Ministry of Justice

New Judicial Pension Scheme 2015

Policy Papers

Contents

Introduction

This document includes the collated scheme policy papers that have been used in the development of the New Judicial Pension Scheme 2015 (NJPS 2015). This is being provided as part of the consultation on reforms to judicial pension arrangements for further information, in addition to the consultation document and draft regulations.

The consultation document itself is a standalone document that includes all the relevant policy details of the reforms. This document provides the collated policy papers that were used in the development of the proposed scheme and the consultation document.

Each policy paper is separated into sections. Firstly, the features of each NJPS 2015 policy are defined, before being compared to the existing policy under current arrangements, highlighting any changes. Detailed illustrative examples beyond those available in the consultation document are provided throughout these papers to illustrate the impact of these reforms on the judiciary.

Each policy paper also provides a cross-reference to the relevant section of the draft regulations.

New Judicial Pension Scheme (NJPS 2015)
Eligibility and Admission to Membership

Scheme features

- NJPS 2015 will be open to all UK judiciary except where terms and conditions are specifically non-pensionable or where the judge is a member of another judicial pension scheme in respect of his or her service. This includes eligible fee paid judiciary.

- The department does not consider judges are jobholders for the purposes of s.1 Pensions Act 2008 and are, therefore, not caught by the auto enrolment provisions.

It is proposed that the following provisions apply in NJPS 2015.

- An eligible individual is enrolled in the scheme from their first day of service.

- An individual who is in receipt of an ill-health pension (see separate paper on ill-health retirement (p.20)) is not permitted to rejoin the scheme.

- A member may opt out of scheme membership at any time. Opting out within a specified period of first joining the scheme is backdated to Day 1; otherwise it generally takes effect from the beginning of the pay period after notice of opting-out is given.

Details on the Eligibility and Admission to Membership can be found in **Part 3, Chapter 1** of the NJPS 2015 regulations.

Application

Judges will fall into one of the following groups:

- Transitional Protection - Cannot become member of NJPS 2015 and remain in current arrangements until retirement;

- Tapering Protection - Eligible to (and opt to) remain in current arrangements until an age-related date later than 1 April 2015, then become member of NJPS 2015;

- eligible for (and opt for) Transitional Protection Allowance, therefore no NJPS 2015 membership;

- automatic membership of NJPS 2015 from 1 April 2015 (earlier service under current arrangements);

- opt out of NJPS 2015; or

- excluded from pension scheme membership by their terms and conditions.

To note

Judges who have registered with HMRC for Enhanced Protection or Fixed Protection need to be aware that, if they join the pension scheme, they will lose their Protection rights and we understand that HMRC have written to all individuals who have so registered to remind them of this risk. Judges in this group must make clear at the time of taking up appointment that they do not wish to join the pension scheme.

New Judicial Pension Scheme (NJPS 2015)
Qualifying Periods

Scheme features

It is proposed that NJPS 2015 will provide for the features outlined below.

- Two years' qualifying service for access to deferred pension or pension drawn before pension age.
- On leaving the scheme with less than two years service, individual to have the option of a refund of contributions or a transfer value to another pension scheme or arrangement.
- No minimum qualifying service for pension at (or beyond) pension age.
- No limit on qualifying service where the member brings in a transfer value from a personal pension scheme.
- Qualifying service is calculated by reference to start and end dates and does not vary depending on full-time or part-time status.
- Service in judicial pension scheme immediately prior to moving into NJPS 2015 to be added to NJPS 2015 service in calculating "qualifying" service.

This approach incorporates the requirements of the Pension Schemes Act 1993 in relation to "short service" benefits.

Details on the Qualifying Service can be found in **Part 5, Chapter 1** of the NJPS 2015 regulations.

Application

The key points to note are:

- any requirements for a minimum period of qualifying service will look at the combination of JUPRA and NJPS 2015 service; and
- unless otherwise provided for in scheme rules, there is a minimum qualifying period before taking a pension before retirement age – this will apply to both normal early retirement and ill-health retirement.

New Judicial Pension Scheme (NJPS 2015)
Transitional Protection and Options in 2015

Scheme features

- To set out the detail of an exercise to allow those eligible judicial office holders to opt for their particular pension provision.

- A single options exercise to be run, covering:

    - Transitional Protection Allowance; and

    - For those in the tapering group, choice of end-date in JUPRA.

- Options exercise to be launched in autumn 2014, with options to be registered before 1 April 2015.

- Default position for those in the tapering group will be to remain in JUPRA for as long as possible.

- It is possible to opt out of NJPS 2015 at any time.

Details on the options for those in the tapering group can be found in **Part 4 of Schedule 2** of the NJPS 2015 regulations.

Application

Both options are "one off" and irrevocable after 31 March 2015[1].

The **tapering protection** element of the options exercise will apply to those who were members of JUPRA at 1 April 2012 and who were born between 1 April 1957 and 30 September 1960 (i.e. who were aged between 51½ and 55 at 1 April 2012).

The proposed default position is that members who do not register a choice will remain in JUPRA until the closing date appropriate to their birthday. They will then move into NJPS 2015.

The **Transitional Protection Allowance (TPA)** element of the options exercise will apply to those judges who were either in service or whose appointment had been agreed at 1 April 2012 who meet all the following criteria. The relevant criteria are:

- The individual is required to move into the NJPS 2015;

- The individual has had continuous membership of the judicial pension scheme since first being eligible to join it and are still active members of the scheme at 31 March 2015;

- They can provide proof of having registered with HMRC for either Enhanced Protection (EP) under Finance Act 2004 or Fixed Protection (FP) under Finance Act 2011 and has not contacted HMRC to revoke such Protection; and

- The individual has not taken any action which negates the validity of their Protection (for instance, joining a registered pension scheme or making contributions to a registered money purchase pension arrangement after 5 April 2006 (EP) or making contributions or building up benefits in a registered pension scheme after 5 April 2012 (FP).

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[1] A judge may change his/her option(s) before 31 March 2015

The proposed default position is that members who do not register a choice will remain in their pension scheme rather than claiming the TPA. Judges who choose the TPA will cease to accrue service in JUPRA on 31 March 2015 (and will not pay contributions after that date). A TPA will be paid monthly, calculated as a percentage of salary and paid alongside salary, for as long as the judge remains in service. The TPA will be subject to income tax and National Insurance contributions. A condition of the TPA is that it will cease in the event that a judge joins a pension scheme in respect of his service as a judge. The rate of the TPA will be announced before judges are required to make their choice.

It is intended that the rate of the TPA will be based on the employer contribution rate for the new scheme. This has been provisionally assessed by the scheme actuary, the Government Actuary's Department to be 37.9% of pensionable pay.

Timing

The options exercise will begin in autumn 2014. Members will have up to 31 March 2015 to register their choices.

To note

Some judges will be eligible for both tapering and TPA options. These judges need to be aware that, if they opt for tapering (i.e. to remain in their current scheme for as long as possible) they cannot then opt for the TPA. Judges who wish to opt for the TPA will stop accruing benefits in JUPRA on 31 March 2015.

New Judicial Pension Scheme (NJPS 2015)
Options for Scheme Members

Scheme features

It is proposed that the NJPS 2015 provide for the following as-of-right options for scheme members:

- **Commutation** of pension for lump sum;
- **Allocation** of member pension for additional pension for dependant(s);
- Purchase of **added pension** (see chapter on topping-up pension (p.47));
- **Early retirement** (see chapter on early retirement (p.17)); and
- **Buy-out of early retirement reduction** (see chapter on early retirement (p.17)).

Additionally, **partial retirement** is available as an option, but this is subject to employer agreement. More information is available in the chapter on partial retirement (p.31).

- Commutation is subject to restrictions which will apply across public services. The commutation rate is £12 of pension for each £1 of pension surrendered, but with no knock-on effect on pensions for dependants (which continue to be based on pre-commutation amounts). The maximum amount of tax-free lump sum is set by HMRC rules for tax registered schemes and is generally the lesser of (a) 25% of the HMRC pension valuation and (b) 25% of the member's remaining Lifetime Allowance (LTA).

- Allocation allows a member to surrender part of their own pension to provide a pension, payable following the member's death, for a financial dependant[2]. The option is exercisable on the member's retirement or during active service but, once made, cannot be revoked (so it tends to be exercised at the point of retirement). The "exchange rate" depends on the relative ages and gender of the scheme member and the dependant and there are restrictions on the amount of pension that the member may choose to allocate[3]. The option is only available where the scheme medical adviser is satisfied with the health of the scheme member (and is not available where the member is retiring on ill-health grounds).

  Members opting for allocation must be aware of the attendant risks, specifically that the reduction to their pension is permanent and will apply even if the beneficiary predeceases them.

- Partial retirement allows a member to draw part (or all) of their pension while continuing to work (and build up further pension). This option depends on the employer agreeing to "reshape" the member's role so that their pay is reduced by at least 20%. Reshaping is generally achieved by reducing hours or by moving to a less demanding (and less well-paid) role. There is no requirement on the employer to agree to any request to reshape a role and hence facilitate partial retirement. Members opting for partial retirement should be aware that benefits on death may differ from those which would have applied either if the member had carried on working on his old terms or if the member had chosen to retire fully.

[2] "Dependant" means a person who is financially dependent on the scheme member or a person with whom the scheme member is financially interdependent.
[3] The scheme member's pension cannot be less than the total of pensions paid to adult dependants. For the purposes of the calculation check it is assumed that the scheme member opts to commute pension to the maximum allowed.

Details on the Options for Scheme Members can be found in **Part 5** of the NJPS 2015 regulations.

Application

- Pension paid from JUPRA – (i.e. for service prior to joining NJPS 2015)

  JUPRA already allows for early retirement. There are no proposals to introduce any of the other options listed above.

- NJPS 2015 pension

  The options set out would be available to scheme members but only in respect of the pension built up under NJPS 2015 rules.

Examples

- Commutation

  A has a pension of £24,000 a year and there is an associated pension of £9,000 a year for a surviving adult.

  A wants to maximise his tax-free lump sum. The maximum permitted by HMRC rules (where there are no LTA issues) works out at 30/7 x pension, that is 30/7 x £24,000 = £102,857.14. A has to give up pension of £102,857.04/12 = £8,571.43 so his pension becomes £24,000 - £8,571.43 = £15,428.57. The surviving adult pension is not affected, it remains at £9,000.

- Allocation

  B is retiring at age 67 with a pension of £72,000. Under the scheme rules his wife will receive a pension of £27,000 after his death. B wants to make some provision for his sister, aged 64, who he supports financially. B is in good health. He opts to allocate £5,000 of his pension to provide a pension for his sister after his death.

  B's pension is reduced to £67,000. His wife's pension remains at £27,000. If the allocation factor (reflecting the facts of the case) is 3.7 then B's sister will receive a pension of 3.7 x £5,000 = £18,500. The pensions for his wife and sister will be paid following B's death.

- Partial Retirement

  C works full-time and earns £100,000 a year. He has built up a pension of £30,000. C's employer agrees that C can reshape his job by moving to part-time hours (3 days per week), so his salary reduces to £60,000. C has already reached scheme pension age and he opts to take the whole of his pension. C then receives his pension of £30,000 plus his revised salary of £60,000 – that is, a total of £90,000 a year. C continues to build up pension based on his new salary of £60,000.

New Judicial Pension Scheme (NJPS 2015)
Partnership Pension Account

Scheme features

It is proposed that the NJPS 2015 provides as follows:

- The NJPS 2015 is a career average, defined benefit pension scheme. As an alternative to this scheme, members of the judiciary will be offered the option of a tax-registered stakeholder pension scheme, to be known as the Partnership Pension Account (PPA).

- The PPA provided as part of these reforms is to be equivalent to the partnership scheme provided as part of the reformed civil service pension arrangements.

- The PPA will be offered to all judicial office holders eligible to join the NJPS 2015, and can be opted for in lieu of joining the career average scheme. By opting for the PPA, a member would not be able to accrue benefits in the career average scheme.

- As a member of the PPA scheme, a judge would hold an account with a nominated third party provider, into which the member and the department would pay contributions. The member would hold the relationship with the third-party provider and would be able to select a fund, or investment strategy for the account. There is no limit on the amount that a member can pay into their PPA.

Application

All judges eligible to join the NJPS 2015 will be able to opt to join the Partnership Pension Account in lieu of the NJPS 2015 career average scheme.

