

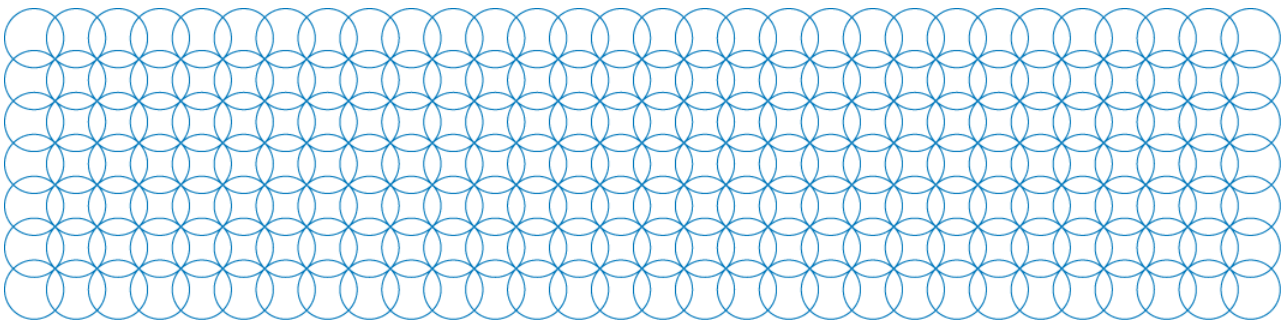


Ministry
of Justice

Fee-paid Judicial Pension Scheme Consultation

This consultation begins on 19 September 2014

This consultation ends on 12 December 2014





Ministry
of Justice

Fee-paid Judicial Pension Scheme

Consultation

A consultation produced by the Ministry of Justice. It is also available on the Ministry of Justice website at www.gov.uk/moj

About this consultation

- To:** This consultation seeks views from all salaried and fee-paid members of the judiciary.
- Duration:** From 19/09/2014 to 12/12/2014
- Enquiries (including requests for the paper in an alternative format) to:** Alex Scott
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- How to respond:** Responses to the consultation questions should be submitted online at:
<https://consult.justice.gov.uk/digital-communications/fee-paid-judicial-pension-scheme>
Responses can also be submitted to the 'Enquiries' contact details above
- Response paper:** A response to this consultation exercise is due to be published at: www.gov.uk/moj

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Executive summary

1. In light of the O'Brien and Miller judgments in respect of fee-paid pension entitlement, the department will implement a Fee-paid Judicial Pension Scheme (FPJPS) for reckonable fee-paid service from 7 April 2000 to 31 March 2015 for eligible fee-paid judicial office holders.
2. From 1 April 2015, serving judicial office holders will join a new judicial pension scheme in respect of both salaried and fee-paid service, subject to any applicable transitional provisions.
3. The FPJPS will be designed so as to remedy the failure to provide specified fee-paid judicial office holders with a pension entitlement that is comparable to that of their salaried comparators. The Tribunal found that the lack of pension entitlement amounted to part-time worker discrimination.
4. The pension scheme for eligible fee-paid judicial office holders will mirror the current scheme for salaried judges, established by the Judicial Pensions and Retirement Act 1993 (JUPRA), on a pro-rata basis, as far as is possible.
5. The department will by regulations establish the pension scheme for eligible fee-paid judicial office holders in England and Wales, Scotland and Northern Ireland.
6. Eligible fee-paid judicial office holders will qualify to be members of the pension scheme in respect of service from a date yet to be determined. As things currently stand, that date will be 7 April 2000, but the point is subject to appeal. The date from which pensions are payable under the scheme and eligibility to join the scheme are subject to litigation and have not been finalised.
7. There are a number of eligible fee-paid judges who were appointed after 7 April 2000 that the outcome of this appeal will not affect. To ensure these judges are not without pension provision longer than is necessary, the department will establish the FPJPS during the financial year 2015/16.

Scope of this consultation

8. The complete schedule of judicial offices determined as pensionable is yet to be finalised due to ongoing litigation. A schedule of judicial offices that have been determined as pensionable as at the date of the publication of this consultation document is available on the Consultation Hub website.
9. The FPJPS will cover fee-paid judicial office holders in England and Wales, Scotland and Northern Ireland determined as eligible for a pension.
10. Although the full list of eligible fee-paid judicial offices in both Scotland and Northern Ireland has still to be determined and are subject to on-going litigation, we would encourage all fee-paid judicial office holders within these jurisdictions to read and provide any comments on the proposed scheme design of the FPJPS.

New Judicial Pension Scheme 2015

11. The New Judicial Pension Scheme 2015 (NJPS 2015) will apply to fee-paid and salaried judicial office holders. This scheme, established by regulations made under the Public Service Pensions Act 2013, is due to commence on 1 April 2015.
12. A formal consultation on the NJPS 2015 is still open for comment. The department will issue a formal response to this in due course, once this consultation has closed.
13. Judges eligible for membership of the FPJPS will be eligible to join the NJPS 2015, subject to the operation of transitional provisions detailed later in this document.
14. This consultation outlines the proposed design of the new fee-paid judicial pension scheme. The consultation will be open for 12 weeks, and provides the opportunity for all those likely to be affected by this scheme the opportunity to comment on the proposed scheme design.

Judicial Pension Claims

15. In order to offset the delay for claimants in the Tribunal proceedings who have already reached retirement, the department has already offered to make interim payments in lieu of pension.
16. As stated in a public announcement, from 1 July 2014, the department invites other eligible current and retired fee-paid judiciary in England and Wales, Scotland, and Northern Ireland to apply for an interim payment.
17. The eligibility criteria for making an interim claim are detailed in the announcement dated 3 July 2014, available at the below address.

<https://www.gov.uk/government/news/fee-paid-judicial-cases>

18. Judges should note that this consultation is on the design of the fee-paid judicial pension scheme itself, and does not cover the process of historical judicial pension claims.

About this document

19. This consultation is divided into sections. Firstly, member information regarding eligibility and pension contributions is outlined. This is followed by the detailed scheme design of how the pension will be calculated, and subsequently the additional scheme options available to members. Finally, the procedures for members leaving the scheme are detailed. The annexes to this document summarise the application of transitional provisions as part of the 2015 reforms, and the annual divisors for judicial offices used in the calculation of pensionable pay.

Next steps

20. Once the consultation has closed, and the department has issued its formal response on the scheme design, regulations will be made to bring the scheme into effect. These regulations will be subject to the negative resolution procedure and will be laid before both Houses of Parliament before the scheme comes into effect, at some point in the financial year 2015/16. More details on the commencement of the scheme will be made in the consultation response.

21. This consultation will be open for 12 weeks, closing on 12 December 2014.
22. All fee-paid judges eligible to a pension under either the FPJPS or the NJPS 2015 will be contacted by the department in the New Year as part of a fee-paid judicial options exercise. Each individual letter will outline the position for individuals and the options available to them as part of pension entitlement from 1 April 2015.

