2]

Scheme feature	FPJPS	JUPRA
t. Salaried judicial office holder sitting in retirement [regulations 6 and 8]	The judicial office holder may be able to accrue further pension benefit in respect of their fee-paid service under the FPJPS, subject to the operation of transitional provisions and not exceeding the maximum reckonable service.	JUPRA does not provide for pensionable service for retired judicial office holders sitting in a fee paid capacity

**Ancillary benefits that can be secured under the Regulations – Table 3**

Scheme feature	FPJPS	JUPRA
u. Judicial Added Years Scheme (JAYS) [Part 13]	Allows the judicial office holders to purchase added years (or part years) of reckonable service in judicial office.  Open to those in eligible service 7 April 2000 – 5 April 2006	Same [section 10, and Judicial Pensions (Additional Voluntary Contributions) Regulations 1995 as amended]
v. Judicial Added Surviving Adult Pension Scheme (JASAPS) [Part 14]	Able to purchase additional pension for their spouse through the Judicial Added Surviving Adults Pension Scheme (JASAPS), in units of £1000.  Open to those in eligible service 7 April 2000 – 5 April 2006.	Same as FPJPS [section 10, and Judicial Pensions (Additional Voluntary Contributions) Regulations 1995 as amended]
w. Judicial Added Voluntary contributions (JAVS) (Money purchase benefits) [Part 12]	Allows judicial office holders to top-up their benefits through JAVCS. This is a registered scheme for tax purposes and contributions to this scheme will attract tax relief.  A limit on annual contributions of 15% of pension-capped pensionable earnings, inclusive of the Dependent Pension Contributions will apply to some contributions.	Same as FPJPS [section 10, and Judicial Pensions (Additional Voluntary Contributions) Regulations 1995 as amended]
x. Transfers – in / out [Part 11]	Members may elect to transfer non-judicial pension rights into the scheme.  Pension rights may also be transferred out of the scheme  Members who were over the age of 64 years on 6 February 2013 are ineligible to transfer accrued pension rights into/out of the scheme.	Same as FPJPS [Schedule 2]

## Information on Scheme Features – Table 1

33. A summary of these scheme features of the FPJPS scheme is provided below. The numbering reference in each section below cross refers to the tables 1, 2, or 3 above.

### a. Tax status

34. The FPJPS will be a non-registered scheme for tax purposes. This means that benefits accrued in the scheme do not count towards either the Annual Allowance or the Lifetime Allowance under the Finance Act 2004. Tax relief is not available on contributions.
35. However, the Judicial Additional Voluntary Contributions Scheme (JAVCS), Judicial Added Years (JAYS) and Judicial Added Surviving Adults Pension Scheme (JASAPS) are all registered schemes for tax purposes and therefore contributions do attract tax relief. The Annual and Lifetime Allowances does apply for these schemes.
36. As the FPJPS will be non-registered the pension lump sum will be taxed at the highest rate of personal taxation as it is treated as earned income and taxed accordingly.
37. As with members of JUPRA, members of the FPJPS are entitled to an automatic pension lump sum payable on retirement, which will be taxed at 45%. They will, however, receive a lump sum equivalent to the tax amount. This means in practice that FPJPS members will receive the same amount as if the lump sum had been tax free.
38. See FPJPS Part 3, paragraph 25 and JUPRA section 3.

### b. Pension benefits

39. Pension benefits in JUPRA and in the FPJPS consist of two components – an annual pension and an automatic pension lump sum. In addition a service award is payable which compensates for the tax deducted from the pension lump sum.
40. Regulations 1 to 7 define the main concepts used in these Regulations. In particular, “reckonable service”, which will determine the level of pension to which a fee-paid judge is entitled, is defined as the total number of qualifying fee-paid days (part or full) in which a fee has been paid divided by the appropriate annual divisor. This is subject to a maximum amount (provided for in regulation 5(3) to (9)) of 20 years, minus any other pensionable service to which the judge is entitled.
41. In addition, regulation 13 sets out how the annual rate of pension is calculated. Regulation 25 sets out the calculation of the pension lump sum entitlement.
42. See also JUPRA sections 3 and 4.

**Example: Total Pension Calculation**

**Judicial office holder A** was appointed as a Deputy District Judge on 5 April 2007 and retires on 31 March 2019. This office holder has full transitional protection and therefore is eligible to remain in the FPJPS until retirement. During that time Judge A sat 435 pensionable days (M). The divisor for a DDJ is 215 days (N).

**Reckonable Service [Regulation 5]**

Reckonable Service is used in relation to a fee-paid judicial office held by a member, expressed in terms of years and a fraction of a year in accordance with the following formula:  $\frac{M}{N} = R$

M = qualifying fee-paid service in the relevant office

N = the applicable annual divisor for that office

The calculation for Judge A is therefore  $\frac{435}{215} = 2.0233$  years

The annual rate of pension is determined by the formula:  $\frac{R}{40 \text{ (scheme accrual rate)}} \times S$

R = the reckonable service in the relevant office

S = the appropriate annual salary of the judicial office held immediately before retirement as calculated by  $F \times N$  [Regulation 7]

F = the highest daily fee within a period of three years of retirement

N = the applicable annual divisor for that office

Judge A's pension calculation is therefore  $\frac{2.0233 \text{ years}}{40} \times (498 \times 215) = \text{£5,415.87}$   
**pension per annum**

**Automatic pension lump sum (Regulation 25)**

The automatic pension lump sum is calculated as two and a quarter times the annual pension

Judge A's automatic lump sum is  $\text{£5,415.87} \times 2.25 = \text{£12,185.70 Gross}$ ,

Less 45% (higher rate of income tax)  $\text{£12,185.70} \times 45\% = \text{£5,483.57 ( tax)}$

**Therefore net lump sum is £ 6,702.13**

**Service award**

The service award payment is equal to 45% tax due on the automatic lump sum

Judge A's service award lump sum =  $\text{£12,185.70} \times 0.45 = \text{£5,483.57}$

**The benefits at retirement are therefore**

- Annual pension payment of **£5,416.00 gross (rounded) – per annum**
- Lump sum pension payment **£6,703.00 net (rounded) – single payment**
- Service award lump sum **£5,483.57 net (not rounded) – single payment**

**c. Maximum accruable service**

43. As with JUPRA, reckonable service for the FPJPS (regulation 5 (3)) is capped at 20 years full time equivalent worth of service. A fee-paid judicial office holder is permitted to accrue the maximum of 20 years' worth of service over a period of more than 20 calendar years. The total accrued service to which the cap applies is expressed in years = total number of pensionable days served (over the entire period of appointment, which may be more than 20 calendar years) / the applicable annual divisor for the office (as per the example above).
44. If a salaried judicial office holder with a preserved pension under the FPJPS subsequently sat in retirement as a fee-paid judicial office holder, the preservation of their FPJPS pension would be suspended. This judicial office holder would continue to accrue pension benefits under the FPJPS, in the same arrangement as their previous fee-paid service, subject to the operation of the 20-years' worth of service cap on accruable service. When the judicial office holder finally retired the benefits would be recalculated and paid.
45. See the FPJPS regulation 5 and JUPRA section 3.

**d. Pension Age: age at which pension is payable**

46. The pension age provisions in the FPJPS mirror JUPRA:
- An unreduced pension becomes payable at the age of 65 years providing the member has 5 years of qualifying judicial service at the date and is not linked to a member's state pension age.
  - A pension cannot be drawn before leaving all judicial offices and cannot be drawn before the age of 60 even if a member of the FPJPS has retired. If a member retires before 60, their pension is preserved until the earlier of their retirement age (aged 65) and when they would have completed 5 years' service.
  - It is possible to take early retirement and receive an actuarially reduced pension between the age of 60 and 65.
47. See FPJPS regulations 12, 14 and 17 and JUPRA section 2.

**e. Spouses' and civil partners' pensions**

48. A pension will be payable to a surviving spouse or civil partner upon the death of a judicial office holder either during service or in retirement.
49. If there is a death in service, this pension will be paid at a rate of one-half of the pension to which the judicial office holder would have been entitled if they retired on grounds of ill health at the time of death.
50. If a judicial office holder dies in retirement or holding preserved benefits, this pension will be paid at a rate of one-half of the judicial pension actually in payment at the time of death.
51. See FPJPS regulations 36 and 37 and JUPRA section 5.

## **f. Children's pensions**

52. A pension will also be payable in respect of a child or children under the age of 16, or over that age and in full time education, at the time of the judicial office holder's death.

### ***Children's pension calculations***

53. If a member of the FPJPS has a surviving spouse or surviving civil partner, the pension is calculated as:
- $\frac{1}{4}$  of the judicial pension if there is one eligible child; or
  - $\frac{1}{2}$  of the judicial pension if there is more than one eligible child.
54. If there is no surviving spouse or surviving civil partner, the pension is calculated as:
- $\frac{1}{3}$  of the judicial pension if there is one eligible child; or
  - $\frac{2}{3}$  of the pension of if there is more than one eligible child.
  - See FPJPS regulations 40, 41, 42, 43 and JUPRA sections 6, 7 and 8.

## **g. Member Contributions**

55. The FPJPS mirrors JUPRA. For the period 7 April 2000 until 31 March 2015 contributions are required towards the cost of spouses', civil partners' and children's pensions (Dependents' Pension Contributions). These contributions are compulsory for all members payable at a rate of 1.8% of the judicial office holder's fee. They are to be paid until retirement or 20 years' reckonable service has been completed. Although during the period up to 5 April 2006 the actual rate of contributions in JUPRA was 3%, as tax relief was given the net contribution payable was 1.8%.
56. Personal Contributions are payable by all JUPRA and FPJPS scheme members from 1 April 2012.

### **Schedule for recovery of historical contributions**

<b>Time Period</b>	<b>Personal Contributions</b>	<b>Dependent Contributions</b>	<b>Total member contribution rate</b>
7 April 2000 – 31 March 2012	0.00.%	1.8%	1.8%
1 April 2012 – 31 March 2013	1.28%	1.8%	3.08%
1 April 2013 – 31 March 2014	2.56%	1.8%	4.36%
1 April 2014 – 31 March 2015	3.2%	1.8%	5.00%

57. Contributions from 1 April 2015 will mirror that of the JPS 2015 although the rates will reflect that no tax relief is available.

### **Historical member contributions**

58. Arrears of contributions due before the commencement of the scheme will be recovered. This will be done by deducting the amount as a one off payment from the member's automatic pension lump sum upon retirement. The member can otherwise choose to pay the amount owing on commencement of the scheme or make additional contributions from each fee payable until the amount owing is repaid.



59. The amount of contribution due is the amount that would have been payable had the member been able to pay at the relevant time.
60. See FPJPS parts 8 and 9, JUPRA section 9 and Judicial Pensions (Contributions) Regulations 1995.

#### **h. Refunding of member contributions**

61. As with JUPRA, under the FPJPS dependent contributions will be refunded with compound interest as follows:
  - A full refund will be made were a scheme member is unmarried and does not have a registered civil partner or children eligible to receive benefits at the time the member retires or dies or at any previous time whilst holding office.
  - A partial refund will be made where, although the member was not married, in a civil partnership, or had an eligible child on their date of retirement, they did hold one of these conditions at a previous time whilst in office.
62. See FPJPS Part 10, JUPRA section 9 and Judicial Pensions (Contributions) Regulations 1995.

#### **i. Death in service**

63. Under the FPJPS, if an active member of the scheme dies whilst holding judicial office, a lump sum death benefit will be paid out. It is equal to **twice** the amount of the pay of the office holder's salaried comparator, multiplied by their qualifying fee-paid service (expressed in terms of years) and divided by the period during which they held fee-paid office. It is payable either to the personal representative(s), or a nominated person. It is necessary to calculate the lump sum by reference to the salary of a comparator office ("the appropriate annual salary") rather than referring to pensionable pay as the working patterns of fee-paid judicial office holders can vary.
64. For comparison, pensionable pay in JUPRA is the highest amount of salary paid to a scheme member in any period of 12 consecutive months in the three years immediately preceding the day on which that person ceases to hold office.
65. Death in service benefits are payable in respect of **each** eligible office held at time of death.
66. Following the death of a member, the lump sum will count as employment income for tax purposes. The tax due must be deducted by the relevant Department, but a supplementary payment equal to the amount of tax deducted on it will be made to ensure that the beneficiary receives the full amount.
67. The FPJPS will allow members to make a nomination for the death in service lump sum.
68. See FPJPS regulation 45 and JUPRA section 4.

#### **j. Death in retirement**

69. If a member of the FPJPS dies soon after retirement, when the judicial pension has only been in payment for a short time, the scheme member's personal representatives may be entitled to an additional lump sum payment.

70. The lump sum will be payable if the aggregate of the sums paid or payable fall short of an amount equal to five times the annual rate of pension a member is entitled to before their death. This is calculated on the basis of the pension together with the lump of the pension to which the member is entitled immediately before the date of death.
71. As any lump sum is payable to the personal representatives, any tax liability is chargeable to the relevant Department. The liability will **not** be recovered any such liability paid from the personal representatives.
72. See FPJPS regulation 46 & 47, JUPRA section 4 and Judicial Pensions (Preservation of Benefits) Order 1995.

#### **k. Partial retirement**

73. Pensions are only payable on retirement from all judicial offices. However under FPJPS where a fee-paid judicial office holder holds different offices consecutively it is possible to elect to take benefits when leaving the original office. This does not apply where offices are held concurrently.
74. See FPJPS Part 4.

#### **l. Medical retirement**

75. A member of the FPJPS who retires at any time after appointment for reasons of ill health is entitled to the immediate payment of a pension and automatic lump sum based on his or her actual service. It is determined by the calculation below.
76. The FPJPS includes provision for a single level of ill health retirement benefits on the following basis:
  - Ill health pensions are payable to an office holder who had “suffered a permanent breakdown in health” involving “incapacity for employment”.
  - If a member has not reached their 65<sup>th</sup> birthday before the date of retirement, the length of service upon which the pension is calculated will be enhanced.

**Example**

**Judicial office holder B** was appointed as a Deputy District Judge on 5 April 2007 and retires on 31 March 2019, this office holder has full transitional protection and therefore is eligible to remain in the FPJPS until retirement. During that time Judge A sat 435 pensionable days (M). The divisor for a DDJ is 215 days (N) If Judge B was aged 63 at the time of their ill health retirement the enhancement would cover the period from aged 63 to aged 65 divided by 2. [As per Regulation 22 (9)]

**Calculation of medical retirement benefits**

$$\text{Formula} = \frac{R}{40} \times S \times \frac{U}{T}$$

R = the reckonable service in the relevant office

S = the appropriate annual salary of the judicial office held immediately before retirement as calculated by  $F \times N$  [Regulation 7]

U = amount equal to T plus E

T = period of relevant judicial appointment, time period from date of appointment to date of ill health retirement

E = period of service enhancement, which is half the period between date of ill health retirement and 65<sup>th</sup> birthday

**Example using Judge A**

T = the period between 2007 – 2019 = 12 years

E = the Enhancement for period between aged 63 – 65; 2 years / 2 = 1 year

S =  $F \times N$  ( £498 x 215 )

F = the highest daily fee within a period of three years of retirement ( £498)

N = the applicable annual divisor for that office (215)

Judge A's pension calculation is therefore  $\frac{2.0233 \text{ years}}{40} \times (498 \times 215) = \mathbf{£5,415.87}$   
**pension**

The enhanced pension is  $£5,415.87 \times \frac{U(12+1)}{T(12)} = £5,415.87 \times 1.0833 = \mathbf{£5,867.02}$   
**annual pension**

## Other scheme features – Table 2

### m. Multiple fee-paid offices

77. The FPJPS makes provision for pension entitlement in relation to multiple fee-paid offices, to both consecutive and concurrent appointment to multiple fee-paid offices
78. Where an office holder holds multiple fee-paid offices at the time of retirement, pension benefits for each office will be calculated separately. They have to satisfy the qualifying service condition in respect of each office.
79. If a judicial office holder has consecutive fee-paid and salaried service, and the final post held before retirement is a salaried post, there will be a link to that salary at retirement. This means that all service will be based on the highest salary in the last three years before retirement from salaried office. The final salary link will also apply to a fee-paid office holder who is subsequently appointed to a fee-paid office at a higher or lower rate of remuneration. The appropriate annual salary used to determine the pension rate will be the highest salary paid to the holder of a comparable office in the last three years before retirement.
80. In order to apply a final salary link where the consecutive offices are fee-paid, office holders will be given an option in respect of each office – to bank reckonable service so that it will qualify for the final salary link on retirement **or** receive the pension, depending on their age **or** preserve it.

**Example:** Judicial office holder (P) sits for 8 years as a Deputy District Judge and then for 7 years as a Recorder. There is no overlap of service. At 58, P resigns from being a Deputy District Judge and then he would choose whether to bank that reckonable service or have the pension for that office deferred.

P decides to retire at 65 after sitting for 7 years as a Recorder. If he chose option a), his full 15 years reckonable service would be subject to the final salary link and so pension benefits would be calculated using the Recorded salary comparator.

If P chose option b), the two offices would be treated for pension purposes as separate entitles. The 8 years' service as a Deputy District Judge would have no link to the 7 years' service as a Recorded, but would separately have increased in value by operation of the Pension Increase Act 1971.

### n. Pension sharing on divorce or dissolution

81. As is the same as under JUPRA, when a Pension Sharing Order is made, the former spouse or civil partner of the office holder becomes a member of the FPJPS in his or her own right. The value of the member's accrued judicial pension rights to be shared with them will be determined at the date of the Decree Absolute or Final Order. A pension debit will be applied to the office holder's pension benefits.
82. See FPJPS Part 5 and JUPRA section 23A and Schedule 2A.

### o. Revaluation of preserved and retirement benefits

83. Preserved benefits and benefits in payment are revalued in line with the Pension (Increase) Act 1971. An annual Pension Increase Order is issued which determines the rate of amendment for pension benefits.

**p. Contracting out of the State retirement benefits**

84. Like JUPRA, we intend that the FPJPS will be a contracted out pension scheme for the purposes of the Pension Schemes Act 1993 until 5 April 2016. At that stage, contracting out ceased for all pension schemes. An application for contracting out can be made once the Regulations have been made by Parliament. Scheme members will therefore pay reduced National Insurance contributions and will not accrue additional state benefits beyond basic state pension entitlements. The MoJ is in discussion with HMRC on the process to enable refunds of overpaid National Insurance contributions once the scheme commences.

**q. Opting in/out**

85. See table 2 above. Also see FPJPS regulations 10 and 11 and JUPRA section 13.

**r. Appeals**

86. See table 2 above. Also see FPJPS Part 15 and JUPRA section 20.

**s. Times when pension are payable**

87. See table 2 above. Also see FPJPS regulation 24 and JUPRA section 2.

**t. Salaried judicial office holder sitting in retirement**

88. A salaried judicial office holder may in some circumstances sit in retirement as a fee-paid holder. In these circumstances, the individual may accrue further pension benefit in respect of their fee-paid service under the FPJPS, subject to the operation of applicable transitional provisions.
89. An office holder will be able to accrue such benefit whilst in receipt of their JUPRA salaried pension. Any pension accrued under the FPJPS will be payable on the point of leaving fee-paid office.
90. If an office holder sitting in retirement has accrued the maximum of 20 years of salaried service under JUPRA, s/he will **not** be able to accrue further credit under the FPJPS. The total service available under the FPJPS and JUPRA is 20 years.
91. See FPJPS regulations 6 and 8.

**Ancillary benefits that can be secured under FPJPS – Table 3**

92. Members of the FPJPS are able to supplement their pension as described below
93. To aid understanding, the Government Actuary's Department has provided examples at **Annex II** showing the process, costs and links to the relevant Regulations. It should be noted the cost of ancillary benefits are calculated as cost neutral to the scheme at the time the calculation would have been completed.

**u. Fee-Paid Judicial Added Years Scheme (if eligible)**

94. The Judicial Added Years Scheme (JAYS) allows judicial office holders to purchase added years (or part years) of reckonable service in judicial office. The benefits from JAYS are paid as part of the judicial pension. JAYS provides an additional lump sum and a pension for a surviving spouse/ civil partner and children.
95. The scheme closed to new applicants on 6 April 2006 when the JUPRA became a non-registered scheme.
96. For equality of treatment, the FPJPS will offer eligible fee-paid judicial office holders who were in service on or before 5 April 2006 the same opportunity. They may only do this if they are still an active scheme member upon purchase **or** in the first year of the scheme's operation for those that have already retired. The following conditions also apply:
  - The maximum number of added years that a scheme member may purchase is determined by their assumed retirement age. The maximum cannot exceed 20 years reckonable service at that assumed retirement age, which includes the value of retained benefits.
  - If a member has been contributing to any other pension scheme before or during holding eligible office they may be precluded from purchasing JAYS.
97. See **Annex II** for examples for retired and active scheme member.
98. Different provision is made for contributions to purchase JAYS between retired members and active members. The maximum contribution a retired member may contribute is determined by the amount they *could have* contributed had the added years scheme been established before they were first in office. This cannot be more than 15% of their annual fee income in each year up to their retirement day. These contributions equal lump sum payments made in the first twelve months after the date on which the retired office holder has given notice that they intend to purchase added years.
99. Active members may also make such lump sum payments i.e. amounts they *could have* contributed pre-commencement. This is subject to the same maximum figure as applies to retired members. These lump sum payments must be made in the three years after the regulations come into force, and no more than one lump sum payment may be made in a single year.
100. In addition, active members may make periodic payments out of the fee income they earn after the regulations come into force. As the sitting pattern of fee-paid judicial office holders may vary and they do not therefore receive a set income, the amount they contribute may also vary. Accordingly the scheme actuary will be required, on their retirement, to calculate the number of added years to which they are entitled. This is done by dividing the total contributions they have made by the cost of purchasing an additional year. Regular contributions through payroll will attract tax relief automatically; for any member paying the lump sum by cheque they must notify HMRC to obtain appropriate tax relief.

101. The MoJ provided an undertaking to the Employment Tribunal which confirmed the MoJ's approach to claims that a fee-paid judge has been subjected to less favourable treatment as a result of the operation of JAYS. This undertaking was recorded in the Employment Tribunals judgment dated 13 December 2015 and is available at **Annex III** to this consultation

102. See FPJPS Part 13, JUPRA section 10 and Judicial Pensions (Additional Voluntary Contributions) Regulations 1995.

#### **v. Judicial Added Surviving Adults Pension Scheme (if eligible)**

103. A member of the FPJPS is also able to purchase additional pension for their spouse or civil partner through the Judicial Added Surviving Adults Pension Scheme (JASAPS). This can be done in units of £1,000. The maximum amount of added units which may be purchased is the amount necessary to give the surviving partner a pension equal to 20/45ths of the appropriate annual salary applying to the judicial office held by the member on the date he or she retires.

104. Purchasing JASAPS is subject to the same eligibility criteria as JAYS. It has been closed to salaried judicial office holders since 6 April 2006 (when the Finance Act 2006 came into force).

105. As with JAYS, retired members may make contributions to the scheme by lump sum payments made within 12 months of the date on which they have given notice of their intention to purchase added units of surviving partner pension ("added units"). This is up to a maximum amount determined by what they *could have* contributed to the scheme if it had been established before 6 April 2006. (Again, it cannot be more than 15% of their fee income in any single tax year).

106. Active members may make the same lump sum payments. In addition, they may make periodic payments out of their fees after the commencement of the regulations. As with the added years scheme, the scheme actuary will determine how many added units of surviving partner pension the active member has purchased by dividing their total contributions by the cost of a single unit. If the amount which has been contributed exceeds the cost of the units the member wishes to buy (or the maximum they were permitted to buy), the member is entitled to a refund.

107. See **Annex II** for examples for a retired and active scheme member.

108. The MoJ provided an undertaking to the Employment Tribunal which confirmed the MoJ's approach to claims that a fee-paid judge has been subjected to less favourable treatment as a result of the operation of JASAPS. This undertaking was recorded in the Employment Tribunals judgment dated 13 December 2015 and is available at **Annex III** to this consultation.

109. See FPJPS Part 14, JUPRA section 10 and Judicial Pensions (Additional Voluntary Contributions) Regulations 1995.

#### **w. Fee-Paid Judicial Added Voluntary Contributions Scheme**

110. The FPJPS includes arrangements for Judicial Added Voluntary Contributions Scheme (JAVCS). This reflects the fact that members of JUPRA are able to top-up their benefits through JAVCS. This is a registered scheme for tax purposes and contributions to this scheme will attract tax relief. Only active members (that is members who still hold a fee paid judicial office) may be members of JAVCS
111. Contributions made to the scheme will be invested with an authorised independent pension provider. They will invest the member's contributions as requested by the member according to a range of investment options. The fund which is generated may be used to purchase pension benefits for the scheme member or their dependents.
112. Members of JAVCS may make contributions by way of lump sum to cover contributions they *could have* made in the period up to the commencement of the regulations had the scheme been established on 7<sup>th</sup> April 2000. Any contributions made after the commencement of the regulations must be taken from their fees.
113. The MoJ provided an undertaking to the Employment Tribunal which confirmed the MoJ's approach to claims that a fee-paid judge has been subjected to less favourable treatment as a result of the operation of JAVCS. This undertaking was recorded in the Employment Tribunal's judgment dated 13<sup>th</sup> December 2015 and is available at **Annex III** to this consultation
114. See FPJPS Part 12, JUPRA section 10 and Judicial Pensions (Additional Voluntary Contributions) Regulations 1995.