The PPA is flexible in its design in that a member can draw their pension any time after turning 55 years old, under current legislation, and the member does not have to be in retirement to do so. A member can choose the timing to fit in with their personal circumstances.

For comparison, a judge would not be able to draw their NJPS 2015 pension before retiring from judicial office, and drawing such a pension before their normal pension age would result in an actuarially reduced pension.

It should be noted that the act of opting out of the NJPS 2015 career average scheme to join the PPA will be classified as 'leaving the scheme' for the purposes of final salary linking in respect of the accrued benefits under a pre-2015 scheme.

If a member was to opt for the PPA over the career average scheme, any accrued benefits would be preserved upon joining the PPA and then up-rated upon retirement in accordance with the Pensions Increase Act 1971.

It is expected that the level of contribution from the department will be set as a proportion of pensionable earnings. It is intended that the overall cost to the department should be broadly the same irrespective of whether the individual chooses the NJPS 2015 scheme or the PPA. These rates are to be calculated by the scheme actuary, the Government Actuary's Department (GAD).

The PPA is to be equivalent to the partnership scheme in the reformed civil service pension arrangements. The civil service scheme is currently being revised and as a result of this, the department will not be in a position to confirm the details of the employer contribution rates until the civil service scheme arrangements, and the actuarial calculations, have been finalised.

The PPA is flexible in that there is no limit on the amount that a member can pay in contributions into their account. The member contribution rates will not be fixed, as in the NJPS 2015 career average scheme. It is proposed that the contributions rates, once set, are reviewed every four years in line with the scheme valuation.

The department is currently working with a third-party provider to finalise the details of scheme provision and the investment funds available. The department are also working with the scheme actuary, the Government Actuary’s Department (GAD), to establish the rates of contributions, Details will be made available once finalised ahead of the options exercise.

New Judicial Pension Scheme (NJPS 2015)
Member Contributions

Scheme features

- The member contribution rates in 2015/16 are to be in line with those rates set in the reformed civil service arrangements, these are detailed below:

Annual Salary	Member Contributions for those in JUPRA immediately before April 2015	Member Contributions for all other members
Up to and including £15,000	3.00%	4.60%
£15,001 - £21,000	4.60%	4.60%
£21,001 - £47,000	5.45%	5.45%
£47,001 - £150,000	7.35%	7.35%
£150,001 and above	8.05%	8.05%

- These contribution rates will apply to members of the NJPS 2015, JUPRA and the fee-paid scheme. These rates will be fixed in the regulations until 2018/19. However the annual salary bandings do change over the period. See regulation 123 for further details.

- Members of JUPRA should note that these rates are inclusive of the contributions made for dependant's pensions.

- As the NJPS 2015 is to be a tax-registered scheme, any member contributions paid in this scheme will be subject to tax relief. JUPRA is a non tax registered scheme, and the fee-paid scheme will also not be registered for tax purposes. As a result, member contributions made under JUPRA, as well as the fee-paid scheme, will reflect this.

- Contribution rates may change as the result of a breach in the employer cost cap. More details on this are provided later in the chapter titled 'Employer Cost Cap'.

Details on Member Contributions can be found in **Part 8** of the NJPS 2015 regulations.

Application

- Current arrangements

  Since 2012, judges have been making personal pension contributions to the Judicial Pension Scheme. Prior to this, judges made a contribution in respect of dependants' benefits only. The personal pension contribution rate is planned to rise to 3.2% from 1 April 2014, and taken with the dependant's contribution of 1.8%, will total **5.0%.**

  As these contributions do not qualify for tax relief given the status of the current judicial pension scheme, for comparison with other tax-registered pension schemes the 5.0% is regarded as an equivalent of:

  - **8.33%** for those with an income tax rate of 40%; or

  - **9.09%** for those with an income tax rate of 45%.

Member contributions for those who remain in their current pension scheme will be aligned with those payable under NJPS 2015. The contribution rates in the pre-2015 schemes will continue to reflect that no tax relief is available.

The member contribution rates in all pre-2015 judicial pension schemes will track any potential changes in the NJPS 2015 member contribution rates.

- NJPS 2015

In terms of the NJPS 2015, the member contribution rate will be in line with those rates in the reformed civil service scheme.

The first actuarial valuation of the NJPS 2015 will have no impact on the NJPS 2015 member contribution rates for 2015/16.

The member contribution rates will be fixed until the next NJPS 2015 valuation, scheduled to be completed in 2019 at which point member contribution rates will no longer be linked to the reformed civil service scheme.

If the 2019 NJPS valuation shows that the two percent range around the cost cap has been breached either above or below, member contributions in the NJPS 2015 may be amended to cover the increased cost of the scheme.

If there is a breach of the employer cost cap, the Scheme Advisory Board will be asked to consider potential changes to member contributions or member benefits, to bring the cost of the scheme back to the employer cost cap. More information is available in the chapter on Scheme Governance (p.55) and Employer Cost Cap (p.59).

New Judicial Pension Scheme (NJPS 2015)
The Member's Pension Account

Scheme features

It is proposed that NJPS 2015 provides for:

- Each active member to have a Pension Account
- The Pension Account may include the following elements:
  - Earned pension
  - Pension derived from a transfer payment received by the scheme
  - Added pension
- Earned pension to be calculated each year as 2.32% of the active member's pensionable earnings in that year
- At the beginning of each scheme year (i.e. 1 April), the "opening balance" for the scheme year is to be established for each element in the pension account.
- An "index adjustment" is then applied to the Account for each element. The index adjustment is calculated as R multiplied by the opening balance, where R is the percentage increase (or decrease) specified in a Treasury Order made under s9(2) of the Public Service Pensions Act 2013 ("the Act") in respect of the previous scheme year. The scheme has been designed to use price revaluation (and the accrual rate of 2.32% reflects this).
- When the member retires, a "retirement index adjustment" is applied to the balance then on the member's pension account. This is calculated as account balance x R x N/12, where R is the Treasury Order relating to the scheme year in which the member retires, and N is the number of months which have elapsed in the scheme year at the time of the retirement. It is possible that, at the time of the retirement, the Treasury Order has not been published. In these circumstances, an adjustment will be made to the pension in payment as and when the Order is made.
- Once the member has retired, future pension increases are calculated and applied under the terms of the pension increase legislation[4]. These will apply by reference to the date of retirement (meaning that, except where retirement takes place at the end of a scheme year, the first pension increase reflects only a part-year)
- The scheme rules are not proposed to set a maximum level of pension (or pensionable service).
- Member contributions are calculated by reference to pensionable earnings

Details on the Member's Pension Account can be found in **Part 4** of the NJPS 2015 regulations.

[4] Pensions (Increase) Act 1971 and Orders made under that Act

Application

- Pension paid from JUPRA– (i.e. for service prior to joining NJPS 2015)

  JUPRA provides a "final salary" pension. Final salary is taken as that applicable to the better of (a) the last 12 months of service and (b) the best year in the last three. The maximum service that can be pensioned is 20 years. Where individuals have a pension based on JUPRA and NJPS, the JUPRA element will calculate "final salary" by reference to the retirement date, not the date of moving into NJPS 2015.

- NJPS 2015 pension

  NJPS 2015 pension will be paid in addition to pension from JUPRA and no limit is proposed to apply to either the NJPS 2015 element or the combined NJPS 2015 / JUPRA pension.

  The pensionability of elements of pay is proposed to continue to be as now.

Examples

- **Judge A** joins NJPS 2015 in April 2015.

  In his first scheme year (2015-16) Judge A earns £103,950 plus London Weighting of £4,000, so his total pensionable earnings are £107,950 (and he pays contributions on this amount).

  Judge A's earned pension in 2015-16 = 2.32% x £107,950 = £2,504.44

  On 1 April 2016, the opening balance on Judge A's pension account is £2,504.44

  Suppose that the Treasury Order for 2015-16 provides for a revaluation of 2.6% for schemes using price-based revaluation.

  Judge A's index adjustment at April 2016 = £2,504.44 x 2.6% = £65.12

  The total in Judge A's pension account is then £2,504.44 + £65.12 = £2,569.56

  During 2016-17 suppose Judge A's pensionable earnings are £110,000. He will then earn further pension = 2.32% x £110,000 = £2,552 and this will be added to his account giving a total, before the April 2017 index adjustment, of £5,121.56

- **Judge B** retires on 30 June 20xx (ie, 3 months into the scheme year). He has 15 years service in JUPRA and has built up £30,000 pension in his NJPS 2015 pension account. At his retirement, Judge B's "best year" is his last 12 months, when he was paid £112,000.

  JUPRA pension = 15/40 x £112,000 = £42,000 (plus lump sum)

  NJPS 2015 pension = £30,000 + retirement index adjustment.

  At the time of his retirement, the Treasury Order for 20xx has not been published, so the retirement index adjustment cannot be calculated.

  Judge B decides to take all of his NJPS 2015 pension as pension, he does not commute any pension for lump sum.

  Suppose the Treasury Order is published the following February and shows an increase of 1.9%.

Retirement index adjustment = 3/12 x 1.9% x £30,000 = £142.50.

Judge B's NJPS 2015 pension will be increased to £30,142.50 and he will be paid the appropriate arrears. In April, Judge B's pension will be increased under the pensions increase rules. Suppose the Pensions Increase Order shows an increase of 1.91%. Judge B receives 9/12 of this (as he has not been retired for a full year) and the increase is applied to both his JUPRA and NJPS 2015 pensions (£72,142.50 before the April increase).

To note

Members will need to be aware that the Treasury Order for price revaluation – which will apply to the pension accounts of active members – will not necessarily be exactly the same as the Pensions Increase Order applying to the pensions of deferred and pensioner members. In particular, while the current legislation does not allow the Pensions Increase Order to specify a negative amount, no such restriction applies to Treasury Orders made under s9(2) of the Act.

Note that this paper does not address issues around retirement after scheme pension age – these are covered in the chapter on late retirement (p.21).

New Judicial Pension Scheme (NJPS 2015)
Early Retirement

Scheme features

Note 1 – in this paper “early retirement” means drawing pension (and lump sum) from the scheme before Scheme Pension Age and in circumstances other than ill-health retirement (p.20).

Note 2 – the early retirement arrangements described will also apply in the event of partial retirement (if that takes place before scheme pension age). More information is available in the section on partial retirement (p.31).

It is proposed that NJPS 2015 provides for:

- Active and deferred members to have a right to draw their pension before scheme pension age (but not before age 55 or in circumstances not permitted for a tax-registered scheme). While the member must make a formal claim to have their pension brought into payment early, employer consent is not required.

- Early retirement is subject to the member being entitled to deferred benefits (that is, they must have a minimum of 2 years’ qualifying service or have brought in a transfer value other than from an occupational pension scheme).

- Pension drawn before scheme pension age will be subject to an early retirement reduction, reflecting the fact that the pension will be in payment for longer than would have been the case if the individual retired at scheme pension age. The reduction will be determined using factors provided by the scheme actuary, which will be determined later in the year.

- Early retirement reduction is permanent and applies to the member’s benefits only – that is, not to benefits for spouse/partner/children.

- Scheme members are proposed to have a facility to make a one-off payment to buy-out the early retirement reduction provided that retirement is taking place within 3 years of scheme pension age. If this option is exercised, the pension would be brought into payment on an unreduced basis. For instance, if a scheme member has a pension age of 67, he might wish to retire 2 years early at the age of 65. In normal circumstances his pension would be reduced permanently – probably by around 10% - to reflect the fact that he is drawing pension 2 years before pension age. Under the “buyout” option, the scheme member could make an additional contribution (calculated by the scheme actuary) so that his early retirement pension was not so reduced.

- A member may opt to make periodical payments for a pension age of any period up to 3 years below the member’s normal pension age, provided that it would achieve an ‘effective pension age’ of at least 65. In a situation such as this, a member would be able to draw their pension before normal pension age, without reduction.

Application

- Pension paid from JUPRA – i.e. for service prior to joining NJPS 2015

  Early retirement is possible from JUPRA where the individual is aged between 60 and 65 and has completed at least 5 years in qualifying judicial office. The pension is paid on an actuarially-reduced basis and the actuarial reduction carries across into pensions paid to dependants.

"Qualifying judicial office" – for the purposes of determining the 5 years qualifying period will include service in NJPS 2015.

- NJPS 2015

  NJPS 2015 rules will apply to service in the new scheme. Early retirement arrangements would mean that a judge with service in JUPRA and NJPS 2015 could, if s/he wished, retire at 65 and draw benefits from both schemes (although the NJPS 2015 element would be subject to an early retirement reduction unless the reduction was "bought out").