General information

23. The FPJPS will be open to eligible fee-paid members of the judiciary for service up until 31 March 2015, except where transitional provisions apply. The FPJPS will cover eligible fee-paid judicial office holders in England and Wales, Scotland and Northern Ireland determined as eligible for a pension.

Membership

24. All fee-paid judicial office holders who are in office when the scheme commences and whose judicial office is determined as pensionable will be members of the FPJPS automatically in respect of service in that office from appointment or from 7 April 2000 (whichever is the later).

25. Where a fee-paid judicial office holder holds or held a number of fee-paid appointments or has been re-appointed to an office after a break, each appointment will be considered separately.

26. For each appointment, fee-paid service will be pensionable only in respect of service in a pensionable office from 7 April 2000 where:

- i. The fee-paid judicial office holder held that office on or after 2 December 2012; and/or
- ii. The fee-paid judicial office holder presented a Part-time Workers Regulations pension claim to the Employment Tribunal that has been accepted as being in time.

27. On 5 April 2013, the department announced a moratorium in fee-paid judicial pension cases. The purpose of this moratorium was to remove the need for potential claimants to lodge a protective claim from 5 April 2013 onwards.

28. The effect of the moratorium was that if a person left an eligible fee-paid judicial office on or after 2 December 2012, the department would treat that person as if they had issued a pension related claim, and that claim had been stayed. The moratorium itself is available at the link below

<https://www.gov.uk/government/news/moratorium-in-fee-paid-judicial-pension-cases>

Summary of eligibility for membership of the FPJPS	
Scenario	Eligibility for membership of FPJPS
In eligible fee-paid office as at 1 April 2015	Eligible
Retired from eligible fee-paid office on or after 2 December 2012	Eligible, as covered by the moratorium
Retired from eligible fee-paid office before 2 December 2012 , and made a legal claim for a pension within 3 months from date of retirement	Eligible
Retired from eligible fee-paid office before 2 December 2012 , and did not make a legal claim for a pension within 3 months from date of retirement	Ineligible

29. The complete schedule of judicial offices determined as pensionable is yet to be finalised due to ongoing litigation. A schedule of judicial offices that have been determined as pensionable as at the date of the publication of this consultation document is available on the Consultation Hub website.
30. The FPJPS is being established for fee-paid service from 7 April 2000 up until 31 March 2015. The FPJPS, like JUPRA, will close to new members from this date.
31. All reckonable service from 7 April 2000 until 31 March 2015 will be pensioned under the FPJPS. From 1 April 2015, reckonable fee-paid service will be pensioned under the NJPS 2015, except where transitional provisions apply.
32. Certain members of the fee-paid judiciary will be eligible to remain in the FPJPS beyond 31 March 2015 if they qualify for any transitional provisions. The eligibility criteria and application of these transitional provisions are summarised in Annex B. The application of transitional provisions are outlined in detail in the recent consultation on the New Judicial Pension Scheme 2015 available at the link below:

<https://consult.justice.gov.uk/digital-communications/judicial-pension-scheme-2015-consultation>

Member Contributions

33. Under the FPJPS, contributions are required from scheme members in respect of the cost towards their personal benefits (“personal pension contributions”), and in respect of the cost towards the spouses’, civil partners’ and children’s pensions (“dependents’ pension contributions”).
34. Personal Pension Contributions are compulsory for all members of the scheme and are made by deductions of the judicial office holder’s gross pensionable earnings until retirement or the completion of 20 years’ worth reckonable pensionable service, whichever is the earlier.

35. No Personal Pension Contributions are required in respect of any period in which service is enhanced on retirement on health grounds or in the event of death in service. Personal Pension Contributions will be deemed to have been made in respect of such periods of enhancement
36. Personal Pension Contributions were first taken under JUPRA on 1 April 2012. Only Dependent Pension Contributions were taken before this date. However, all reckonable service before 1 April 2012 is taken into account when calculating a member's service credit under JUPRA.

Rate of member contributions

37. Alongside the implementation of the reforms to judicial pension arrangements on 1 April 2015, the rates of member contributions for all members of the judiciary are also set to change from this date.
38. The rate of member contributions for members of the FPJPS will be the same as for members of JUPRA. These rates will be detailed in a Statutory Instrument to be laid in the New Year, and a copy of the contribution schedule until 2018/19 is detailed in the Annex.
39. For members of the FPJPS, and JUPRA, the total rate of member contributions outlined in the contribution schedule will be broken down into two components: the Personal Pension Contribution and the Dependent Pension Contribution.
40. The Dependent Pension Contribution is fixed at 1.8% of pensionable pay. The balance of the total rate of contributions will form the Personal Pension Contribution.

Dependent Pension Contributions

- Dependent Pension Contributions are **compulsory** for all members of the FPJPS and are made by deductions of the judicial office holder's gross pensionable earnings until retirement or the completion of 20 years reckonable pensionable service, whichever is the earlier.
- No Dependent Pension Contributions are required in respect of any period in which service is enhanced on retirement on health grounds or in the event of death in service. Dependent Pension Contributions will be deemed to have been made in respect of such periods of enhancement.
- If at retirement, or in the event of death in service, an office-holder is married or has a civil partner, or has children eligible to receive benefits under the scheme, then he or she must cover the maximum scheme liability, i.e. the equivalent of the length of service in judicial office to a maximum of twenty years.

41. From 1 April 2015, the member contribution rates for the FPJPS and JUPRA will be comparable to the contribution rates for the NJPS 2015. However, the member contribution rates for members of the FPJPS and JUPRA will be amended to reflect that the schemes are not registered for tax purposes, and therefore pension contributions will not be subject to tax relief.

42. Members of FPJPS should note that the member contribution for all judges' rates may change after a subsequent actuarial valuation of the NJPS 2015 that shows a substantial change in the overall cost of the scheme, either up or down. This is a consequence of the employer cost cap procedure. This is outlined in detail in the recent consultation on the New Judicial Pension Scheme 2015 available at the link below:

<https://consult.justice.gov.uk/digital-communications/judicial-pension-scheme-2015-consultation>

43. At the point of a substantial change in the overall cost of the change, member contributions may be amended to reflect the changing cost of the scheme. It has been decided that all judicial office holders are to pay the same rate of contributions, regardless of the pension scheme under which they accrue pension benefits.
44. The next valuation of the scheme is scheduled to be completed in 2019. Member contributions until this point are detailed in Annex A.
45. For those judicial office holders not working on a full time basis, including fee-paid judges, the department recently consulted on the method of calculation of member contributions, based either on actual earnings paid, or on whole time equivalent salary.
46. Under the 'actual earnings' approach, contributions would be assessed on the annual rate of pensionable earnings **in each pay period**. This would fluctuate within a given scheme year dependent on the applicable member contribution rate for that pay period.
47. Under the whole time equivalent approach, contributions would be assessed on the annual rate of pensionable earnings of the fee-paid office holder's salaried comparator.
48. The department will announce the approach to the calculation of member contributions in the official response to the consultation on judicial pension reforms.