#### **x. Transfer of accrued pension rights**

115. Under the FPJPS regulations, members may elect to transfer non-judicial pension rights into the scheme or they may choose to transfer their judicial pension rights out of the scheme, subject to certain conditions. Where a transfer out is paid, all rights to benefits under the FPJPS will be extinguished.
116. Members of the scheme can only exercise rights to transfer accrued pension rights in or out of the scheme from the date which the FPJPS commences.
117. It should also be noted that under JUPRA, members over the age of 64 years are ineligible to transfer accrued pension rights into or out of that scheme. By the same principle only members of the FPJPS who were under the age of 64 at 6 February 2013 (the date of the UK Supreme Court judgment in *O'Brien*) can transfer accrued pension rights into or out of the FPJPS.
118. The MoJ provided an undertaking to the Employment Tribunal which confirmed the MoJ's approach to claims that a fee-paid judge has been subjected to less favourable treatment. This undertaking was recorded in the Employment Tribunal's judgment dated 13<sup>th</sup> December 2015 and is available at **Annex III** to this consultation.
119. See FPJPS Part 11 and JUPRA Schedule 2.



## Fee-paid members who have left service before scheme commencement

### Interim payments

120. The MoJ and other departments have paid interim payments to office holders who have or will have retired before the commencement of the scheme. In a few cases this includes to the estates of office holders who have died and / or to their dependant(s). The level of these compensation payments is based upon the provisions of JUPRA, but no equivalent of a service award has been paid. The amount of contributions owed, where payable, has been based upon the level of the fee that would have been payable at time they would have been due. In addition, where an office holder left office after 1 April 2012 no deductions were made for the Personal Pension Contributions which would have been payable from that date.
121. The regulations make provision for where a judicial office holder has received an interim payment before these regulations came into force, or where a judicial office holder *would have* received benefits under the pension scheme constituted by these regulations if the regulations were in force before that office holder retired or died. The regulations require the Minister to calculate the difference between the amount a person actually received by way of interim payment before the scheme commenced and the amount that person *would have* received if the regulations had been in force (i.e. calculated net of any contributions which would have been paid).
122. If additional payments are due to any person, they must be made. If a person has been paid more by way of interim payments than they would have received under the regulations if they had been in force that person is liable to repay the difference to the Minister or other Government Department. That repayment may be made by deduction from monthly pension payments.
123. The Regulations do not provide for any payment of interest or compensation of an interest like nature for the late payment of pension benefits to judicial office holders who have already retired. The Employment Tribunal has confirmed that compensation of an interest like nature is due on these sums. Such payments will be calculated by the MoJ once the recalculation is complete and paid as a separate payment. In its judgment of 13 December 2015 the Employment Tribunal confirmed that the Preston formula is the appropriate methodology when calculating interest on pension payments under the FPJPS. For the avoidance of doubts, the interim payments also include an element of interest which was calculated in accordance with the Preston formula.
124. See FPJPS Regulations 48 – 51.

## **Trivial Pensions**

125. There may be some pensions that derive from membership of the FPJPS that provide relatively low monthly pension payments. Some pension schemes allow these trivial pensions to be converted into a single one off payment to save on administration time and processing and the member to receive a capital sum rather than a very small monthly payment. The factors for calculating the value of a trivial pension would be provided by the scheme actuary.

126. This facility is not provided for within JUPRA but it may be that fee-paid office holders may find this option beneficial.

127. Therefore as part of this consultation, we are asking if such a facility would be welcome. If so what value of pension (e.g. less than £1000 pa) would be thought to be trivial. In addition we welcome views on whether it should be an automatic process or if it should always be a choice of the member.

**Question 3: In relation to trivial pensions, should the regulations allow the facility to take a single one off payment rather than receive a monthly pension?**

**Question 4: In relation to trivial pensions, if you agree with having the facility for a one off payment, what should be the amount?**

**Question 5: In relation trivial pensions, should this be an automatic process or always be the choice of the individual member?**

## Consequential Amendments

128. The regulations amending the Judicial Pension Regulations 2015 are at **Annex IV**.

129. The purpose of the regulations is to ensure that, where relevant, pensions calculated under the 2015 regulations take account of a person's service in, and entitlements under, the JUPRA scheme. In order to ensure that the pensions payable in respect of scheme members who have already died or retired are calculated by reference to the entitlements which they would have had if the FPJPS had been in force regulation 14 of the amending regulations provides for such people's pension entitlements to be calculated as though the FPJPS and the consequential amendments to the 2015 scheme were already in force.

130. The amending regulations make the following changes to the 2015 scheme:

### Expanding references to existing schemes

131. The regulations expand references to "existing schemes" (listed in Schedule 5 to the Public Service Pensions Act 2013 and including the JUPRA scheme) to include the FPJPS. This has been done by creating a new concept of "relevant scheme" which means (see new regulation 3) an existing scheme or the FPJPS. Specifically the amendment ensures that:

- a person has opted not to remain in the FPJPS is treated in the same way as a person who has opted not to continue in an existing scheme in the same circumstances (regulation 4);
- the calculation of "qualifying service" (used to determine eligibility for benefits under the 2015 scheme) includes service under the FPJPS (regulation 5(a));
- the calculation of surviving adult pensions on death in service and death out of service takes into account service in, and entitlements under, the FPJPS (regulation 6(a), 7(a), 10(a) and 11);
- the definitions in Schedule 2 which are used in relevant parts of the 2015 scheme have been amended to reflect membership of the FPJPS (regulations 12(2)(a) to (c), (3)(b) and (4(a))). In addition the definition of "tapered protection member" is amended to reflect the different eligibility and opt-in provisions which apply to those in fee-paid office on 31 March 2012 (regulation 12(2)(d) and (4)(b));
- the calculation of ill health and death benefits for those with continuous service in the FPJPS and the 2015 scheme is calculated in the same way as for those with continuous service between an existing scheme and the 2015 Scheme (regulation 12(5), (6), (7)(a), (8) (a), (9) and (10));
- the repayment of contributions made under the FPJPS is to take place in the same circumstances as repayment of contributions under an existing scheme (regulation 12(13)).

### Ensuring that pensionable service is properly taken into account

132. Where the 2015 regulations will refer to a specific period of pensionable service in the FPJPS the amending regulations add a gloss to the definition of pensionable service to ensure that it is the period during which the person held office, rather than the amount of qualifying judicial service, which is taken into account (regulations 5(b), 6(b), 7(b), 10(b), 12(3)(c), 12(7)(b) and 12(8)(b)).

### **Pensionable earnings for the purposes of determining lump sum death benefits**

133. Lump sum death benefits under the 2015 scheme are determined by reference to the highest pensionable pay received in the period 12 months before death and in each of the 10 scheme years immediately before the last active scheme year (“final pay”). Because the FPJPS does not use the concept of pensionable pay, in order to determine this it is proposed to amend the 2015 scheme regulations to provide the closest equivalent measure by reference to the member’s relevant earnings. This is calculated by multiplying by the member’s reckonable service for the period in question the sum which is calculated by multiplying the relevant daily fee by the annual divisor for that office. The relevant daily fee is either the highest daily fee paid to a holder of that office in that period or the daily fee which has been determined by an Employment Tribunal to be payable to a holder of that office in that period, whichever is the higher.

### **Nominations**

134. The 2015 scheme recognises death benefit nominations which were made in respect of an existing scheme. The same approach will be taken to nominations made in respect of the FPJPS. In addition the scheme will recognise any nomination made in relation to potential benefits under the scheme which was made before it came into effect (regulation 12(15)).

### **Modification of other provisions**

135. The Regulations ensure that the modifications made to the Occupational Pension Schemes (Contracting-Out) Regulations 1996 and the Pension Schemes Act 1993 by Schedule 3 to the 2015 regulations include reference to the FPJPS as they do to other existing schemes (regulation 13).

**Question 6: Do you agree that the draft amendment regulations provide parity of treatment for pensions calculated under the Judicial Pension Regulations 2015, to take account of a person’s service in the FPJPS, as they would take account of a person’s entitlement under JUPRA?**

## **Annexes**

**Annex I – the FPJPS draft regulations including Main scheme benefits, Transfers in / out, and the Added Benefits (JAYS, JASAPS, AVC).**

**Annex II – Examples by Government Actuary’s Department for retired and active members for ancillary benefits (Added Years, and Added Surviving Adults Benefits).**

**Annex III – Undertaking made by the Ministry of Justice**

**Annex IV – Consequential Amendment Regulations**

**Annex I – Fee-Paid Judicial Pension Scheme Draft Regulations**

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DRAFT STATUTORY INSTRUMENTS

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**2017 No.**

**PUBLIC SERVICE PENSIONS**

**The Judicial Pensions (Fee-Paid Judges) Regulations 2017**

*Made* - - - - 2017  
*Coming into force* - - 2017

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SCHEDULE — FEE-PAID OFFICES, ANNUAL DIVISORS

The Lord Chancellor in relation to judicial offices for which she is the appropriate Minister within the meaning of section 30 of the Judicial Pensions and Retirement Act 1993(a) and the Secretary of State in relation to judicial offices for which he is the appropriate Minister within the meaning

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(a) 1993 c.8.

of section 30 of that Act, make the following Regulations in exercise of the powers conferred by section 18A of that Act<sup>(a)</sup>:

## PART 1 PRELIMINARY

### **Citation and commencement**

1. These Regulations may be cited as the Judicial Pensions (Fee-Paid Judges) Regulations 2017 and come into force on 1st April 2017.

### **Interpretation**

2.—(1) In these Regulations—

“the 1971 Act” means the Pensions (Increase) Act 1971<sup>(b)</sup>;

“the 1995 Regulations” means the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995<sup>(c)</sup>;

“the 2017 schemes” means the principal scheme, the JAVC scheme, the FPJAYS and the JASAPS;

“the JAVC scheme” means the Fee-Paid Judicial Additional Voluntary Contributions Scheme constituted by Part 12;

“the FPJAYS” means the Fee-Paid Judicial Added Years Scheme constituted by Part 13;

“the JASAPS” means the Fee-Paid Judicial Added Surviving Adult’s Pension Scheme constituted by Part 14;

“active member” has the meaning given by regulation 9;

“the administrators” means the persons entrusted with the administration of the 2017 schemes;

“appropriate annual salary” has the meaning given by regulation 7;

“benefits” means any pension or lump sum payable under the principal scheme except where the context otherwise requires;

“benefit crystallisation event” has the meaning given in section 216 of the Finance Act 2004;

“the commencement day” means the date on which these Regulations come into force;

“eligible child” has the meaning given by regulation 40;

“fee-paid judicial office” has the meaning given by regulation 3(1);

“the ill-health certification condition” has the meaning given by regulation 23;

“the interim payments amount” has the meaning given by regulation 49;

“judicial office” has the meaning given by regulation 3(1);

“member” means a person who is a member of the principal scheme under regulation 8;

“normal pension age” means (except in Part 11) age 65, or (if later) the date on which P has completed in aggregate at least 5 years’ qualifying judicial service;

“opted-out member” has the meaning given by regulation 9;

“partial retirement” has the meaning given by regulation 3(3);

“permitted maximum” has the meaning given in section 3(3A) of the Judicial Pensions and Retirement Act 1993;

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(a) Section 18A is inserted by section 78(1) of the Pension Schemes Act 2015 (c.8).

(b) 1971 c.56.

(c) S.I. 1995/639;

“the principal scheme” means the scheme constituted by Parts 2 to 10 of these Regulations;

“qualifying child” in relation to a member means a child who would be an eligible child if the member was dead;

“qualifying fee-paid day” has the meaning given by regulation 4;

“qualifying fee-paid service” has the meaning given by regulation 4;

“qualifying judicial service” has the meaning given by regulation 6;

“reckonable service” has the meaning given by regulation 5;

“registered pension scheme” means a pension scheme that is a registered pension scheme under Chapter 2 of Part 4 of the Finance Act 2004(a);

“retires” has the meaning given by regulation 3(2) and cognate expressions are to be construed accordingly;

“scheme actuary” means the actuary appointed by the appropriate Minister for the purposes of these Regulations;

“surviving adult” has the meaning given by regulation 35(1);

“surviving adult’s pension” has the meaning given by regulation 35(4);

“surviving civil partner” has the meaning given by regulation 35(3);

“surviving spouse” has the meaning given by regulation 35(2);

“tax year” has the meaning given in section 4(2) of the Income Tax Act 2007(b).

- (2) Where a calculation performed under these Regulations—
- (a) results in an amount containing a fraction of £1, the amount is to be rounded up to the next whole £1,
  - (b) results in a period containing a fraction of a year, the period is to be given to four decimal places.

### **Judicial office, retirement and partial retirement**

3.—(1) In these Regulations—

- (a) “judicial office” means an office specified in column 1 of the Schedule (“a specified office”), or an office which has been replaced by a specified office;
- (b) “fee-paid judicial office” means a judicial office held by a person whose service in that office is remunerated by the payment of fees (as opposed to the payment of salary).

(2) For the purposes of these Regulations, a person (“P”) “retires” at the time when P, having held one or more judicial offices—

- (a) ceases to hold all such offices, other than by reason of P’s death; and
- (b) is not immediately afterwards appointed to another judicial office.

(3) In these Regulations, a reference to a member taking “partial retirement” in respect of a fee-paid judicial office is to the member giving notice in relation to that office under regulation 27(2).

### **Qualifying fee-paid days and qualifying fee-paid service**

4.—(1) For the purposes of these Regulations a day (“the relevant day”) is a “qualifying fee-paid day” worked by a member (“P”) in a fee-paid judicial office, if—

- (a) P received a fee, in P’s capacity as the holder of that fee-paid judicial office, in respect of the relevant day; and
- (b) the following conditions are met.

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(a) 2004 c. 12  
(b) 2007 c. 3.

- (2) The conditions are—
- (a) that P is not an opted-out member of the principal scheme on the relevant day;
  - (b) that the relevant day is after 6th April 2000;
  - (c) that where, on 1st April 2012, P had not reached the age of 51 years and 6 months, the relevant day is before 1st April 2015; and
  - (d) that where, on 1st April 2012, P had reached the age of 51 years and 6 months but had not reached the age of 55 years, the relevant day is before the specified date.

(3) The specified date is such date, within the period beginning with 31st May 2015 and ending with 31st January 2022, as is determined by the appropriate Minister by reference to a table published for the purpose of paragraph 3 of Schedule 2 to the Judicial Pensions Regulations 2015(a).

(4) In these Regulations “qualifying fee-paid service”, in relation to a fee-paid judicial office held by P means (subject to paragraph (5)) the total number of qualifying fee-paid days worked by P in that office.

(5) Where the fee paid to P in respect of a qualifying fee-paid day was not paid at the full daily rate for the fee-paid judicial office in question but at a proportion of that rate, only that proportion of the qualifying fee-paid day is to be taken into account under paragraph (4) in determining P’s qualifying fee-paid service.

### Reckonable service

5.—(1) In these Regulations, “reckonable service”, in relation to a fee-paid judicial office (“the relevant office”) held by a member (“P”), means the period, expressed in years and any fraction of a year, determined in accordance with the following formula—

$$\frac{M}{N}$$

where—

- (a) M is P’s qualifying fee-paid service in the relevant office;
- (b) N is the annual divisor for that office specified in column 2 of the Schedule.

(2) But where P’s reckonable service in relation to the relevant office, as determined under paragraph (1), is greater than the maximum amount in relation to that office, P’s reckonable service is instead that maximum amount.

(3) The maximum amount in relation to the relevant office is the amount determined in accordance with the following formula—

$$20 - (A + B + C)$$

where A, B and C have the meanings given in paragraphs (4), (5) and (6) respectively.

- (4) A is—
- (a) where P is not entitled to a pension under Part 1 of the Judicial Pensions and Retirement Act 1993 on the reckonable service date and will not become entitled to such a pension at any time after that date, nil;
  - (b) otherwise, the smaller of—
    - (i) the aggregate length of P’s service in qualifying judicial office (within the meaning of that Part of that Act), and
    - (ii) 20.
- (5) B is—

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(a) S.I.2015/182.

- (a) where—
    - (i)  $A$  is 20, or
    - (ii)  $P$  has not, before the reckonable service date, ceased to hold a fee-paid judicial office in respect of which  $P$  has taken partial retirement,
      - nil;
  - (b) otherwise, the smaller of—
    - (i) the aggregate length of  $P$ 's reckonable service in fee-paid judicial offices which  $P$  ceased to hold before the reckonable service date and in respect of which  $P$  has taken partial retirement, and
    - (ii)  $20 - A$ .
- (6)  $C$  is—
- (a) where  $A + B \geq 20$ , nil;
  - (b) otherwise, the smaller of—
    - (i) where  $P$  retired from one or more fee-paid judicial offices on the reckonable service date, the aggregate length of  $P$ 's reckonable service in those judicial offices, and
    - (ii)  $20 - (A + B)$ .

(7) For the purposes of paragraphs (5)(b)(i) and (6)(b)(i), the aggregate length of  $P$ 's reckonable service in the fee-paid judicial offices referred to in those paragraphs is to be determined in accordance with the formula in paragraph (1) as though paragraph (2) does not apply.

(8) Where paragraph (5) or (6) do not permit all  $P$ 's reckonable service to be taken into account,  $P$ 's reckonable service in judicial offices with a higher appropriate annual salary shall be taken into account before  $P$ 's reckonable service in judicial offices with a lower appropriate annual salary.

(9) In this regulation “the reckonable service date” means the day on which  $P$  ceases to hold the relevant office.

### Qualifying judicial service

6.—(1) In these Regulations, “qualifying judicial service”, in relation to a member (“ $P$ ”), means the period during which  $P$  holds a judicial office.

- (2) For the purposes of determining  $P$ 's qualifying judicial service—
- (a) it does not matter whether  $P$  holds a judicial office before or after the commencement day;
  - (b) where there is more than one period during which  $P$  holds a judicial office, all such periods are to be aggregated;
  - (c) where  $P$  holds more than one judicial office during any period, the period is to be counted only once; and
  - (d) any period during which  $P$  is an opted-out member of the principal scheme is to be disregarded.

### Appropriate annual salary

7.—(1) References in these Regulations to “the appropriate annual salary” of a judicial office (“the relevant judicial office”) held by a member (“ $P$ ”), are to be construed in accordance with paragraphs (2) and (3).

(2) Where the relevant judicial office is a fee-paid judicial office, the references are to the amount determined in accordance with the following formula—

$$F \times N$$

where—

- (a) F is the higher of—
  - (i) the highest daily fee payable to a holder of that office within the period of 3 years ending with—
    - (aa) where P takes partial retirement in relation to the relevant judicial office, the day on which P takes partial retirement;
    - (bb) otherwise, the day on which P retires, or
  - (ii) the daily fee which has within the period referred to in paragraph (i) been determined by an Employment Tribunal to be payable to a holder of that office, and
- (b) N is the annual divisor for that office specified in column 2 of the Schedule.

(3) Where the relevant judicial office is a salaried judicial office, the references are to the highest salary payable to a holder of that office in respect of any continuous period of 12 months falling within the period of 3 years ending with the day on which P retires.

(4) In this regulation, “salaried judicial office” means a judicial office held by a person which is remunerated by payment of a salary.

## PART 2

### PRINCIPAL SCHEME MEMBERSHIP

#### Members

**8.—**(1) A person (“P”) is a member of the principal scheme if the person held a fee-paid judicial office at any time in the period—

- (a) beginning with 7th April 2000; and
- (b) ending with 31st March 2015.

(2) But—

- (a) if P retired before the relevant date, P is a member of the principal scheme only if condition A is met; and
- (b) if P died before the relevant date without having retired, P is a member of the principal scheme only if condition B is met.

(3) Condition A is that—

- (a) P notified the appropriate Minister on or before the day 3 months after the day on which P retired, and in a form the appropriate Minister considers to be satisfactory, that P is entitled to a pension by virtue of holding fee-paid judicial office, or
- (b) an employment tribunal or an industrial tribunal has determined, or the appropriate Minister has accepted, that P is entitled to bring a claim that P has a right to a pension by virtue of holding such office.

(4) Condition B is that—

- (a) P’s personal representatives notified the appropriate Minister on or before the day 3 months after the day on which P died, and in a form the appropriate Minister considers to be satisfactory, that benefits are payable in respect of P’s death by virtue of P having held fee-paid judicial office, or
- (b) an employment tribunal or an industrial tribunal has determined, or the appropriate Minister has accepted, that P’s personal representatives are entitled to bring a claim that P has a right to a pension by virtue of holding such office.

(5) Where P retired before the relevant date but died before the relevant day, notice under paragraph (3)(a) may be given by P’s personal representatives.

(6) A person (“P”) is also a member of the principal scheme if—

- (a) P did not hold a fee-paid judicial office before 1st April 2015;



- (b) P is a person in whose case section 18(1) of the 2013 Act or section 18(1) of the 2014 Act (restriction of existing pension schemes) does not apply in relation to an existing scheme by virtue of provision made under section 18(5) or (5A) of the 2013 Act or section 18(5) or (6) of the 2014 Act (transitional protection under existing schemes); and
- (c) within the period of 5 years beginning with the final day of service in respect of which P is entitled to benefits under the existing scheme mentioned in sub-paragraph (b), P is appointed to a fee-paid judicial office.

(7) In paragraph (6)—

“the 2013 Act” is the Public Service Pensions Act 2013;

“the 2014 Act” is the Public Service Pensions Act (Northern Ireland) 2014;

“existing scheme” has the meaning given by section 18(2) of the Public Service Pensions Act 2013 and section 18(2) of the Public Service Pensions Act (Northern Ireland) 2014.

(8) For the purposes of this regulation, “the relevant date” is—

- (a) 2nd February 2013 where P only held a fee-paid judicial office whose jurisdiction is exercised exclusively in relation to Northern Ireland;
- (b) 2nd December 2012 in all other cases.

### **Opted-out members and active members**

9.—(1) A member (“P”) is an “opted-out member” of the principal scheme on any day if P—

- (a) has, on or before that day, opted out of the principal scheme under regulation 10; and
- (b) has not opted back in under regulation 11.

(2) P is an “active member” of the principal scheme on any day if—

- (a) P is not an opted-out member;
- (b) P holds a fee-paid judicial office on that day; and
- (c) if P had received a fee in P’s capacity as a holder of that office in respect of that day, the day would have been a qualifying fee-paid day.

### **Opting out**

10.—(1) A member who has not retired may opt out by sending a notice to the appropriate Minister.

(2) The notice—

- (a) must be in the form determined by the appropriate Minister, and
- (b) must specify the date on which the member wishes to opt out.

(3) The member opts out on the date specified under paragraph (2) or, if earlier, 3 months after the date on which the appropriate Minister receives the notice.

### **Opting back in**

11.—(1) A member (“P”) who has opted out and who has not retired may apply to the appropriate Minister, in the form determined by the appropriate Minister, to opt back in.

(2) The application must be accompanied by such evidence relating to P’s health as the appropriate Minister may require.

(3) P must submit to any medical examination as the appropriate Minister may require in connection with the application.

(4) If the appropriate Minister is satisfied that P is in good health, the appropriate Minister must allow the application.

(5) The appropriate Minister must, within the period of 3 months beginning with the date on which the application is received, send a notice to P specifying—

- (a) whether the appropriate Minister has allowed the application; and
  - (b) the date on which the decision was made.
- (6) The member opts back in on the date specified under paragraph (5)(b).

## PART 3

### RETIREMENT BENEFITS

#### **Retirement aged 65 or over: entitlement to ordinary pension**

- 12.**—(1) This regulation applies where—
- (a) a member (“P”) retires (whether before, on or after the commencement day); and
  - (b) on the day on which P retires, P—
    - (i) has reached the age of 65, and
    - (ii) has at least 5 years’ qualifying judicial service.
- (2) On the pension start day, P becomes entitled to the payment for life of a pension.
- (3) In this regulation “the pension start day” means—
- (a) the day after that on which P retires; or
  - (b) if later, the commencement day.

#### **Annual rate of ordinary pension**

- 13.**—(1) The annual rate of a pension to which a member (“P”) becomes entitled under regulation 12 is determined under paragraph (3), (5) or (7) (whichever applies).
- (2) Paragraph (3) applies where, on retirement, P has reckonable service in only one fee-paid judicial office (“the relevant office”).
- (3) The annual rate is determined in accordance with the following formula—

$$\frac{R}{40} \times S$$

where—

- (a) R is P’s reckonable service in the relevant office;
  - (b) S is the appropriate annual salary of the judicial office held by P immediately before retirement.
- (4) Paragraph (5) applies where—
- (a) on retirement, P has reckonable service in more than one fee-paid judicial office; and
  - (b) P did not, at any time before retirement, hold more than one fee-paid judicial office simultaneously.
- (5) The annual rate is determined in accordance with the following formula—

$$\frac{AR}{40} \times S$$

where—

- (a) AR is the aggregate length of P’s reckonable service in fee-paid judicial offices;
  - (b) S is the appropriate annual salary of the judicial office held by P immediately before retirement.
- (6) Paragraph (7) applies where—

- (a) on retirement, P has reckonable service in more than one fee-paid judicial office (“the relevant offices”); and
- (b) at any time before retirement, P held more than one fee-paid judicial office simultaneously.