  Early retirement factors and early retirement buy-out factors would be worked up by the scheme actuary and would be specific to the judicial scheme.

  Where a member's pension is subject to an early retirement reduction, this will impact the Annual Allowance calculation for that year (see example of Judge B).

  Buy-out payments made to the scheme by members retiring from active service would attract tax relief subject to HMRC limits. These payments would not count directly for Annual Allowance purposes as the Annual Allowance calculation reflects the amount of pension accrued in the year, not the level of contribution made by the member.

Examples

- **Judge A** – benefits in JUPRA and NJPS 2015

  Judge A has State Pension Age of 66. He became a judge in 2013; he is now aged 64 and wishes to retire. He has 2 years service in JUPRA and 4 years service in NJPS 2015. Judge A is married.

  Judge A would be entitled to early payment of his JUPRA pension and his NJPS 2015 pension.

  Judge A's JUPRA pension will be actuarially-reduced to reflect the fact that it is coming into payment one year before JUPRA pension age. His NJPS 2015 pension will be reduced by a different percentage, reflecting the fact that it is coming into payment two years before his NJPS 2015 pension age. On Judge A's death, his widow's pension will be based on the full (pre-reduction) amount of his NJPS 2015 pension, but the actual (actuarially-reduced) amount of his JUPRA pension.

  If Judge A wished, he could make a one-off payment to avoid the actuarial reduction to his NJPS 2015 pension.

- **Judge B** – Early retirement and the Annual Allowance

  Judge B joined after 2015 and only has NJPS 2015 pension. He retires one year before his State Pension Age and his pension is subject to a 5% early retirement reduction. Judge B's accrued pension at the end of the last pension input period (for Annual Allowance purposes) was £20,000. Inflation is 2.5% and his pension accrued during the current pension input period (up to the date of his retirement) is £3,500 (a combination of uprating of his accrued pension and pension built up in the year). Judge B does not have any unused Annual Allowance from earlier years and he has not used "scheme pays" arrangements in respect of settling Annual Allowance tax charges.

  On retirement, Judge B's pension before actuarial reduction is £23,500. After reduction it is £22,325

Opening value for Annual Allowance purposes = 16 x £20,000 x 1.025 = £328,000

Closing value for Annual Allowance purposes = 16 x £22,325 = £357,200

The increase in Judge B’s pension benefits = £357,200 - £328,000 = £29,200. This is below the Annual Allowance of £40,000 so no Annual Allowance charge arises.

- **Judge C** – Early retirement buy-out and the Annual Allowance

  Details as for Judge B, but Judge C decides to buy-out the actuarial reduction. For the purpose of this example, assume that the cost of doing this is £22,000. Judge C makes this payment before retiring and receives tax relief on it at the rate of 45%, so the real cost to him is £12,100.

  Opening value for Annual Allowance purposes = 16 x £20,000 x 1.025 = £328,000

  Closing value for Annual Allowance purposes = 16 x £23,500 = £376,000

  The increase in Judge C’s pension benefits = £376,000 - £328,000 = £48,000. This is above the Annual Allowance of £40,000 and Judge C will be subject to an Annual Allowance tax charge of £8,000 x 45% (assuming the 45% rate applies) = £3,600.

New Judicial Pension Scheme (NJPS 2015)
Ill-Health Retirement

Scheme features

It is proposed that NJPS 2015 provide for 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 normal pension retirement age, which in the case of the NJPS 2015 will be linked to the State Pension Age.

A period of 2 years' qualifying service will be required to apply for an award of pension benefits due to the incidence of ill-health. However, the Scheme Manager, supported by the advice of the Pension Board, will have discretion to bring an ill-health pension into payment where the individual has less than 2 years' qualifying service.

The process of retiring on the grounds of ill-health will be no different to the process which is currently in place for judicial office holders. In the instance that a scheme member wished to retire on the grounds of ill-health, they would contact Judicial Office. Once the Scheme Manager has received a medical certificate from Judicial Office indicating that the member has suffered a permanent breakdown in health involving incapacity for employment, an award could be processed.

For further information on the provision of ill-health retirement benefits as part of the Partnership Pension Account, please see the chapter on "Partnership Pension Account" (p.10).

Details on Ill-Health Retirement can be found in **Part 5, Chapter 4** of the NJPS 2015 regulations.

Application

- Pension paid from JUPRA – (i.e. for service prior to joining NJPS 2015)

  Eligibility for an ill-health pension under JUPRA depends on the Minister being satisfied by means of a medical certificate that, by reasons of infirmity, the person is incapable of discharging the duties of his qualifying judicial office and that the incapacity is likely to be permanent. There is no minimum qualifying period of service.

  Where an individual has service in JUPRA and in NJPS 2015, the accrued JUPRA pension would be brought into payment (but enhancement would be provided through NJPS 2015).

- NJPS 2015 pension

  NJPS 2015 rules will apply to NJPS 2015 service, but by reference to the entirety of service (JUPRA and NJPS 2015) in determining whether or not any qualifying conditions are met. Any enhancement will be calculated by reference to NJPS 2015 service only.

New Judicial Pension Scheme (NJPS 2015)
Late Retirement

Scheme Features

Note 1 – in this paper "late retirement" means drawing pension (and lump sum) from the scheme after Scheme Pension Age

Note 2 – the late retirement arrangements described will also apply in the event of partial retirement (if that takes place after scheme pension age). More information is available in the chapter on partial retirement (p.31).

It is proposed that NJPS 2015 provides:

- Where an individual continues building up service in the scheme after pension age, a late retirement addition will be credited as part of the annual uprating process.

- The first late retirement addition will apply in the April following the individual's attainment of pension age. This will be calculated by reference to the balance in the individual's pension account at 31 March of the previous year and will be pro-rated to reflect only the period of time after the individual's pension age.

- In subsequent years the late retirement addition will be calculated similarly, by reference to the pension account balance a year ago.

- Late retirement addition will also apply where a deferred member chooses not to draw benefits at pension age but leaves his/her benefits in the scheme and retires later.

Application

- Pension paid from JUPRA – (i.e. for service prior to joining NJPS 2015)

  JUPRA does not provide for late retirement additions. JUPRA pensions are calculated on a final salary basis and, as such, the entire pension is calculated by reference to most recent pay rates.

- NJPS 2015 pension

  NJPS 2015 rules will apply to service in the new scheme and judges will benefit from late retirement addition where they choose to work on beyond pension age.

  Late retirement factors would be worked up by the scheme actuary and would be specific to the judicial scheme.

Examples

High Court Judge 1
Late Retirement Addition applies
Full Lifetime Allowance available
Pension reflects moderate judicial service

Assumptions:

Salary = £175,000
Pension accrued in new scheme at pension age = £60,000
Annual Allowance = £40,000
Lifetime Allowance (LTA) = £1.25m.
Judge has his entire LTA available to him at pension age
CETV factor for personal pension = 17
Marginal income tax rate = 45%
Late retirement addition = 5%
Inflation is ignored
HCJ works on for 3 years after pension age.

If HCJ retires at his pension age, then he will receive his pension of £60,000pa. This has a LTA valuation of £1.2m (20 x £60,000). This is below the LTA, so LTA tax will only be payable to the extent that the judge does not have sufficient LTA remaining to him (for instance, if he has already drawn a private pension).

If HCJ works on, he will carry on receiving his salary of £175,000

Each year HCJ will build up further pension of £175,000 x 2.32% = £4,060

HCJ will also receive a Late Retirement Addition initially of £60,000 x 5% = £3,000, so his pension will increase over the first year post pension age by £7,060.

The Annual Allowance valuation of the additional pension is:

16 x £7,060 = £112,960

After allowing for the Annual Allowance (£40,000), the amount chargeable to tax is £72,960

Annual Allowance tax = 45% x £72,960 = £32,832

If this tax is settled by a deduction from pension, this would be £32,832/17 = £1,931

Similar transactions would take place in the next 2 years with slightly different figures.

By the time the HCJ retires, his pension has grown to £75,834. This has a LTA valuation of just over £1.5m and there would be LTA tax of 25% of the excess over the LTA of £1.25m. This would work out at some £66,700 or a deduction from pension of 1/20th of this.

In summary, then

Year 1 Pension b/f	60,000
Pension earned this year 2.32% x £175,000	4,060
Late retirement addition 5% x £60,000	3,000
Adjustment for Annual Allowance tax	-1,931
Year 2 Pension b/f	65,129
Pension earned this year 2.32% x £175,000	4,060
Late retirement addition 5% x £65,129	3,256
Adjustment for Annual Allowance tax	-2,040
Year 3 Pension b/f	70,405
Pension earned this year 2.32% x £175,000	4,060
Late retirement addition 5% x £70,405	3,520
Adjustment for Annual Allowance tax	-2,152
Pension into payment *before Lifetime Allowance tax*	75,834
Lifetime Allowance tax adjustment	-3,334
Net pension into payment	**£72,500**

Net additional pension for working on for 3 years = **£12,500** (before income tax)

High Court Judge 2
Late Retirement Addition applies
No Lifetime Allowance available
Pension reflects fairly short judicial service

Assumptions:

Salary = £175,000
Pension accrued in new scheme at pension age = £30,000
Annual Allowance = £40,000
Judge has already used up his Lifetime Allowance (eg drawn personal pension)
CETV factor for personal pension = 17
Marginal income tax rate = 45%
Late retirement addition = 5%
Inflation is ignored
HCJ works on for 3 years after pension age.

If HCJ retires at his pension age, then he will receive his pension of £30,000pa. This has a LTA valuation of £600,000 (20 x £30,000). The judge has already used up his LTA, so this will be subject to LTA tax at 25%. The tax of £150,000 could be settled by deduction of 1/20th of this from the pension, meaning that the pension into payment would be £30,000 - £7,500 = **£22,500**

If HCJ works on, he will carry on receiving his salary of £175,000

Each year HCJ will build up further pension of £175,000 x 2.32% = £4,060

HCJ will also receive a Late Retirement Addition initially of £30,000 x 5% = £1,500, so his pension will increase over the first year post pension age by £5,560

The Annual Allowance valuation of the additional pension is:

16 x £5,560 = £88,960

After allowing for the Annual Allowance (£40,000), the amount chargeable to tax is £48,960

Annual Allowance tax = 45% x £48,960 = £22,032

If this tax is settled by a deduction from pension, this would be £22,032/17 = £1,296

Similar transactions would take place in the next 2 years with slightly different figures.

By the time the HCJ retires, his pension has grown to just over £43,000 with a LTA valuation of just over £863,000. The LTA tax would give a deduction of nearly £11,000 from the pension meaning that the pension into payment would be around £32,373.

In summary, then

Year 1 Pension b/f	30,000
Pension earned this year 2.32% x £175,000	4,060
Late retirement addition 5% x £30,000	1,500
Adjustment for Annual Allowance tax	-1,296
Year 2 Pension b/f	34,264
Pension earned this year 2.32% x £175,000	4,060
Late retirement addition 5% x £34,264	1,713
Adjustment for Annual Allowance tax	-1,386
Year 3 Pension b/f	38,651
Pension earned this year 2.32% x £175,000	4,060
Late retirement addition 5% x £38,651	1,933
Adjustment for Annual Allowance tax	-1,479
Pension into payment *before Lifetime Allowance tax*	43,164
Lifetime Allowance tax adjustment	-10,791
Net pension into payment	**£32,373**

Net additional pension for working on for 3 years = **£2,373** (before income tax)

Circuit Judge
Late Retirement Addition applies
Full Lifetime Allowance available
Pension reflects moderate judicial service

Assumptions:

Salary = £130,000
Pension accrued in new scheme at pension age = £50,000
Annual Allowance = £40,000
Lifetime Allowance (LTA) = £1.25m.
Judge has his entire LTA available to him at pension age
CETV factor for personal pension = 17
Marginal income tax rate = 40%
Late retirement addition = 5%
Inflation is ignored
CJ works on for 3 years after pension age.

If CJ retires at his pension age, then he will receive his pension of £50,000pa. This has a LTA valuation of £1,000,000 (20 x £50,000). This is below the LTA, so LTA tax will only be payable to the extent that the judge does not have sufficient LTA remaining to him (for instance, if he has already drawn a private pension).