Refunding of member contributions

49. Dependent Pension Contributions made by a scheme member who at the time of retirement or death in service is unmarried, and who does not have a registered civil partner or children eligible to receive benefits under the scheme, and who at no time while holding judicial office has been married, or in a registered civil partnership or had eligible children, will be refunded.
50. Where a scheme member is unmarried at retirement, and does not at the time have a civil partner or children eligible to benefit under the scheme, but during some period of service has had a spouse, a registered civil partner or eligible children, Dependent Pension Contributions made from the date on which the scheme member last had a spouse, registered civil partner or eligible children will also be refunded.
51. Dependent Pension Contributions are refunded together with compound interest, the interest payable in these circumstances is liable for a deduction for tax. Tax will be deducted at source, i.e. before the refunded Dependent Pension Contributions and interest are paid out to the recipient.

Historical member contributions

52. At present, the FPJPS will cover pensionable service for eligible fee-paid judges dating back to 7 April 2000. When calculating an eligible fee-paid judge's pension entitlement over this period, the department will have to consider the recovery of the historical member contributions. These are due because the eligible fee-paid judge is entitled to the same benefits as their full-time comparator in JUPRA, on a pro-rata basis.
53. Dependent Pension Contributions have been set at 1.8% over the period. Personal pension contributions have been introduced on a sliding scale since 2012. Contributions will be recovered in line with the following schedule.

Schedule for recovery of historical contributions			
Time Period	Personal Pension Contribution	Dependent Pension Contribution	Total member contribution rate
7 April 2000 – 31 March 2012	0.00%	1.80%	1.80%
1 April 2012 – 31 March 2013	1.28%	1.80%	3.08%
1 April 2013 – 31 March 2014	2.56%	1.80%	4.36%
1 April 2014 – 31 March 2015	3.20%	1.80%	5.00%

54. The department is proposing to recover historical member contributions by subtraction from the member's automatic lump sum upon retirement. However, another possibility would be to allow members to pay an additional contribution rate in the future to repay the deficit, and preserve their lump sum on retirement.
55. The department welcomes comment on the proposals for the recovery of historical member contributions.

Transition

56. At the same time as the implementation of the fee-paid judicial pension scheme, other reforms to judicial pension arrangements are taking place.
57. This process is complicated by the fact that the FPJPS will not be established until a point during the financial year 2015/16. However, potential eligible members should be aware that benefits in relation to reckonable service dating back to 7 April 2000 will be reflected in the pension benefits accrued under this scheme.
58. For the purposes of the transitional exercise, all benefits in relation to service accrued under the FPJPS will be reflected in the overall FPJPS pension calculation upon retirement, regardless of which point the scheme was officially 'established'.
59. All eligible fee-paid judges that join the NJPS 2015 will be liable to pay member contributions from the point of joining that scheme.

60. For eligible service between 7 April 2000 and 31 March 2015, all judges will be pensioned under the FPJPS. For service beyond 1 April 2015, the pension scheme under which a fee-paid judge will accrue benefits will depend upon their eligibility for transitional provisions.

61. The details of these transitional provisions have been detailed in a recent consultation on the New Judicial Pension Scheme 2015 (NJPS 2015), available at the below link:

<https://consult.justice.gov.uk/digital-communications/judicial-pension-scheme-2015-consultation>

Time period	Type of judge	Scheme under which benefits will be accrued
7 April 2000 – 31 March 2015	All Judges	FPJPS
1 April 2015 – onwards	Judges with transitional protection	FPJPS
1 April 2015 – onwards	Judges with tapering protection	FPJPS (for a period) or NJPS 2015
1 April 2015 – onwards	Judges without transitional protection	NJPS 2015

62. All active, eligible fee-paid judicial office holders will be contacted by the department in the New Year with details of the options available to them at 1 April 2015.

Scheme features

63. This section will cover details of the key features of the design of the fee-paid judicial pension scheme (FPJPS) and the method through which these pension benefits are calculated. This section also covers tax considerations as well as provisions for pension sharing on divorce or dissolution.

64. Provided a scheme member retires having completed at least 5 years' service in calendar years, and is aged at least 65, a pension is immediately payable.

Pension benefits

65. In order to comply with the requirements of the Pensions Act 1993, benefits will be paid to judicial office holders who have reached the compulsory retirement age of 70 not having completed 5 years of service but having completed at least 2 years.

Scheme design

The key elements of the FPJPS are as follows:

- A pension scheme design based on '*final pensionable earnings*' model
- Automatic lump sum on retirement at a rate of 2.25 times annual pension.
- Service award payment on retirement equal to the tax paid on the automatic lump sum payment
- 20-year restriction on the number of reckonable full-time equivalent years' worth of service
- An accrual rate of 2.50% of pensionable earnings (1/40)
- Revaluation of deferred and retired scheme members' benefits in line with the index set under the Pensions Increase Act 1971 (currently in line with CPI).
- Normal Pension Age of 65 years of age
- Scheme is not registered for tax purposes.
- Pension for surviving spouses and surviving civil partners of 50% of member's pension and pensions for eligible children

66. Pension benefits under the FPJPS are constituted of three components:

- An annual pension payment;
- An automatic lump sum; and
- A service award payment.

Annual pension

67. The FPJPS will offer benefits in line with JUPRA, which is a final salary scheme. Under JUPRA, the annual pension payment is calculated with respect to the pensionable pay of the Judge at retirement.
68. The principle of this calculation will also apply to eligible fee-paid judiciary; however, the calculation of pensionable pay will differ. The details of how a pension under the FPJPS is detailed below.
69. Fee-paid judges should note that if they sit in more than one pensionable fee-paid office during their period of service, their overall pension would be made up of separate pension calculations in respect of each pensionable office in which they have sat.

Calculation of annual pension

$$\text{Annual pension} = \frac{\text{Service credit}}{40} \times \text{Pensionable pay}$$

70. There are two main elements to the calculation of a pension under the FPJPS: the multiplier and the multiplicand.
71. The value of this multiplier is the number of years served, or service credit, divided by 40.
72. This is because the FPJPS, and JUPRA, are based on an **accrual rate** of 1/40 (or 2.5%) for every year and part year of service a judge has completed prior to retirement.
73. The **service credit** represents the length of time between the date of appointment and date of retirement, expressed in years, in decimal form. (e.g. 12 years, 210 days = 12.5753 years). This is capped at 20 years.

Service credit calculation

$$\text{Service credit (expressed in years)} = \frac{\text{Total number of calendar days}}{365}$$

(Note: a judge's service credit is capped at 20 years)

74. The next element of an annual pension calculation is the multiplicand. This is the relevant pay value that the multiplier should be set against, and will be different for the different working patterns. It is at this stage that the pension is pro-rated.
75. For eligible fee-paid judges, the multiplicand will be the **pensionable pay**.