(7) The annual rate is determined by taking the following steps—

*Step 1*

Determine the annual rate under paragraph (3), in relation to each relevant office, as if—

- (i) that office were the only office in which P had reckonable service on retirement (except in determining the maximum amount in relation to that office under regulation 5(3)); and
- (ii) P held that office (and held no other judicial office) immediately before retirement.

*Step 2*

Add together the rates found under Step 1.

**Retirement between the ages of 60 and 65: entitlement to reduced pension**

14.—(1) This regulation applies where—

- (a) a member (“P”) retires (whether before, on or after the commencement day); and
- (b) on the day on which P retires, P—
  - (i) has reached the age of 60 but not the age of 65, and
  - (ii) has at least 5 years’ qualifying judicial service.

(2) On the pension start day, P becomes entitled to the payment for life of a pension.

(3) In this regulation “the pension start day” means—

- (a) the day after that on which P retires; or
- (b) if later, the commencement day.

**Retirement under age of 60 on removal from judicial office: entitlement to reduced pension**

15.—(1) This regulation applies where—

- (a) a member (“P”) retires (whether before, on or after the commencement day) by virtue of having been removed from all judicial offices held by P;
- (b) on the day on which P retires, P has not reached the age of 60; and
- (c) the appropriate Minister recommends that P’s accrued rights under the principal scheme be given effect.

(2) The administrators must notify P of the recommendation under paragraph (1)(c).

(3) If P elects in writing to the administrators within 3 months of receiving the notice that P wishes to receive benefits under this regulation—

- (a) P becomes entitled, on the day on which the administrators receive the election, to the payment for life of a pension; and
- (b) P also becomes entitled, on that day, to the amount P would have been entitled to if P had been entitled under this regulation to the payment of a pension in respect of the period beginning with the pension start day and ending with the day before the day mentioned in sub-paragraph (a).

(4) In this regulation “the pension start day” means—

- (a) the day after that on which P retires; or
- (b) if later, the commencement day.

### Annual rate of reduced pension

16.—(1) The annual rate of a pension to which a member (“P”) becomes entitled under regulation 14 or 15 is determined under paragraph (3), (5) or (7) (whichever applies).

(2) Paragraph (3) applies where, on retirement, P has reckonable service in only one fee-paid judicial office (“the relevant office”).

(3) The annual rate is determined in accordance with the following formula—

$$\left( \frac{R}{40} \times S \right) \times \left( A + \left( \frac{B}{365} \times (C - A) \right) \right)$$

where—

- (a) R is P’s reckonable service in the relevant office;
- (b) S is the appropriate annual salary of the judicial office held by P immediately before retirement;
- (c) A is the actuarial reduction factor set out in the Table corresponding to P’s age on P’s birthday preceding the retirement day;
- (d) B is the number of days in the period beginning with P’s birthday preceding the retirement day and ending with the retirement day;
- (e) C is the actuarial reduction factor set out in the Table appropriate to P’s age on P’s birthday following the retirement day.

(4) Paragraph (5) applies where—

- (a) on retirement, P has reckonable service in more than one fee-paid judicial office; and
- (b) P did not, at any time before retirement, hold more than one fee-paid judicial office simultaneously.

(5) The annual rate is determined in accordance with the following formula—

$$\left( \frac{AR}{40} \times S \right) \times \left( A + \left( \frac{B}{365} \times (C - A) \right) \right)$$

where—

- (a) AR is the aggregate length of P’s reckonable service in fee-paid judicial offices;
- (b) S is the appropriate annual salary of the judicial office held by P immediately before retirement;
- (c) A is the actuarial reduction factor set out in the Table corresponding to P’s age on P’s birthday preceding the retirement day;
- (d) B is the number of days in the period beginning with P’s birthday preceding the retirement day and ending with the retirement day;
- (e) C is the actuarial reduction factor set out in the Table appropriate to P’s age on P’s birthday following the retirement day.

(6) Paragraph (7) applies where—

- (a) on retirement P has reckonable service in more than one fee-paid judicial office (“the relevant offices”); and
- (b) at any time before retirement, P held more than one fee-paid judicial office simultaneously.

(7) The annual rate is determined by taking the following steps:

*Step 1*

Determine the annual rate under paragraph (3), in relation to each relevant office, as if—

- (i) that office were the only office in which P had reckonable service on retirement (except in determining the maximum amount in relation to that office under regulation 5(3)), and
- (ii) P held that office (and held no other judicial office) immediately before retirement;

*Step 2*

Add together the rates found under Step 1.

- (8) In this regulation—
  - (a) “the retirement day” means the day on which P retires;
  - (b) “the Table” means the Table in the Schedule to the Judicial Pensions (Miscellaneous) Regulations 1995, as it has effect on the retirement day.

**Retirement under the age of 60: entitlement to preserved pension**

- 17.—(1) This regulation applies where—
- (a) a member (“P”) retires (whether before, on or after the commencement day);
  - (b) if P retires by virtue of having been removed from all judicial offices held by P—
    - (i) the appropriate Minister makes a recommendation under regulation 15(1)(c), and
    - (ii) P does not make an election under regulation 15(3); and
  - (c) on the day on which P retires, P—
    - (i) has not reached the age of 60, and
    - (ii) has at least 2 years’ qualifying judicial service.
- (2) On the pension start day, P becomes entitled to the payment for life of a pension.
- (3) In this regulation “the pension start day” means—
- (a) the day on which P reaches normal pension age; or
  - (b) if later, the commencement day.

**Annual rate of preserved pension**

- 18.—(1) The annual rate of a pension to which a member (“P”) is entitled under regulation 17 is determined under paragraph (3) or (5) (whichever applies).
- (2) Paragraph (3) applies where, on retirement—
- (a) P has reckonable service one or more fee-paid judicial office, and
  - (b) P did not, at any time before retirement, hold more than one fee-paid judicial office simultaneously.
- (3) The annual rate is determined in accordance with the following formula—

$$\left( \frac{R}{40} \times S \right) \times \frac{X}{Y}$$

where—

- (a) R is the maximum amount of reckonable service which P would be able to accrue if P continued in fee-paid judicial office until the date on which P reaches normal pension age, assuming that P would have accrued a number of qualifying fee-paid days each year until that date equal to—

$$\frac{N}{3}$$

where N is the number of qualifying fee-paid days which P accrued in the three years before the date on which P retired;

- (b) S is the appropriate annual salary of the judicial office held by P immediately before retirement;
  - (c) X is the period, expressed in years and any fraction of a year, beginning with the day on which P was first appointed to a fee-paid judicial office (or if later, 7th April 2000) and ending on the day on which P retires from the relevant office;
  - (d) Y is the period, expressed in years and any fraction of a year, beginning with the day on which P was first appointed to a fee-paid judicial office (or if later, 7th April 2000) and ending on the day on which P reaches normal pension age (or if later, the day on which P left the last of the relevant offices).
- (4) Paragraph (5) applies where—
- (a) on retirement P has reckonable service in more than one fee-paid judicial office (“the relevant offices”), and
  - (b) at any time before retirement, P held more than one fee-paid judicial office simultaneously.
- (5) The annual rate is determined by taking the following steps—

*Step 1*

Determine the annual rate under paragraph (3) of this regulation, in relation to each relevant office, as if—

- (i) that office were the only office in which P had reckonable service on retirement (except in determining the maximum amount in relation to that office under regulation 5(3)), and
- (ii) P held that office (and held no other judicial office) immediately before retirement.

*Step 2*

Add together the rates found under Step 1.

**Retirement aged 65 or over due to ill health: entitlement to ill health ordinary pension**

**19.**—(1) This regulation applies where—

- (a) a member (“P”) retires (whether before, on or after the commencement day);
- (b) on the day on which P retires, P—
  - (i) has reached the age of 65; and
  - (ii) has less than 5 years’ qualifying judicial service; and
- (c) the ill-health certification condition is met in relation to P.

(2) On the pension start day, P becomes entitled to the payment for life of a pension.

(3) In this regulation “the pension start day” means—

- (a) the day after that on which P retires, or
- (b) if later, the commencement day.

**Annual rate of ill health ordinary pension**

**20.** Regulation 13 (annual rate of ordinary pension) applies in relation to the annual rate of a pension to which a member becomes entitled under regulation 19 as it applies in relation to the annual rate of a pension to which a member becomes entitled under regulation 12.

**Retirement under 65 due to ill health: entitlement to ill health enhanced pension**

**21.**—(1) This regulation applies where—

- (a) a member (“P”) retires (whether before, on or after the commencement day);
- (b) on the day on which P retires, P has not reached normal pension age; and

- (c) the ill-health certification condition is met in relation to P.
  - (2) On the pension start day, P becomes entitled to the payment for life of a pension.
  - (3) In this regulation “the pension start day” means—
    - (a) the day after that on which P retires, or
    - (b) if later, the commencement day.
  - (4) Where, apart from this paragraph, P would be entitled to—
    - (a) a pension under this regulation, and
    - (b) a pension under—
      - (i) regulation 14 (retirement between the ages of 60 and 65: entitlement to reduced pension),
      - (ii) regulation 15 (retirement under the age of 60 due to removal from judicial office: entitlement to reduced pension), or
      - (iii) regulation 17 (retirement under the age of 60: entitlement to preserved pension),
- P is not entitled to the pension mentioned in sub-paragraph (b).

**Annual rate of ill health enhanced pension**

22.—(1) The annual rate of a pension to which a member (“P”) becomes entitled under regulation 21 is determined under paragraph (3), (5) or (7) (whichever applies).

(2) Paragraph (3) applies where, on retirement, P has reckonable service in only one fee-paid judicial office.

(3) The annual rate is determined in accordance with the following formula—

$$\frac{R}{40} \times S \times \frac{U}{T}$$

where—

- (a) R is P’s reckonable service in the relevant office;
- (b) S is the appropriate annual salary of the judicial office held by P immediately before retirement (“the relevant office”);
- (c) U is the smaller of—
  - (i) the amount equal to  $T + E$ , and
  - (ii) the maximum amount for the relevant office, determined in accordance with regulation 5(3);
- (d) T is the smaller of—
  - (i) the length of P’s relevant judicial appointment (see paragraph (8)), and
  - (ii) the maximum amount for the relevant office, determined in accordance with regulation 5(3);
- (e) E is the service enhancement (see paragraph (9)).
- (4) Paragraph (5) applies where—
  - (a) on retirement, P has reckonable service in more than one fee-paid judicial office, and
  - (b) P did not, at any time before retirement, hold more than one fee-paid judicial office simultaneously.
- (5) The annual rate is determined in accordance with the following formula—

$$\frac{AR}{40} \times S \times \frac{U}{T}$$

where—

- (a) AR is the aggregate length of P’s reckonable service in fee-paid judicial offices;
  - (b) S is the appropriate annual salary of the judicial office held by P immediately before retirement (“the relevant office”);
  - (c) U is the smaller of—
    - (i) the amount equal to  $T + E$ , and
    - (ii) the maximum amount for the relevant office, determined in accordance with regulation 5(3);
  - (d) T is the smaller of—
    - (i) the length of P’s relevant judicial appointment (see paragraph (8)); and
    - (ii) the maximum amount for the relevant office, determined in accordance with regulation 5(3);
  - (e) E is the smaller of—
    - (i) the service enhancement (see paragraph (9)); and
    - (ii) the amount determined in accordance with the formula  $20 - T$ .
- (6) Paragraph (7) applies where—
- (a) on retirement P has reckonable service in more than one fee-paid judicial office, and
  - (b) at any time before retirement, P held more than one fee-paid judicial office simultaneously.
- (7) The annual rate is determined by taking the following steps.

*Step 1*

Determine the annual rate under this regulation, in relation to each relevant office, as if—

- (i) that office were the only office in which P had reckonable service on retirement (except in determining the maximum amount in relation to that office under regulation 5(3)), and
- (ii) P held that office (and held no other judicial office) immediately before retirement.

*Step 2*

Add together the rates found under Step 1.

(8) The length of P’s relevant judicial appointment is the period, or the aggregate of the periods, expressed in years and any fraction of a year, during which P held one or more fee-paid judicial offices, disregarding any day in respect of which the conditions in regulation 4(2) (qualifying fee-paid days) are not met.

(9) The service enhancement is the period, expressed in years and any fraction of a year, which is one half of the period—

- (a) beginning with the day after that on which P retires, and
- (b) ending with the day on which P reaches normal pension age.

**Ill-health certification condition**

**23.—**(1) The ill-health certification condition is met in relation to a member (“P”) if the appropriate Minister—

- (a) has received a medical certificate stating that P has suffered a permanent breakdown in health that makes P incapable of discharging the duties of the judicial office or offices which P held immediately before retirement;
- (b) is satisfied as to the matters contained in that certificate; and
- (c) has, where he or she is the Lord Chancellor, consulted—
  - (i) the Lord Chief Justice of England and Wales (if P held a judicial office in England and Wales);



- (ii) the Lord Chief Justice of Northern Ireland (if P held a judicial office in Northern Ireland).

(2) For the purposes of this regulation P's breakdown in health is "permanent" if it is likely to continue until—

- (a) the day on which P reaches the age of 65; or
- (b) if later, the day on which, if P had not retired, P would have completed 5 years' qualifying judicial service.

(3) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005<sup>(a)</sup>) to exercise any of his or her functions under this regulation.

(4) The Lord Chief Justice of Northern Ireland may nominate—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002<sup>(b)</sup>;
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act),

to exercise any of his or her functions under this regulation.

### **Times at which pension under this Part is payable**

24. A pension under this Part is payable at such intervals, not exceeding 3 months, as the Treasury may determine.

### **Lump sum: entitlement and amount**

25.—(1) This regulation applies where a member ("P") retires on or after the commencement day, and becomes entitled to the payment of a pension under this Part.

(2) At the time P becomes entitled to the payment of the pension, P becomes entitled to a lump sum.

(3) The amount of the lump sum is to be determined in accordance with the following formula—

$$A \times 2.25$$

where A is the annual rate of the pension payable to P under this Part.

### **Multiple retirements**

26.—(1) This regulation applies where a member ("P") retires and subsequently resumes judicial office.

(2) The resumption of judicial office does not affect the entitlement of P to any payment under the principal scheme in respect of any period before the resumption.

(3) No amounts are payable to or in respect of P under the principal scheme as a result of the retirement mentioned in paragraph (1) in respect of any period after the resumption.

(4) On P's retirement after resuming judicial office—

- (a) P's entitlement (and that of any other person) to any payment under the principal scheme; and
- (b) the rate or amount of any such payment,

are (subject to paragraph (5)) to be determined as if no amounts had previously been paid under the principal scheme as a result of the retirement mentioned in paragraph (1).

(5) A person to whom a lump sum is paid under the principal scheme as a result of the retirement mentioned in paragraph (1) is not required to refund the lump sum; but if the whole or

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(a) 2005 c.4.  
(b) 2002 c.26.

any part of it is not refunded, an amount equal to so much of it as has not been refunded is to be deducted from any lump sum which subsequently becomes payable to or in respect of that person under the principal scheme.

## PART 4 PARTIAL RETIREMENT

### **Option to take partial retirement in relation to a fee-paid judicial office**

**27.**—(1) Paragraph (2) applies where a member (“P”) at any time on or after the commencement day ceases to hold a fee-paid judicial office (“the relevant office”) and—

- (a) P has reckonable service in relation to the relevant office;
- (b) at the time P ceases to hold the relevant office, P does not hold any other fee-paid judicial office;
- (c) at the time P ceases to hold the relevant office, P has at least 2 years’ qualifying judicial service; and
- (d) immediately after ceasing to hold the relevant office, P is appointed to another judicial office.

(2) P may take partial retirement in relation to the relevant office by giving notice in writing to the appropriate Minister.

(3) The notice—

- (a) must be in the form determined by the appropriate Minister, and
- (b) must be received by the appropriate Minister within the period of 6 months beginning with the day on which P ceases to hold the relevant office.

(4) A notice under this regulation—

- (a) has effect on the day on which it is received by the appropriate Minister, and
- (b) is irrevocable.

### **Effect of partial retirement**

**28.**—(1) Where a member (“P”) takes partial retirement in relation to a fee-paid judicial office (“the relevant office”), P is treated for the purposes of the relevant provisions as if P had retired on the day on which P ceased to hold the relevant office.

(2) In this regulation “the relevant provisions” means—

- (a) Part 3 (retirement benefits) apart from regulation 26 (multiple retirements), and
- (b) Part 6 (death benefits).

(3) In the application of the relevant provisions in relation to P’s deemed retirement under paragraph (1), P is treated as having reckonable service only in the relevant office.

(4) The application of the relevant provisions in relation to P’s deemed retirement under paragraph (1) (and P’s pension under Part 3 in respect of that deemed retirement) does not prevent their application in relation to P’s actual retirement (and P’s pension under Part 3 in respect of that retirement).

(5) In the application of the relevant provisions in relation to P’s actual retirement, P is treated as having no reckonable service in the relevant office.

## PART 5

### BENEFITS FOR PERSONS ENTITLED TO PENSION CREDITS

#### Application of Part and interpretation

**29.**—(1) This Part applies where—

- (a) a person (“the transferee”) becomes entitled to a pension credit under section 29(1)(b) of the Welfare Reform and Pensions Act 1999(a) (“the 1999 Act”) or under Article 26(1)(b) of the Welfare Reform and Pensions (Northern Ireland) Order 1999(b) (“the 1999 Order”); and
- (b) that pension credit is derived from the rights of another person (“P”) under the principal scheme.

(2) In this Part “the transferee”, “the 1999 Act”, “the 1999 Order” and “P” have the meanings given by paragraph (1).

#### Pension credit derived from the principal scheme: entitlement to pension

**30.**—(1) On the pension start day the transferee becomes entitled to the payment for life of a pension.

(2) In paragraph (1) “the pension start day” means—

- (a) the day on which the transferee reaches normal pension age, or
- (b) if later, the day after the last day of the implementation period as determined in accordance with section 34 of the 1999 Act or Article 31 of the 1999 Order.

#### Annual rate of pension under regulation 30

**31.**—(1) The annual rate of the pension to which the transferee is entitled under regulation 30 is the rate in relation to which the following condition is met.

(2) The condition is that the sum of—

- (a) the value of the pension, and
- (b) the value of any lump sum to which the transferee is entitled under this Part,

equals the amount of the pension credit.

(3) For this purpose, the value of the pension and of any lump sum must be calculated—

- (a) in accordance with regulations made by the Secretary of State under paragraph 5(b) of Schedule 5 to the 1999 Act, or
- (b) (in any case where the 1999 Order applies) in accordance with regulations made by the Department for Communities under paragraph 5(b) of Schedule 5 to the 1999 Order,

and any regulations made by the Secretary of State or by the Department for Communities for the purposes of those provisions apply accordingly.

(4) The annual rate of the pension must be calculated in accordance with guidance issued by the appropriate Minister.

(5) Before issuing guidance under paragraph (4), the appropriate Minister must consult the Government Actuary.

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(a) 1999 c.30.

(b) S.I.1999/3147 (N.I.11)

### **Lump sum for transferee at age 65**

**32.—**(1) This regulation applies if the transferee becomes entitled to the pension credit before P becomes entitled to a lump sum under Part 3.

(2) At the time the transferee becomes entitled to a pension under regulation 30, the transferee becomes entitled to a lump sum.

(3) The amount of the lump sum is to be determined in accordance with the following formula—

$$A \times 2.25$$

where A is the annual rate of the pension to which the transferee is entitled under this Part.

### **Lump sum where transferee dies before age 65**

**33.—**(1) This regulation applies if the transferee dies before reaching the normal pension age.

(2) On the day after that on which the transferee dies the relevant person becomes entitled to a lump sum.

(3) The amount of the lump sum is to be determined in accordance with the following formula—

$$A \times 2.25$$

where A is the annual rate of the pension to which the transferee would have been entitled under regulation 30 if the transferee had become entitled to a pension under that regulation on the day on which the transferee died.

(4) In paragraph (2) “the relevant person” means—

- (a) the person nominated by the transferee for the purpose of this regulation by notice in writing to the administrators; or
- (b) in default of such nomination, the transferee’s personal representatives.

### **Exclusions**

**34.** The appropriate Minister has no power to accept for the benefit of a member of the principal scheme—

- (a) a payment under paragraph 1(3) of Schedule 5 to the 1999 Act or paragraph 1(3) of Schedule 5 to the 1999 Order,
- (b) a payment under section 95 of the Pension Schemes Act 1993(a) or section 91 of the Pensions Schemes (Northern Ireland) Act 1993(b), or
- (c) any other payment,

to the extent that that payment directly or indirectly represents a pension credit.

## **PART 6**

### **DEATH BENEFITS**

#### **Interpretation**

**35.—**(1) In these Regulations “surviving adult”, in relation to a deceased member (“P”), means P’s surviving spouse or surviving civil partner.

(2) In these Regulations “surviving spouse”, in relation to P, means a person who—

- (a) was married to P on the date of P’s death, and

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(a) 1993 c. 48. Section 95 is amended by section 68 of, and paragraph 9 of Schedule 4 to, the Pension Schemes Act 2015 (c.8).

(b) 1993 c. 49. Section 91 is amended by section 71 of, and paragraph 55 of Schedule 4 to, the Pensions Scheme Act 2015 (c.8).

- (b) if P retired before death, entered into the marriage before P retired.
- (3) In these Regulations “surviving civil partner”, in relation to P, means a person who—
  - (a) was in a civil partnership with P on the date of P’s death, and
  - (b) if P retired before death, entered into the civil partnership before P retired.
- (4) In these Regulations “surviving adult’s pension” means a pension payable to a surviving adult under this Part.

**Entitlement to a surviving adult’s pension**

- 36.**—(1) This regulation applies where a member (“P”) dies (whether before, on or after the commencement day) leaving a surviving adult.
- (2) On the pension start day, the surviving adult becomes entitled to the payment for life of a pension.
  - (3) For the purposes of paragraph (2) the “pension start day” means—
    - (a) the day after the day on which P dies; or
    - (b) if later, the commencement day.
  - (4) Where the surviving adult marries or enters into a civil partnership, the Treasury may, at any time, direct that payment of the pension be withheld.
  - (5) The Treasury may, at any time, direct that payment of a pension withheld under paragraph (4) be resumed.

**Annual rate of surviving adult’s pension**

- 37.**—(1) The annual rate of a pension to which a person becomes entitled under regulation 36 is equal to one half of the rate of the pension of the deceased member (“P”).
- (2) For the purposes of this regulation the rate of P’s pension is determined as follows.
  - (3) Where P dies on or after the commencement day after having retired, the rate of P’s pension is the annual rate of the pension to which P was entitled under Part 3 on the day on which P died.
  - (4) Where P dies on or after the commencement day without having retired, the rate of P’s pension is the annual rate of the pension to which P would have become entitled under Part 3 on the day after that on which P died if—
    - (a) on the day on which P died, P had not died but had instead retired, and
    - (b) the ill-health certification condition were met in relation to P.
  - (5) Where P dies before the commencement day after having retired, the rate of P’s pension is the annual rate of the pension to which P would have become entitled under Part 3 on the commencement day if P was still alive on that day.
  - (6) Where P dies before the commencement day without having retired, the rate of P’s pension is the annual rate of the pension to which P would have become entitled under Part 3 on the commencement day if—
    - (a) on the day on which P died, P had not died but had instead retired,
    - (b) the ill-health certification condition were met in relation to P, and
    - (c) P were still alive on the commencement day.

**Annual rate of surviving adult’s pension: special provision for surviving civil partners**

- 38.**—(1) Paragraph (2) applies where—
- (a) the surviving civil partner in relation to a member (“P”) becomes entitled to a pension under regulation 36;
  - (b) P held a judicial office before, and on, 5th December 2005; and

- (c) P elects in writing to the administrators, within the period of 6 months beginning with the relevant day, that the annual rate of the surviving civil partner's pension under regulation 37 should be calculated as if P first held a judicial office on 5th December 2005.
- (2) The rate of P's pension, for the purposes of regulation 37, is to be determined on the basis that P first held a judicial office on 5th December 2005.
- (3) In this regulation "the relevant day" means—
  - (a) the commencement day, or
  - (b) if later, the day on which the civil partnership is entered into.
- (4) An election under this regulation is irrevocable.

### **Payment of a surviving adult's pension**

**39.** A surviving adult's pension is payable at such intervals, not exceeding 3 months, as the Treasury may determine.

### **Meaning of "eligible child"**

**40.—(1)** In these Regulations, "eligible child", in relation to a deceased member, means a person who meets the age condition or the occupation condition (see regulation 41) and who is—

- (a) a natural child of the deceased member,
- (b) a person who was adopted by the deceased member before the deceased member retired or, where paragraph (2) applies, after the deceased member retired,
- (c) a person who is a child of the deceased member by virtue of a parental order made before the deceased member retired or, where paragraph (2) applies, after the deceased member retired, or
- (d) a step-child of the deceased member.