If CJ works on, he will carry on receiving his salary of £130,000

Each year CJ will build up further pension of £130,000 x 2.32% = £3,016

CJ will also receive a Late Retirement Addition initially of £50,000 x 5% = £2,500, so his pension will increase over the first year post pension age by £5,516

The Annual Allowance valuation of the additional pension is:

16 x £5,516 = £88,256

After allowing for the Annual Allowance (£40,000), the amount chargeable to tax is £48,256

Annual Allowance tax = 40% = £19,302

If this tax is settled by a deduction from pension, this would be £19,302/17 = £1,135

Similar transactions would take place in the next 2 years with slightly different figures.

By the time the CJ retires, his pension has grown to just over £63,500. This has a LTA valuation of around £1.27m and there would be a small LTA tax charge of around £5,000. If settled by deduction from pension, pension would reduce by £264 in the first year leaving a net pension of around £63,300.

In summary, then

Year 1 Pension b/f	50,000
Pension earned this year 2.32% x £130,000	3,016
Late retirement addition 5% x £50,000	2,500
Adjustment for Annual Allowance tax	-1,135
Year 2 Pension b/f	54,381
Pension earned this year 2.32% x £130,000	3,016
Late retirement addition 5% x £54,381	2,719
Adjustment for Annual Allowance tax	-1,218
Year 3 Pension b/f	58,898
Pension earned this year 2.32% x £130,000	3,016
Late retirement addition 5% x £58,898	2,945
Adjustment for Annual Allowance tax	-1,303
Pension into payment *before Lifetime Allowance tax*	63,556
Lifetime Allowance tax adjustment	-264
Net pension into payment	**63,292**

Net additional pension for working on for 3 years = **£13,292** (before income tax)

District Judge
Late Retirement Addition applies
Full Lifetime Allowance available
Pension reflects moderate judicial service

Assumptions:
Salary = £104,000
Pension accrued in new scheme at pension age = £40,000
Annual Allowance = £40,000
Lifetime Allowance (LTA) = £1.25m.
Judge has his entire LTA available to him at pension age
CETV factor for personal pension = 17
Marginal income tax rate = 40%
Late retirement addition = 5%
Inflation is ignored
DJ works on for 3 years after pension age.

If DJ retires at his pension age, then he will receive his pension of £40,000pa. This has a LTA valuation of £800,000 (20 x £40,000). This is below the LTA, so LTA tax will only be payable to the extent that the judge does not have sufficient LTA remaining to him (for instance, if he has already drawn a private pension).

If DJ works on, he will carry on receiving his salary of £104,000

Each year DJ will build up further pension of £104,000 x 2.32% = £2,413

DJ will also receive a Late Retirement Addition initially of £40,000 x 5% = £2,000, so his pension will increase over the first year post pension age by £4,413

The Annual Allowance valuation of the additional pension is:

16 x £4,413 = £70,605

After allowing for the Annual Allowance (£40,000), the amount chargeable to tax is £30,605

Annual Allowance tax = 40% = £12,242

If this tax is settled by a deduction from pension, this would be £12,242/17 = £720

Similar transactions would take place in the next 2 years with slightly different figures.

By the time the DJ retires, his pension has grown to just over £51,400. This has a LTA valuation of just over £1m and there would only be LTA tax to pay if the judge had already used up some or all of his LTA.

In summary, then

Year 1 Pension b/f	40,000
Pension earned this year 2.32% x £104,000	2,413
Late retirement addition 5% x £40,000	2,000
Adjustment for Annual Allowance tax	-720
Year 2 Pension b/f	43,693
Pension earned this year 2.32% x £104,000	2,413
Late retirement addition 5% x £43,693	2,185
Adjustment for Annual Allowance tax	-790
Year 3 Pension b/f	47,500
Pension earned this year 2.32% x £104,000	2,413
Late retirement addition 5% x £47,500	2,375
Adjustment for Annual Allowance tax	-861
Net pension into payment	**£51,427**

Net additional pension for working on for 3 years = **£11,427** (before income tax)

Summary of results

A – with Late Retirement Addition

	HCJ1	**HCJ2**	**CJ**	**DJ**
	Full LTA	No LTA	Full LTA	Full LTA
Before Lifetime Allowance tax				
Pension at pension age	£60,000	£30,000	£50,000	£40,000
Pension 3 years after pension age	£75,834	£43,164	£63,556	£51,427
After Lifetime Allowance tax				
Pension at pension age	£60,000	£22,500	£50,000	£40,000
Pension 3 years after pension age	£72,500	£32,273	£63,292	£51,427
Overall increase in net pension for additional 3 years	£12,500	£9,773	£13,292	£11,427

To note

The results are sensitive to assumptions as to:

- The level of the Annual Allowance
- The level of the Lifetime Allowance
- The CETV factor(s) to be used
- The rate used to convert LTA tax into a pension reduction
- The amount of LTA tax that an individual judge has available when he retires

New Judicial Pension Scheme (NJPS 2015)
Partial Retirement

Scheme features

It is proposed that NJPS 2015 provide for partial retirement – that is, the ability to draw pension while carrying on working – as follows:

- Partial retirement is possible only where an individual's employment terms have changed such that the individual's permanent pensionable earnings have reduced to no more than 80% of the amount before the change. Subject to business needs, where an individual is working on a salaried part time (SPTW) basis, the administrative requirement to meet 50% working time may be relaxed.

- The individual would be entitled to retire if he so wished (in other words, he and is aged at least 55 and, if under his pension age, has at least 2 years' qualifying service)

- Where a member opts for partial retirement he decides on the proportion of his benefits he wishes to draw.

- Someone who has taken partial retirement will continue to build up pension in respect of their work after partial retirement

- The partial retirement option is only available once and must be within 3 months of the reshaping of the individual's job.

It should be noted that, while an individual may ask his employer to reshape his role – either by reducing his hours or his job weight – the employer does not have to agree to this request.

Details on Partial Retirement can be found in **Part 5, Chapter 3** of the NJPS 2015 regulations.

Application

- Pension paid from JUPRA – (i.e. for service prior to joining NJPS 2015)

  JUPRA does not offer partial retirement. JUPRA pensions are payable only on retirement from judicial office.

- NJPS 2015 pension

  Partial retirement would apply only in respect of new scheme service. However, for the purpose of determining if an individual had sufficient qualifying service, service in JUPRA would also be taken into account.

Examples

- **Judge A** is aged 65 and his pension age in NJPS 2015 is 68. Judge A has built up £30,000 of pension in NJPS 2015 (he has no benefits in JUPRA) and his full-time pay is £120,000pa. Judge A decides that he wishes to move to part-time working (4 days per week) and this is agreed. Judge A decides to opt for partial retirement and he wants to draw sufficient pension so that his income (pension plus pay) remains at £120,000. The early retirement reduction for taking pension 3 years early is assumed to be 15%.

On moving from full-time to 4 days per week, Judge A's pay is reduced to £96,000. He meets the eligibility criteria for partial retirement as he is over minimum pension age and he has more than 2 years' qualifying service.

Judge A wants to maintain his income at £120,000 so, as his pay has reduced to £96,000, he will need his pension to be £24,000pa. As an early retirement reduction will apply, to achieve this he will need to draw £28,235 of his £30,000 NJPS 2015 pension (£28,235 less 15% reduction = £24,000).

Judge A then has £1,665 remaining in his NJPS 2015 pension account. He will continue to build up further NJPS 2015 pension (based on his new earnings of £96,000) until such time as he decides to retire.

- **Judge B** is aged 65 and his pension age in NJPS 2015 is 67. Judge B has 16 years' service in JUPRA and has also built up pension of £10,000 in NJPS 2015. Judge B's full-time pay is £160,000pa. Judge B agrees to reshape his job from full-time to 4 days per week and, on taking partial retirement, he wants to draw the maximum pension that he can. The early retirement reduction for taking pension 2 years early is assumed to be 10%.

  On moving from full-time to 4 days per week, Judge B's pay is reduced to £128,000. He meets the eligibility criteria for partial retirement as he is over minimum pension age and he has more than 2 years' qualifying service.

  Judge B can draw the entirety of his NJPS 2015 pension. An early retirement reduction (assumed to be 10%) will apply, so the pension into payment will be £9,000. Note that Judge B cannot draw his JUPRA pension at this stage as he has not retired from judicial office.

  Judge B works for 4 days per week until he reaches 67, when he retires. At that point he has built up a further £6,000 of pension in NJPS 2015 and this is then brought into payment. Judge B's JUPRA pension is also brought into payment and is calculated on the basis of 16 years' service and the full-time equivalent pay received in his final year.

New Judicial Pension Scheme (NJPS 2015)
Sitting in Retirement

Scheme features

The proposed NJPS 2015 allows for re-employment after retirement, so that a pensioner member in respect of a qualifying judicial office can at the same time be an active member in respect of a different qualifying judicial office.

Application

Judges sitting in retirement currently fall into one of three groups as shown below:

Type of office / pension	Type of sitting in retirement	Pension consequences
Salaried – JUPRA	Salaried *(relatively uncommon)*	JUPRA pension suspended during sitting. Recalculated on new retirement to take account of sitting during retirement.
Salaried – JUPRA	Fee-paid	JUPRA pension unaffected. Fee-paid service does not earn any further pension.
Fee-paid – no pension	Fee-paid	Currently not pensioned at all

For sitting in retirement from 1 April 2015, we propose to adopt a consistent approach for all judicial office holders. This will apply except where the post-retirement appointment is specifically non-pensionable.

- **Pension earned from service pre-retirement**

  Pension will continue to be paid during sitting in retirement (whether pension is from JUPRA (or equivalent scheme for fee-paid office holders) or NJPS 2015).[5]

- **Sitting during retirement**

  Service will be pensioned from NJPS 2015 whether fee-paid or salaried. No alternative remuneration will be provided where judicial office holder chooses to opt out.

To note

Judges who sit in retirement will need to consider whether they need to opt out for tax reasons - for instance, to retain Enhanced Protection (Finance Act 2004).

The "sitting in retirement" rules will apply only where there has been a genuine retirement. Judges who are members of NJPS 2015 may be able to use the partial retirement arrangements as an alternative. More information is available in the chapter on partial retirement (p.31).

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[5] Appropriate amendments will be required to the JUPRA provisions

New Judicial Pension Scheme (NJPS 2015)
Death in Service

Scheme features

- Pensions for survivors to be paid from JUPRA (and reflecting JUPRA rules) for service prior to joining NJPS 2015. Enhancement to be calculated and paid according to NJPS 2015 rules

- General policy position on death in service is that there will not be any lump sum deduction as the individual has not yet drawn benefits. Their nominees will typically get 2 x pay. On death in retirement, the general position is that there is no lump sum paid at all. The exception is where death is fairly shortly after retirement, where the 5 year guarantee applies. The intention is to deal fairly with people who are in service but have also drawn some benefits – either as a result of retiring and then returning to work or, alternatively as a result of partial retirement.

Note – for definitions of **surviving adult** and **eligible child** as well as associated examples, please see the chapters on pages 43 and 45 respectively.

It is proposed that NJPS 2015 will provide for:

- Death in service (DIS) lump sum of the <u>greater</u> of:
    - 2 x final pay (less any lump sums already paid – from all schemes); and
    - 5 x member's new scheme pension (less the total of pension payments already made from the new scheme)

- Subject to minimum qualifying period of one year, a surviving adult pension of 3/8 of member's pension, with benefits enhanced by the equivalent of service to pension age (or, if less, 10 years)

The enhancement factor is X / Y where:

X is the lower of:

- The member's assumed period of pensionable service (expressed in years); and
- 10.

Y is the lower of:

- The number of years for which the member has been an active member of the scheme; and
- The number of scheme years in relation to which an amount of earned pension was specified in the active member's account.

In this case, "the member's assumed period of pensionable service (expressed in years) means the period (expressed in years)

- Beginning with the day after the date of the member's death; and

- Ending with:
    - For a member employed on a fixed term, the day with which that term would have ended; and

- For a member otherwise employed, the day before the day on which the member would have reached prospective normal pension age if the member had lived until that age.

- Surviving adult pension is paid for life – regardless of the age of the survivor; it does not stop if the survivor remarries or enters into a new relationship. However, where the surviving adult is more than 12 years younger than the member, the pension is reduced by 2.5% for every year over 12 (subject to a maximum reduction of 50%).

- Where the member leaves a surviving adult, and no more than two eligible children, each child receives a pension of 80% of the surviving adult's pension. Where the member leaves N eligible children (where N is greater than 2), each child receives 2/N x 80% of the surviving adult pension.