- 76. A eligible fee-paid judge’s pensionable pay is dependent on a judge’s total number of reckonable pensionable days in office (**reckonable service**), as well as the service credit.
- 77. To express reckonable service in years, in decimal form, the number of pensionable days served whilst in office must be set against the ‘annual divisor’ for the judicial office held. A schedule of divisors for each office is outlined in Annex D; however, these are subject to change as a result of ongoing litigation.
- 78. The maximum pension under JUPRA and/or the FPJPS is obtained by completing 20 years’ worth of service. Where a judicial office holder sits on a part-time (salaried or fee-paid) basis for some or all of their period of appointment, it will take more than 20 calendar years from their appointment for them to complete 20 years’ worth of service. There is no cap on the length of time from appointment within which a judge can complete 20 years’ worth of reckonable service.
- 79. Judges should note that where a scheme member takes unpaid leave or a career break the period of such leave will not count towards service for pension benefits and neither Personal Pension Contributions or Dependent Pension Contributions will be payable.

Reckonable service calculation

$$\text{Reckonable service (expressed in years)} = \frac{\text{Total number of pensionable days}}{\text{Annual divisor for office}}$$

(Note: a judge’s reckonable service is capped at 20 years’ worth of reckonable service)

- 80. The value of the pensionable pay for the annual pension calculation is derived from the pensionable pay of the eligible fee-paid judge’s salaried comparator in the 12 months’ preceding retirement.

Pensionable pay calculation

$$\text{Pensionable pay} = \text{Comparator’s pensionable pay} \times \frac{\text{Reckonable service}}{\text{Service credit}}$$

Automatic lump sum

- 81. In addition to the annual pension, an automatic lump sum is payable to every scheme member upon retirement.

Automatic lump sum calculation

Irrespective of length of service under FPJPS, the automatic lump sum on retirement is calculated by multiplying the annual FPJPS pension by 2.25.

Service award

82. The automatic lump sum payable on retirement is subject to tax, currently set at 45%. A sum equal to the tax paid on this lump sum payment will be paid to the scheme member as a 'service award' when he or she retires from office.
83. A copy of the Lord Chancellor's Ministerial Statement relating to the payment of Service Awards is attached at Annex C.

Example: Total Pension Calculation

Judge A was appointed as a First Tier Tribunal Judge on 5 April 2008 and retired on 31 March 2019. During that time, Judge A sat 435 pensionable days. The divisor for a First Tier Tribunal Judge is 220 days, and the salary for Judge A's comparator at her retirement date is £104,990.

Reckonable service

This is expressed in years, and is calculated by dividing the total number of pensionable days served by the applicable divisor for the fee-paid office.

$$\text{Reckonable service} = 435 \text{ days} / 220 \text{ days per year} = 1.9773 \text{ years}$$

Service credit

The number of calendar days between Judge A's date of appointment and date of retirement is 10 years, 360 days (or 4,010 days).

This is converted into decimal form by

$$\text{Service credit} = 10 \text{ years} + (360 \text{ days} / 365 \text{ days}) = 10.9863 \text{ years}$$

Pensionable pay

Judge A's pensionable pay is calculated by dividing the reckonable service by the service credit, then multiplying by her comparator's final salary.

$$\text{Pensionable pay} = (1.9773 \text{ years} / 10.9863 \text{ years}) \times £104,990 = £18,995.96$$

Annual pension

Judge A's annual pension is calculated in the same manner as any equivalent salaried judge under JUPRA, by taking the Judge's service credit as a function of the scheme accrual rate, then multiplying by Judge A's pensionable pay.

$$\text{Judge A's annual pension} = (10.9863 / 40) \times £18,995.96 = £5,217.38$$

Automatic lump sum

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

$$\text{Judge A's automatic lump sum} = £5,217.38 \times 2.25 = £11,739.11$$

Service award lump sum

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

$$\text{Judge A's service award lump sum} = £11,739.11 \times 0.45 = £5,282.60$$

Upon retirement, Judge A receives:

- Annual pension payment of **£5,217.38**
- Lump sum payment of **£11,739.11**

Combined Service under FPJPS and JUPRA

84. If an eligible fee-paid judge were subsequently appointed to salaried office, the pension under the FPJPS would be preserved at the point of leaving fee-paid office, payable upon retirement. This will be uprated in line with the Pensions (Increase) Act 1971 upon payment.
85. If a salaried judge with a preserved pension under the FPJPS subsequently sat in retirement as a fee-paid judge, the preservation of their FPJPS pension would be cancelled. The judge would continue to accrue pension benefit under the FPJPS, in the same arrangement as their previous fee-paid service, subject to the operation of the 20-year restriction to benefit accrual.
86. For judges with service in both the FPJPS and JUPRA, the combined **reckonable service** under the two schemes will be capped at 20 years. This is not the service credit, rather the combined reckonable service.
87. Service under the JUPRA scheme will take primacy over service in the FPJPS. For instance, if a judge has accrued 20 years reckonable service under JUPRA before sitting in retirement in an eligible fee-paid office, the judge would not be able to accrue further pension benefit in the FPJPS for the service sitting in retirement.
88. Conversely, if a fee-paid judge was appointed to salaried office with 4 years of fee-paid reckonable service (regardless of service credit), and subsequently sat in a salaried office for 20 years, that judge would retire with 20 years under JUPRA, and no service in the FPJPS.
89. A judge will be able to accrue pension benefit under the FPJPS whilst in receipt of their JUPRA salaried pension. Any pension accrued under the FPJPS will be payable on the point of leaving fee-paid office.

Age at which pension is payable

90. The age at which an unreduced pension under the FPJPS will become payable is 65 years of age. This will remain at 65 and is not linked to the member's State Pension Age (SPA).
91. It is not possible for a pension to be drawn before retirement. Furthermore, it is not possible for a pension to be drawn before the age of 60, regardless of whether a judge has retired. If a judge was to retire before the age of 60, their pension would be preserved until the judge's normal retirement age of 65.
92. A judge can only take early retirement, and an actuarially reduced pension, under the FPJPS if they are over the age of 60. The compulsory retirement age for the judiciary is 70 years of age.

State retirement benefits

93. The FPJPS is a Contracted-Out pension scheme for the purposes of the Pension Schemes Act 1993. As the scheme is 'Contracted-Out', a scheme member will pay reduced National Insurance contributions, but will not accrue additional state benefits beyond basic state pension entitlements.
94. This does not affect entitlement to the basic (flat-rate) state retirement pension and provided that their record of National Insurance Contributions is sufficient to meet the relevant conditions, holders of judicial office will be entitled to receive the basic state retirement pension from state retirement age.