(2) This paragraph applies where the Treasury have issued a direction to the effect that they are satisfied that—

- (a) the deceased member had, before the deceased member retired, formed the intention of adopting, or applying for a parental order in respect of, the person; and
- (b) immediately before the deceased member retired, the person was wholly or mainly dependent on the deceased member.

(3) In a case where the deceased member died while holding fee-paid judicial office, the references in subsections (1)(b) and (2)(b) to things done before the deceased member's retirement are to be read as references to things done before the deceased member's death.

(4) For the purposes of this regulation a person ("C") is a "natural child" of person ("P") if P is C's genetic father or mother (including anyone who is to be treated as C's father, mother or parent under Part 2 of the Human Fertilisation and Embryology Act 2008(a) ("the 2008 Act"), but not including anyone who is not to be so treated under that Part of that Act).

(5) For the purposes of this regulation a person ("C") is a "step-child" of a person ("P") if C—

- (a) is not a natural child of P, adopted by P or a child of P by virtue of a parental order, and
- (b) meets any of the following conditions.

(6) The first condition is that C—

- (a) is a natural child of a person who was at any time the spouse or civil partner of P, and
- (b) at the time the marriage or civil partnership was entered into, had been born or conceived.

(7) The second condition is that C—

- (a) was adopted by a person who was at any time the spouse or civil partner of P; and

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(a) 2008 c.22.

- (b) was so adopted—
  - (i) before the time the marriage or civil partnership was entered into, or
  - (ii) after the time the marriage or civil partnership was entered into in a case where the adoption proceedings were pending at the time of the marriage or civil partnership.
- (8) The third condition is that C—
  - (a) is, by virtue of a parental order, a child of a person who was at any time the spouse or civil partner of P; and
  - (b) the parental order was made—
    - (i) before the time the marriage or civil partnership was entered into, or
    - (ii) after the time the marriage or civil partnership was entered into in a case where the parental order proceedings were pending at the time of the marriage or civil partnership.
- (9) In this regulation a “parental order” means an order made under section 54 of the Human Fertilisation and Embryology Act 2008.

**Meaning of “eligible child”: the age condition and the occupation condition**

- 41.—(1) The age condition is that the person has not reached the age of 16.
- (2) The occupation condition is that the person (“C”) has, at all times since reaching the age of 16, been—
- (a) in full-time education, or
  - (b) undergoing eligible training for a trade, profession or vocation.
- (3) For the purposes of this regulation training is “eligible” if—
- (a) it is full-time;
  - (b) its duration is at least 2 years; and
  - (c) the rate of pay (if any) receivable by C, or payable by the employer in respect of C, in relation to the training does not exceed the specified maximum.
- (4) In this regulation—
- “pay” means any salary, fees, wages, perquisites, profits or gains and includes the value of any free board, lodging or clothing;
- “the specified maximum” at any time means an annual rate equal to that at which a pension of £250 a year—
- (a) first awarded under the Principal Civil Service Pension Scheme on 1st June 1972; and
  - (b) increased from time to time by the amount of increase that would be applied under the 1971 Act to such a pension,
- would (as so increased) be payable at that time.
- (5) Where a premium has been paid in respect of C’s training, all emoluments receivable by C, or payable by the employer in respect of C, are to be taken, for the purposes of paragraph (3)(c), as receivable or payable by way of return of the premium, unless and to the extent that the amount of those emoluments exceeds the amount of the premium.
- (6) Where the Treasury are satisfied that C’s full-time education ought not be regarded as completed, the Treasury may direct that any period during which a person is not in full-time education and is not undergoing eligible training for a trade, profession or vocation, is to be disregarded for the purposes of this regulation.

**Entitlement to an eligible child’s pension**

- 42.—(1) This regulation applies if a member (“P”) dies (whether before, on or after the commencement day) leaving one or more eligible children.

(2) On the pension start day, and until such time as there are no more eligible children, the relevant person becomes entitled to the payment of a pension.

(3) In this regulation, the “pension start day” means—

- (a) the day after the day on which P dies; or
- (b) if later, the commencement day.

(4) In this regulation, “the relevant person” means such person or persons as the Treasury may from time to time direct.

### **Annual rate of eligible child’s pension**

**43.**—(1) The annual rate of a pension to which a person becomes entitled under regulation 42, where P dies without leaving a surviving adult, is—

- (a) in relation to any period during which there is only one eligible child, an annual rate equal to one third of the rate of P’s pension;
- (b) in relation to any period during which there are two or more eligible children, an annual rate equal to two thirds of the rate of P’s pension.

(2) The annual rate of a pension to which a person becomes entitled under regulation 42, where P dies leaving a surviving adult, is—

- (a) in relation to any period during which there is only one eligible child and the surviving adult is still alive, an annual rate equal to one quarter of the rate of P’s pension;
- (b) in relation to any period during which there is only one eligible child and the surviving adult is dead, an annual rate equal to one third of the rate of P’s pension;
- (c) in relation to any period during which there are two or more eligible children and the surviving adult is still alive, an annual rate equal to one half of the rate of P’s pension;
- (d) in relation to any period during which there are two or more eligible children and the surviving adult is dead, an annual rate equal to two thirds of the rate of P’s pension.

(3) The Treasury may direct, where the deceased member leaves a surviving adult who marries or enters into a civil partnership, that paragraph (1) is to apply instead of paragraph (2) in respect of any period during which the surviving adult has a spouse or a civil partner.

(4) The Treasury may, at any time, cancel a direction given under paragraph (3).

(5) For the purposes of this regulation the “rate of P’s pension” is determined as follows.

(6) Where P dies on or after the commencement day after having retired, the rate of P’s pension is the annual rate of the pension to which P was entitled under Part 3 on the day on which P died.

(7) Where P dies on or after the commencement day without having retired, the rate of P’s pension is the annual rate of the pension to which P would have become entitled under Part 3 on the day after that on which P died if—

- (a) on the day on which P died, P had not died but had instead retired, and
- (b) the ill-health certification condition were met in relation to P.

(8) Where P dies before the commencement day after having retired, the rate of P’s pension is the annual rate of the pension to which P would have become entitled under Part 3 on the commencement day if P was still alive on that day.

(9) Where P dies before the commencement day without having retired, the rate of P’s pension is the annual rate of the pension to which P would have become entitled under Part 3 on the commencement day if—

- (a) on the day on which P died, P had not died but had instead retired,
- (b) the ill-health certification condition were met in relation to P, and
- (c) P had survived until the commencement day.



### Payment and application of an eligible child's pension

44.—(1) A pension to which a person is entitled under regulation 42 is payable at such intervals, not exceeding 3 months, as the Treasury may determine

(2) A person to whom a pension or part of a pension under regulation 42 is paid must apply the pension for the benefit of—

- (a) all eligible children of the deceased member; or
- (b) such eligible children of the deceased member as the Treasury may direct.

### Lump sum on death: death in service

45.—(1) Paragraph (2) applies where—

- (a) a member (“P”) dies (on or after the commencement day) without having retired; and
- (b) P is (immediately before death) an active member of the principal scheme.

(2) On the day after that on which P dies, the relevant person becomes entitled to a lump sum.

(3) The amount of the lump sum to which P becomes entitled under paragraph (2) is determined under paragraph (5), (7) or (9), whichever applies).

(4) Paragraph (5) applies where, on P's death, P has reckonable service in only one fee-paid judicial office (“the relevant office”).

(5) The amount of the lump sum is to be determined in accordance with the following formula—

$$S \times 2 \times \frac{M \div N}{JS}$$

where—

- (a) S is the appropriate annual salary of the judicial office held by P immediately before P's death, determined as if P had retired on the date of P's death;
- (b) M is P's qualifying fee-paid service in the relevant office; and
- (c) N is the annual divisor for that office specified in column 2 of the Schedule;
- (d) JS is P's qualifying judicial service, expressed in years and any fraction of a year.

(6) Paragraph (7) applies where—

- (a) on P's death, P has reckonable service in more than one fee-paid judicial office; and
- (b) P did not, at any time before death, hold more than one fee-paid judicial office simultaneously.

(7) The amount of the lump sum is to be determined in accordance with the following formula—

$$S \times 2 \times \frac{AM \div N}{JS}$$

where—

- (a) S is the appropriate annual salary of the judicial office held by P immediately before P's death, determined as if P had retired on the date of P's death;
- (b) AM is the aggregate length of P's qualifying fee-paid service in fee-paid judicial offices;
- (c) JS is the lower of P's qualifying judicial service, expressed in years and any fraction of a year.

(8) Paragraph (9) applies where—

- (a) immediately before death P held more than one fee-paid judicial office, and
- (b) at any time before retirement, P held more than one fee-paid judicial office simultaneously.

(9) The amount of the lump sum is determined by taking the following steps.

*Step 1*

Determine the lump sum under this regulation in relation to each fee-paid judicial office, as if that office were the only relevant office held by P.

*Step 2*

Add together the lump sums found under Step 1.

(10) In this regulation “the relevant person” means—

- (a) the person nominated by P for the purpose of this regulation by notice in writing to the administrators; or
- (b) in default of such nomination, P’s personal representatives.

**Lump sum on death: death after retirement of member with preserved pension**

46.—(1) Paragraph (2) applies if—

- (a) a member (“P”) dies (on or after the commencement day) having retired (whether before, on or after the commencement day);
- (b) where P retires on or after the commencement day, P is not, on retirement, an opted-out member; and
- (c) if P had not died P would, on reaching normal pension age have become entitled to a pension under regulation 17 (retirement under the age of 60: entitlement to preserved pension).

(2) On the day after that on which P dies, P’s personal representatives become entitled to a lump sum.

(3) The amount of the lump sum is to be determined in accordance with the following formula—

$$A \times 2.25$$

where A is a notional annual rate of pension determined in accordance with regulation 18 as though P had reached normal pension age on the day P died.

**Lump sum on death: death soon after retirement of member entitled to pension**

47.—(1) Paragraph (2) applies if—

- (a) a member (“P”) dies (on or after the commencement day) having retired (whether before, on or after the commencement day);
- (b) where P retires on or after the commencement day, P is not, on retirement, an opted-out member;
- (c) immediately before death, P was entitled to the payment of a pension under Part 3 (retirement benefits); and
- (d) the total benefits received are less than the minimum benefits amount.

(2) On the day after that on which P dies, P’s personal representatives become entitled to a lump sum equal to the difference between the total benefits received and the minimum benefits amount.

(3) In this regulation “the total benefits received” means the amount determined in accordance with the following formula—

$$A + B + C - D$$

where—

- (a) A is the interim payments amount (if any) in relation to P;
- (b) B is the amount (if any) paid or payable to P under regulation 50 (payment of benefits in relation to the pre-commencement period);

- (c) C is the total of the sums paid or payable to P under Part 3 on account of the pension (including any increases under the 1971 Act), and by way of lump sum, in relation to the period after commencement day;
- (d) D is the amount (if any) paid or payable by P under regulation 51 (repayment of any excess interim payments).

(4) In this regulation “the minimum benefits amount” means the amount determined in accordance with the following formula—

$$E \times 5$$

where E is the annual rate of the pension payable to P under Part 3 immediately before P’s death.

## PART 7

### BENEFITS IN RESPECT OF PERIODS BEFORE COMMENCEMENT

#### Application of Part

**48.**—(1) This Part applies where—

- (a) a member (“P”) retired, or died without having retired, before the commencement day, and
- (b) condition A or B is met.

(2) Condition A is that amounts were paid to any person during the pre-commencement period in respect of P’s retirement or death under arrangements made for the purpose of providing benefits during the pre-commencement period corresponding to those under Part 3 or 6.

(3) Condition B is that, if these Regulations had come into force on the day before the day on which P retired or died, amounts would have been payable during the pre-commencement period—

- (a) to P under Part 3, or
- (b) to another person under Part 6 in respect of P’s retirement or death.

(4) In this Part—

- (a) “the pre-commencement period” means the period—
  - (i) beginning with the day on which P retired or on which P died without having retired, and
  - (ii) ending with the day before the commencement day.
- (b) references to “P” are to a member mentioned in paragraph (1)(a).

#### Meaning of “the interim payments amount” and “the pre-commencement benefits amount”

**49.**—(1) In these Regulations “the interim payments amount”, in relation to any person, means the total amount (if any) that was paid to that person under arrangements made for the purpose of providing benefits during the pre-commencement period in respect of P’s retirement or death corresponding to those under Part 3 or 6.

(2) In this Part “the pre-commencement benefits amount”, in relation to any person, means, subject to paragraph (3), the total amount (if any) that would have been payable to that person under Part 3 or 6 during the pre-commencement period in respect of P’s retirement or death if these Regulations had come into force on the day before the day on which P retired or died without having retired.

(3) Where—

- (a) the amount payable to a person in respect of P under paragraph (2) includes a lump sum payable under regulation 45 or 46, and

(b) P would have been liable to pay the pre-commencement contributions amount referred to in regulation 53(1) if P had survived until the commencement day, the pre-commencement benefits amount payable to that person is to be calculated after deducting the pre-commencement contributions amount (within the meaning of regulation 53) which would have been payable by P if these Regulations had come into force on the day before the day on which P died.

#### **Additional payment where no or insufficient interim payments made**

**50.**—(1) Paragraph (2) applies where the interim payments amount in relation to a person is less than the pre-commencement benefits amount in relation to that person.

(2) The administrators must pay to the person the amount of the difference between the two amounts mentioned in paragraph (1).

#### **Repayment of any excess interim payments**

**51.**—(1) Paragraph (2) applies where the interim payments amount in relation to a person is greater than the pre-commencement benefits amount in relation to that person.

(2) The person must pay to the administrators the amount of the difference between the two amounts mentioned in paragraph (1).

(3) Where the person is entitled to the payment of a pension under Part 3 or 6, the liability imposed by this regulation is to be discharged by such deductions from payments of the pension as the administrators may decide.

(4) Where the person is not entitled to the payment of a pension under Part 3 or 6, the liability imposed by this regulation may be recovered as a debt due to the appropriate Minister.

## **PART 8**

### **CONTRIBUTIONS FOR PRE-COMMENCEMENT SERVICE**

#### **Interpretation**

**52.** In this Part—

“fee period” means a period specified in column 1 of the Contributions Table;

“the pre-commencement contributions amount” has the meaning given by regulation 53(1);

“P” means a member;

“the Contributions Table” means the table set out in regulation 57(1).

#### **Liability to pay pre-commencement contributions amount**

**53.**—(1) P must pay to the appropriate Minister an amount (“the pre-commencement contributions amount”), being the sum of—

(a) the pre-commencement personal contributions amount (see regulation 54), and

(b) the pre-commencement dependants’ contributions amount (see regulation 55).

(2) Paragraph (1) is subject to paragraphs (3) and (4).

(3) P is not required to pay the pre-commencement contributions amount if P—

(a) retired before the commencement day, and

(b) had on retirement less than two years qualifying judicial service.

(4) P is not required to pay so much of the pre-commencement contributions amount as is represented by the amount mentioned in paragraph (1)(b) if P—

(a) retired before the commencement day,

- (b) was not married or in a civil partnership at any time during the period—
  - (i) beginning with the day on which P first held a fee-paid judicial office, and
  - (ii) ending with the day on which P retired; and
- (c) did not have a qualifying child at any time during that period.

**Calculation of pre-commencement personal contributions amount**

54. The pre-commencement personal contributions amount in relation to P is determined as follows—

*Step 1*

For each fee period, find the total of the fees paid to P in respect of qualifying fee-paid days falling within the period.

*Step 2*

Multiply the total found under Step 1 for each fee period by the percentage specified in relation to that fee period in column 2 of the Contributions Table.

*Step 3*

Add together the amounts found under Step 2.

**Calculation of pre-commencement dependants’ contributions amount**

55. The pre-commencement dependants’ contributions amount in relation to P is determined as follows—

*Step 1*

For each fee period, find the total of the fees paid to P in respect of qualifying fee-paid days falling within the period.

*Step 2*

Multiply the total found under Step 1 for each fee period by the percentage specified in relation to that fee period in column 3 of the Contributions Table.

*Step 3*

Add together the amounts found under Step 2.

**Qualifying fee-paid days disregarded if they do not add to reckonable service**

56.—(1) A qualifying fee-paid day worked in a fee-paid judicial office is disregarded for the purposes of regulations 54 and 55 if P’s reckonable service in relation to that office would have been the maximum amount in relation to that office, had P retired on the day before that day.

(2) The reference in paragraph (1) to the maximum amount in relation to an office is to that amount as determined in accordance with regulation 5(3) (reckonable service).

**The Contributions Table**

57.—(1) The Contributions Table is as follows.

<i>Fee Period</i>	<i>Contribution (personal)</i>	<i>Contribution (dependants)</i>
7th April 2000 to 31st March 2012	0%	1.80%
1st April 2012 to 31st March 2013	1.28%	1.80%
1st April 2013 to 31st March 2014	2.56%	1.80%
1st April 2014 to 31st March 2015	3.20%	1.80%
1st April 2015 to 31st March 2016	X%	1.80%
1st April 2016 to the day before the commencement day	Y%	1.80%

(2) In the entry in that table for the fee period beginning on 1st April 2015, “X%” means the percentage specified in column 2 of the table in paragraph (5), in the row relating to P’s annualised fees for that period.

(3) In the entry in that table for the fee period beginning on 1st April 2016 (“the final fee period”), Y% means the percentage specified in column 2 of the table in paragraph (6), in the row relating to P’s annualised fees for that period.

(4) P’s annualised fees for the final fee period are determined in accordance with the following formula—

$$F \times \frac{365}{N}$$

where—

- (a) F is the total of the fees paid to P in respect of qualifying fee-paid days in the final fee period;
- (b) N is the number of days in that period.

(5) The table mentioned in paragraph (2) is as follows—

<i>Annualised fees</i>	<i>Contribution (personal)</i>
Up to but not including £15,001	0.96%
£15,001 to but not including £21,001	0.96%
£21,001 to but not including £47,001	1.47%
£47,001 to but not including £150,001	2.61%
£150,001 and above	4.43%

(6) The table mentioned in paragraph (3) is as follows—

<i>Annualised fees</i>	<i>Contribution (personal)</i>
Up to but not including £15,001	0.96%
£15,001 to but not including £21,211	0.96%
£21,211 to but not including £48,472	1.47%
£48,472 to but not including £150,001	2.61%
£150,001 and above	4.43%

### **Payment of pre-commencement contributions amount**

**58.**—(1) The pre-commencement contributions amount, or any part of it, may be paid—

- (a) by way of a lump sum at any time during the period of 6 months beginning with the commencement day;
- (b) by way of such deductions from fees paid to P in respect of fee-paid days as may be specified in an agreement between P and the appropriate Minister,

and for the purposes of paragraph (b), a “fee-paid” day means a day in respect of which P receives a fee in P’s capacity as a holder of a fee-paid judicial office.

(2) The deductions specified under paragraph (1)(b)—

- (a) must be of fixed monetary amounts, and
- (b) must be the same for each fee.

(3) A new agreement under paragraph (1)(b) may be entered into at any time after the end of the period of 12 months beginning with the day on which the previous agreement was entered into.

(4) Except to the extent that the pre-commencement contributions amount has already been paid under paragraph (1), it is to be paid by way of a deduction from—

- (a) the lump sum payable to P under Part 3, or
- (b) where P dies before retiring, the lump sum payable in respect of P under Part 6.

## PART 9

### CONTRIBUTIONS FOR SERVICE ON OR AFTER COMMENCEMENT DAY

#### Interpretation

**59.** In this Part—

“fee year” means the period beginning with 1st April in any year and ending with the 31st March in the following year, and

“P” means a member.

#### Liability to pay contributions on fees in respect of qualifying fee-paid days

**60.** P must pay a contribution to the appropriate Minister on any fee paid to P in respect of a qualifying fee-paid day where the day is, or is after, the commencement day.

#### Qualifying fee-paid days disregarded if they do not add to reckonable service

**61.**—(1) Regulation 60 does not require P to pay a contribution in respect of a qualifying fee-paid day worked in a fee-paid judicial office if P’s reckonable service in relation to that office would have been the maximum amount in relation to that office, had P retired on the day before that day.

(2) The reference in paragraph (1) to the maximum amount in relation to an office is to that amount as determined in accordance with regulation 5(3) (reckonable service).

#### Amount of contribution

**62.**—(1) The amount of the contribution payable on a fee under regulation 60 is the sum of—

- (a) the personal benefits contribution, and
- (b) the dependants’ benefits contribution.

(2) The amount of the personal benefits contribution is the amount of the fee multiplied by the percentage specified in column 2 of the table in regulation 63 for the relevant fee year, in the row relating to P’s annualised fees for that year.

(3) The amount of the dependants’ benefits contribution is the amount of the fee multiplied by the percentage specified in column 3 of the same row of the same table.

(4) P’s annualised fees for the relevant fee year are determined in accordance with the following formula—

$$F \times \frac{365}{N}$$

where—

- (a) F is the amount of the fee;
  - (b) N is the number of days in the applicable payment period.
- (5) For the purposes of paragraph (4) the “applicable payment period” means—
- (a) where the qualifying fee-paid day in respect of which the fee is paid is the first qualifying fee-paid day to occur in the relevant fee year, the period—
    - (i) beginning with the first day of the relevant fee year, and
    - (ii) ending with the day before the qualifying fee-paid day;

- (b) where the qualifying fee-paid day in respect of which the fee is paid is the second, or a later, qualifying fee-paid day to occur in the relevant fee year, the period—
- (i) beginning with the most recent previous qualifying fee-paid day, and
  - (ii) ending with the day before the qualifying fee-paid day.

(6) If the relevant fee year is a leap year, the formula in paragraph (4) has effect as if for “365” there were substituted “366”.

(7) In this regulation “the relevant fee year” means the fee year in which the qualifying fee-paid day in respect of which the fee is paid falls.

### Contribution rates for fee years

63.—(1) The table for the fee year 1st April 2017 to 31st March 2018 is—

<i>Annualised fees</i>	<i>Contribution (personal)</i>	<i>Contribution (dependants’)</i>
Up to but not including £15,001	0.96%	1.80%
£15,001 to but not including £21,423	0.96%	1.80%
£21,423 to but not including £51,006	1.47%	1.80%
£51,006 to but not including £150,001	2.61%	1.80%
£150,001 and above	4.43%	1.80%

(2) The table for the fee year 1st April 2018 to 31st March 2019 is—

<i>Annualised fees</i>	<i>Contribution (personal)</i>	<i>Contribution (dependants’)</i>
Up to but not including £15,001	0.96%	1.80%
£15,001 to but not including £21,637	0.96%	1.80%
£21,637 to but not including £51,516	1.47%	1.80%
£51,516 to but not including £150,001	2.61%	1.80%
£150,001 and above	4.43%	1.80%

### Payment of contribution

64. A contribution payable under this Part is to be paid by way of deduction from the fee to which it relates.

## PART 10

### REPAYMENT OF DEPENDANTS’ BENEFITS CONTRIBUTIONS

#### Full repayment of dependants’ benefits contributions on retirement

65.—(1) This regulation applies where—

- (a) a member (“P”) retires on or after the commencement day, and
- (b) conditions A and B are met.

(2) On the day after that on which P retires, P becomes entitled to a payment from the appropriate Minister.

(3) The amount of the payment under paragraph (2) is the sum of—

- (a) the amount previously paid by P under Part 8 to the extent that it consists of the pre-commencement dependants’ contributions amount; and
- (b) the total of the contributions previously paid by P under Part 9 to the extent that they represent dependants’ benefits contributions.



(4) Condition A is that, on the day on which P retires—

- (a) P is not married and is not in a civil partnership; and
- (b) P does not have a qualifying child.

(5) Condition B is that, at all times since P first held a fee-paid judicial office (or if later, since 7th April 2000)—

- (a) P was not married and was not in a civil partnership, and
- (b) P did not have a qualifying child.

(6) In this Part—

“the pre-commencement dependants’ contributions amount” means the amount determined under regulation 55;

“dependants’ benefits contribution” means an amount determined under regulation 62(3).

### **Partial repayment of dependants’ benefits contributions on retirement**

**66.**—(1) This regulation applies where—

- (a) a member (“P”) retires (whether before, on or after the commencement day), and
- (b) conditions A and B are met.

(2) On the relevant day, P becomes entitled to a payment from the appropriate Minister.

(3) In paragraph (2) “the relevant day” means—

- (a) the day after that on which P retires, or
- (b) if later, the commencement day.

(4) The amount of the payment under paragraph (2) is the sum of—

- (a) the amount previously paid by P under Part 8 which consists of so much of the pre-commencement dependants’ contributions amount as is attributable to qualifying fee-paid days falling after the specified date; and
- (b) the total of the contributions previously paid by P under Part 9 which represent dependants’ benefits contributions paid on fees in respect of qualifying fee-paid days falling after the specified date.

(5) Condition A is that, on the day on which P retires—

- (a) P is not married and is not in a civil partnership; and
- (b) P does not have a qualifying child.