- Where the member either one or two eligible children but no surviving adult, each child receives a pension of 4/3 x the notional surviving adult pension. Where the member leaves N eligible children (where N is greater than 2), each child receives 2/N x 4/3 of the notional surviving adult pension.

For further information on the provision of Death in Service benefits as part of the Partnership Pension Account, please see the chapter on "Partnership Pension Account" (p.10).

Details on Death Benefits can be found in **Part 7** of the NJPS 2015 regulations.

Application

- Benefits paid from JUPRA – (i.e for service prior to joining NJPS 2015)

  There will be no DIS lump sum as this will be paid from NJPS 2015 (the "active" scheme at the date of death).

  Spouse pension will be paid at the rate of one half of member's pension in JUPRA.

  Where the member leaves a surviving spouse, pension for children paid at the total rate of one half of the member's pension (if there are two or more eligible children) or one quarter of the member's pension if there is just one eligible child.

  Where the member does not leave a surviving spouse, pension for children paid at the total rate of two-thirds of member's pension (if there are two or more eligible children) or one third of the member's pension if there is just one eligible child.

- Benefits paid from NJPS 2015

  <u>Lump sum on death in service</u>

  Scheme members may nominate one or more beneficiaries to receive the lump sum, and specify how the benefits are to be apportioned between them. We expect the scheme rules to provide for:

  - one or more individuals;

  - one incorporated or unincorporated body; or

  - one or more individuals and one incorporated or unincorporated body

The NJPS 2015 scheme rules are proposed to render a nomination invalid in the following circumstances:

- the person was the spouse or civil partner at the date of nomination but, at the date of death, is no longer the individual's spouse or civil partner unless the member confirmed to the scheme manager (following the ending of the marriage or civil partnership) that the nomination should stand;

- if the person nominated predeceases the member;

- if the person nominated is convicted of the offence of murder of the member; or

- if the person nominated is convicted of manslaughter or any other offence (apart from murder) of which the unlawful killing or wounding of the member is an element and the scheme manager determines that the nomination should be treated as invalid.

In the event that any lump sums have already been paid – either from NJPS 2015 or JUPRA – these will be offset in determining the DIS lump sum to be paid. This would generally arise if, for some reason, pension benefits had been drawn but the individual had continued in – or recommenced – pensionable service.

As NJPS 2015 will be a registered pension scheme, the DIS lump sum will be paid tax-free subject to the member having sufficient Lifetime Allowance remaining to cover it. The scheme rules should be drafted with sufficient discretion to ensure that the DIS lump sum is not considered part of the individual's estate for Inheritance Tax purposes. This could be achieved either by giving the Pension Board the role of determining the recipient(s) of any lump sums (with any form of death benefit nomination being treated as an "expression of wish" to be taken into account by the Pension Board) or, as envisaged in the draft NJPS 2015 regulations, giving the scheme manager discretion as to whether or not to pay the lump sum and to determine whether it should go to the nominee(s) and/or personal representatives.

"Final pay" – as used for calculating the DIS lump sum –to be defined as the greater of:

- Pensionable earnings in last 12 months (or annualised equivalent if less than 12 months' service); and

- Best of last 10 scheme years'[6] pensionable earnings

<u>Pensions for survivors</u>

The surviving adult pension will include an enhancement (except where the scheme member was already at, or over, pension age at the date of death). This will be calculated on the basis of 10 years or, if less, the period to pension age[7]. The enhancement will reflect 10 years' worth of average NJPS 2015 benefits (see examples).

In determining whether or not the member meets the one year qualifying period for the surviving adult pension, any service in JUPRA will count.

There is no qualifying period for an eligible child's pension. The pension for each eligible child will be calculated at the member's death and will not normally change (except to the

[6] Scheme year runs 1 April – 31 March

[7] "pension age" for the purpose of calculating survivor pensions is expected to reflect stated Government policy as at the date of death

extent of annual increases) other than when it comes to light that the number of eligible children differs from that originally identified. When a child ceases to be an eligible child (typically on leaving full-time education or reaching age 23), their pension will stop but this will not result in recalculation of pensions to the other children. If the child subsequently requalifies for pension – for instance, on going into higher education after a gap year – their pension will recommence without impacting pensions for the other children.

Pension for adult survivor and for eligible children are potentially subject income tax in the hands of the recipient (as in JUPRA). They do not count against the Lifetime Allowance or Annual Allowance of either the deceased member or the recipient.

Examples

- **Judge X** dies in service at the age of 55. He has 11 years' service in JUPRA and 4 years' service in NJPS 2015. X's pension age in NJPS 2015 is 67. X leaves a widow and three eligible children. X is full-time and is paid a salary of £130,000 (this is also his "final pay"). At the date of his death, X has built up a NJPS 2015 pension of £12,000 and a JUPRA pension of £35,750, but has received no benefits from either scheme.

  DIS lump sum = the better of

  (a) 2 x £130,000 = £260,000

  (b) 5 x £12,000 = £60,000

  Surviving adult pension (NJPS 2015)

  = 3/8 x enhanced pension = 3/8 x (£12,000 + £12,000 x 10/4) = £15,750

  (*X is 12 years from pension age, but maximum enhancement is 10 x average pension in NJPS 2015 = P/4 in this case)*

  Pension for each eligible child (NJPS 2015)

  = 2/3 x 80% x surviving adult pension = 2/3 x 80% x £15,750 = £8,400

  Spouse pension (JUPRA) = £35,750 x 50% = £17,875

  Total pension for children (JUPRA) = £35,750 x 50% = £17.875

  There are 3 children, so each one receives one-third, i.e. just under £5,960

  Total pension to widow = £15,750 (NJPS 2015) + £17,875 (JUPRA) = £33,625

  Total pension to each child = £8,400 (NJPS 2015) + £5,960 (JUPRA) = £14,360

- **Judge Y** retired from JUPRA with a pension of £60,000 and a lump sum of £135,000. He has now returned to part-time (pensionable) judging at a (part-time) salary of £50,000 (this is also his "final pay" in NJPS 2015). He dies in service at the age of 69, after 2 years (elapsed time) work – by which time he has received pension payments of £123,000. At the time of his death, Judge Y has built up pension of £2,400 in NJPS 2015, and his JUPRA pension has increased with inflation to £63,000. Judge Y leaves a widow, but no eligible children.

  Judge Y is a JUPRA pensioner and, under JUPRA rules, a lump sum is due if the total of payments made (including lump sum payments) falls short of 5 times pension in payment at the time of death.

JUPRA lump sum = 5 x £63,000 - £135,000 - £123,000 = **£57,000**

DIS lump sum under NJPS 2015

Calculation A: 2 x final pay less lump sums already received

2 x final pay = £100,000. Judge Y (or his estate) has already received lump sums totalling £192,000 (£135,000 + £57,000) and so no lump sum arises under NJPS 2015 calculation A

Calculation B: 5 x NJPS 2015 pension less total NJPS 2015 pension payments received

NJPS 2015 pension = £2,400

5 x pension = £12,000

No pension payments have been made from NJPS 2015, so the lump sum on death = £12,000

Calculation B gives the better result and a lump sum of **£12,000** is due in this case.

The total lump sum paid on death is **£69,000** (£57,000 under JUPRA rules and £12,000 under NJPS 2015rules)

Surviving adult pension (NJPS 2015) = £2,400 x 3/8 = £900 (no enhancement as Judge Y is over NPA)

Spouse pension (JUPRA) = 50% x JUPRA pension in payment = 50% x £63,000 = £31,500

Total spouse pension = £31,500 (JUPRA) + £900 (NJPS 2015) = £32,400

To note

It is still to be decided the form of nomination for death benefit and the procedures for making and revising nominations. The intention is that the department will try to provide these services online.

New Judicial Pension Scheme (NJPS 2015)
Death in Deferment or Retirement

Scheme features

- To provide benefits to Scheme members' dependents or nominated recipient should they die before drawing deferred benefits or die early in retirement. Any lump sum on death in deferment or retirement to be calculated according to JUPRA rules for the JUPRA element of pension and according to NJPS 2015 rules for the NJPS 2015 element. The same will apply for calculation and payment of pensions for survivors.

Note - for definitions of surviving adult and eligible child as well as associated examples, please see the chapters on pages 43 and 45 respectively. The chapter on death in service (p.34) is also relevant.

It is proposed that the NJPS 2015 rules provide for the following benefits on death in deferment or retirement:

- A lump sum calculated as:

  5 x member's pension (less the total of payments already made)

- A surviving adult pension of 3/8 of member's pension

  Surviving adult pension is paid for life – regardless of the age of the survivor; it does not stop if the survivor remarries or enters into a new relationship. However, where the surviving adult is more than 12 years younger than the member, the pension is reduced by 2.5% for every year over 12 (subject to a maximum reduction of 50%).

- Where the member leaves a surviving adult, and no more than two eligible children, each child receives a pension of 80% of the surviving adult's pension. Where the member leaves N eligible children (where N is greater than 2), each child receives 2/N x 80% of the surviving adult pension.

- Where the member leaves either one or two eligible children but no surviving adult, each child receives a pension of 4/3 x the notional surviving adult pension. Where the member leaves N eligible children (where N is greater than 2), each child receives 2/N x 4/3 of the notional surviving adult pension.

Details on the Death in Deferment or Retirement can be found in **Part 7** of the NJPS 2015 regulations.

Application

- Benefits paid from JUPRA – (i.e. for service prior to joining NJPS 2015)

  The JUPRA rules provide for a lump sum on death in retirement where the total of pension and lump sum payments made is less than 5 times the rate of the member's pension at the date of death. This provision – which is effectively a "pension guarantee" – will continue to apply in respect of members who die in retirement or deferment. JUPRA rules provide for this lump sum to be paid to the scheme member's personal representatives as of right, so the payment forms part of the scheme member's estate for Inheritance Tax purposes.

Where members die in deferment, the deferred lump sum of 2.25 times pension (as up rated with pensions increase) is paid.

Spouse pension will be paid at the rate of one half of member's pension in JUPRA provided that the marriage took place before the judge started to draw his or her pension. Where the judge has married (or remarried) in retirement, the spouse pension reflects only his service between 1978 and 1997 (or 1988 and 1997 for female judges) – so, where a judge took up office after 1997 and marries (or remarries) after retiring, no spouse pension is paid.

Where the member leaves a surviving spouse who is eligible for a pension, pension for children paid at the total rate of one half of the member's pension (if there are two or more eligible children) or one quarter of the member's pension if there is just one eligible child.

Where the member does not leave a surviving spouse, pension for children paid at the total rate of two-thirds of member's pension (if there are two or more eligible children) or one third of the member's pension if there is just one eligible child.

- Benefits paid from NJPS

Lump sum on death

As NJPS 2015 will be a registered pension scheme, any lump sum on death will be paid tax-free subject to the member having sufficient Lifetime Allowance (LTA) remaining to cover it. Where the member has insufficient LTA, tax is charged at 55%[8].

The scheme rules should have sufficient discretion to ensure that any lump sum is not considered part of the individual's estate for Inheritance Tax purposes.

Pensions for survivors

A pension for a surviving adult (p.43) may be paid. Any test of marriage or financial dependency/interdependency will apply as at the date of the scheme member's death (not as at the date of leaving qualifying judicial office).

The pension for each eligible child will be calculated at the member's death and will not normally change (except to the extent of annual increases) other than when it comes to light that the number of eligible children differs from that originally identified. When a child ceases to be an eligible child (typically on leaving full-time education or reaching age 23), their pension will stop but this will not result in recalculation of pensions to the other children. If the child subsequently requalifies for pension – for instance, on going into higher education after a gap year – their pension will recommence without impacting pensions for the other children.

Pension for adult survivor and for eligible children are potentially subject income tax in the hands of the recipient (as in JUPRA). They do not count against the Lifetime Allowance or Annual Allowance of either the deceased member or the recipient.

Examples

- **Judge A** dies some 2 years after his retirement. At the time of his death he was receiving a pension of £50,000 from JUPRA and £10,000 from NJPS 2015. At the time of his retirement he received a lump sum of £110,000 from JUPRA and he has received JUPRA pension

[8] Although a pensioner could opt for the lump sum to be paid as a "pension protection lump sum" this is not explored further as the tax rate of 55% does not render this attractive. In the event of any lump sum being paid after the scheme member has reached the age of 75, the 55% tax charge will apply.

payments of £100,000 in total. Judge A has received total pension payments of £20,000 from NJPS 2015. Judge A leaves a widow who he married many years ago.