Future changes to state retirement benefits

95. Separately to the reforms to public service pension arrangements, the Government is also planning to abolish this 'Contracting Out' of occupational pension schemes. This would be established at the same time as the Single-Tier State Pension on 6 April 2016.
96. As a result of abolition, members of contracted-out schemes will cease to receive the "National Insurance rebate" as they do now and start to pay full rate National Insurance Contributions. This will mean an increase equivalent to 1.4% of pensionable earnings, bringing them into line with the rate of National Insurance that is paid by other employees.
97. In return, the formerly contracted-out employees' qualifying years after the reforms are implemented will count towards the new State Pension in the same way as others.
98. The Government has recently consulted on the reforms to contracting out, and further details are available at the following link:

<https://www.gov.uk/government/consultations/occupational-pension-schemes-abolition-of-defined-benefit-contracting-out>

Tax considerations

99. The FPJPS is for tax purposes a non-registered scheme. This means that none of the income tax advantages conferred by the legislation governing registered pension schemes apply, but nor do the Lifetime and Annual Allowances provisions under the Finance Act 2004.
100. In other words, benefits under the scheme do not count towards either the Annual Allowance or the Lifetime Allowance under the Finance Act 2004.
101. However, the additional voluntary contributions (AVC) facility, the Judicial Additional Voluntary Contributions Scheme (JAVCS), is a registered scheme for tax purposes and contributions therefore attract tax relief, but conversely the Annual and Lifetime Allowances do apply.

Pension sharing on divorce or dissolution

102. Where a Pension Sharing Order on Divorce or Dissolution is made, the former spouse or civil partner becomes a member of the FPJPS in his or her own right. The value of the member's accrued judicial pension rights to be shared will be determined as at the date of the Decree Absolute or Final Order.
103. The Pension Credit, at the level determined by the Pension Sharing Order, will consist of a personal annual pension and a lump sum both payable to the former spouse or civil partner from his or her 65th birthday. The lump sum will be subject to income tax, currently at a rate of 45%.
104. At the time the benefits come into payment they will be re-valued to add on increases in line with inflation.
105. The Pension Debit will require a reduction in the Judge's annual pension and lump sum and a consequent reduction in any pension payable to the surviving spouse or civil partner of any subsequent marriage or civil partnership.
106. The Pension Debit amounts will also be re-valued at the time of the judicial office holder's retirement to take account of inflation.

Options for scheme members

107. Scheme members of the FPJPS are able to supplement their pension savings under the scheme through the following methods:

- Judicial Added Voluntary Contribution Scheme;
- Judicial Added Years Scheme (if eligible)
- Judicial Added Surviving Spouse's Pension Scheme (if eligible); and
- Transfers of accrued pension rights.

Judicial Added Voluntary Contribution Scheme

108. Members of the JUPRA are able to top-up their benefits through tax-registered 'Added Voluntary Contribution' arrangements, known as the Judicial Additional Voluntary Contributions Scheme (JAVCS). The FPJPS also includes arrangements for the JAVCS.

109. The JAVCS is a registered scheme for tax purposes and contributions to this scheme will attract tax relief. The scheme enables contributions to be made to an authorised provider, which is an independent pension provider that will invest the scheme member's contributions at the scheme member's direction within a range of investment options. The fund so generated may then be used to purchase pension benefits for the scheme member or his or her dependants.

110. In addition, life assurance (death in service benefits) may also be purchased by contributions to the authorised provider. There are two authorised providers, the Equitable Life Assurance Company and Prudential, and scheme members can join either plan.

111. The limit on annual contributions is 15% of pension-capped pensionable earnings, inclusive of the Dependent Pension Contributions. There is no formal limit to the amount of benefit that may be accrued under the JAVCS but any benefits will count toward the Lifetime Allowance under the provisions of the Finance Act 2004.

112. To compensate for the fact that prospective fee-paid scheme members have not been able to pay into the scheme since their appointment until the establishment of the scheme, the department proposes to allow new members to contribute as much as is desired in the first 12 months of the scheme's establishment.

113. The department welcomes comment from all consultees with regards to the approach to the JAVCS.

Judicial Added Years Scheme

Design

114. The Judicial Added Years Scheme provides judges to with the opportunity to purchase added years (or part-years) of qualifying service in judicial office. The benefits secured under JAYS are paid as part of the judicial pension.
115. By purchasing added years, an office-holder will, therefore, increase the length of service by reference to which the level of his or her personal pension is calculated at retirement, and this will accordingly increase the level of the lump sum on retirement, and the rate of any contingent surviving spouses' and children's pensions payable under the scheme.

Eligibility

116. From the launch of the JUPRA scheme on 31 March 1995, up until the point the scheme became non-registered for tax purposes on 5 April 2006, scheme members were able to purchase 'Judicial Added Years' (JAYS) to supplement their pension in retirement.
117. To ensure equality of treatment, the department is proposing to offer eligible fee-paid judges who were in service before 5 April 2006 the chance to purchase JAYS upon the establishment of the FPJPS. It is a requirement that a person wishing to purchase JAYS must still be an active member of the scheme upon purchase.
118. Salaried judges under JUPRA that were appointed after 5 April 2006 are not eligible to purchase JAYS. This will also be true for the fee-paid judiciary. As a result, only eligible fee-paid judges in post before 5 April 2006 will be offered the opportunity of purchasing JAYS.
119. Persons applying to join JAYS will be required to sign a declaration that they have no reason to believe that their health may prevent them from serving until the assumed retirement age.
120. Any member wishing to join JAYS must also meet eligibility requirements concerning their retained benefits at the time.

Judicial Added Years Scheme

- Eligible fee-paid judges in office prior to 5 April 2006 will have the option to purchase added years of service in the FPJPS for use in pension calculation.
- Each additional year or part-year purchased will count on retirement at or after the assumed retirement age as if it had actually been served. The rate of the personal pension will thus be increased at a rate of 1/40th of pensionable pay for each complete additional year of service purchased.
- To do so, a fee-paid judge must nominate an assumed retirement age, which must be between his or her 60th birthday and his or her compulsory retirement age. This date should be the age at which the judicial office-holder intends to retire, as far as this is possible to predict.
- The maximum number of added years that a member may purchase will be determined by reference to the nominated assumed retirement age and the value of any retained benefits in another pension scheme. The maximum number of added years purchased may not take a scheme member's total years of reckonable service at the assumed retirement age over 20.
- The purchase of JAYS will be made by deductions from pensionable earnings between the date of joining JAYS and the assumed retirement age.

Contributions

121. Contributions to tax-approved pension schemes attract tax relief. However, the scheme will limit the amount of pensionable earnings that may be used in this way to 15% of pension-capped earnings in any one tax year.
122. Contributions to JAYS would be made by deductions from pensionable earnings from the date of joining JAYS until the assumed retirement age. The contributions are deducted from gross pensionable earnings and thus carry tax relief at the scheme member's highest marginal rate.
123. Contributions will continue until the member reaches his or her assumed retirement age, dies, leaves judicial office, or notifies the scheme administrators that he or she wishes contributions to cease.
124. With regards to the recovery of contributions from the date an eligible judge wished to take out JAYS (i.e. before 2006), the department is proposing to allow lump sum payments be paid over the first 12 months of the scheme's establishment.