(6) Condition B is that, on any day during the period beginning with the day on which P first held a fee-paid judicial office and ending with the day on which P retires—

- (a) P was married or was in a civil partnership, or
- (b) P had a qualifying child.

(7) In this regulation “the specified date” means the last day in respect of which condition B is met.

### **Full repayment of dependants’ benefits contributions on partial retirement**

**67.**—(1) This regulation applies where—

- (a) a member (“P”) takes partial retirement in relation to a fee-paid judicial office (“the relevant office”), and
- (b) conditions A and B are met.

(2) On the day after that on which P takes partial retirement, P becomes entitled to a payment from the appropriate Minister.

(3) The amount of the payment under paragraph (2) is the sum of—

- (a) the amount previously paid by P under Part 8 which consists of so much of the pre-commencement dependants' contributions amount as is attributable to qualifying fee-paid days worked in the relevant office; and
  - (b) the total of the contributions previously paid by P under Part 9 which represent dependants' benefits contributions paid on fees in respect of qualifying fee-paid days worked in the relevant office.
- (4) Condition A is that, on the day on which P takes partial retirement—
- (a) P is not married and is not in a civil partnership; and
  - (b) P does not have a qualifying child.
- (5) Condition B is that, at all times since P first held the relevant office (or if later, since 7th April 2000)—
- (a) P was not married and was not in a civil partnership, and
  - (b) P did not have a qualifying child.

### **Partial repayment of dependants' benefits contributions on partial retirement**

- 68.**—(1) This regulation applies where—
- (a) a member (“P”) takes partial retirement in relation to a fee-paid judicial office (“the relevant office”), and
  - (b) conditions A and B are met.
- (2) On the day after that on which P takes partial retirement, P becomes entitled to a payment from the appropriate Minister.
- (3) The amount of the payment under paragraph (2) is the sum of—
- (a) the amount previously paid by P under Part 8 which consists of so much of the pre-commencement dependants' contributions amount as is attributable to qualifying fee-paid days that—
    - (i) were worked in the relevant office; and
    - (ii) fell after the specified date; and
  - (b) the total of the contributions previously paid by P under Part 9 to the extent that they consist of dependants' benefits contributions and were paid on fees in respect of qualifying fee-paid days that—
    - (i) were worked in the relevant office; and
    - (ii) fell after the specified date.
- (4) Condition A is that, in the day on which P takes partial retirement in relation to the relevant office—
- (a) P is not married and is not in a civil partnership; and
  - (b) P does not have a qualifying child.
- (5) Condition B is that, on any day during the period beginning with the day on which P first held the relevant office and ending with the day on which P takes partial retirement—
- (a) P was married or was in a civil partnership, or
  - (b) P had a qualifying child.
- (6) In this regulation “the specified date” means the last day in respect of which condition B is met.

### **Repayments under this Part to be paid with compound interest**

**69.** Where the appropriate Minister makes a payment to a member under this Part, it must be paid together with compound interest at the rate announced annually in relation to the Principal Civil Service Pension Scheme.

PART 11  
TRANSFERS  
CHAPTER 1  
GENERAL

**Interpretation**

70.—(1) In this Part—

“1995 Transfer Regulations” means the Judicial Pensions (Transfer of Accrued Benefits) Regulations 1995(a);

“authorised insurer” means—

- (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to effect or carry out contracts of long-term insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act, which has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12 of that Schedule) to effect or carry out contracts of long-term insurance;

“derivative benefit” has the meaning given in regulation 85;

“MLA” has the meaning given in regulation 77;

“normal pension age” means the earliest age at which, if a person’s qualifying judicial service had continued until retirement at that age, a member might have been entitled to receive a pension under the principal scheme, otherwise than by reason of meeting the ill-health certification condition;

“occupational pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993 or, in relation to Northern Ireland, section 1 of the Pension Schemes (Northern Ireland) Act 1993;

“the option” has the meaning given by regulation 74(1);

“personal pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993 or, in relation to Northern Ireland, section 1 of Pension Schemes (Northern Ireland) Act 1993;

“relevant date”—

- (a) when used in Chapter 2, has the meaning given by regulation 73;
- (b) when used in Chapter 3, has the meaning given by regulation 81;

“relevant schemes” means the principal scheme, the FPJAYS and the JASAPS;

“transfer credit” has the meaning given by section 181(1) of the Pension Schemes Act 1993, or in relation to Northern Ireland, section 176(1) of the Pension Schemes (Northern Ireland) Act 1993.

(2) In this Part, references to numbered Tables are to the Tables in Schedule 2 to the 1995 Transfer Regulations.

(3) The definition of “authorised insurer” in paragraph (1) must be read with—

- (a) section 22 of the Financial Services and Markets Act 2000;
- (b) any relevant order under that section;
- (c) Schedule 2 to that Act.

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(a) S.I. 1995/637, amended by S.I. 2005/3325.

## **Disapplication of other provisions about transfers**

71. Chapter 1 of Part 4ZA of the Pension Schemes Act 1993 (transfer rights: general) and Chapter 1 of Part 4ZA of the Pension Schemes (Northern Ireland) Act 1993 (transfer rights: general) do not apply in relation to the relevant schemes.

## CHAPTER 2 TRANSFERS OUT

### **Transfers out**

72.—(1) Where the conditions set out in paragraph (2) are met, regulations 73 to 81 apply to any member (“P”)—

- (a) to or in respect of whom benefits are payable under one or more of the relevant schemes; and
- (b) the last qualifying fee-paid day which counts towards P’s reckonable service (“last day of reckonable service”) is on or after the commencement day.

(2) The conditions are that—

- (a) P’s age on 6th February 2013 was more than one year under normal pension age;
- (b) P’s age on the date P exercises the option in regulation 74 is at least one year under normal pension age; and
- (c) on P’s last day of reckonable service—
  - (i) P has accrued rights to benefits under the principal scheme; or
  - (ii) P would have such rights if P’s qualifying judicial service had also ended on that date.

### **Qualifying member’s right to a transfer payment**

73.—(1) On P’s last day of reckonable service, P acquires a right to the cash equivalent at the relevant date of any benefits which have accrued to, or in respect of P, under the relevant schemes.

(2) In this regulation “the relevant date” means the date of any application which P has made under regulation 79 and which has not been withdrawn.

### **Method of taking cash benefit**

74.—(1) P may only exercise the right in regulation 73(1) by exercising the option conferred by this paragraph (“the option”).

(2) The option is that of requiring the Treasury to use the cash equivalent in whichever of the following ways P chooses—

- (a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—
  - (i) whose trustees or managers are able and willing to accept the transfer; and
  - (ii) which satisfies the requirements in regulation 75;
- (b) for acquiring rights allowed under the rules of a personal pension scheme—
  - (i) whose trustees or managers are able and willing to accept the transfer; and
  - (ii) which satisfies the requirements in regulation 75;
- (c) for purchasing one or more annuities satisfying the requirements in regulation 75 from one or more authorised insurers—
  - (i) chosen by P, and
  - (ii) willing to accept payment on P’s account from the Treasury;

- (d) for subscribing to other pension arrangements which satisfy the requirements in regulation 75.
- (3) P may exercise the option in different ways in relation to different portions of P's cash equivalent.
- (4) If P exercises the option P must do so in relation to the whole of P's cash equivalent.

### Requirements to be satisfied by schemes

75. The requirements to be satisfied by an occupational pension scheme, personal pension scheme, annuity or other pension arrangement referred to in regulation 74(2) are that the scheme, annuity or arrangement is—

- (a) a registered pension scheme, or
- (b) a pension arrangement that is a qualifying recognised overseas pensions scheme, for the purposes of Part 4 (pension schemes etc) of the Finance Act 2004.

### Calculation of cash equivalents

76.—(1) The cash equivalent of accrued benefits is to be calculated in accordance with the formula—

- (a)  $MLA \times (p \times PF + I \times L + w \times SF - (2 \times g78 + g88) \times GMP)$  where P is married or a civil partner at the date of leaving the relevant schemes; or
- (b)  $MLA \times (p \times PF + I \times L + (g78 + 2 \times g88) \times SF - (2 \times g78 + g88) \times GMP)$  where P is male and neither married nor a civil partner at the date of leaving the relevant schemes;
- (c)  $MLA \times (p \times PF + I \times L + g88 \times SF - (2 \times g78 + g88) \times GMP)$  where P is female and neither married nor a civil partner at the date of leaving the relevant schemes.

(2) For the purpose of the calculations in paragraph (1)—

- (a) p is the annual rate of the pension to which P would be entitled under these Regulations;
- (b) PF is the pension factor set out in Table 3 applicable to P's age last birthday as at the relevant date;
- (c) I is the accrued lump sum under the relevant schemes of P (less any deductions in respect of unpaid contributions payable under Part 9 of these Regulations, or any other sum payable under these Regulations);
- (d) L is the lump sum factor set out in Table 3 applicable to P's age last birthday as at the relevant date;
- (e) w is the annual rate of the surviving adult's pension under the relevant schemes;
- (f) SF is the spouse's or civil partner's factor applicable to P's age last birthday as at the relevant date set out under the heading—
- (i) WM in Table 3 where P is married or a civil partner at the date of leaving the relevant schemes;
- (ii) GSM in Table 3 where P is male and neither married nor a civil partner at the date of leaving the relevant schemes;
- (iii) GSF in Table 3 where P is female and neither married nor a civil partner at the date of leaving the relevant schemes;
- (g) g78 is the guaranteed minimum pension per annum accrued prior to 6th April 1988, together with any increases under section 148 of the Social Security Administration Act 1992 or section 130 of the Social Security Administration (Northern Ireland) Act 1992 in the period between leaving the relevant scheme and the relevant date;
- (h) g88 is the guaranteed minimum pension per annum accrued on or after 6th April 1988, together with any increases under section 148 of the Social Security Administration Act

1992 or section 130 of the Social Security Administration (Northern Ireland) Act 1992 in the period between leaving the relevant scheme and the relevant date;

- (i) GMP is the guaranteed minimum pension factor applicable to P's age last birthday as at the relevant date set out in the column under the heading—
  - (i) GM in Table 5 where P is male; and
  - (ii) GF in Table 5 where P is female.

### Calculation of market level adjustment

77.—(1) For the purposes of regulations 76 and 87 the market level adjustment figure (“MLA”) is to be calculated in accordance with the formula—

$$A \times B + (1 - A) \times C$$

rounded up to four decimal places, where—

- (a) A is the decimal part of the yield on index-linked stocks;
- (b) B is the adjustment factor set out in Table 1 in the row relating to P's age last birthday as at the relevant date and in the column headed by the full percentage figure immediately above the percentage figure for the yield on index-linked stocks; and
- (c) C is the adjustment factor set out in Table 1 which is in the row relating to P's age last birthday as at the relevant date and which appears in the column headed by the full percentage figure which is equal to or immediately below the percentage figure for the yield on index linked stocks.

(2) In this regulation “the yield on index-linked stocks” means the real yield to redemption on the Financial Times-Actuaries Index of index-linked Government securities with 5 or more years to redemption assuming 5% inflation, in respect of the first working day of the month in which the relevant date falls as published in the Financial Times.

### Time within which option must be exercised

78.—(1) P may only exercise the option on or before the last option date.

(2) The last option date is the later of—

- (a) the date which falls one year before the date on which P reaches normal pension age; or
- (b) the end of the period of 6 months beginning with the day after P's last day of reckonable service.

(3) P loses the right to any cash equivalent under this Chapter if—

- (a) P's pension under these Regulations becomes payable before P reaches normal pension age; or
- (b) P fails to exercise the option on or before the last option date.

### Option to be exercised in writing

79.—(1) P may only exercise the option by making an application in writing to the Treasury.

(2) If the Treasury receive an application under this regulation, the Treasury must do what is needed to comply with the choice made by P in exercising the option—

- (a) within 12 months of the date on which it receives P's application, or
- (b) by the date on which P attains normal pension age,

whichever is earlier.

### Options: supplementary

80.—(1) In any case where—

- (a) P has exercised the option, and
- (b) the Treasury has done what is needed to comply with the choice made by P in exercising the option,

the Treasury is discharged from any obligation to provide benefits to which the cash equivalent related.

### **Cancellation of exercise of option**

**81.**—(1) P may cancel the exercise of the option by giving the Treasury notice in writing that P no longer wishes it to be exercised.

(2) A notice given under paragraph (1) does not have effect if it is given to the Treasury at a time when, in order to comply with the choice made by P in exercising the option, the Treasury have entered into an agreement with a third party to use the whole or part of P’s cash equivalent in a way specified in regulation 74(2) above.

(3) The cancellation of the exercise of an option by P under paragraph (1) does not affect P’s right to make another application under regulation 79.

## **CHAPTER 3**

### **TRANSFERS IN**

### **Application of Chapter and interpretation**

**82.**—(1) This Chapter applies in relation to a member (“P”) if—

- (a) P has accrued rights under a registered pension scheme, and
- (b) P’s age on 6th February 2013 was more than one year under normal pension age.

(2) In this Chapter—

“the relevant date” means the date on which a transfer payment is received by the administrators;

“transfer payment” has the meaning given by regulation 83.

### **Application to accept payment into scheme**

**83.**—(1) P may ask the administrators to accept a payment into the principal scheme (referred to in this Chapter as a transfer payment) representing the cash equivalent of P’s accrued rights in any registered pension scheme.

(2) The administrators may refuse to accept the payment or any part of it.

(3) A request under paragraph (1) must be made—

- (a) in writing;
- (b) before P has reached normal pension age; and
- (c) not less than one year before P becomes entitled to a pension under these Regulations on retirement from P’s reckonable service.

### **Cancellation of request**

**84.**—(1) P may, by notice in writing given to the administrators, cancel a request made under regulation 82 at any time before it has been accepted.

(2) If P cancels a request, P may make another.

### **Manner of accepting payment**

**85.** Payments into the principal scheme must be made directly from the trustees or administrators of the registered pension scheme and in no other manner.

## Benefits to be provided

86.—(1) The benefits to be provided to P in respect of a transfer payment into the principal scheme are—

- (a) an annual pension payable to P from the same date and at the same intervals as P's pension under the principal scheme; and
- (b) derivative benefits payable at the same intervals and to the same persons as the benefits under the principal scheme are payable.

(2) In this Part, “derivative benefit” means—

- (a) a lump sum under regulation 25,
- (b) a surviving adult's pension under regulation 36, or
- (c) a children's pension under regulation 42.

## Calculation of benefits in respect of transfer payments

87.—(1) This regulation applies for the purposes of calculating the annual pension and derivative benefits to be provided to P to reflect a transfer payment into the principal scheme.

(2) In this regulation—

- (a) the guaranteed minimum pension used in the calculations is that provided by the Department for Work and Pensions, or, in relation to Northern Ireland, the Department for Communities which corresponds to the application of revaluation orders under section 148 of the Social Security Administration Act 1992 or section 130 of the Social Security Administration (Northern Ireland) Act 1992;
- (b) the transfer payment is to include the amount of any limited revaluation premium (as defined in section 55 of the Pension Schemes Act 1993 and section 51 of the Pension Schemes (Northern Ireland) Act 1993) paid by a previous scheme (as those provisions had effect before they were repealed).

(3) The annual pension in respect of a transfer payment (“the pension scheme”) shall be calculated in accordance with the formula—

$$(a) \left( \frac{TP}{MLA} + (2 \times g78 + g88) \times GMP \right) \div (PF + 2.25 \times L + 0.5 \times SF1)$$

where P is married or a civil partner at the relevant date; or

$$(b) \left( \frac{TP}{MLA} - (g78 + 2 \times g88) \times SF2 + (2 \times g78 + g88) \times GMP \right) \div (PF + 2.25 \times L + 0.5 \times SF1)$$

where P is male and neither married nor a civil partner at the relevant date; or

$$(c) \left( \frac{TP}{MLA} - g88 \times SF2 + (2 \times g78 + g88) \times GMP \right) \div (PF + 2.25 \times L + 0.5 \times SF1)$$

where P is female and neither married nor a civil partner at the relevant date.

(4) For the purpose of the calculations in paragraph (3)—

- (a) TP is the transfer payment from the scheme from which P is transferring;
- (b) PF is the pension factor set out in Table 5 applicable to P's age last birthday as at the relevant date;
- (c) L is the lump sum factor set out in Table 5 applicable to P's age last birthday as at the relevant date;
- (d) SF1 is the spouse's or civil partner's factor applicable to P's age last birthday as at the relevant date set out in the column under the heading—
  - (i) WM in Table 5 where P is married or a civil partner at the relevant date;
  - (ii) WS in Table 5 where P is neither married nor a civil partner at the relevant date;



- (e) SF2 is the spouse's or civil partner's factor applicable to P's age last birthday as at the relevant date set out in the column under the heading—
  - (i) GSM in Table 5 where P is male and neither married nor a civil partner at the relevant date;
  - (ii) GSF in Table 5 where P is female and neither married nor a civil partner at the relevant date;
- (f) g78 is the guaranteed minimum pension per annum accrued prior to 6th April 1988;
- (g) g88 is the guaranteed minimum pension per annum accrued on or after 6th April 1988;
- (h) GMP is the guaranteed minimum pension factor applicable to P's age last birthday as at the relevant date set out in the column under the heading—
  - (i) GM in Table 5 where P is male; and
  - (ii) GF in Table 5 where P is female.

(5) The lump sum payable under regulation 25 in respect of the transfer payment is  $2.25 \times$  the pension credit.

(6) The surviving adult's pension payable under regulation 36 in respect of the transfer payment is  $0.5 \times$  the pension credit.

(7) The children's pension payable under regulation 42 in respect of the transfer payment bears the same proportion to the pension credit as the rate of the children's pension payable under that regulation under the principal scheme bears to the rate of the P's pension under that scheme as set out in regulation 43.

### Refusal to accept

**88.** Where the pension credit available to be transferred into the scheme is less than twice the aggregate accrued annual rate of the guaranteed minimum pension (if any) of the member at the relevant date, the transfer payment must be rejected by the administrators.

## PART 12

### FEE-PAID JUDICIAL ADDITIONAL VOLUNTARY CONTRIBUTION SCHEME

#### Interpretation

**89.** In this Part—

“the 2004 Act” means the Finance Act 2004(a);

“JAVC member” means a member of the principal scheme who has given a notice under regulation 90(3);

“authorised provider” has the same meaning as in section 1(9) of the Superannuation Act 1972(b);

“historic contributions” mean contributions which a JAVC member would have been able to make to the JAVC scheme during the period beginning with 7th April 2000 and ending on the day before the commencement day if the JAVC scheme had been established on 7th April 2000;

“judicial pension scheme” means the scheme constituted by the Judicial Pensions Regulations 2015(c), or any scheme constituted by the 1995 Regulations;

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(a) 2004 c. 12

(b) 1972 c. 11; section 1(9) was amended by S.I. 2001/3649 Part. 3, article 106(3) and the Financial Services Act 2012 (c. 21), Schedule 18(2), paragraph 35.

(c) S.I. 2015/182.

“qualifying recognised overseas pension scheme” has the meaning given in section 169(2) of the 2004 Act<sup>(a)</sup>;

“scheme contributions” means the total of payments made under regulation 93(2).

### **Membership**

**90.**—(1) Membership of the JAVC scheme is open to active members of the principal scheme, unless paragraph (2) applies.

(2) This paragraph applies to any member who is making contributions to another registered pension scheme or a qualifying recognised overseas pension scheme.

(3) A person to whom membership of the JAVC scheme is open may become a member of the JAVC scheme by giving notice in writing to the administrators within 12 months of the commencement day (or by such later date as the administrators may agree).

(4) A notice under paragraph (3) must include such information as the administrators may, for the purposes of carrying out functions under the JAVC scheme, require.

### **Further information**

**91.**—(1) A JAVC member must, if requested by the administrators, provide or authorise to be provided such information as is requested by the administrators—

- (a) relating to the JAVC member’s medical history and state of health; or
- (b) about any benefits which the JAVC member may have which are derived from a registered pension scheme (including information about any such benefits which have been transferred to another scheme, whether or not in the United Kingdom).

(2) The administrators may only request information under paragraph (1)(b) which relates to benefits accrued other than through contributions to a judicial pension scheme.

### **Disclosure of information**

**92.** The appropriate Minister may disclose any information obtained under regulation 90 or 91 to—

- (a) the Commissioners for Her Majesty’s Revenue and Customs (or to the officers of the Commissioners for Her Majesty’s Revenue and Customs); or
- (b) any authorised provider, or the servants or agents of that provider, who is, or may be, concerned in the investment of the funds or the provision of benefits under the JAVC scheme.

### **Contributions: JAVC members**

**93.**—(1) A JAVC member (“A”) must inform the administrators by notice in writing as to the level and form of contributions that the JAVC member wishes to make.

(2) A may—

- (a) make contributions to the JAVC scheme by way of regular payments of the same amount;
- (b) if paragraph (4) applies, make historic contributions to the JAVC scheme by way of lump sum payments of the same or a different amount; or
- (c) make a combination of contributions under paragraph (a) and historic contributions.

(3) Contributions made under paragraph (2)(a) must be made by way of a deduction from fees which A has received in A’s capacity as a holder of a fee-paid judicial office (“A’s fees”).

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(a) Amended by the Finance Act 2013 (c. 29) Part 1, Chapter 4, section 53(5)(a).

(4) A may make historic contributions to the JAVC scheme by way of lump sum payments provided that—

- (a) the lump sum payments are made within 3 years of the commencement day (and no more than one lump sum payment may be made in each year), and
- (b) the total historic contributions made by A do not exceed the maximum amount permitted under regulation 94.

(5) A notice under paragraph (1) must specify—

- (a) in the case of a regular payment, the amount of each regular payment or, if expressed as a percentage of A's fees, that percentage;
- (b) in the case of a lump sum, the amount of the historic contribution.

(6) A's scheme contributions in any tax year must not exceed that amount which, when aggregated with all contributions by A to any other registered pension scheme in the same tax year, bring A's total contributions for that tax year up to the maximum amount of relief as calculated under section 190 of the 2004 Act<sup>(a)</sup>.

(7) Contributions made by A in accordance with regulation 3 of the Judicial Pensions (Contributions) Regulations 2012 are not to be taken into account for the purposes of calculating the total contributions in paragraph (6).

### Historic contributions

**94.**—(1) The historic contributions made by a JAVC member ("M") may not exceed that amount which is equal to the sum of the amounts determined for each tax year during the period from 6th April 2006 to the commencement day, in accordance with the following formula—

$$\left( \frac{15 \times FI}{100} \right) - C$$

where—

- (a) FI is M's annual fee income for the tax year in question which is subject to income tax, or if lower, the permitted maximum for that tax year, and
- (b) C is the sum of any contributions made by M to any other judicial pension scheme in that tax year, excluding any contributions made by the member in accordance with regulation 3 of the Judicial Pensions (Contributions) Regulations 2012.

(2) For the purposes of paragraph (1)(a), M's "annual fee income" is the total of the fees paid to M in respect of qualifying fee-paid days in the tax year concerned.

### Transfers in

**95.**—(1) A JAVC member may, at any time before the JAVC member reaches the age of 55, make, or arrange for the making of, a payment representing the cash equivalent of the JAVC member's accrued rights in any other registered pension scheme or a qualifying recognised overseas pension scheme ("the transferring scheme") to be invested in the JAVC scheme.

(2) Such a payment may be accepted by the administrators only if the administrator of the transferring scheme certifies that the payment is a recognised transfer as defined in section 169 of the 2004 Act<sup>(b)</sup>.

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(a) Part of section 190 was repealed by the Finance Act 2013 (c. 29)

(b) Amended by the Finance Act 2005 (c. 7), Schedule 10 paragraph 36, 2011 (c. 11), Schedule 16(2), paragraph 66(a) and (b), 2013 (c. 29), Part 1 Chapter 4, section 53(3), (4), (5), (6) and (7), 2014 (c. 26), Schedule 1(7), paragraph 92, Schedule 7, paragraph 23(a), and the Taxation of Pensions Act 2014 (c. 30), Schedule 1(1), paragraph 8, Schedule 1(7), paragraph 92 and Schedule 2(1), paragraph 4.

## Investment of funds

96.—(1) The administrators must, as soon as reasonably practicable, invest any contributions made by a JAVC member under regulations 93 and any transfer payment accepted under regulation 95 with an authorised provider for the purpose of providing benefits.

(2) Where the authorised provider offers more than one type of investment the JAVC member may elect that those sums be paid into particular types of investments.

(3) The administrators are not required to give effect to an election made under paragraph (2) if it is not reasonably practicable to do so.

(4) The investments made in respect of a JAVC member with the authorised provider may be realised and reinvested with the authorised provider at the request of the JAVC member, in such amounts, at such times, and in such manner as may be specified by the administrators with the approval of the authorised provider.

(5) The administrators may require an authorised provider to surrender the whole or part of the value of the sums referred to in paragraph (1).

(6) The administrators must re-invest a sum surrendered under paragraph (5) in accordance with paragraph (1).

## Benefits which may be provided

97.—(1) A JAVC member is entitled to the benefits attributable—

- (a) to the contributions paid by the member, and
- (b) to any payment accepted under regulation 95.