Lump sum on death (JUPRA) = 5 x £50,000 – (£110,000 + £100,000) = £40,000

This is paid to Judge A's personal representatives and forms part of his estate for Inheritance Tax purposes.

Lump sum on death (NJPS 2015) = 5 x £10,000 - £20,000 = £30,000

This is paid in accordance with Judge A's death benefit nomination instructions. The payment is discretionary and should not attract Inheritance Tax. However, the lump sum will count against Judge A's Lifetime Allowance – if he has no Lifetime Allowance left, the payment will be taxed at 55%.

Widow's pension (JUPRA) = 50% x £50,000 = £25,000 – ceases on remarriage

Widow's pension (NJPS 2015) = 37.5% x £10,000 = £3,750 – payable for life

- **Judge B** dies several years into retirement. At the time of his death he was receiving a pension of £30,000 from JUPRA and £20,000 from NJPS 2015. Judge B's first wife died shortly after he retired and he has since remarried. Judge B became a judge after 1997.

  Judge B has been retired for many years, so there is no pension guarantee payment from either JUPRA or NJPS 2015.

  Widow's pension (JUPRA) – all of Judge B's service is after 1997; no widow's pension is payable.

  Widow's pension (NJPS 2015) = 37.5% x £20,000 = £7,500 – payable for life

- **Judge C** retired from judicial office at the age of 65, but has a retirement age in NJPS 2015 of 67. On retirement Judge C received his JUPRA pension and lump sum, but he deferred his NJPS 2015 benefits. Judge C dies at the age of 66. He leaves 3 children (all in full-time education and under the age of 23) but no widow or partner. At the time of his death, Judge C has received £40,000 in pension payments from JUPRA, also his retirement lump sum of £90,000. Judge C's deferred pension in NJPS 2015 is £30,000pa and the current rate of his JUPRA pension is £40,000pa.

  Lump sum on death (JUPRA) = 5 x £40,000 – (£90,000 + £40,000) = £70,000. This will paid to Judge C's personal representatives and will form part of his estate.

  Lump sum on death (NJPS 2015) = 5 x £30,000 = £150,000 – this will be paid in accordance with Judge C's death benefit nomination (see comments against Judge A).

  Children's pension (JUPRA) = 2/3 x £40,000 = £26,667 – to be shared among the eligible children (so each child receives £8,889pa initially)

  Children's pension (NJPS 2015) is based on the notional pension for an adult survivor. This notional adult survivor pension is 3/8 x £30,000 = £11,250.

  Each of the 3 children receives an NJPS 2015 pension of 2/3 x 4/3 x £11,250 = £10,000pa

  Total pension paid to each child = £8,889 (JUPRA) + £10,000 (NJPS 2015) = £18,889pa

To note

As drafted, the beneficiaries for the lump sum change at the point of retirement (or leaving the scheme). On death in service, the entire lump sum is paid under NJPS 2015 rules (assuming that the scheme member is not also a pensioner or deferred member of JPS) – and to the nominee(s) under NJPS 2015. But on death in retirement, any lump sum is effectively a pension guarantee and, as such, may come in part from JUPRA and in part from NJPS 2015 (and be treated accordingly).

New Judicial Pension Scheme (NJPS 2015)
Definition of "Surviving Adult"

Scheme features

- To provide a pension to a surviving adult dependant to apply to pensions provided from NJPS 2015. This pension will be equal to 3/8 (37.5%) of the scheme member's pension plus an enhancement factor, and will be payable for life.

- JUPRA definition will continue to apply in respect of adult dependant pensions paid in respect of JUPRA service. Note that this definition is somewhat narrower than that which will apply to service in NJPS 2015.

It is proposed that NJPS 2015 provide for a pension to a surviving spouse or civil partner, but with the scheme having discretion not to provide a pension if the marriage/civil partnership took place less than 6 months before death (to protect the scheme from "deathbed marriages"). Pensions are paid for life – they do not stop if the former spouse/civil partner remarries or enters into a new civil partnership.

Where there is no surviving spouse or civil partner, NJPS 2015 may pay a pension to a surviving adult dependant. The regulations require a written declaration to have been made by the member and the adult dependant and also for the adult dependant to satisfy the scheme manager that, at the time of the member's death, the member and the adult dependant were cohabiting in an exclusive, committed long-term relationship, that neither party were prevented from marrying or entering into a civil partnership and the relationship was one of financial dependence or interdependence.

Details on the Surviving Adult provisions can be found in **Part 7, Chapter 1** of the NJPS 2015 regulations.

Application

- Pension paid from JUPRA – (i.e. for service prior to joining NJPS 2015)

  JUPRA pays a pension to a surviving spouse or civil partner provided the marriage/ civil partnership took place prior to retirement. The scheme suspends the pension if the former spouse/partner remarries or enters into a new civil partnership.

- NJPS 2015 pension

  NJPS 2015 rules will apply to that element of the surviving adult pension which derives from NJPS 2015 service (including the enhancement). Any pension is paid for life.

  Note that in some circumstances, individuals may be eligible for benefits under one scheme but not under the other, as illustrated by the following examples.

Examples

- **Judge A** dies and leaves a widow. They have been married for many years and she is 2 years younger than him. Judge A's widow will receive a pension from JUPRA and NJPS 2015. If Judge A's widow remarries, the JUPRA element of her pension may be stopped, but the NJPS element is payable for life.

- **Judge B** dies and leaves a partner. They are not married but both are free to marry. Judge B's partner runs her own business but they have run a joint household with interdependent finances. Judge B's partner will not receive any pension in respect of Judge B's service in JUPRA, but she may receive a pension in respect of service in NJPS 2015. Any such pension will be payable for life – it will not stop if she enters into a new relationship.

- **Judge C** dies and leaves a widow who is 20 years younger than him. The marriage took place only 2 months before he died. Judge C's widow will receive benefits in relation to his service in JUPRA. As regards NJPS 2015, the scheme would need to be satisfied that the marriage was genuine (that is, not made purely for the purposes of securing pension benefits that would not otherwise be paid). If a pension is paid, it will be paid at 80% of the normal NJPS 2015 rate, reflecting the significant age gap (the reduction is 8 (=20-12) x 2.5%)

- **Judge D** dies and leaves his long-standing partner. Judge D's partner is, however, married; although separated from her husband for many years, neither she nor her husband believe in divorce. No pension is payable from either JUPRA or NJPS 2015.

- **Judge E** dies and leaves his partner. Judge E remains married to the wife he left many years ago. Judge E's widow receives a pension from JUPRA and from NJPS 2015. No pension benefits are paid to Judge E's partner (although he could have nominated her for lump sum death benefits).

To note

It is to be decided what form of written declaration is to be made by the scheme member and their partner and also to the nature of the evidence that will be required to satisfy the scheme manager that a surviving adult pension should be paid (for life). This is an administrative matter but it is possible that the approach adopted will need to be consistent with guidance applying across public service pension schemes.

The determination of whether, or not, an individual is eligible for benefits as an unmarried partner will, ultimately, be a matter of discretion, exercised by the Scheme Manager.

A further role for the Pension Board is likely to be in relation to "deathbed marriages"; that is, those which have taken place within 6 months of the scheme member's death. In these cases discretion must be exercised to determine whether or not a spouse/partner pension should be paid. Again, the Board could either look at individual cases or produce guidance for the scheme manager to follow.

New Judicial Pension Scheme (NJPS 2015)
Definition of "Eligible Child"

Scheme features

- To provide benefits to defined eligible children to apply to pensions provided from NJPS 2015. This is a wide definition within the constraints of the rules applying to registered pension schemes

The NJPS 2015 rules are required to operate within the HMRC definition of "dependant" and are proposed to define an eligible child as:

(a) a natural or adopted child of the member who meets any of conditions A to C; or

(b) any other child or young person who –

1) meets any of those conditions; and

2) was financially dependent on the member as at the date of the member's death

Condition A – aged under 18

Condition B – aged under 23 and in full-time education or vocational training

Condition C – unable to engage in gainful employment because of physical or mental impairment and either (a) aged under 23 or (b) impairment is, in the opinion of the scheme medical adviser, likely to be permanent and the person is dependent on the member as at the date of the member's death because of physical or mental impairment

These definitions allow, for instance, for the inclusion of step children or children of the individual's partner (but only where such children are financially dependent on the scheme member).

Children born after the member's death only count as an "eligible child" if the mother was pregnant with the child as at the date of the member's death[9]

Details on the Eligible Child provisions can be found in **Part 7, Chapter 2** of the NJPS 2015 regulations.

Application

- Pension paid from JUPRA – (i.e. for service prior to joining NJPS 2015)

  Pension derived from JUPRA service will be calculated according to JUPRA rules (see also the section on death in service (p.34)) and paid to an eligible child meeting the JUPRA definition:

  - Natural children of the deceased
  - Step-children of the deceased
  - Children adopted by the deceased before retirement
  - Children adopted by the deceased after retirement, if the Treasury so directs

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[9] See draft regulation 79

Subject to the child being:

  - Under age 18; or
  - In full-time education; or
  - Undergoing full-time training (of at least 2 years duration) for any trade, profession or vocation during which time he is receiving remuneration less than a specified amount

- NJPS 2015 pension

  Pension derived from NJPS 2015 service (and enhancement) will be calculated according to NJPS 2015 rules (see the section on death in service (p.34)) and paid to an eligible child meeting the definition in NJPS 2015 rules.

Examples

- **Judge A** has 1 child from his first marriage. He has remarried and has adopted twins. On Judge A's death all of the children are still in education and aged under 23. All 3 children qualify for pension from JUPRA and NJPS 2015. However, the NJPS 2015 element will stop on leaving education or, if earlier, age 23. The JUPRA element will continue throughout full-time education regardless of age.

- **Judge B** has 2 children of his own. His wife has a child from an earlier relationship. This child (the judge's step son) lives with, and is supported by, his father and has little to do with his mother or stepfather. All children are in full-time education and aged under 23. The step son will qualify for a pension in respect of the JUPRA service but not under the NJPS 2015 rules as there is no financial dependency. The effect of this is that the judge's children receive 2/3 of the available children's pension under JUPRA, but the entire amount available under NJPS 2015.

- **Judge C**'s daughter is severely disabled and lives at home with her parents. Her disability renders her unable to work and her disability is expected to get worse with age. Judge C's daughter will be eligible for a lifetime pension from NJPS 2015. A pension will be paid in respect of JUPRA service only while the daughter meets the age or education criteria.

To note

It will be important for scheme members – and their dependents – to understand that dependants' pensions will (for some judges) have a "JUPRA" element and a "NJPS" element and that the eligibility rules are not the same in all respects. So someone may qualify for a child pension under one set of rules, but not the other. More commonly, the pension elements may have different cessation rules (see examples above).

To meet the HMRC definition of "dependant", financial dependency must exist. This term is not defined and it is, as far as HMRC is concerned, for the scheme administrator to determine whether or not this condition is satisfied. The relevance here is to determine whether children, who are not the natural or adopted child of the deceased, should join the pool of children who will share the NJPS 2015 pension.

New Judicial Pension Scheme (NJPS 2015)
Topping-Up Pension

Scheme features

- To provide Scheme members with opportunity to increase their pension benefits within set limits,

It is proposed that NJPS 2015 provide the following options for individuals wishing to top-up their pension:

- Added Pension arrangements to be provided within the new scheme subject to Treasury limits

- Offer facility to buy-out actuarial reduction on early retirement

- Transfers in to be permitted within 12 months of joining the scheme

- Money purchase top-up available through the separate AVC scheme

Details on the arrangements for transfer in can be found in **Part 9, Chapter 3** of the NJPS 2015 regulations.

Application

- Pensions built up under JUPRA – (i.e. for service prior to joining NJPS 2015)

  Members of JUPRA are currently able to top-up their benefits through tax-registered AVC arrangements (subject to a maximum of 15% of salary[10] inclusive of contributions to JUPRA). AVC investments are managed by Prudential and the fund used to provide a mix of lump sum and pension subject to HMRC rules.

  Unlike the main judicial pension schemes, the judicial AVC scheme is not required to close in March 2015 as the closure provisions in the Public Service Pensions Act 2013 do not apply to money-purchase schemes. It has been agreed with Prudential that the facility for members of the judiciary to contribute to the investments managed by them will remain open regardless of whether the individual has to move into the NJPS 2015.

  For those judges who are currently purchasing added years or surviving spouse's pension, the ability to do so will cease on joining the NJPS 2015. Judges will be entitled to the proportion of benefits that they have purchased on retirement.