Leaving the Scheme

125. If an office-holder retires before his or her assumed retirement age, other than on ill-health grounds, he or she will be granted added years credit on a pro-rata basis. The number of years or part-years with which the office-holder will be credited will be determined by reference to the length of time during which he or she has actually made additional contributions as a proportion of the time he or she would have made such contributions had service continued until the assumed retirement age.
126. If retirement before the assumed retirement age occurs on the grounds of ill-health, then the office-holder will be credited with the full number of added years he or she would have purchased had service continued until the assumed retirement age.
127. If a member of JAYS should die in service before the assumed retirement age then, for the purposes of determining any surviving spouse's or children's benefits, the length of the member's qualifying judicial service will be increased by the full number of added years which would have been purchased had service continued until the assumed retirement age
128. A member of JAYS may cease to make additional contributions at any time before the assumed retirement age. In such cases, a pro-rata service credit will be awarded in the same manner as for early retirement. If the member subsequently wishes to rejoin JAYS then a new calculation will be made.

Judicial Added Surviving Spouse's Pension Scheme

129. The Judicial Added Surviving Spouse's Pension Scheme (JASSPS) allows a scheme member to purchase additional pension for their spouse in units of £1,000.
130. The purchase of Judicial Added Surviving Spouse's Pensions (JASSPS) is subject to the same eligibility requirements as Judicial Added Years. This scheme has been closed to members of the salaried judiciary since 5 April 2006, after the Finance Act 2006 came into force. JASSPS has been closed to new members since this date.
131. To ensure equality of treatment, the department is proposing to offer eligible fee-paid judges who were in service before 5 April 2006 the chance to purchase JASSPS upon the establishment of the FPJPS. It is a requirement that a person wishing to purchase JASSPS must still be an active member of the scheme upon purchase.
132. Salaried judges under JUPRA that were appointed after 5 April 2006 are not eligible to purchase JASSPS. This will also be true for the eligible fee-paid judiciary. As a result, only eligible fee-paid judges in post before 5 April 2006 will be offered the opportunity of purchasing JASSPS.
133. A person who wishes to become a member of JASSPS is asked to nominate an assumed retirement age, which may be any date between his or her 60th birthday and his or her compulsory retirement age. This date should be the age at which the judicial office-holder intends to retire, so far as this is possible to predict.

134. The maximum number of £1,000 units of additional surviving spouse's pension which a JASSPS member may purchase will be determined by reference to the assumed retirement age and the purchase of those units of additional surviving spouse's pension will be made by deductions from pensionable earnings between the date of joining JASSPS and that date.

Transfers of accrued pension rights

135. Members of the scheme may elect to transfer non-judicial pension rights into the scheme or to elect to take a transfer of their judicial pension rights out of the scheme, subject to certain qualifying conditions. Where a transfer out is paid, all rights to benefits under the FPJPS will be extinguished.
136. Members will only be able to exercise rights to transfer accrued pension rights in or out of the scheme from the date of the establishment of the FPJPS.

Transfers of accrued rights

- The FPJPS, like JUPRA, is not registered for tax purposes. Therefore, any pension value transferred into the scheme will be subject to a tax charge, currently at a rate of at least 40% and up to 55% of the payment.
- Only pension rights that are accrued in a registered pension scheme can be transferred into the judicial scheme. It will be for the other scheme to determine whether it permits a transfer to the judicial scheme.
- The pension and lump sum created in the FPJPS will be based on the net amount actually received by the judicial scheme and the benefits awarded will not increase in value during the time between when the transfer payment is received into the scheme and retirement.

137. Members may not withdraw money from a private pension arrangement and then subsequently transfer this money into the FPJPS. This is restricted by current legislation and is known as 'recycling'.
138. Judges should note that under JUPRA, members over the age of 64 years are not eligible to transfer accrued pension rights into and out of the scheme. For the FPJPS, the department is proposing to offer all members that were under the age of 64 as at 6 February 2013 – the date of the Supreme Court judgment on O'Brien – the opportunity to transfer accrued pension rights into and out of the scheme.
139. Any individual considering a transfer into or out of the FPJPS would be strongly advised to seek independent financial advice, including consideration of the tax implications of doing so.

Leaving the scheme

140. This section covers provisions for early retirement before and after the age of 60 as well as medical retirement and sitting in retirement. The section then goes on to cover death in service benefits, and benefits for dependants, spouses and civil partners.

Early voluntary retirement before the age of 60

141. A preserved pension and lump sum will be awarded to a scheme member who has served for at least 2 years and who resigns without qualifying for an immediate pension.
142. The benefits would be calculated at the date of leaving office but would not become payable until the scheme member reached normal pension age (i.e. age 65).
143. Under the FPJPS, if a member is in deferment, the member's pension will be preserved, and subject to enhancement in accordance with the Pension Increase Act 1971 only upon retirement.
144. Preserved benefits and preserved derivative benefits (spouses', civil partners' and children's pensions, and the personal lump sum) are taken as accruing proportionately to the benefits to which the scheme member would have been entitled had he or she served to normal pension age.
145. Where a scheme member has retired with prospective entitlement to a preserved pension but dies before reaching the age when the pension is due to come into payment, the surviving spouse or civil partner is entitled immediately to a pension of one-half of the preserved judicial pension and a lump sum payable to the estate.

Early voluntary retirement between the ages of 60 and 65

146. A scheme member who retires on or after his or her 60th birthday but before his or her 65th birthday and who has completed at least 5 years service is entitled to a pension and lump sum immediately payable but actuarially reduced.
147. The pension and lump sum are calculated as in Section 2 but actuarially reduced in accordance with a factor related to the scheme member's age at the date of retirement.

Partial retirement

148. Unlike the NJPS 2015, the FPJPS does not offer partial retirement. Under the FPJPS, pensions are payable only on retirement from judicial office.
149. For the purpose of determining if an individual had sufficient qualifying service under the NJPS 2015 to take partial retirement however, service in the FPJPS would be taken into account.

Sitting in retirement

150. The sitting in retirement rules will apply only where there has been a retirement.
151. If a salaried Judge is sitting in fee-paid office in retirement, the Judge will accrue further pension benefit in respect of their fee-paid service under the FPJPS, or the NJPS, subject to the operation of transitional provisions.
152. A Judge will be able to accrue pension benefit under the FPJPS whilst in receipt of their JUPRA salaried pension. Any pension accrued under the FPJPS will be payable on the point of leaving fee-paid office.
153. If a judge is sitting in retirement after accruing a maximum 20 years' of service as a salaried judge under JUPRA, the judge will **not** be able to accrue further credit under the FPJPS.