(2) The only benefits permitted in respect of the contributions paid by the JAVC member and any payment accepted under regulation 95 are those benefits which, in relation to the principal scheme, are authorised by or under Chapter 3 of Part 4 of the Finance Act 2004.

(3) Benefits may be paid—

- (a) on or after the JAVC member reaches the age of 55, and
- (b) after the JAVC member has given notice in writing to the administrators of which type of benefit falling within paragraph (2) the JAVC member would prefer.

## Death

98.—(1) Where a JAVC member dies, any amounts payable to that JAVC member under the JAVC scheme must be paid to the person (if any) nominated by that JAVC member for the purposes of this paragraph by notice in writing to the administrators.

(2) If no such nomination is made, the administrators must pay the amount payable to the personal representatives of the JAVC member.

## Transfers out

99.—(1) A JAVC member may cease to be a member of the JAVC scheme at any time before benefits are provided under regulation 97.

(2) Subject to Chapter 1 of Part 4ZA of the Pension Schemes Act 1993(a), or Chapter 1 of Part 4ZA of the Pension Schemes (Northern Ireland) Act 1993(b), the JAVC member must, on leaving the JAVC scheme, request the administrators (in such manner as may be specified by the administrators) to take one or more of the following actions—

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- (a) 1993 c. 48; Part 4, Chapters 4 and 5 were renumbered as Part 4ZA Chapters 1 and 2 by paragraph 50 of Schedule 4 to the Pension Schemes Act 2015 (c. 8), and amended by S.I. 1996/1847, 2001/3649, 2015/182, the Pension Schemes Act 1993 (c. 48), the Pensions Act 2004 (c. 34), the Pensions Act 2014 (c. 19).
  - (b) 1993 c. 49; Part 4 Chapters 4 and 5 were renumbered as Part 4ZA Chapters 1 and 2 by the Pension Schemes Act 2015 (c. 8), and section 91(2)(c) was amended by article 133 of S.I. 2001/3649.

- (a) to transfer all or part of the JAVC member's accrued benefits to any other registered pension scheme or a qualifying recognised overseas pension scheme in which the person may be participating (provided that the other pension scheme is willing and able to accept such a transfer value);
- (b) to use all or part of the value of the JAVC member's accrued benefits to purchase one or more insurance policies of the type described in section 95(2)(c) of the Pension Schemes Act 1993<sup>(a)</sup> or section 91(2)(c) of the Pension Schemes (Northern Ireland) Act 1993;
- (c) to pay the JAVC member the value of the JAVC member's accrued benefits if the JAVC member's reckonable service, together with any service whilst a member of another registered pension scheme or a qualifying recognised overseas pension scheme from which a transfer value has been paid to the JAVC scheme is less than 2 years;
- (d) to use all or part of the JAVC member's accrued benefits in any other way which is not an unauthorised payment within the meaning of section 160(5) of the 2004 Act<sup>(b)</sup>.

### **Tax**

**100.** Whenever the appropriate Minister is liable for any tax in respect of any payment made to any person under this Part, the administrators must deduct sums equal in total to such tax from any payments made to that person.

### **Administrative expenses**

**101.** Any administrative expenses incurred by an authorised provider by virtue of acting as such under this Part may be defrayed, to the extent agreed by the administrators, out of the sums paid in respect of the JAVC member under regulations 93 and 95.

## **PART 13**

### **THE FEE-PAID JUDICIAL ADDED YEARS SCHEME**

#### **CHAPTER 1**

#### **INTRODUCTION**

### **Interpretation**

**102.** In this Part—

“active FPJAYS member” means an FPJAYS member who is an active member of the principal scheme;

“assumed contribution commencement date” has the meaning given in regulation 104(1);

“assumed retirement age” has the meaning given in regulation 104(3);

“assumed retirement date” means the date on which an active FPJAYS member reaches the assumed retirement age;

“equivalent value of any retained benefits” means a period of time expressed in years and any fraction of a year determined by the scheme actuary to represent the value of any retained benefits;

“FPJAYS member” means a member of the FPJAYS;

“judicial pension scheme” means the scheme constituted by the Judicial Pensions Regulations 2015<sup>(a)</sup>, or any scheme constituted by the 1995 Regulations;

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(a) Part 4, Chapters 4 and 5 of the 1993 (c.48) were renumbered as Part 4ZA Chapters 1 and 2 by the Pension Schemes Act 2015 (c. 8), and section 95(2)(c) was amended by article 121 of S.I. 2001/3649.

(b) Sections 160(2) and (4) relevant to this definition were amended by the Finance Act 2006 (c. 25) and the Finance Act 2007 (c. 11)

“periodic contributions start date” has the meaning given in regulation 109(2);

“retained benefits” are benefits determined by the administrators as satisfying the definition of that expression for the purposes of the 1995 Regulations as those Regulations were first in force;

“retired FPJAYS member” means an FPJAYS member who has retired from fee-paid judicial office before the commencement day and who was not an opted-out member of the principal scheme;

“Table 1” means the table in Schedule 1 to the 1995 Regulations.

## **Membership**

**103.**—(1) Membership of the FPJAYS is open to active and retired members of the principal scheme (but not to opted-out members) who held fee-paid judicial office before 6th April 2006 and who did not contribute to another registered pension scheme at any time before the commencement day.

(2) A person to whom membership of the FPJAYS is open may become an FPJAYS member by giving notice in writing to the administrators within 12 months of the commencement day (or by such later date as the administrators may agree).

(3) Subject to the provisions of this Part, an FPJAYS member has the right to purchase pension credits in the form of added years.

## **Assumed dates etc**

**104.**—(1) For the purposes of this Part, an FPJAYS member must nominate a date (“the assumed contribution commencement date”) from which contributions are assumed to have been payable by the member in relation to those credits.

(2) The date nominated under paragraph (1) must be no earlier than the date on which the FPJAYS member first held fee-paid judicial office and in any event must be between 7th April 2000 and 5th April 2006.

(3) For the purposes of this Part, an active FPJAYS member must nominate an age between the years of 60 and the member’s compulsory retirement age at which that member intends to retire (“the assumed retirement age”).

## **CHAPTER 2**

### **RETIRED FPJAYS MEMBERS**

#### **Purchase of added years by retired FPJAYS members**

**105.**—(1) A notice given under regulation 103(2) by a retired FPJAYS member (“R”) must specify—

- (a) R’s assumed contribution commencement date;
- (b) the date R retired; and
- (c) the number of added years R would like to purchase.

(2) The maximum number of added years that R may purchase under the FPJAYS is to be determined in accordance with the formula  $20 - (A + B)$  where—

- (a) A is the aggregate length of R’s reckonable service in fee-paid judicial offices held by R; and
- (b) B is the equivalent value of any retained benefits to which R was entitled at the assumed contribution commencement date.

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(a) S.I. 2015/182.

### Contributions by retired FPJAYS members

**106.**—(1) The contribution to the FPJAYS for a retired FPJAYS member (“R”) must be made by lump sum payment to the administrators, within 12 months of the date R served notice under regulation 103(2).

(2) The total contribution to the FPJAYS which R must make is to be calculated in accordance with this regulation, subject to the limit on the level of contributions in regulation 107.

(3) Where on the date R retired, R had a spouse, civil partner or qualifying child, the contribution is to be determined in accordance with the formula—

$$\left( \left( \frac{A \div 100}{B} \right) \times C \right) \times D$$

where—

- (a) A is the relevant benefits figure (see paragraph (4));
- (b) B is the period expressed in years and any fraction of a year beginning with the assumed contribution commencement date and ending on the date R retired;
- (c) C is the total of the fees paid to R in respect of qualifying fee-paid days in the period referred to in B;
- (d) D is the number of added years R would like to purchase.

(4) The relevant benefits figure is determined as follows—

#### *Step 1*

Use the salary which would have been R’s appropriate annual salary on the assumed contribution commencement date if R had retired on that date to determine which is the applicable salary group for R specified in Table 1.

#### *Step 2*

From the part of Table 1 for R’s salary group, determine which entry in column 1 describes the period referred to in B (ignoring the heading of the column).

#### *Step 3*

Add together the personal benefits and family benefits percentage figures corresponding to the entry in column 1 referred to in step 2.

(5) Where R did not have a spouse, civil partner or qualifying child at any point in the period beginning with R’s assumed contribution commencement date and ending on the date R retired, the contribution is to be determined in accordance with paragraphs (3) and (4) as if Step 3 were—“Find the personal benefits figure corresponding to the entry in column 1 referred to in step 2”.

(6) Where R did not have a spouse, civil partner or qualifying child on the date R retired, but did at some point in the period beginning with the assumed contribution commencement date and ending on the date R retired, the contribution due is to be determined in accordance with the formula  $D + E$  where—

- (a) D is the contribution for the period beginning with R’s assumed contribution commencement date and ending on the date R last had a spouse, civil partner or qualifying child, determined in accordance with paragraphs (3) and (4);
- (b) E is the contribution for the period beginning with the day after the date R last had a spouse, civil partner or qualifying child and ending on the date R retired, determined in accordance with paragraph (5).

### Retired FPJAYS members: maximum contributions

**107.**—(1) The total contributions made by a retired FPJAYS member (“R”) under regulation 106 may not exceed the amount which is equal to the sum of the amounts determined for each tax year during the period beginning with the date when the R first held fee-paid judicial office (or

from 7th April 2000 if later) and ending on the date R retired in accordance with the following formula—

$$\left( \frac{15 \times FI}{100} \right) - C$$

where—

- (a) FI is R's annual fee income for the tax year in question which is subject to income tax, or if lower, the permitted maximum for that tax year, and
- (b) C is the sum of any contributions made by R to any other judicial pension scheme in that tax year, excluding any contributions made by the member in accordance with regulation 3 of the Judicial Pensions (Contributions) Regulations 2012.

(2) For the purposes of paragraph (1)(a), R's "annual fee income" is the total of the fees paid to R in respect of qualifying fee-paid days in the tax year concerned.

### **Valuation of benefits for retired FPJAYS members**

**108.**—(1) Any pension credits in the form of added years that have been purchased by a retired FPJAYS member are to be treated for the purposes of paragraph (2) as if they were periods of reckonable service.

(2) If the addition of the years of reckonable service mentioned in paragraph (1) would, were they to be years of reckonable service accrued other than by the purchase of pension credits, lead to the payment of additional payments under the principal scheme, then benefits of an equivalent nature to those that would have been so payable under that scheme are to be paid under the FPJAYS instead.

## **CHAPTER 3**

### **ACTIVE FPJAYS MEMBERS**

#### **Purchase of added years by active FPJAYS members**

**109.**—(1) A notice given by an active FPJAYS member ("M") under regulation 103(2) must specify—

- (a) M's assumed contribution commencement date;
- (b) M's assumed retirement age; and
- (c) the number of added years M intends to purchase.

(2) The date on which M is to start payment of periodic contributions ("the periodic contributions start date") must—

- (a) be within 12 months of the date on which M gives the notice, and
- (b) be agreed between M and the administrators.

(3) The maximum number of added years that M may purchase under the FPJAYS is to be determined in accordance with the formula  $20 - (A + B)$  where—

- (a) A is the aggregate length of reckonable service in fee-paid judicial offices that M would have at M's assumed retirement date; and
- (b) B is the equivalent value of any retained benefits to which M was entitled at the assumed contribution commencement date.

#### **Contributions by active FPJAYS members**

**110.**—(1) The cost for an active FPJAYS member ("M") of purchasing each added year is to be determined in accordance with the formula—



$$\frac{A}{100} \times B$$

where—

- (a) A is the relevant benefits figure (see paragraph (2));
- (b) B is the salary which would have been R's appropriate annual salary on the assumed contribution commencement date if R had retired on that date.

(2) The relevant benefits figure is calculated as follows—

*Step 1*

Use the salary that would have been M's appropriate annual salary on the assumed contribution commencement date, if M had retired on that date, to determine which is the applicable salary group for M specified in Table 1;

*Step 2*

In the part of Table 1 for M's salary group, determine which entry in column 1 describes the period expressed in years and any fraction of a year beginning with the assumed contribution commencement date and ending on M's assumed retirement date (ignoring the heading of that column);

*Step 3*

Add together the personal benefits and family benefits percentage figures which correspond to the entry in column 1 referred to in step 2.

(3) M may make contributions to purchase added years by way of—

- (a) up to three lump sum payments, made within three years beginning with the date on which M gave notice under regulation 103(2) (but no more than one lump sum payment may be made in each year), in respect of any contributions relating to the period beginning with the assumed contribution commencement date and ending on the day before the periodic contributions start date; and
- (b) periodic deductions from fees, which commence on the periodic contributions start date, in relation to contributions relating to the period beginning with the periodic contributions start date and ending on M's assumed retirement date.

(4) The total amount of the lump sum payments M may make under paragraph (3)(a) is the smaller of—

- (a) the amount of contributions determined in accordance with paragraph (5); and
- (b) the amount determined in accordance with the formula—

$$\left( \frac{C \times D}{E} \right) \times F$$

where—

- (i) C is the cost of one added year, determined in accordance with paragraph (1),
- (ii) D is the number of added years which M has notified to the administrators under regulation 109(1)(c) that M intends to purchase,
- (iii) E is the period beginning with the assumed contribution commencement date and ending on M's assumed retirement date, expressed in years and any fraction of a year,
- (iv) F is the period beginning with the assumed contribution commencement date and ending on the day before the periodic contributions start date, expressed in years and any fraction of a year.

(5) The amount of contributions referred to in paragraph (4)(a) is the amount equal to the sum of the amounts determined for each tax year during the period beginning with the date when M first held fee-paid judicial office (or from 7th April 2000 if later) and ending on the day before the periodic contributions start date in accordance with the following formula—

$$\left( \frac{15 \times FI}{100} \right) - C$$

where—

- (a) FI is M's annual fee income for the tax year in question which is subject to income tax, or if lower, the permitted maximum for that tax year, and
- (b) C is the sum of any contributions made by M to any other judicial pension scheme in that tax year, excluding any contributions made by the member in accordance with regulation 3 of the Judicial Pensions (Contributions) Regulations 2012.

(6) M's "annual fee income" for the purposes of paragraph (5)(a), is the total of the fees paid to M in respect of qualifying fee-paid days in the tax year concerned.

(7) The maximum aggregate amount of periodic contributions M may make under paragraph (3)(b) is calculated in accordance with the formula—

$$\left( \left( \frac{C \times D}{E} \right) \times F \right) + X$$

where—

- (a) C is the cost of one added year, determined in accordance with paragraph (1);
  - (b) D is the number of added years which M has specified M intends to purchase;
  - (c) E is the period beginning with the assumed contribution commencement date and ending on M's assumed retirement date, expressed in years and any fraction of a year;
  - (d) F is the period beginning with the periodic contributions start date and ending on M's assumed retirement date, expressed in years and any fraction of a year;
  - (e) X is the difference between the maximum amount which M could have contributed under paragraph (3)(a) and the amount M actually contributed under that provision.
- (8) The requirement to make periodic contributions to the FPJAYS continues until M—
- (a) reaches the assumed retirement age;
  - (b) retires;
  - (c) notifies the administrators that M wishes the contributions to cease; or
  - (d) dies.

### Valuation of benefits for active FPJAYS members

**111.**—(1) If an active FPJAYS member ("M") retires or otherwise leaves the principal scheme on or after reaching the assumed retirement age the scheme actuary must—

- (a) calculate the amount of added years that M has purchased, by dividing the total contributions made by M under regulation 110(3) by the cost of an added year as determined under regulation 110(1); and
- (b) notify the administrators and M of that amount.

(2) Any pension credits in the form of added years that have been purchased by or credited to M are to be treated for the purposes of paragraph (3) as if they were years of reckonable service.

(3) If the addition of the years of reckonable service mentioned in paragraph (2) would, were they to be years of reckonable service accrued other than by the purchase or credit of pension credits, lead to the payment of additional payments under the principal scheme, then benefits of an equivalent nature to those that would have been so payable under that scheme are to be paid under the FPJAYS instead.

(4) If M retires on the ground of ill-health or dies before the assumed retirement age, M must, for the purposes of calculating the benefits payable under paragraph (3), be credited with pension credits equivalent to the number of added years that M intended to purchase notified to the administrators by M under regulation 109(1)(c).

(5) Paragraph (4) does not apply during any period where M has ceased making periodic contributions.

(6) If M ceases to make periodic contributions M may apply to the administrators to make periodic contributions again but any application to start to make periodic contributions again—

- (a) may not be accepted if M has reached the assumed retirement age;
- (b) may not result in M making contributions at a rate that is higher than the rate at which M was contributing before M ceased to pay periodic contributions; and
- (c) must be accompanied by a declaration signed by M stating that M has no reason to believe that health may prevent continuation of service until the assumed retirement age.

(7) If M's application under paragraph (6) is accepted by the administrators, this regulation and regulations 110 (contributions by active members) and 112 (refund of contributions) apply separately to those contributions and the value of benefits purchased with them.

(8) If M who has ceased making periodic contributions and whose application to make contributions again is accepted—

- (a) retires on the ground of ill-health or dies within 12 months of the date when M started to pay periodic contributions again; or
- (b) dies or retires on the ground of ill-health because of an incapacity which M became subject to within 12 months of that date,

paragraph (4) does not apply unless the administrators are satisfied that the declaration given in accordance with paragraph (6)(c) was made in good faith.

(9) If M ceases making periodic contributions before reaching assumed retirement age for reasons other than death or retirement on the ground of ill-health—

- (a) then the scheme actuary must—
  - (i) calculate the amount of added years that M has purchased by the date of cessation, by dividing the total contributions made by M under regulation 110(3) up to the date of cessation by the cost of an added year as determined under regulation 110(1),
  - (ii) notify the administrators and M of that amount; and
- (b) at the date of cessation M must be credited with pension credits equivalent to the number of added years M has purchased, as calculated under sub-paragraph (a).

(10) For the purposes of this regulation, parts of added years purchased by M must be valued on a pro-rata basis.

### **Refund of contributions**

**112.**—(1) If an active FPJAYS member (“M”) who is paying periodic contributions under the FPJAYS is neither married nor a civil partner and has no qualifying children at the time M retires, dies or otherwise leaves the principal scheme, M, or M's estate, is entitled to a refund in accordance with this regulation.

(2) Where paragraph (1) applies, the amount to be refunded must be determined by applying the percentage figure determined in accordance with the formula  $\frac{A \div 100}{B}$  to the salary (“the relevant salary”) that would have been M's appropriate annual salary on the date M ceased to pay periodic contributions if M had retired on that date, where—

- (a) A is the relevant family benefits percentage (see paragraph (3)); and
- (b) B is the period beginning with the day after the date M last ceased to have a spouse or a civil partner or qualifying child and ending on the date M ceased to make contributions, expressed in years and any fraction of a year.

(3) The relevant family benefits percentage is determined as follows—

*Step 1*

Use the relevant salary to determine which is the applicable salary group for M specified in Table 1.

*Step 2*

In the part of Table 1 for M's salary group, determine which entry in column 1 describes the period mentioned in paragraph (2)(b) (ignoring the heading of that column).

*Step 3*

Find the family benefits percentage figure which corresponds to the entry in column 1 referred to in step 2.

(4) If M's total contributions to the FPJAYS exceed the smaller of—

- (a) the amount necessary to purchase the number of added years notified to the administrators by the member under regulation 109(1)(c); and
- (b) the amount necessary to purchase the maximum number of added years permissible under regulation 109(3),

M is entitled to a refund of the excess contributions.

(5) Where a refund is payable under this regulation, it must be paid together with compound interest at the rate announced annually in relation to the Principal Civil Service Pension Scheme.

## CHAPTER 4

### GENERAL

#### **Limit on children's pension benefits**

**113.** Any benefits that are paid under the FPJAYS in the form of a children's pension cease to be payable on the date that the recipient attains the age of 23.

#### **Reduction of benefits**

**114.—**(1) This regulation applies where the administrators of the FPJAYS pay the whole or any part of the lifetime allowance charge arising on a benefit crystallisation event relating to the FPJAYS in relation to a FPJAYS member.

(2) The pensions or other benefits payable under this Part to or in respect of the FPJAYS member may (notwithstanding any other provision of these Regulations) be reduced by such amount as, in accordance with normal actuarial practice, reflects the amount of the payments made.

## PART 14

### THE FEE-PAID JUDICIAL ADDED SURVIVING ADULT'S PENSION SCHEME

#### CHAPTER 1

#### INTRODUCTION

#### **Interpretation**

**115.** In this Part—

“active JASAPS member” means a JASAPS member who is an active member of the principal scheme;

“added surviving adult's pension” has the meaning given in regulation 116(3);

“administrators” means the administrators of the principal scheme;

“assumed contribution commencement date” has the meaning given in regulation 117(1);  
 “assumed retirement age” has the meaning given in regulation 117(3);  
 “assumed retirement date” means the date on which an active JASAPS member reaches the assumed retirement age;  
 “JASAPS member” means a member of the JASAPS;  
 “periodic contribution start date” has the meaning given in regulation 122(3);  
 “retired JASAPS member” means a JASAPS member who has retired from fee-paying judicial office before the commencement day;  
 “Table 2” means the table in Schedule 2 to the 1995 Regulations.

### **Membership**

**116.**—(1) Membership of the JASAPS is open to active and retired members of the principal scheme (but not to opted-out members) who held fee-paid judicial office before 6th April 2006 and who have a spouse or civil partner to whom benefits could be paid under this Part.

(2) A person to whom membership of the JASAPS is open may become a JASAPS member by giving notice in writing to the administrators within 12 months of the commencement day (or by such later date as the administrators may agree).

(3) Subject to the provisions of this Part, a JASAPS member has the right to purchase added units of surviving adult’s pension (“added surviving adult’s pension”).

### **Assumed dates etc**

**117.**—(1) For the purposes of this Part, a JASAPS member must nominate a date (“the assumed contribution commencement date”) from which contributions are assumed to have been payable in relation to added surviving adult’s pension.

(2) The date nominated under paragraph (1) must be no earlier than the date on which the JASAPS member first held fee-paid judicial office and in any event must be between 7th April 2000 and 5th April 2006.

(3) For the purposes of this Part, an active JASAPS member must nominate an age between the years of 60 and the member’s compulsory retirement age at which that member intends to retire (“the assumed retirement age”).

## **CHAPTER 2**

### **RETIRED JASAPS MEMBERS**

#### **Notice to purchase added surviving adult’s pension by retired JASAPS members**

**118.**—(1) A notice given under regulation 116(2) by a retired JASAPS member (“R”) must specify—

- (a) R’s assumed contribution commencement date;
- (b) the date R retired; and
- (c) the number of units of added surviving adult’s pension R would like to purchase.

(2) The maximum number of units of added surviving adult’s pension R may purchase is the amount determined by the administrators which, after added years under Part 13 are taken into account, would provide a pension under these Regulations equal to a sum calculated in accordance with the formula—

$$\frac{A \times Y}{45}$$

where—

- (a) A is the appropriate annual salary of the fee-paid judicial office held by R immediately before retirement; and
- (b) Y is R's reckonable service on the date R retired.

**Cost of added surviving adult's pension for retired JASAPS members**

**119.**—(1) If the date a retired JASAPS member ("R") retired fell on R's birthday, the contribution payable by R for each unit of £1,000 of added surviving adult's pension is to be determined in accordance with the formula  $A \times 12$  where A is determined as follows—

*Step 1*

In Table 2 treat—

- (i) the reference to the age last birthday at the date of commencement of contributions as a reference to R's age last birthday on the assumed contribution commencement date, and
- (ii) the reference to the assumed retirement age as a reference to R's age on the date R retired.

*Step 2*

Use Table 2 to work out A by reference to R's age last birthday at the assumed contribution commencement date and R's age on the date R retired.

(2) If R's retirement date did not fall on R's birthday, A is determined in accordance with the formula—

$$X + Z \left( \frac{Y - X}{12} \right)$$

where—

- (a) X is determined as follows—

*Step 1*

In Table 2 treat the reference to age last birthday at the date of commencement of contributions as a reference to R's age last birthday at the assumed contribution commencement date.

*Step 2*

In Table 2 treat the reference to the assumed retirement age as a reference to R's age on R's last birthday before R retired.

*Step 3*

Use Table 2 to work out X by reference to R's age last birthday at the assumed contributions commencement date and R's age last birthday before R retired; and

- (b) Y is determined as follows—

*Step 1*

In Table 2 treat the reference to age last birthday at the date of commencement of contributions as a reference to R's age last birthday at the assumed contribution commencement date,

*Step 2*

In Table 2 treat the reference to the assumed retirement age as a reference to R's age on R's next birthday after R's actual retirement date,

*Step 3*

Use Table 2 to work out Y by reference to R's age last birthday at the assumed contribution commencement date and R's age on R's next birthday after R's actual retirement date; and

(c) *Z* is the number of complete months between *R*'s last birthday before *R* retired and that date.

(3) The contribution payable by *R* for each part unit of added surviving adult's pension is to be the amount calculated in accordance with the preceding paragraphs multiplied by the appropriate decimal fraction.