  While JUPRA allows for transfers-in, the fact of JUPRA being unregistered for tax purposes effectively renders this option unviable given the significant tax charges that would arise.

[10] "salary" here means the lesser of salary and the current notional value of the Earnings Cap (£141,000 for tax year 2013/14)

- NJPS 2015 pension

  Judges have the following options:

  - Paying additional contributions (or lump sums) to purchase Added Pension. Added Pension will be subject to the same rules[11] as “normal” pension. It will be priced by the scheme actuary and the rate will depend, among other things, on an individual’s age. The total amount of Added Pension that an individual can purchase will be subject to limits set by Treasury (currently £6,500).

  - Paying additional contributions (or lump sums) to buy-out the reduction that would otherwise apply on early retirement. Except to the extent that Treasury agree, such contributions would not be included in the overall Added Pension limits.

  - Transferring other private or occupational pensions into NJPS 2015 within 12 months of joining the scheme, subject to limits on the amount that can be transferred.

  - Making additional contributions into the judicial AVC scheme to build up a pension pot to be invested by Prudential and which will then be drawn according to HMRC rules.

To note

Any additional contributions (whether Added Pension or AVC) will generally count towards an individual’s Annual Allowance (an exception being where payments are made to buy-out an early retirement reduction). Judges paid at a level where their NJPS 2015 pension is such that they are in any event breaching the Annual Allowance should be aware that further pension saving will attract Annual Allowance tax charges which could render it unattractive. Judges may wish to take financial advice before deciding to make additional pension contributions.

The judicial AVC scheme is not part of NJPS 2015 but is a separate scheme that sits alongside it. This means that (under current tax law) the maximum tax-free lump sum that can be taken from the AVC scheme is 25% of the fund.

[11] For instance, in relation to pension age, options on retirement and so on

Scheme Features

The New Judicial Pension Scheme 2015 will be registered for tax purposes. Any pension benefits accrued under this scheme will be factored into Lifetime and Annual Allowances.

Lifetime Allowance

Where a Lifetime Allowance (LTA) charge arises, this is generally a joint and several liability of the scheme and the member[12]. Where a LTA charge arises, the scheme pays the tax and gives the member the choice of (a) paying the tax upfront (usually by deduction from the member's lump sum) or (b) having their pension (and, potentially, spouse/partner pension) reduced pro-rata. Where the member chooses to have the pension reduced, the reduction is currently calculated as 1/20th of the tax charge – that is, using the same valuation factor as is applied by HMRC in determining the LTA valuation. The policy (of using a reduction of 1/20th) has operated across public service schemes since April 2006 and it is possible that the Treasury could review it in future.

Annual Allowance

Schemes are required to issue an Annual Allowance statement to all members whose pension accrual in that scheme breaches the Annual Allowance (before taking into account any unused Annual Allowance that the member may have available to him/her from earlier years). Beyond that, schemes must provide a statement to members who request one.

It is an individual's responsibility to determine if a liability to Annual Allowance (AA) charge arises in any tax year. Where a person has an Annual Allowance liability in excess of £2,000 and his/her savings in a specific scheme exceed the Annual Allowance the person has the right to serve notice on that scheme that s/he requires the scheme to pay a specified amount of his AA charge. If the person duly serves notice, then the liability will generally become a joint and several liability and the scheme will pay the tax and make a corresponding deduction from his/her benefits. Where a scheme agrees, on a voluntary basis, to pay Annual Allowance charge on the member's behalf (in other words, where the liability is less than £2,000 or where the savings in this scheme do not exceed the Annual Allowance) the liability remains with the individual and s/he should be aware that, if the scheme fails to make the necessary payment, s/he will be liable for interest and any other penalties for non-payment or late payment.

Tax-registered public service schemes operate a system where the scheme can pay any Annual Allowance charge and will adjust subsequent annual pension values accordingly. The debit is then increased annually with inflation (in the same way that a deferred pension would be) before being offset against the member's pension on retirement. Where a member incurs an AA liability in several years, s/he will end up with several pension debits starting in different years. The debit is calculated on the basis that it applies only to member benefits – that is, benefits for dependants are protected (so the reduction in member benefits is greater than would be the case if such protection were not applied). The factors to be used in calculating the debit are expected to be the normal Cash Equivalent Transfer Value (CETV) factors applicable to the valuation of a deferred pension at the scheme member's pension age.

[12] The exception is a Lifetime Allowance charge arising on the death of a scheme member. In these circumstances the liability for the tax falls on the recipient (although the calculation is still done by reference to the scheme member's remaining Lifetime Allowance)

Details on the Pension Tax Charges can be found in **Part 11, Chapter 3** of the NJPS 2015 regulations.

Application

- Pension paid from JUPRA – (i.e. for service prior to joining NJPS 2015)

  Lifetime Allowance and Annual Allowance charges will not arise as JUPRA is not tax-registered. Tax charges could, however, arise in relation to money-purchase AVCs built up alongside JUPRA (as the AVC scheme is tax-registered).

  Where LTA tax charges so arise, as the benefits are of a money-purchase nature, the tax is paid by deduction from the pension pot.

- NJPS 2015 pension

  Lifetime Allowance – member to be given option, at retirement, of how to handle any LTA tax due (i.e. by deduction from benefits or by a lump sum payment).

  Annual Allowance – "scheme pays" option must be available to a judge where the tax charge in relation to the scheme exceeds £2,000 in respect of a tax year and could also apply if the judge has breached the Annual Allowance in NJPS 2015 even if his tax charge in NJPS 2015 is less than £2,000 (for instance, if he has pension savings elsewhere as well). Whether or not the judge decides to take advantage of scheme pays is a matter for him/her and will be influenced by, among other things, the CETV factors used by the scheme and the judge's view of his/her life expectancy.

  NJPS 2015 will provide "scheme pays" in all cases, not just those where it is required to do so The scheme rules will require the liability to be treated as joint and several (to give suitable protections to the member if the scheme fails to make the payment on time).

  The NJPS 2015 will routinely provide an Annual Allowance statement to all NJPS 2015 members, even where the Annual Allowance has not been breached in-year by NJPS 2015 pension accrual.

Examples

- Lifetime Allowance

  Judge A retires with a pension of £35,000 in NJPS 2015. He opts to commute the maximum he can, leaving him with a lump sum of £150,000 and a residual pension of £22,500 (Judge A must give up £1 of pension for every £12 of lump sum). At the time that Judge A retires, his Lifetime Allowance is £1.25m and he has not used any of it.

  The Lifetime Allowance valuation of Judge A's NJPS 2015 benefits

  = £150,000 + 20 x £22,500 = £600,000

  = 48% of the Lifetime Allowance

  The NJPS 2015 pension therefore uses up 48% of Judge A's LTA, leaving him 52% to set against future pension "crystallisations".

  Judge B retires – details are the same as for Judge A except that Judge B has used up 84.64% of his Lifetime Allowance before he retires from NJPS 2015.

Judge B therefore has 15.36% of his Lifetime Allowance – or £192,000 – available to him.

Judge B is restricted in the amount of tax-free lump sum he can draw. The maximum in this case is 25% of his available LTA = £48,000. If Judge B takes this lump sum, his residual pension will be £31,000

Judge B's LTA valuation will then be

= £48,000 + 20 x £31,000 = £668,000[13]

Judge B only has £192,000 of LTA available to him, so £476,000 is subject to LTA tax. This is calculated at 25%, giving a liability of £119,000.

The scheme pays the tax and gives Judge B the choice of meeting the tax charge upfront or of having his pension reduced pro-rata. If Judge B chooses the latter option, his pension will be reduced by £5,950 (i.e. 1/20th of the tax bill) – to £25,050pa (and a corresponding reduction will apply to surviving adult pension).[14]

- Annual Allowance

Judge C joins NJPS 2015 and is paid £175,000 in his first year of membership. This means that he builds up pension of £4,060 in NJPS 2015 and this gives rise to an Annual Allowance valuation of £64,960[15]. If the Annual Allowance is £40,000 this means that Annual Allowance charge is levied on the excess £24,960. If Judge C's tax rate is 45%, the charge will be £11,232 and Judge C will declare this through self-assessment.

Judge C informs the scheme that he wishes to use "scheme pays". The scheme pays the £11,232 tax. Suppose that the CETV factor for personal pension for a person of Judge C's age is 13. The scheme will then establish a "pension debit" for Judge C of £11,232/13 = £864.

In the following year, Judge C is paid £180,000 giving a pension of £4,176. The Annual Allowance charge on this is £12,067.20 (assuming same Annual Allowance and same tax rates as before). Judge C is now a year older, so suppose the CETV factor is now 13.3. This would lead to a pension debit of £12,067.20/13.3 = £907.31.

Suppose inflation is 2.5%.

The position on Judge C's pension account is then:

	Pension account			**Pension debit**	
	This year	**Total**		**This year**	**total**
Pension earned – year 1	£4,060.00	£4,060.00		£864.00	£864.00
Uplift by inflation (2.5%)	£101.50	£4,161.50		£21.60	£885.60
Pension earned – year 2	£4,176.00	**£8,337.50**		£907.31	**£1,792.91**

So, at the end of year 2, Judge C's pension is **£6,544.59** (=£8,337.50 - £1,792.91)

Pension for surviving adult is worked out on the amount before the pension debit, so 3/8 x £8,337.50 = £3,126.56

[13] Judge B's LTA valuation is higher than Judge A's as the lump sum / pension mix is different.
[14] This example assumes that the reduction factor continues to be 1/20th.
[15] The example assumes that Judge C has no unused Annual Allowance from earlier years.

(Note that the approach is not quite the same as for a pension debit following a pension share on divorce – in that case, all pension elements are subject to the share (and consequent pension debit))

New Judicial Pension Scheme (NJPS 2015)
Rejoining the Pension Scheme

Scheme features

It is proposed that NJPS 2015 provides as follows:

- Individuals will be able to rejoin the pension scheme they left, provided that the gap in service is no more than 5 years. This means that an individual with some form of transitional protection will retain that protection if they have a short break in scheme membership

- The "short break" provisions are also to apply where an individual moves from one public service pension scheme to another. So, an individual who has transitional protection in Scheme A and then moves to Scheme B, would then be treated as a protected member of Scheme B provided that they also met the age etc criteria in Scheme B.

For individuals who have either opted out of the scheme (or initially chose not to join) the NJPS 2015 is proposed to provide that:

- Individuals who are eligible to be members of the scheme may opt in to membership whenever they wish, subject to not being able to opt in more than once in a twelve-month period

Application

Movements between the schemes for fee-paid and salaried judges can be expected. However, given the nature of judicial office it is unlikely that there will be significant movement of individuals between judicial and other public service pension schemes.

- Individuals with Transitional Protection

  Individuals with "full protection" remain in their current judicial scheme (typically JUPRA or the 1981 scheme) and do not move into NJPS 2015. If such an individual moves to another public service scheme they will move into the scheme which was open to new entrants immediately prior to April 2015 and will remain in that scheme (i.e. retain full protection)[16].

- Individuals with Tapering Protection

  Individuals with "tapering protection" will decide whether to move into the new scheme from April 2015 or remain in their old scheme until their individual tapering date (from June 2015 to February 2022, depending on the individual's age), at which point they will then move into NJPS 2015. If such an individual, who has opted for tapering protection, moves to another public service scheme before their tapering date, they will move into the scheme which was open to new entrants prior to April 2015 and will remain in that scheme until their tapering date (when they will move to the associated new scheme).

  Individuals who take a break from pension scheme membership of no more than 5 years will be treated similarly.

[16] This assumes that the individual meets the age criteria in the new scheme as well but, as the current judicial scheme has a pension age of 65 this assumption is justifiable.

Examples

- **Judge A** is in the scheme for fee-paid judges, and meets the conditions for full protection there. In January 2020 Judge A is appointed to salaried office. Judge A will move to the scheme which was open prior to 2015, i.e. JUPRA, and remain there.

- **Judge B** is in the scheme for fee-paid judges and meets the conditions for tapering protection. If he carried on in this scheme, Judge B would expect to move into NJPS 2015 in June 2017. In October 2015 Judge B is appointed to salaried office. Judge B will move into JUPRA on appointment to salaried office and then move into NJPS 2015 in June 2017.

- **Judge C** is in JUPRA and meets the conditions for full protection. In March 2014, Judge C opts out of pension scheme membership but in January 2016 he wishes to opt back in. As the break in his scheme membership is less than 5 years, Judge C will return to JUPRA and retain his full protection.