Medical retirement

154. A scheme member who retires at any time after appointment for reasons of ill health is entitled to the immediate payment of a pension and lump sum based on his or her actual service and calculated in accordance with the calculation outlined in Section 2.

The FPJPS provides a single level of ill-health retirement benefits whereby:

- Ill-health pensions would be payable to a judge who had "suffered a permanent breakdown in health involving incapacity for employment".
- The pension would be payable for life and equal to the accrued pension, plus half of the expected pension that the member would have accrued before scheme pension age.

155. If the scheme member has not reached his or her 65th birthday before the date of retirement, the length of service upon which the pension is calculated will be enhanced.
156. The enhancement of service is proposed to be applied by taking the average service for the past 3 years, and then give half of that average for each year between the member's date of retirement and their 65th birthday.
157. This enhancement is necessarily different from the salaried scheme due to the inherent unpredictability of year-to-year fee-paid service. It would not be fair, for instance, to only use the last year's service to extrapolate forward for enhancement, if a person was to be sick or on a leave of absence during the period. This is why the department is proposing to extend this to the average of the past three years' service.
158. The department welcomes comment on the proposals for enhancement of medical retirements.

Death in service

159. When a scheme member dies whilst still holding office, a lump sum death benefit equal to **twice the amount of the individual's pensionable pay** is payable either to the personal representatives or if a nomination has been made to the person or persons so nominated.
160. Lump sums payable under the FPJPS following the death of a scheme member will count as employment income for tax purposes. Such tax must be deducted by the Department, but a supplementary payment equal to the amount of tax deducted will be made which will ensure that the beneficiary receives the full amount.
161. In addition to the lump sum, a pension is payable to the surviving spouse, or civil partner. Where there is an eligible child or children, a pension will also be paid.

Death in retirement

162. In the event a member dies soon after retirement when the judicial pension has only been in payment for a short time, it may be that the scheme member's personal representatives are entitled to a lump sum payment.
163. A lump sum payment will be payable if the aggregate of the sums paid, or payable, on account of the pension together with the lump sum paid, or payable, falls short of an amount equal to five times the annual rate of the pension in force immediately before the date of death.
164. As any lump sum is payable to the personal representatives, any tax liability is chargeable on the Department and the Department will be responsible for paying and accounting for that liability. The Department will not seek to recover any such liability paid from the personal representatives.

Spouses' and civil partners' pensions

165. A pension will be payable to a surviving spouse or civil partner upon the death of a judicial office holder either during service, or after retirement if the judicial office holder had been in receipt of pension.
166. Where there has been a death in service, this pension will be paid at a rate of one-half of the pension to which the judge would have been entitled if he or she had retired on grounds of ill health at the time of death.
167. Where there has been a death in retirement, this pension will be paid at a rate of one-half of the judicial pension actually in payment at time of death.

Children's pensions

168. In addition, a pension may also be payable in respect of a child or children under the age of 16, or over that age and receiving full-time education, at the time of the judicial office holder's death.

Children's pensions: Calculation

In general, where there is a surviving spouse, or a surviving civil partner, the pension is

- 1/4 of the judicial pension if there is one eligible child; or
- 1/2 of that pension if there is more than one eligible child.

In the event there is no surviving spouse, or surviving civil partner, the pension is

- 1/3 of the judicial pension if there is one eligible child and
- 2/3 of the pension if there is more than one eligible child;

169. The "judicial pension" in this context refers to either the pension in payment at the time of death, or, in the case of death in office, the pension to which there would have been entitlement if the judicial office holder had retired on health grounds at time of death.

Nomination of beneficiaries

170. It will be possible for scheme members to nominate individuals and trusts to receive death in service benefits.

List of consultees

This consultation is aimed at members of the judiciary, salaried and fee-paid who are entitled to be a member of a judicial pension scheme, law professionals, and pension industry professionals as well as anyone with an interest in public service pensions in England and Wales, Scotland and Northern Ireland.

This consultation will run for 12 weeks from the date of issue, closing on 12 December 2014. Details of how to respond to the consultation are highlighted later in the document. Copies of the consultation papers are being sent to:

Lord Chief Justice of England and Wales
Lord Chief Justice of Northern Ireland
Lord President of the Court of Session, Scotland
President of the UK Supreme Court
Senior President of Tribunals
Association of High Court Judges
Association of High Court Masters
Association of HM District Judges
Association of Part Time Judges
Council of Appeal Tribunal Judges
Council of District Judges (Magistrates' Courts)
Council of Employment Judges
Council of HM Circuit Judges
Council of Immigration Judges
Council of Upper Tribunal Judges
District Judges Association (Northern Ireland)
Forum of Tribunal Organisations
HM County Court Judges in Northern Ireland
Judges' Council (Northern Ireland)
Judges' Council (Scotland)
Judicial Pensions Committee
Part Time Sheriffs' Association
Salaried Tribunal Judges Association

Sheriffs' Association

Tribunal Chamber Presidents

First Minister of Northern Ireland

First Minister of Scotland

Secretary of State for Northern Ireland

Secretary of State for Scotland

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

Next steps

The department welcomes the views of consultees relating to all sections of this consultation by 12 December 2014. In particular, comments are welcomed on the following areas:

- Arrears of historical member contributions (p.10);
- Calculation of pensionable pay (p.14);
- Arrears of historical JAVCS contributions and lump sum payments (p.20);
- Enhancement for medical retirement using the last 3 years (p.26); and
- Any equalities issues that will result in individual groups being disproportionately affected by the implementation of the FPJPS.

However, this list is not meant to be exhaustive or exclusive, and the department welcomes views of consultees on all aspects of the scheme.

Thank you for participating in this consultation exercise.

About you

Please use this section to tell us about yourself

Full name	
Judicial title / Job or capacity in which you are responding to this consultation exercise (e.g. member of the public etc...)	
Date	
Company name/organisation (if applicable):	
Address	
Postcode	
If you would like us to acknowledge receipt of your response, please tick this box	<input type="checkbox"/> (please tick box)
Address to which the acknowledgement should be sent, if different from above	

If you are a representative of a group, please tell us the name of the group and give a summary of the people or organisations that you represent.

Contact details/How to respond

Responses to the consultation questions should be submitted online by **12 December 2014** at <https://consult.justice.gov.uk/digital-communications/fee-paid-judicial-pension-scheme>

Responses can also be submitted to the 'Enquiries' contact details below.

If you have any enquiries about this consultation, including requests for the paper in a different format, please contact the department at:

Alex Scott
Judicial Policy, Pay and Pensions
Ministry of Justice
2.53, 2nd Floor Tower
102 Petty France
London SW1H 9AJ

Email: judicialpensionreview@justice.gsi.gov.uk

Fax: 08707 39 59 39

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

Extra copies

Further paper copies of this consultation can be obtained from this address and it is also available online at www.gov.uk/moj

Alternative format versions of this publication can be requested from the 'Enquiries' contact details above.

