
DRAFT STATUTORY INSTRUMENTS

2017 No.

PUBLIC SERVICE PENSIONS

The Judicial Pensions (Fee-Paid Judges) Regulations 2017

<i>Made</i>	- - - -	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

(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^(a):

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^(b);

“the 1995 Regulations” means the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995^(c);

“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;

“eligible fee-paid judicial office” has the meaning given in regulation 3(2);

“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)~~⁽⁴⁾;

(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;

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

“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(23) 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 fee-paid judicial office held by a person is an “eligible fee-paid judicial office” if it falls within regulation 8(1) or (5)(c) (offices which qualify a person for membership of the principal scheme).

~~(2)~~(3) 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)~~(4) 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).

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

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 [aan eligible](#) 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.

(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 [aan eligible](#) 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 [aan eligible](#) 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) S.I.2015/182.

- (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—
- (a) where—
 - (i) A is 20, or
 - (ii) P has not, before the reckonable service date, ceased to hold an eligible 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 eligible 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 eligible 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 eligible 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~~P held a fee-paid judicial office at any time in the period beginning with 7th April 2000 and ending with 31st March 2015 and either—

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

~~(2) But—~~

- ~~(a) if P retired~~did not cease to hold that office before the relevant date,
- ~~(a)(b) P is a member of the principal scheme only if~~ceased to hold that office before the relevant date and condition A is met; ~~and, or~~
- ~~(b)(c) if P died before the relevant date without having retired, P is a member of the principal scheme only if~~ceased to hold that office and condition B is met.

~~(3)~~(2) Condition A is that—

- (a) P notified the appropriate Minister on or before the day 3 months after the day on which P ~~retired, ceased to hold that office,~~ 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, that 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~~that office.

~~(4)~~(3) 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~~that 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~~P having held that office.

~~(5)~~(4) Where P ~~retired~~ceased to hold a fee-paid judicial office before the relevant date but died before the relevant day, notice under paragraph ~~(3)~~(a) may be given by P's personal representatives.

~~(6)~~(5) 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)~~(6) 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)~~(7) 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 ~~an~~an eligible 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 eligible 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 eligible fee-paid judicial office; and
- (b) P did not, at any time before retirement, hold more than one eligible 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 eligible 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 eligible fee-paid judicial office (“the relevant offices”); and
- (b) at any time before retirement, P held more than one eligible 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 eligible 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 eligible fee-paid judicial office; and
- (b) P did not, at any time before retirement, hold more than one eligible 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 eligible 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 eligible fee-paid judicial office (“the relevant offices”); and
- (b) at any time before retirement, P held more than one eligible 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 in one or more eligible fee-paid judicial ~~office~~offices, and
- (b) P did not, at any time before retirement, hold more than one eligible 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 eligible 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 an eligible 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 an eligible 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 eligible fee-paid judicial offices).

(4) Paragraph (5) applies where—

- (a) on retirement P has reckonable service in more than one eligible fee-paid judicial office (“the relevant offices”), and
- (b) at any time before retirement, P held more than one eligible 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 eligible 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 eligible fee-paid judicial office, and
 - (b) P did not, at any time before retirement, hold more than one eligible 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 eligible 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 last eligible fee-paid judicial office in which P accrued reckonable service (“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 eligible fee-paid judicial office; and
 - (b) at any time before retirement, P held more than one eligible 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 eligible 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(a)) 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(b);
- (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.

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

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 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 [aan eligible](#) 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 [eligible](#) 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 [aan eligible](#) 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) 1999 c.30.
(b) S.I.1999/3147 (N.I.11)

- (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.

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.

(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).

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
- (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 an eligible 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).

(a) 2008 c.22.

- (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
 - (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 eligible 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 eligible fee-paid judicial office; and
- (b) P did not, at any time before death, hold more than one eligible 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 eligible 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 eligible fee-paid judicial office, and
 - (b) at any time before retirement, P held more than one eligible 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 eligible fee-paid judicial office, as if that office were the only eligible fee-paid 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 [aan eligible](#) 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 [aan eligible](#) 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 **aan eligible** 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 **aan eligible** 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 [aan eligible](#) 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 an eligible 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 an eligible 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 an eligible 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);

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

“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.

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;

“qualifying recognised overseas pension scheme” has the meaning given in section 169(2) of the 2004 Act(d);

“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.

(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.

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

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 aan eligible fee-paid judicial office ("A's fees").

(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(a).

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

- (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(a).

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

(a) 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.

- (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—

- (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(c) 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(d).

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.

(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.

(c) 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.

(d) 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)

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(a), or any scheme constituted by the 1995 Regulations;

“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 [an eligible](#) 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 [an eligible](#) 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.

(a) S.I. 2015/182.

(2) The date nominated under paragraph (1) must be no earlier than the date on which the FPJAYS member first held an eligible 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 eligible 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.

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 [an eligible](#) 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 eligible 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 an eligible 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 [an eligible](#) 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 an eligible 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 eligible 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(a) (application of regulations), after paragraph (a) insert—

“(aa) regulation 70 of the Judicial Pensions (Fee-Paid Judges) Regulations 2017;”.

(a) S.I.1995/635.

Date *Name*
Lord Chancellor

Date *Name*
One of Her Majesty's Principal Secretaries of State

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
<u>Temporary Judge (Scotland)</u>	<u>210</u>
<u>Re-employed former Judge (Scotland)</u>	<u>210</u>
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
<u>Part-time Sheriff (Scotland)</u>	<u>215</u>
<u>Part-time Summary Sheriff (Scotland)</u>	<u>215</u>
<u>Part-time Stipendiary Magistrate (Scotland)</u>	<u>215</u>
<u>Temporary Sheriff Principal (Scotland)</u>	<u>215</u>
<u>Re-employed former Sheriff Principal, Sheriff or part-time Sheriff acting as Sheriff (Scotland)</u>	<u>215</u>
<u>Re-employed retired Sheriff Principal or Sheriff acting as Sheriff (Scotland)</u>	<u>215</u>
<u>Re-employed former Summary Sheriff, or part-time Summary Sheriff, acting as Summary Sheriff (Scotland)</u>	<u>215</u>
<u>Re-employed former Appeal Sheriff (Scotland)</u>	<u>215</u>
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 an eligible 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 an eligible 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.