### **Contributions by retired JASAPS members**

**120.**—(1) The maximum contribution that may be made to the JASAPS by a retired JASAPS member (“*R*”) is the smaller of—

(a) the amount determined in accordance with the formula—

$$N \times C$$

where—

- (i) *N* is the maximum number of units which *R* is entitled to purchase under regulation 118(2), and
  - (ii) *C* is the contribution payable by *R* for each unit of £1,000 of added surviving adult's pension under regulation 119(1).
- (b) the amount equal to the sum of the amounts determined for each tax year during the period beginning with the date on which *R* first held qualifying judicial office and ending on the day *R* retired in accordance with the following formula—

$$\left( \frac{15 \times FI}{100} \right) - C$$

where—

- (i) *FI* is *R*'s annual fee income for the tax year in question which is subject to income tax, or if lower, the permitted maximum for that tax year, and
- (ii) *C* is the sum of any contributions made by *R* to any other judicial pension scheme (including voluntary contributions schemes) in that tax year, excluding any contributions made by the member in accordance with regulation 3 of the Judicial Pensions (Contributions) Regulations 2012.

(2) For the purposes of paragraph (1)(b)(i), *R*'s “annual fee income” is the total of the fees paid to *R* in respect of qualifying fee-paid days in the tax year concerned.

(3) Contributions to the JASAPS for *R* must be made by lump sum payment made by *R* to the administrators within 12 months from the date *R* served notice under regulation 116(2).

### **Valuation of benefits for retired JASAPS members**

**121.**—(1) When a retired JASAPS member (“*R*”) who has purchased added surviving adult's pension dies, *R*'s surviving spouse or surviving civil partner is entitled to receive additional pension under the JASAPS.

(2) The annual amount of additional pension per unit is £1,000.

(3) Such additional pension is payable at the same time and intervals and in the same manner as the surviving adult's pension under the principal scheme.

(4) Part units of added surviving adult's pension purchased by *R* are to be valued on a pro-rata basis.

CHAPTER 3  
ACTIVE JASAPS MEMBERS

**Purchase of added surviving adult's pension by active JASAPS members**

**122.**—(1) A notice given under regulation 116(2) by an active JASAPS member (“M”) must specify—

- (a) M’s assumed contribution commencement date;
- (b) M’s assumed retirement age;
- (c) the number of units of added surviving adult’s pension which M intends to purchase.

(2) The maximum number of units which an active member may purchase in the JASAPS is the amount which the administrators determine would produce a pension equal to a sum calculated in accordance with the formula—

$$\frac{A \times Y}{45}$$

where—

- (a) A is the salary which would have been M’s appropriate annual salary on the assumed contribution commencement date if M had retired on that date; and
  - (b) Y is M’s reckonable service between M’s agreed commencement day and M’s assumed retirement age expressed in years and fractions of a year to four decimal places.
- (3) The date on which M is to start payment of periodic contributions (“the periodic contributions start date”) must—
- (a) be within 12 months of the date on which M gives the notice, and
  - (b) be agreed between M and the administrators.

**Cost of added surviving adult's pension by active JASAPS members**

**123.**—(1) The contribution payable by an active JASAPS member (“M”) for each unit of £1,000 of added surviving adult’s pension is to be determined in accordance with the formula  $A \times 12$ .

(2) If M’s assumed retirement date falls on M’s birthday, A is determined as follows—

*Step 1*

In Table 2, treat the reference to the age last birthday at the date of commencement of contributions as a reference to M’s age last birthday on the assumed contribution commencement date.

*Step 2*

Use Table 2 to work out A by reference to M’s age last birthday at the assumed contribution commencement date and M’s assumed retirement age.

(3) If M’s assumed retirement date does not fall on M’s birthday, A is determined in accordance with the formula—

$$X + Z \left( \frac{Y - X}{12} \right)$$

where—

- (a) X is determined as follows—

*Step 1*

In Table 2 treat the reference to the age last birthday at the date of commencement of contributions as a reference to M’s age last birthday at the assumed contribution commencement date,



*Step 2*

In Table 2 treat the reference to the assumed retirement age as a reference to M's age last birthday before M's assumed retirement date,

*Step 3*

Use Table 2 to work out X by reference to M's age last birthday at the assumed contribution commencement date and M's age last birthday before M's assumed retirement date.

(b) Y is determined as follows—

*Step 1*

In Table 2 treat the reference to the age last birthday at the date of commencement of contributions as a reference to the age last birthday at the assumed contribution commencement date,

*Step 2*

In Table 2 treat the reference to the assumed retirement age as a reference to M's age next birthday after M's assumed retirement date,

*Step 3*

Use Table 2 to work out Y by reference to M's age last birthday at the assumed contribution commencement date and M's age next birthday after the assumed retirement date.

(c) Z is the number of complete months between M's last birthday before M's assumed retirement date and that date.

(4) The contribution payable for a part unit of added surviving adult's pension is to be the amount determined in accordance with the preceding paragraphs multiplied by the appropriate decimal fraction.

**Contributions by active JASAPS members**

**124.**—(1) An active JASAPS member ("M") may purchase added surviving adult pension by way of—

- (a) up to three lump sum payments, made within three years beginning with the date on which M gave notice under regulation 116(2) (but no more than one lump sum payment may be made in one year), in respect of contributions relating to the period beginning with the assumed contribution commencement date and ending on the day before the periodic contributions start date; and
- (b) periodic deductions from fees, beginning on the periodic contributions start date, in relation to contributions relating to the period beginning with that date and ending on M's assumed retirement date.

(2) The aggregate amount of lump sum payments M may make under paragraph (1)(a) is the smaller of—

- (a) the amount equal to the sum of the amounts determined for each tax year during the period beginning with the assumed contribution commencement date and ending on the day before the periodic contributions start date in accordance with the formula—

$$\left( \frac{15 \times FI}{100} \right) - C$$

where—

- (i) FI is M's annual fee income for the tax year in question which is subject to income tax, or if lower, the permitted maximum for that tax year, and
- (ii) C is the sum of any contributions made by M to any other judicial pension scheme (including voluntary contributions schemes) in that tax year, excluding any

contributions made by the member in accordance with regulation 3 of the Judicial Pensions (Contributions) Regulations 2012; and

(b) the amount calculated in accordance with the formula—

$$\left( \frac{C \times D}{E} \right) \times F$$

where—

- (i) C is the cost of one unit of added surviving adult's pension (an "added unit"), determined in accordance with regulation 123(1);
- (ii) D is the number of added units which M has notified to the administrators under regulation 122(1)(c);
- (iii) E is the period between the assumed contribution commencement date and M's assumed retirement date, expressed in years and any fraction of a year;
- (iv) F is the period beginning with the assumed contribution commencement date and ending on the day before the periodic contributions start date, expressed in years and any fraction of a year.

(3) For the purposes of paragraph (2)(a)(i), M's "annual fee income" is the total of the fees paid to M in respect of qualifying fee-paid days in the tax year concerned

(4) The maximum aggregate amount of periodic contributions M may make under paragraph (1)(b) is calculated in accordance with the formula—

$$\left( \left( \frac{C \times D}{E} \right) \times F \right) + X$$

where—

- (a) C is the cost of one added unit, determined in accordance with regulation 123(1);
- (b) D is the number of added units which M has notified to the administrators under regulation 122(1)(c);
- (c) E is the period between the assumed contribution commencement date and M's assumed retirement date, expressed in years and any fraction of a year;
- (d) F is the period beginning with the periodic contributions start date and ending on M's assumed retirement date, expressed in years and fraction of a year;
- (e) X is the difference between the maximum amount which M could have contributed under paragraph (2) and the amount M actually contributed under that paragraph.

(5) M may make periodic contributions to the JASAPS only during any period when M has a spouse or civil partner to whom benefits could be paid under the JASAPS.

### Valuation of benefits for active JASAPS members

**125.**—(1) When an active JASAPS member ("M") who has purchased units of added surviving adult's pension dies, M's surviving spouse or surviving civil partner is entitled to receive additional pension under the JASAPS.

(2) When M dies, the scheme actuary must calculate the number of units of added surviving adult's pension M has purchased by dividing the total contributions made by M under regulation 124(1) by the cost of a unit of added surviving adult's pension determined under regulation 123(1), and notify the administrators and the surviving spouse or civil partner of that amount.

(3) If M's total contributions exceed the amount necessary to purchase the smaller of—

- (a) the amount of added surviving adult's pension notified to the administrators by M under regulation 122(1)(c), or
- (b) the maximum amount of added surviving adult's pension permissible under regulation 122(2),

the administrators must refund the excess contributions to M's estate.

(4) The annual amount of additional pension per unit is £1,000.

(5) Added surviving adult's pension is payable at the same times and intervals and in the same manner as the surviving adult's pension under the principal scheme.

(6) If M retires on the ground of ill-health or dies before the assumed retirement age, M is to be credited with the number of units of added surviving adult's pension notified to the administrators by M under regulation 122(1)(c).

(7) Paragraph (6) does not apply during any period where M has ceased making periodic contributions.

(8) If M ceases to periodic contributions M may apply to the administrators to make periodic contributions again but any application to start to make periodic contributions again—

- (a) may not be accepted if M has reached the assumed retirement age;
- (b) may not result in M purchasing more added units than were being purchased before M ceased to pay periodic contributions; and
- (c) must be accompanied by a declaration signed by M stating that M has no reason to believe that health may prevent continuation of service until the assumed retirement age.

(9) If M's application under paragraph (8) is accepted by the administrators, this Chapter applies separately to those contributions and the value of the surviving adult's pension purchased with them.

(10) If M who has ceased to make periodic contributions and whose application to make periodic contributions again is accepted—

- (a) retires on the ground of ill-health or dies within 12 months of the date of starting to make periodic contributions again, or
- (b) dies or retires on the ground of ill-health because of an incapacity which M became subject to within 12 months of that date,

paragraph (6) does not apply unless the administrators are satisfied that the declaration given in accordance with paragraph (8)(c) was made in good faith.

(11) If M ceases making periodic contributions before reaching assumed retirement age for reasons other than death or retirement on the ground of ill-health—

- (a) then the scheme actuary must—
  - (i) calculate the amount of units of added surviving adult's pension ("added units") that M has purchased by the date of cessation, by dividing the total contributions made by M under regulation 124(1) up to the date of cessation by the cost of an added unit as determined under regulation 123(1);
  - (ii) notify the administrators and M of that amount, and
- (b) at the date of cessation M must be credited with the number of added units of benefit calculated under sub-paragraph (a).

(12) For the purposes of this regulation, part units of added surviving adult's pension purchased by a member must be valued on a pro-rata basis.

## CHAPTER 4

### GENERAL

#### **Reduction of benefits**

**126.**—(1) This regulation applies where the administrators pay the whole or any part of the lifetime allowance charge arising on a benefit crystallisation event relating to the JASAPS in relation to a JASAPS member.

(2) The pensions or other benefits payable under this Part to or in respect of the JASAPS member may (notwithstanding any other provision of these Regulations) be reduced by such

amount as, in accordance with normal actuarial practice, reflects the amount of the payments made.

## PART 15 APPEALS

### Appeals

127.—(1) If any person to whom this regulation applies is aggrieved by any decision concerning—

- (a) the interpretation of the provisions of the 2017 schemes; or
- (b) the exercise of any discretion under the 2017 schemes,

that person has a right of appeal to the appropriate Minister against that decision.

(2) On deciding an appeal under this regulation, the appropriate Minister may give to the administrators such directions as the appropriate Minister considers appropriate or expedient for implementing the decision.

(3) The administrators are entitled to appear and be heard on any appeal under this regulation.

(4) The persons to whom this regulation applies are the following—

- (a) a member of the principal scheme;
- (b) the surviving adult in relation to a deceased member;
- (c) the eligible child in relation to a deceased member;
- (d) where the decision relates to the question whether a person who claims to be a person mentioned in sub-paragraph (a), (b) or (c) is such a person, the person making that claim.

(5) In regulation 3 of the Judicial Pensions (Appeals) Regulations 1995<sup>(a)</sup> (application of regulations), after paragraph (a) insert—

“(aa) regulation 70 of the Judicial Pensions (Fee-Paid Judges) Regulations 2017;”.

Date

*Name*  
Lord Chancellor

Date

*Name*  
One of Her Majesty's Principal Secretaries of State

---

(a) S.I.1995/635.

## SCHEDULE

Reg 3, 5 and 7

### FEE-PAID OFFICES, ANNUAL DIVISORS

<i>Fee-Paid Office</i>	<i>Annual Divisor</i>
Lord Justice of Appeal (sitting in retirement)	189
High Court Judge (sitting in retirement)	189
Deputy High Court Judge	189
Temporary High Court Judge	189
Deputy Supreme Court Master	210
Deputy Supreme Court Registrar	210
Deputy Circuit Judge	210
Recorder	210
Deputy Taxing Master	210
Deputy Costs Judge	210
Deputy Master of the Queen's Bench Division	210
Deputy Master of the Chancery Division	210
Deputy Bankruptcy Registrar	210
Deputy District Judge	215
Deputy District Judge of the Principal Registry of the Family Division	215
Deputy District Judge (Magistrates' Court)	215
Deputy Stipendiary Magistrate	215
First-tier Tribunal Judge (where a legal qualification is a requirement of appointment)	220
Judge First-Tier Tribunal (Health, Education and Social Care Chamber)	220
Judge First-Tier Tribunal (Immigration Chamber)	220
Judge First-Tier Tribunal (Social Entitlement Chamber)	220
Judge First-Tier Tribunal (Tax Chamber)	220
Judge First-Tier Tribunal (Property Chamber)	220
Judge First-Tier Tribunal (War Pensions & Armed Forces Compensation)	220
Judge First-Tier Tribunal (General Regulatory Chamber)	220
Upper Tribunal Judge (where a legal qualification is a requirement of appointment)	220
Deputy Judge Upper Tribunal (Administrative Appeals Chamber)	220
Deputy Judge Upper Tribunal (Immigration and Asylum)	220
Deputy Judge Upper Tribunal (Lands Chamber)	220
Surveyor member (Chair only) Upper Tribunal Lands	220
Deputy Judge Upper Tribunal (Tax and Chancery Chamber)	220
Legal Chairman Mental Health Review Tribunal	220
Legal Member Mental Health Review Tribunal	220
Legal Chairman Special Education Needs and Disability Tribunal	220
Legal Chairman Care Standards Tribunal	220
Legal Member Care Standards Tribunal	220
Judge of the Medical Appeal Tribunal	220
Immigration Adjudicator	220
Immigration Judge	220
Judge of the Immigration and Asylum Tribunal	220
Legal Member Immigration and Asylum Tribunal	220
Legal Member Appeals Service	220
Chairman Social Security Appeals Tribunal	220
Judge Social Security Appeals Tribunal	220
Deputy Social Security Commissioner	220
Judge Child Support Appeal Tribunal	220

Deputy Commissioner Child Support Appeal Tribunal	220
Judge of the Disability Appeal Tribunal	220
Legal Chair Criminal Injuries Compensation Appeals Panel (but only in relation to service in this office after 3rd November 2008)	220
Non-legal Chair Criminal Injuries Compensation Appeals Panel (but only in relation to service in this office after 3rd November 2008)	220
Chairman of VAT & Duties Tribunal	220
Commissioner for the Special Purposes of the Income Tax Acts	220
Deputy Commissioner for the Special Purposes of the Income Tax Acts	220
Judge of the Employment Tribunal (where a legal qualification is a requirement of appointment)	220
Employment Tribunal Chairman	220
Industrial Tribunal Chairman	220
Temporary Assistant Judge Advocate General	220
Chairman Information Tribunal	220
Deputy Chairman Information Tribunal	220
Chairman Pensions Appeal Tribunals	220
Legal Member Pensions Appeal Tribunal	220
Legal Chair Competition Appeal Tribunal	220
Legal Chair Reserve Forces Appeal Tribunal	220
Deputy Chair Copyright Tribunal	220
Member (Chair only) First-tier Tribunal (Property Chamber) Residential Property (but only in relation to service in this office after 1st July 2013)	220
First-tier Tribunal Judge Agricultural land Tribunal	220
Appointed Person Appeal Tribunal	220
Chairman Reinstatement Committee	220
Part-time Sheriff	220
Deputy Statutory Officer	220
Deputy County Court Judge	200
Deputy Social Security and Child Support Commissioner for Northern Ireland	220
Deputy Coroner (Northern Ireland)	220
Chair Fair Employment Tribunal (Northern Ireland)	220
Chair Industrial Tribunals (Northern Ireland)	220
Legal Chair Appeals Tribunal Service (Northern Ireland)	220
Legal Chair of the Rent Assessment Committees	220
President Mental Health Tribunal Wales (where a legal qualification is a requirement of appointment)	220
Legal Chair Special Educational Needs Tribunal Wales (where a legal qualification is a requirement of appointment)	220

## **EXPLANATORY NOTE**

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

These Regulations make provision for a pension scheme for the benefit of those people who have held a fee-paid judicial office in the period between 7th April 2000 and 31st March 2015 (“the principal scheme”), and establishes the Fee-Paid Judicial Added Voluntary Contributions Scheme, the Fee-Paid Judicial Added Years Scheme and the Fee-paid Judicial Added Surviving Adult’s Pension Scheme to enable members of the principal scheme to pay voluntary contributions towards the costs of additional benefits under one or more of these additional schemes.

Part 1 (Preliminary matters: regulations 1 to 7) defines the main concepts used in these Regulations. In particular, “reckonable service”, which will determine the level of pension to which a fee-paid judge is entitled, is defined as the total number of qualifying fee-paid days the

judge has worked in a fee-paid office, divided by the annual divisor specified in column 2 of the Schedule. This is subject to a maximum amount (provided for in regulation 5(3) to (9)) of 20 years, less any other pensionable service to which the judge is entitled.

Part 2 (scheme membership: regulations 8 to 11) sets out who may be a member of the principal scheme and how a member of the scheme may opt out of it.

Part 3 (retirement benefits: regulations 12 to 26) provides for the benefits available under the principal scheme: a pension for life and a lump sum. It sets out how the annual rate of the pension is to be calculated. This will depend the age at which the judge retires, either voluntarily or on ill-health grounds (a judge who retires between the ages of 60 and 65 will be entitled to a reduced pension, and a judge who retires under the age of 60 will be entitled to a preserved pension). Where a judge retires due to ill-health the annual rate of their pension may be enhanced (see regulations 21 and 22). Provision is made for an ill-health certification condition (see regulation 23), and for the case where a judge retires and subsequently resumes judicial office (see regulation 26).

Part 4 (partial retirement: regulations 27 to 28) sets out how the provisions on retirement benefits will apply where a judge ceases to hold a fee-paid judicial office and is immediately appointed to another judicial office. This Part does not apply where a fee-paid judge holds more than one judicial office and only ceases to hold one of them.

Part 5 (benefits for persons entitled to pension credits: regulations 29 to 34) gives effect to pension credits created when a pension sharing order is made under Part 4 of the Welfare Reform and Pensions Act 1999 following the end of a marriage or civil partnership in relation to rights of a member of the principal scheme. It sets out what benefits will be received by the beneficiary of such a pension sharing order.

Part 6 (death benefits: regulations 35 to 47) makes provision for the benefits which will be received by the surviving spouse or civil partner (referred to as the “surviving adult”) of a fee-paid judge who is a member of the principal scheme following the death of the judge. They also provide for the benefits which will be received in respect of a child if the judge dies.

Part 7 (benefits in respect of periods before commencement: regulations 48 to 51) concerns the amounts due to fee-paid judges who retired or died before these Regulations came into force. It applies where a judge has received interim payments to provide benefits during that period, or where a judge would have received benefits if these Regulations were in force before they retired or died.

Part 8 (contributions for pre-commencement service: regulations 52 to 58) makes provision for the contributions which would have been due in relation to pre-commencement benefits, identifying those members who are liable to pay such contributions, and setting out how the amount of the contributions is to be calculated.

Part 9 (contributions for service on or after commencement day: regulations 59 to 64) provides for the contributions which must be paid from fees earned by fee-paid judges in relation to service after the commencement of these Regulations.

Part 10 (repayment of dependants’ benefits contributions: regulations 65 to 69) provides for contributions paid by a fee-paid judge in respect of dependants’ benefits to be repaid where the judge has not married, entered a civil partnership or had an eligible child. It also provides for repayment for any such contributions paid after a judge ceased to be married, in a partnership or to have an eligible child.

Part 11 (transfers: regulations 70 to 88) set out the circumstances in which a member of the principal scheme is entitled to take the cash equivalent of their benefits under the scheme and transfer them to another scheme, or transfer rights accrued under a registered pension scheme into the principal scheme.

Part 12 (judicial added voluntary contribution scheme: regulations 89 to 101) provide for a separate pension scheme into which a member may choose to make additional contributions in

return for additional benefits. Membership of the scheme is only open to active members of the principal scheme.

Part 13 (fee-paid judicial added years scheme: regulations 102 to 114) provides for another pension scheme which enables members to purchase additional years which will increase the length of their reckonable service (and therefore the amount of their pension). Membership of the scheme is open to retired and active members of the principal scheme (but not members who have opted out of that scheme) who held a qualifying judicial office before 6th April 2006 (and were not contributing to any other registered pension scheme before the commencement day).

Part 14 (the fee-paid judicial added surviving adult's pension scheme: regulations 115 to 126) provides for another separate pension scheme, which just like the added years scheme, is open to members of the principal scheme who held qualifying judicial office before 6th April 2006. The scheme enables members to buy added units of surviving adult pension. Each unit adds £1,000 to the value of the pension the member's surviving spouse or civil partner would receive on the member's death.

Part 15 (appeals: regulation 127) provides for a right of appeal to the Minister against any decision concerning one of the schemes provided for in these Regulations.

An impact assessment has not been produced for this instrument as no significant impact on the costs of business or the voluntary sector is foreseen.



## Annex II – Examples from Government Actuary’s Department

### The Fee-Paid Judicial Added Years Scheme

#### *Sample member 1 – a retired member*

Marital status	M
Date of birth	10 April 1945
Assumed contribution commencement date	10 April 2005
Date of actual retirement	10 April 2015
Appropriate annual salary at assumed contribution commencement date	£77,000
Tax year of assumed contribution commencement date	2005/06
Total fees earned between assumed contribution commencement date and retirement	£175,000
Retained benefits at assumed contribution commencement date (equivalent service credit)	4.0 (years)
Reckonable service at retirement	2.5 (years)
Contributions made to other judicial pension schemes between assumed contribution commencement date and retirement	£3,150

Regulation 105(2) limits the amount of added years the member is allowed to purchase and regulation 107 specifies the maximum contributions he is allowed to make.

Reckonable service at retirement of 2.5 years is calculated as shown in example set out earlier in the consultation document. This is defined as **A** in regulation 105(2).

Retained benefits are the value of the benefits available in any other scheme to which the member was entitled at the assumed contribution commencement date. These will be converted to an equivalent service credit by the scheme actuary. As a rough indication, a service credit of 4.0 years for this member would be roughly equivalent to retained benefits with a value of around £100,000 at the assumed contribution commencement date. This service credit is defined as **B** in regulation 105(2).

Regulation 105(2) prescribes that the maximum number of added years that this retired member may purchase is:

$20 - (A + B)$ , that is in this case:

$20 - (2.5 + 4) = 13.5$  years.

Regulation 107 provides that the maximum contributions the member can make towards buying added years is 15% of the fee income in each tax year less contributions made to any other judicial pension scheme in that tax year.

Contributions made to any other judicial pension scheme include the contributions towards the widow’s pension of 1.8% of earnings, and contributions to any other additional voluntary judicial pension schemes.

For this member the maximum amount of contributions the member is allowed to make is:

$15\% \times £175,000 - £3,150 = £23,100$

We then work out the cost of one added year in accordance with Regulation 106.

### Step 1

We look up the personal benefits and family benefits percentage figures appropriate to the member's salary group set out in Schedule 1 to the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995 (SI 1995/639, or 'the 1995 Regulations').

The assumed contribution commencement date of 10 April 2005 falls in the 2005/06 tax year. The HMRC earnings cap for the 2005/06 tax year was £105,600.

The member's appropriate annual salary at 10 April 2005, expressed as a percentage of the earnings cap, is £77,000 / £105,600 = 73% of the earnings cap, and so we need to use the personal benefits and family benefits percentage figures for salary group 3.

The member is 10 years from retirement at the assumed contribution commencement date, so the correct rates are 32.8% for the personal benefits and 6.4% for the family benefits, which gives a total of 39.2%. This is defined as **A/100** in Regulation 106(3).

### Step 2

The member would have paid the required contributions over the term of his employment, which was 10 years. This is defined as **B** in Regulation 106(3).

So the member would have paid 39.2% / 10 = 3.92% of his salary each year to purchase one added year. This gives us **(A/100)/B**.

### Step 3

The member actually earned £175,000 in fees over his service. This is defined as **C** in Regulation 106(3).

He therefore needs to pay:

$(A/100)/B \times C$  that is in this case:

$3.92\% \times £175,000 = £6,860$  to buy one added year.