Publication of response

A paper summarising the responses to this consultation will be published. It is not anticipated that the department will respond to individual comments. The response paper will be available online at www.gov.uk/moj

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Ministry.

The Ministry will process your personal data in accordance with the DPA and in the majority of circumstances, this will mean that your personal data will not be disclosed to third parties.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the consultation principles.

www.cabinetoffice.gov.uk/sites/default/files/resources/Consultation-Principles.pdf

Annex A – Schedule of proposed member contributions

Please note that all contributions listed here have been amended to reflect the fact that unlike the NJPS 2015, FPJPS is not registered for tax purposes¹.

Members of FPJPS should also note that the contributions outlined here are inclusive of contributions made toward pensions for dependants.

Annual Rate of Pensionable Earnings 2015/16	Personal Pension Contribution	Dependent Pension Contribution	Total Member Contribution Rate
Up to and including £15,000	0.96%	1.80%	2.76%
£15,001 - £21,000	0.96%	1.80%	2.76%
£21,001 - £47,000	1.47%	1.80%	3.27%
£47,001 - £150,000	2.61%	1.80%	4.41%
£150,001 and above	3.03%	1.80%	4.83%

Annual Rate of Pensionable Earnings 2016/17	Personal Pension Contribution	Dependent Pension Contribution	Total Member Contribution Rate
Up to and including £15,000	0.96%	1.80%	2.76%
£15,001 - £21,210	0.96%	1.80%	2.76%
£21,211 - £48,471	1.47%	1.80%	3.27%
£48,472 - £150,000	2.61%	1.80%	4.41%
£150,001 and above	3.03%	1.80%	4.83%

Annual Rate of Pensionable Earnings 2017/18	Personal Pension Contribution	Dependent Pension Contribution	Total Member Contribution Rate
Up to and including £15,000	0.96%	1.80%	2.76%
£15,001 - £21,422	0.96%	1.80%	2.76%
£21,423 - £51,005	1.47%	1.80%	3.27%
£51,006 - £150,000	2.61%	1.80%	4.41%
£150,001 and above	3.03%	1.80%	4.83%

¹ All contribution rates have been multiplied by 0.6 to reflect 40% tax.

Annual Rate of Pensionable Earnings 2018/19	Personal Pension Contribution	Dependent Pension Contribution	Total Member Contribution Rate
Up to and including £15,000	0.96%	1.80%	2.76%
£15,001 - £21,636	0.96%	1.80%	2.76%
£21,637 - £51,515	1.47%	1.80%	3.27%
£51,516 - £150,000	2.61%	1.80%	4.41%
£150,001 and above	3.03%	1.80%	4.83%

Annex B – Schedule of annual divisors by office as at 1 August 2014

Judicial Office	Divisor
Retired Lord of Appeal / Retired Supreme Court Judge	220
Retired Lord Justices (sitting in the Court Of Appeal)	220
Retired High Court Judges	210
Deputy High Court Judge	210
Retired Judges of the Technology and Construction Court (sitting as Deputy Judge of Technology and Construction Court)	220
Recorder	210
Deputy Circuit Judge	210
Assessor, Taxation Tribunal (County Court)	220
Assessor, Taxation Tribunal (High Court)	220
Deputy District Judge	215
Deputy District Judge (Magistrates Courts)	215
Deputy Judge Advocate	220
Deputy Supreme Court Master/ Registrar	210
Judge of the Upper Tribunal	220
Judge of the First Tier Tribunal	220

Annex C – Ministerial statement regarding service awards – 31st March 2006

Service Award

1. In accordance with the Statement laid before the House of Lords on 15th December 2005 (Official Report column WS151), and in exercise of the powers cited below,¹ with the agreement of the Treasury, the Lord Chancellor makes the following determination.
2. There shall be paid to a salaried judicial office-holder whose remuneration is determined by the Lord Chancellor², in the final month of his service, where this terminates (otherwise than by death in service) on or after 6th April 2006, as a non-pensionable service award, salary of an amount which, when it has been subject to income tax and employees' national insurance contributions (if any), provides a sum equal to the difference between –
 - (a) the net lump sum³ - excluding for this purpose any lump sum payable under s.19 of the Judicial Pensions and Retirement Act 1993⁴ - receivable by the office-holder, in accordance with the provisions governing the judicial pension schemes, and
 - (b) the lump sum - again excluding any lump sum payable under s.19 of the Judicial Pensions and Retirement Act 1993⁴ - which he would have received had the judicial pension schemes become registered pension schemes for the purpose of the Finance Act 2004 (on the assumption that no lifetime allowance charge had arisen in respect of it).
3. No entitlement to the award shall arise or accrue prior to the time specified for its payment in the determination.
4. This determination applies to an office-holder with an entitlement under a Judicial Pensions (Preservation of Benefits) Order to preserved judicial pension benefits which are due to come into payment at his normal pension age, where that is on or after 6th April 2006 (irrespective of the date of cessation of service), on the basis that the payment of the service award will be deferred until normal pension age.
5. In the event of the death in service of a salaried office-holder on or after 6th April 2006 there shall instead of the service award be payable as a bereavement allowance non-pensionable salary of an amount which, when it has been subject to income tax (and any other deductions), provides a sum equal to the difference (if any) between the net⁵ death in service benefit receivable in respect of the office-holder by each beneficiary who is an individual,⁶ in accordance with the provisions governing the judicial pension schemes, and the amount which that beneficiary would have had received had the judicial pension schemes become registered pension schemes for the purpose of the Finance Act 2004 (on the assumption that no lifetime allowance charge had arisen in respect of it).

Richard C
Richard C

Lord Chancellor

31 March 2006

¹ s.9 of the Administration of Justice Act 1973 (Lords of Appeal and District Judges (Magistrates Courts)), s.12 of the Supreme Court Act 1981 (Judges of the Supreme Court), s.18 of the Courts Act 1971 (Circuit Judges), s.6 of the County Courts Act 1984 (District Judges), s.89 of the Supreme Court Act 1981 (Masters and Registrars of the Supreme Court), s.106 of the County Courts Act (Northern Ireland) 1959 (County Court Judges), s. 12 of the Magistrates Courts Act (Northern Ireland) 1964 (Resident Magistrates) and all other powers applicable for this purpose.

² or in the case of certain Tribunal office-holders, the Secretary of State for Constitutional Affairs.

³ i.e. after tax at the marginal rate applicable to the individual (in normal circumstances the higher tax rate) and any contributions liability have been determined and applied.

⁴ and excluding any lump sum attributable to the payment of a transfer value into a judicial pension scheme on and after 6th April 2006 and any lump sum accrued under the Judicial Added Benefits Scheme (JABS) or the Judicial Added Years Scheme (JAYS).

⁵ after tax at the marginal rate applicable to the beneficiary (in normal circumstances the higher tax rate) and contributions liability (if any) have been determined and applied.

⁶ Within the meaning of s.394(1) of the Income Tax (Earnings and Pensions) Act 2003

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