### Step 4

Check whether either of the restrictions above on the amount of added years or maximum contributions bite, those restrictions being respectively 13.5 years and £23,100.

Therefore if the member wants to buy one added year, at a cost of £6,860, he would be able to do so.

If the member wanted to buy four added years, the cost would be  $4 \times £6,860 = £27,440$ . Although four added years falls within the available headroom of 13.5 years, the cost exceeds the maximum contribution of £23,100 and so it would not be possible to buy four added years.

In this case, the member could buy up to a maximum of 3.367 added years, the cost of which would be  $3.367 \times £6,860 = £23,100$ , the maximum contribution payable.

**Sample member 2 – an active member**

Marital status	M
Date of birth	10 April 1955
Assumed contribution commencement date	10 April 2005
Agreed commencement date	10 April 2017
Date of assumed retirement	10 April 2020
Salary at assumed contribution commencement date	£77,000
Tax year of assumed contribution commencement date	2005/06
Total fees earned between assumed contribution commencement date and agreed commencement date	£200,000
Retained benefits at assumed contribution commencement date (equivalent service credit)	4.0 (years)
Reckonable service at date of assumed retirement	7.5 (years)
Contributions made to other judicial pension schemes to the agreed commencement date	£3,600

First, we calculate the limits on the purchase of added years by active members under regulation 109(3) and the limits on the contributions payable by active members under regulation 110(4).

The reckonable service at the member's assumed retirement date based on the member's assumed sitting pattern is 7.5 years. The retained benefits at the assumed contribution commencement date convert to an equivalent service credit of 4 years (see comment on example 1 for details on how this would be calculated).

Under regulation 109(3), the maximum number of added years which may be purchased is  $20 - (7.5 + 4) = 8.5$  years.

Under regulation 110(4), the maximum contributions the member can make towards his added years up to the fee-paid scheme commencement date is:

$$15\% \times £200,000 - £3,600 = £26,400$$

We then calculate the cost of one added year.

**Step 1**

We look up the personal benefits and family benefits percentage figures appropriate to the member's salary group set out in Schedule 1 to the 1995 Regulations.

The assumed contribution commencement date of 10 April 2005 falls in the 2005/06 tax year. The HMRC earnings cap for the 2005/06 tax year was £105,600.

The member's appropriate annual salary at 10 April 2005, expressed as a percentage of the earnings cap, is  $£77,000 / £105,600 = 73\%$  of the earnings cap, and so we need to use the personal benefits and family benefits percentage figures for salary group 3.

The member is 15 years from retirement at the assumed contribution commencement date, so the correct rates are 31.0% for the personal benefits and 6.6% for the family benefits, which gives a total of 37.6%. This is defined as **A/100** in Regulation 110(1).

## Step 2

The member's appropriate annual salary at the assumed contribution commencement date is £77,000. The cost of one added year is  $37.6\% \times £77,000 = £28,952$ . This is defined as **A/100 x B** in Regulation 110(1).

## Step 3

We next need to split this cost between the periods before and after the agreed commencement date of 10 April 2017, after which periodic contributions towards these benefits will be made whilst the member is in service.

In this case, the period between the assumed contribution commencement date and the assumed retirement date is 15 years, while the period between the assumed contribution commencement date and the agreed commencement date is 12 years.

So the lump sum payment which the member needs to pay to purchase one added year is:

$£28,952 \times 1 \times 12/15 = £23,162$ . This is defined as **(C x D / E) x F** in Regulation 110(4b). The member is restricted by the limit on contributions of £26,400 calculated above, and so the maximum number of added years he can buy is  $£26,400 / £23,162 = 1.1398$  added years.

The member can make one lump sum payment of £23,162; or if he prefers, a lump sum payment below £23,162. He can then spread the difference between the lump sum payment he made and £23,162 over the period between the agreed commencement date and the assumed retirement date.

## Step 4

We now need to calculate the periodic contributions the member needs to make from the agreed commencement date.

The period between the assumed contribution commencement date and the assumed retirement date is 15 years, while the period between the agreed commencement date and the assumed retirement date is 3 years.

So the total amount of periodic payments the member needs to pay to purchase one added year is:

$£28,952 \times 1 \times 3/15 = £5,790$ . We add to this any amount due which has not been paid by the member as a lump sum at step 3. So, say the member has paid £20,000 as a lump sum, he will still need to pay £3,162 out of his future pay, which means that  $£5,790 + £3,162 = £8,952$  will need to be met by periodic payments from his future pay. This is defined as **((C x D)/E x F) + X** in Regulation 110(7).

### **Step 5**

On retirement the scheme actuary will calculate how many added years the contributions actually made by the member have purchased (Regulation 111 (1)). If at retirement the member has underpaid towards the added years he wished to purchase, his added years will be pro-rated down accordingly. This could happen if he retires earlier than assumed or sat fewer days than expected. Conversely, if he has overpaid he will receive a refund of the excess contributions under Regulation 112(4).

## The Fee-Paid Judicial Added Surviving Adults Pension Scheme

### *Sample member 1 – a retired member*

Marital status	M
Date of birth	10 April 1945
Assumed contribution commencement date	10 April 2005
Date of actual retirement	10 April 2015
Appropriate annual salary at assumed contribution commencement date	£77,000
Tax year of assumed contribution commencement date	2005/06
Total fees earned between assumed contribution commencement date and retirement	£175,000
Retained benefits at assumed contribution commencement date (equivalent service credit)	4.0 (years)
Reckonable service at retirement	2.5 (years)
Contributions made to other judicial pension schemes between the assumed contribution commencement date and retirement	£3,150

First, we calculate the limits on the purchase of added benefits by retired members under regulation 119(2) and the limits on contributions under regulation 121(1).

Reckonable service at the member's retirement date based on the member's sitting pattern is 2.5 years and the annual salary at the assumed contributions commencement date is £77,000. The maximum added benefits the member can purchase under regulation 121(1) is therefore  $2.5 \times £77,000 / 45 = £4,278$  p.a.

Under regulation 121(1), the maximum level of contributions the member can make towards his added years is:

$$15\% \times £175,000 - £3,150 = £23,100$$

We then calculate the cost of £1,000 p.a. additional surviving partner's pension.

#### **Step 1**

The member's age last birthday on the assumed contribution commencement date is 60. The member retired at age 70. We therefore look up the appropriate value of **A** in Schedule 2 to the 1995 regulations (as amended by SI 1996/52, or 'the 1996 regulations') which is 441.

Under Regulation 120(3) the cost of £1,000 p.a. surviving partner's pension is then **A x 12 = £5,292**.

The maximum surviving partner's pension the member would be able to purchase is the lesser of £4,278 p.a. and £4,365 p.a. (i.e.  $£23,100 / £5,292 \times £1,000$ , being the surviving partner's pension which can be purchased with the maximum contribution of £23,100). The maximum surviving partner's pension which may be purchased is £4,278 p.a.

**Sample member 2 – an active member**

Marital status	M
Date of birth	10 April 1955
Assumed contribution commencement date	10 April 2005
Agreed commencement date	10 April 2017
Date of assumed retirement	10 April 2020
Salary at assumed contribution commencement date	£77,000
Tax year of assumed contribution commencement date	2005/06
Total fees earned between assumed contribution commencement date and agreed commencement date	£200,000
Retained benefits at assumed contribution commencement date (equivalent service credit)	4.0 (years)
Reckonable service at retirement	7.5 (years)
Contributions made to other judicial pension schemes to the agreed commencement date	£3,600

First, we calculate the limits on the purchase of added survivor pension by active members under regulation 123(2) and the limits on the contributions by active members under regulation 125(2).

Reckonable service at the member's assumed retirement date based on the member's assumed sitting pattern is 7.5 years.

Under regulation 123(2), the maximum added survivor pension is

$$7.5 \times £77,000 / 45 = £12,833 \text{ p.a. (or 12.833 units)}$$

Under regulation 125(2), the maximum level of lump sum contributions the member can make towards his added surviving partner pension up to the fee-paid scheme commencement date is:

$$15\% \times £200,000 - £3,600 = £26,400$$

We then calculate the cost of £1,000 p.a. added survivor pension.

**Step 1**

The member's age last birthday on the assumed contribution commencement date is 50. The member expects to retire at age 65. We can therefore look up the appropriate value of **A** in Schedule 2 to the 1995 regulations (as amended by the 1996 regulations) which is 317.

Under Regulation 125(1) the cost of £1,000 p.a. surviving adult's pension is then **A x 12 = £3,804**.

**Step 2**

We next need to split this cost between the periods before and after the agreed commencement date of 10 April 2017, after which periodic contributions towards these benefits will be made whilst the member is in service.

In this case, the period between the assumed contribution commencement date and the assumed retirement date is 15 years, while the period between the assumed contribution commencement date and the agreed commencement date is 12 years.

So the amount which the member needs to pay for £12,833 p.a. surviving partner's pension (if he wished to buy the maximum number of units) would be:

$$£3,804 \times 12.8331 \times 12/15 = £39,053.$$

This is defined as  $((C \times D) / E) \times F$  in Regulation 125(2) (b). The member is however restricted by the limit on lump sum contributions of £26,400, which allows the purchase of £6,940 p.a. added survivor pension (i.e. £26,400/£3,804)

The member can make one lump sum payment of £26,400; or if he prefers, a lump sum payment below that amount (the member may make up to three lump sum payments within three years).

### Step 3

We now need to calculate the periodic contributions the member needs to make from the agreed commencement date.

The period between the assumed contribution commencement date and the assumed retirement date is 15 years, while the period between the agreed commencement date and the assumed retirement date is 3 years.

So the total amount of periodic payments the member needs to pay to purchase £1,000 p.a. added survivor pension is

$$3,804 \times 1 \times 3/15 = £761.$$

The amount required to purchase 5.89 units of added surviving adult pension (assuming that the member wishes to purchase the maximum number of units possible, and that he has purchased 6.94 units by lump sum payment) would be:

$$£3,804 \times 5.89 \times 3/15 = £4,481$$



### **Annex III – Undertaking by Ministry of Justice**

- (1) Salaried judges had the option of exercising rights relating to the Judicial Added Voluntary Contribution Scheme, the Judicial Added Years Scheme and/or pension fund transfers (provided that they met the eligibility requirements for each scheme during the period that it was available under JUPRA).
- (2) The fee-paid judiciary did not have these rights at the material time because they did not have any pension entitlement.
- (3) The proposals for a fee-paid judicial pension scheme (FPJPS) include provisions that are intended to mirror those rights. Individuals who would have exercised these rights (if they had been members of JUPRA) will have a period in which to do so after FPJPS commences. It is proposed that the pension scheme manager will have a discretion to permit individuals who elect to exercise these rights to do so over a longer period than the normal period for doing so under FPJPS. Only those individuals with transitional or tapering protection will have rights under the schemes going forward (for as long as each scheme continued or continues under JUPRA).
- (4) The Respondent acknowledges that some individuals who would have exercised these rights at the material time may be treated less favourably than their salaried comparator on ground of part-time status. In particular, HMRC will treat the rights as having been exercised for tax purposes on the date when the individual's payments or transfers take place, whereas the salaried judges would have been taxed at the material time. Depending on the individual's financial situation at each point in time, this may or may not disadvantage them.
- (5) The Respondent is not currently aware of any individual who will be treated less favourably on ground of part-time status as a result of the tax treatment of the Judicial Added Voluntary Contribution Scheme, the Judicial Added Years Scheme and/or pension fund transfers under FPJPS. However, the Respondent confirms that it will compensate any individual who is in that position by undertaking to make good any difference in tax treatment on the basis of part-time status and to publish said undertaking in the literature which goes to all scheme members.
- (6) For the avoidance of doubt, the Respondent considers that any such individual would have to establish the following elements (which would establish that they were treated less favourably than their salaried comparator on ground of part-time status and that this caused financial loss) in relation to any claim that they would have exercised their rights relating to the Judicial Added Voluntary Contribution Scheme, the Judicial Added Years Scheme and/or pension fund transfers on a particular date or dates from 7 April 2000:
  - (i) that the individual is entitled to be a member of FPJPS in respect of their service on the particular date or dates (from 7 April 2000) on which they claim that they would have exercised their rights relating to the Judicial Added Voluntary Contribution Scheme, the Judicial Added Years Scheme and/or pension fund transfers;
  - (ii) that the individual would have been eligible to exercise the right in question at the material time (taking into account the period when each scheme was in existence and the applicable criteria at the material time);

- (iii) if so eligible, that the individual was likely to have chosen to exercise their rights (as claimed) at the material time, taking into account all of the circumstances;
- (iv) if so, that the tax implications of exercising those rights under the FPJPS are less favourable than the tax implications that would have applied to them if they had exercised those rights at the material time; and
- (v) if so, that they have mitigated their loss (for example, by timing any payments under the FPJPS in the most tax efficient manner).

## **Annex IV – Consequential Amendment Regulations**

*Draft Regulations laid before Parliament under section 38 of the Public Service Pensions Act, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2017 No.**

**PUBLIC SERVICE PENSIONS**

**Judicial Pensions (Amendment) Regulations 2017**

*Made* - - - - **\*\*\***  
*Coming into force* - - **\*\*\***

The Lord Chancellor makes these Regulations in exercise of the powers conferred by sections 1(1) and (2)(b), 2(1), 3(1), (2) and (3)(a) and (b) of, and Paragraph 2 of Schedule 2 and Schedule 3 to, the Public Service Pensions Act 2013(a):

In accordance with section 21 of, and paragraph 2(2) of Schedule 2 to, that Act the Lord Chancellor has consulted the Secretary of State and representatives of such persons as appear to her likely to be affected by these regulations.

In accordance with section 3(5) of that Act these regulations are made with the consent of the Treasury.

In accordance with section 24(1)(c) of that Act a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

**Citation, commencement, effect and interpretation**

- 1.—(1) These regulations may be cited as the Judicial Pensions (Amendment) Regulations 2017.
- (2) These regulations come into force on 1st April 2017.
- (3) Regulation 14 has effect from 1st April 2015.
- (4) In these regulations—
  - “the 2015 Regulations” means the Judicial Pensions Regulations 2015(b);
  - “the 2017 Regulations” means the Judicial Pensions (Fee-Paid Judges) Regulations 2017(c).

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(a) 2013 c.25, there are amendments to the Act but none is relevant to this instrument.  
(b) S.I. 2015/182.  
(c) S.I. 2017/xxxx

## **Amendment of the Judicial Pensions Regulations 2015**

2. The 2015 Regulations are amended in accordance with regulations 3 to 13.
3. In regulation 2 in the appropriate place insert—
  - ““the 2017 Regulations” means the Judicial Pensions (Fee-Paid Judges) Regulations 2017”;
  - ““the Fee-Paid Judges Scheme” means the scheme established by the 2017 Regulations”;
  - ““qualifying judicial service” has the meaning given in regulation 6 of the 2017 Regulations;”;
  - ““relevant scheme” means—
    - (a) an existing scheme;
    - (b) the Fee-Paid Judges Scheme;”.
4. In regulation 17(2)(b)(ii) for “an existing” substitute “a relevant”.
5. In regulation 55—
  - (a) for “an existing” in both places where it occurs substitute “a relevant”; and
  - (b) after paragraph (2) insert—

“(3) In this regulation a reference to “pensionable service” in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service in that scheme.”.
6. In regulation 97—
  - (a) for “an existing” in both places where it occurs substitute “a relevant”; and
  - (b) after paragraph (5) insert—

“(6) In this regulation a reference to “pensionable service” in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service in that scheme.”.
7. In regulation 100—
  - (a) for “an existing” in both places where it occurs substitute “a relevant”; and
  - (b) at the end insert—

“(7) In this regulation a reference to “pensionable service” in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service in that scheme.”.
8. In regulation 119—
  - (a) for paragraph (4) substitute—

“(4) In this regulation and in regulation 120, if the member is a transition member with continuity of service, “pensionable earnings” in respect of any period includes—
    - (a) the member’s pensionable earnings under an existing scheme before the closing date; and
    - (b) the member’s relevant earnings under the Fee-Paid Judges Scheme.”.
  - (b) after paragraph 4 insert—

“(5) In this regulation —  
“reckonable service” has the same meaning as in regulation 5 of the 2017 Regulations  
“relevant daily fee” means the higher of—
    - (a) the highest daily fee paid to a holder of the office in the period in question, or
    - (b) the highest daily fee which has been determined by an Employment Tribunal to be payable to a holder of that office in respect of that period;  
“relevant earnings” means the amount which—

- (a) where the member held only one office in the period in question, is determined in accordance with the formula  $R(FxN)$  where—
  - (i) R is the member’s reckonable service in that office for the period in question;
  - (ii) F is the relevant daily fee for that office; and
  - (iii) N is the annual divisor for that office specified in column 2 of the Schedule to the 2017 Regulations; and
- (b) where the member held more than one office in that period, is determined by adding together the amount for each office held by the member in the period in question which is determined by the formula set out in paragraph (a) in respect of each office.”.

9. In regulation 120 omit paragraph (3).

10. In regulation 121—

- (a) in paragraph (2) for “an existing” substitute “a relevant”; and
- (b) after paragraph (7) insert—
 

“(8) In this regulation a reference to “pensionable service” in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service in that scheme.”.

11. In regulation 122 for “an existing” substitute “a relevant”.

12.—(1) Schedule 2 is amended as follows.

(2) In paragraph 1—

- (a) in the definition of “closing date”—
  - (i) for “an existing” the first time it occurs substitute “a relevant”; and
  - (ii) for “that scheme” substitute “such a scheme”;
- (b) in the definition of “protected member” for “an existing” substitute “a relevant”;
- (c) in the definition of “tapered protection closing date” for “an existing” substitute “a relevant”;
- (d) for the definition of “tapered protection member” substitute—
 

““tapered protection member”—

  - (a) in relation to an existing scheme, has the meaning given in paragraphs 12 and 13; and
  - (b) in relation to the Fee-Paid Judges Scheme, means a person to whom paragraph (6) of regulation 14 applies;”;
- (e) in the definition of “transition date” for “an existing” substitute “a relevant”; and
- (f) in the definition of “transition member” for “an existing” substitute “a relevant”.

(3) In paragraph 2—

- (a) renumber the existing text as sub-paragraph (1);
- (b) in that paragraph for “an existing” substitute “a relevant”; and
- (c) at the end insert—
 

“(2) In this paragraph a reference to “pensionable service” in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service in that scheme.”

(4) In paragraph 3—

- (a) in sub-paragraph (1)—
  - (i) for “an existing” substitute “a relevant”; and
  - (ii) omit “under Part 4 of this Schedule”; and
- (b) after sub-paragraph (2) insert—

- “(3) In this paragraph “the option” means—
- (a) in relation to an existing scheme, the option under Part 4 of this Schedule;
  - (b) in relation to the Fee-Paid Judges Scheme, the option under regulation 14(6)(d).”.
- (5) In the heading before paragraph 15 for “an existing” substitute “a relevant”.
- (6) In paragraph 15 for “an existing” in each place where it occurs substitute “a relevant”.
- (7) In paragraph 16—
- (a) for “an existing” in each place where it occurs substitute “a relevant”; and
  - (b) in sub-paragraph (4)—
    - (i) omit “and” at the end of the definition of “the member’s assumed period of pensionable service”; and
    - (ii) at the end, insert—
 

“(5) In this paragraph a reference to “pensionable service” in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service; and”.
- (8) In paragraph 17—
- (a) for “an existing” in each place where it occurs substitute “a relevant”; and
  - (b) in sub-paragraph (4)—
    - (i) omit “and” at the end of the definition of “the member’s assumed period of pensionable service”; and
    - (ii) at the end, insert—
 

“(5) In this regulations a reference to “pensionable service” in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service; and”.
- (9) In paragraph 18 for “an existing” substitute “a relevant”.
- (10) In paragraph 19—
- (a) for “an existing” in each place where it occurs substitute “a relevant” and
  - (b) for “the existing” substitute “the relevant”.
- (11) In the heading to Part 7 for “an existing scheme” substitute “relevant schemes”.
- (12) In the heading to paragraph 21 for “the existing” substitute “a relevant”.
- (13) In paragraph 21 for “an existing” in both places where it occurs substitute “a relevant”.
- (14) In the heading to paragraph 23 for “the existing” substitute “a relevant”.
- (15) In paragraph 23 for sub-paragraph (3) substitute—
- “(3) In this paragraph, “existing nomination means—
- (a) a nomination which—
    - (i) was made for the purpose of a relevant scheme; and
    - (ii) at the closing date, had effect under that scheme; or
  - (b) a nomination which—
    - (i) was made in anticipation of membership of the Fee-Paid Judges Scheme; and
    - (ii) at the closing date would have had effect under that scheme if it had been in force.”.
- 13.—**(1) Schedule 3 is amended as follows.
- (2) In paragraph 1 for “an existing” substitute “a relevant”.
- (3) In paragraph 2(3)(b) after “the Act” insert “and the scheme created by the 2017 Regulations”.
- (4) In paragraph 3—
- (a) renumber the existing text as sub-paragraph (1);

- (b) in that sub-paragraph omit “(“the old scheme”); and
- (c) at the end insert—
  - “(2) This Part also applies where a person (P)—
    - (a) is a member of the Fee-Paid Judges Scheme by virtue of pensionable service for that scheme;
    - (b) is a member of this scheme by virtue of pensionable service for this scheme;
    - (c) P’s service in the Fee-Paid Judges Scheme and service in the new scheme are continuous.
  - (3) In this Part “the old scheme” means, where P is a member of such a scheme, one of the schemes referred to in sub-paragraphs (1)(a) and (2)(a) of this paragraph.”.

**Application of amendments to previously retired or deceased members**

- 14.**—(1) This regulation applies where a person (P) is —
- (a) a member of the scheme established by the 2015 Regulations; and
  - (b) a person to whom regulation 48(1) of the 2017 Regulations applies.
- (2) The 2015 Regulations are to apply to the calculation of any sums payable in respect of P’s retirement or death under the 2015 Regulations, or under the 2017 Regulations in so far as the 2015 Regulations affect that calculation, as though—
- (a) the amendments made by these regulations; and
  - (b) the 2017 Regulations,
- had been in force on the day before the day on which P retired or died.

Date *Name*  
Lord Chancellor  
Ministry of Justice

We consent *Name*  
*Name*  
Two of the Lords Commissioners of Her Majesty’s Treasury

Date

**EXPLANATORY NOTE**

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

These Regulations amend the Judicial Pensions Regulations 2015 (S.I. 2015/182) (“the 2015 Regulations”) consequential upon the making of the Judicial Pensions (Fee-Paid Judges) Regulations 2017 (S.I.xxx) (“the 2017 Regulations”) in order to ensure that, where relevant, pensions calculated under the 2015 regulations take account of a person’s service in the scheme established by the 2017 Regulations as they would take account of a person’s entitlements under the scheme established by the Judicial Pensions and Retirement Act 1993 (c.8).

Regulation 14 ensures that the pension entitlements of, or in respect of, individuals who have already retired or died and who would have been a member of the scheme established by the 2017 Regulations if they had been in force are calculated in the same way as those who die or retire after the coming into force of these regulations.

An impact assessment has not been prepared for this instrument as no impact on the costs of business or the voluntary sector is foreseen.



## **Questionnaire**

**Question 1: Do you agree that the FPJPS regulations as drafted provide a pension scheme for eligible fee-paid judges that is no less favourable than the pension provision for salaried judges under the JUPRA scheme?**

**Question 2: If you do not agree please explain why and specifically in relation to which part of the regulations?**

**Question 3: In relation to trivial pensions, should the regulations allow the facility to take a single one off payment rather than receive a monthly pension?**

**Question 4: In relation to trivial pensions, if you agree with having the facility for a one off payment, what should be the amount?**

**Question 5: In relation trivial pensions, should this be an automatic process or always be the choice of the individual member?**

**Question 6: Do you agree that the draft amendment regulations provide parity of treatment for pensions calculated under the Judicial Pension Regulations 2015, to take account of a person's service in the FPJPS, as they would take account of a person's entitlement under JUPRA?**

## About you

Please use this section to tell us about yourself

<b>Full name</b>	
<b>Job title</b> or capacity in which you are responding to this consultation exercise (e.g. member of the public etc.)	
<b>Date</b>	
<b>Company name/organisation</b> (if applicable):	
<b>Address</b>	
<b>Postcode</b>	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

**If you are a representative of a group**, please tell us the name of the group and give a summary of the people or organisations that you represent.

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## Contact details/How to respond

Please send your response by 20 October 2016 to:

Surinder Sawali  
Fee Paid Judicial Pension Scheme  
Judicial Policy  
Ministry of Justice  
2.54, 2<sup>nd</sup> Floor  
102 Petty France  
London SW1H 9AJ

**Email: [fjppsconsultation@justice.gsi.gov.uk](mailto:fjppsconsultation@justice.gsi.gov.uk)**

### Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

### Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available on-line at <https://consult.justice.gov.uk/>.

Alternative format versions of this publication can also be requested.

### Publication of response

A paper summarising the responses to this consultation will be published in the New Year and will be available on-line at <https://consult.justice.gov.uk/>.

### Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

### Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

## **Consultation principles**

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

<https://www.gov.uk/government/publications/consultation-principles-guidance>







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