New Judicial Pension Scheme (NJPS 2015)
Scheme Governance

Scheme features

It is proposed that the new governance arrangements will include the following features:

- The establishment of the Lord Chancellor as the Responsible Authority for the scheme. The Responsible Authority may make scheme regulations.

- The Lord Chancellor to also take the role of Scheme Manager. As Scheme Manager, the Lord Chancellor is responsible for managing and administering the scheme and any statutory pension scheme connected with it.

- The establishment of a scheme management board, to be known as the “Judicial Pension Board”, responsible for assisting the Scheme Manager in matters relating to good governance and administration. This board will be independently chaired, and will include equal representation between the department and the judiciary.

- The establishment of a policy group, to be known as the “Scheme Advisory Board”, responsible for advising the Responsible Authority on the desirability of any potential changes to the scheme. This board will also be independently chaired, and include equal representation between the department and the judiciary.

- These arrangements would be applicable for all of the judicial pension schemes. The Judicial Pension Board will subsume the present Judicial Pension Scheme (JPS) Board.

The requirement to establish these roles and boards is set out in the Public Service Pensions Act 2013, and equivalent arrangements are being applied to all public service pension schemes.

The two boards will have a clear separation of responsibilities, with the Judicial Pension Board focusing on the operation of the scheme, whilst the Scheme Advisory Board will focus on potential changes to the scheme policy.

It should be noted that the implementation of these governance arrangements will not in any way diminish the existing relationship between the Lord Chancellor and the Lord Chief Justice.

Details on scheme governance arrangements are available in **Part 2** of the NJPS 2015 regulations.

The procedures of the Judicial Pension Board or the Scheme Advisory Board are not set out in detail in the NJPS 2015 regulations. This is to allow the respective boards flexibility in their procedures once established. It is intended that both boards shall sit in shadow form in early 2015. Terms of reference and procedures will be set by both boards at their initial meetings.

Application

<u>Judicial Pension Board</u>

The Judicial Pension Board will be focused on the operation of the scheme. It will sit quarterly, and will be formed of eleven members. This board will be chaired by an Independent Chair, who is to be appointed through the OCPA-regulated Public Appointments process. The Lord Chief Justice has nominated a judicial representative to sit on the selection panel for this campaign.

There will be four members of the judiciary on the Judicial Pension Board. These representatives are to be nominated by the Lord Chief Justice, in consultation with the Heads of Jurisdiction. There will also be four departmental representatives on the board.

This membership will be supplemented by two independent non-voting board members who will be expected to provide expertise in the operation of pension schemes, and working with third party administrators. These appointments will also be subject to the Public Appointments process, and the campaign for these appointments will begin once the Independent Chair is in place. It is intended to have all board members in place by November 2014.

The primary responsibility of the Judicial Pension Board, as set out in the Public Service Pensions Act 2013, will be to assist the Scheme Manager in relation to the compliance with scheme regulations and relevant legislation with regards to the governance and administration of the scheme.

Training will be provided to all board members to ensure a working knowledge of the scheme rules and related legislation, as well as providing the tools necessary to execute the roles and responsibilities of being a board member, acting in the best interests of the scheme as a whole.

The Board will be expected to challenge the performance of the administrator by analysing management information and performance indicators to ensure value for money. The Board will also be expected to establish the effectiveness, efficiency and value for money of the service via regular benchmarking exercises. Any contract will be managed by the Ministry of Justice.

It is also proposed that a number of the discretionary decisions to be determined by the Scheme Manager will be considered by the Judicial Pension Board, who will then be able to make a recommendation to the Scheme Manager. Further information on this available in the chapter “Discretionary decisions to be considered by the Pension Board” (p.62)

There will also be a role for the Pension Board in the consideration of complaints and appeals under the Internal Dispute Resolution Procedure. Further information on this is available in the chapter “Internal Dispute Resolution Procedure” (p.57)

<u>Scheme Advisory Board</u>

The Scheme Advisory Board is to be focused on the policy of the scheme itself. This Board will only sit on an ad hoc basis, upon the request of the Responsible Authority. As the government intends the reforms to public service pensions to be a long-term solution that will last a generation, frequent proposed policy changes are not anticipated, and as a result it is not anticipated the Scheme Advisory Board will sit as often as the Judicial Pension Board.

The Independent Chair will be expected to sit on both the Judicial Pension Board and the Scheme Advisory Board. There will also be a core of employer and member representatives to sit on both boards, with equality in voting rights preserved. The membership of the board will be supplemented with specialist advice relevant to the potential change to the scheme under consideration.

The primary responsibility of this Board will occur after a breach of the employer cost cap, where the board will act as a forum to consider the range of potential options to return the costs of the scheme back to the cap. Further information on this is available in the chapter “Employer Cost Cap” (p.59)

New Judicial Pension Scheme (NJPS 2015)
Internal Dispute Resolution Procedure (IDRP)

Scheme features

The procedure is designed to comply with the requirements of The Pensions Regulator, and support the resolution of pension disputes between the administrators of the scheme and a person with an interest in the scheme, or the Scheme Manager and a person with an interest in the scheme.

A person has an interest in the scheme if:

- They are a member or beneficiary of the scheme;
- They are a prospective member of the scheme;
- They have ceased to be a member or beneficiary of the scheme or a prospective member; or
- They claim to be in one of the categories mentioned above and the dispute relates to whether they are such a person.

The proposed IDRP in the NJPS 2015 is a two-stage procedure in line with other schemes across the public sector.

Stage One

If a person who satisfied the above conditions was to have a dispute over benefit entitlement as part of the judicial pension arrangements, the first action would be to make an application to the **administrators of the scheme directly** within three months of the initial decision. The applicant would then be entitled to receive a formal written explanation from the Administrator of the decision that they have made within two months of the application. This is the **first stage** decision.

If the formal written explanation from the administrator failed to clarify the dispute, the applicant would then have the right to appeal this decision.

Stage Two

The administrators of the scheme will provide the applicant with the forms required to lodge an appeal. This appeal would be sent to the **Scheme Manager**. The appeal request must be made within six months of the original decision, and must include the reasons why the original decision is considered to be incorrect.

Upon receipt of the appeal, the Scheme Manager will refer to the **Pension Board** for consideration. After the appeal is considered at a meeting of the Pension Board, the Independent Chair of the Board will then make a recommendation to the Scheme Manager. If the Scheme Manager does not follow a recommendation of the Pension Board, he will be required to provide **formal written reasons** to the next Board meeting.

The Scheme Manager must respond to the applicant in writing with the outcome of the decision within four months of receiving the application. If a decision can not be made in that time, for example if the timing did not align with the quarterly meetings of the Pension Board, the Scheme Manager must send a reply explaining the delay and offering a realistic date for a full reply. Any reply must include an explanation of how the decision was reached, and refer to any documents on which it is based. The reply must also explain the rights of the applicant with regard to future options.

Further consideration

The Pensions Advisory Service (TPAS) can help members with any difficulties they are unable to resolve with the Scheme Manager. If the applicant still wishes to overturn the decision adjudicated by the Scheme Manager, The Pensions Ombudsman is available to investigate any complaint alleging injustice as a result of maladministration. Before contacting them, the Office of The Pensions Ombudsman normally expects the applicant to have been given first and second stage IDR decisions, and asked for the help of TPAS.

There are certain exempted disputes to which the IDRP will not apply. These exempted disputes include those where proceedings in respect of the dispute have been commenced in any court or tribunal, or where the Pensions Ombudsman has commenced an investigation in respect of it. If proceedings are commenced before a court or tribunal or a complaint is made to the Pensions Ombudsman after an application has been made under this procedure but before a decision is made, then the procedure will be suspended.

Application

In the current schemes, if a person is aggrieved by any decision taken by the administrators concerning the interpretation of the rules of the scheme, or the exercise of any discretion under the scheme, they shall have the right of appeal to the appropriate Minister against that decision.

The proposed NJPS 2015 would expect the appellant to approach the administrators of the scheme before appealing to the Scheme Manager (the appropriate Minister).

To ensure fairness across the membership of judicial pension schemes, it is proposed that this procedure would be applicable to **all** of the judicial pension schemes, not just the NJPS 2015.

New Judicial Pension Scheme (NJPS 2015)
Employer Cost Cap

Scheme features

The Government is putting in place an employer cost cap in the new public service schemes. The Government outlined its policy position in the 2014 paper *"Actuarial valuations and the employer cost cap mechanism".*

The Public Service Pensions Act 2013 specifies that all schemes must set a rate, expressed as a percentage of pensionable earnings of members of the scheme, to be used for the purpose of measuring changes in the cost of the scheme. This rate is to be known as the "employer cost cap".

The initial employer cost cap will be set with reference to the results of the first valuation of the NJPS 2015, which has been provisionally assessed at **xx%** of pensionable pay.

There may be small fluctuations in scheme costs between valuations. So that these do not lead to frequent small changes in the scheme after each valuation, there will be a two percentage point margin above and below the cap. The upper margin will form a 'ceiling' on the employer contribution rate, with the lower margin forming a 'floor'.

For the NJPS 2015, employer contribution rates, calculated by reference to future valuations must stay within the limits of the cost cap. If costs change so that the employer contribution rate needed to meet the costs of providing pensions rises above the ceiling or falls below the floor, action will be required to restore costs to the level of the cap.

Changes in costs that will affect the operation of the cost cap

The Government has committed that cost risks associated with "employer" costs will not affect the operation of the cost cap. While these costs may affect the employer contribution rate that is actually paid, changes in these costs will not affect the cost cap mechanism. Only changes in those costs defined as "member costs" will affect the cap.

Many of the assumptions that must be made to carry out a valuation relate to the profile of scheme members, for example the expectations about their life expectancy, growth in salaries, or career paths. These will be defined as "member costs". Other decisions and assumptions that must be made to carry out a valuation are financial or technical in nature, for example the discount rate that is used to assess the present costs of future benefits, or the actuarial methodology to be used. These will be defined as "employer costs".

Changes that arise solely from changes in "employer costs" will not be controlled by the employer cost cap and will not trigger changes in member contributions or benefits. Public service employers, and ultimately the Exchequer, will bear the risks of changes in these costs.

Valuation

The NJPS 2015 will be subject to a valuation every four years. As mentioned above, the first valuation is due to be completed by June 2014. The HMT valuations which will inform the valuation have not yet been set and therefore the exact cost cap rate for the NJPS 2015 is yet to be determined. More information will be provided later in the year.

The valuation will determine an employer contribution rate necessary to meet all of the costs of the scheme. However, not all of these costs will be included when the level of the cap is set. It is expected that the cap will instead be set on the basis of the future service cost[17] of the reformed schemes for all members, as assessed by the first valuation. Any past service deficits or surpluses[18] that are uncovered at first valuations will not be included in the cap when it is first set, but will still be paid by employers.

Any new past service costs that arise from the second and subsequent valuations (i.e. past service costs realised since the previous valuation) will, however, be controlled by the cap. Any change in these will be counted when any movement towards the floor or ceiling is considered.

Actions required on breach of the employer cost cap

If member costs change so that the employer contribution rate needed to meet the costs of providing pensions rises above the ceiling or falls below the floor, action will be required to restore costs to the level of the cap.

This may be achieved by:

- Adjusting member benefits accruing in respect of future service,
- Adjusting member contributions; or
- A combination of the two methods.

In the event of a breach of the two percent range either side of the cost cap, there will be a process of consultation to allow the Responsible Authority, the Scheme Manager, employers, and scheme members (or their representatives) to reach agreement on how the scheme costs will be returned to the level of the cap. In the NJPS 2015, this method of consultation will be exercised through the Scheme Advisory Board.

If the two percent range around the NJPS 2015 cost cap is breached, the Lord Chancellor, in his role as Responsible Authority, will be notified by the Government Actuary's Department after a valuation. The Lord Chancellor will then convene the Scheme Advisory Board to consider what actions might be taken in order to bring the costs of the scheme back to the level of the cap.

The Scheme Advisory Board will analyse the available evidence to agree upon a method through which the costs of the scheme could be returned to the level of the cap. As highlighted in the chapter "Scheme Governance" (p.55), the Scheme Advisory Board will maintain an equality of voting representation between the Department and the scheme membership, and receive specialist advice from the Government Actuary's Department.

At this stage, there will be an opportunity for the Lord Chief Justice, and the other Heads of Jurisdiction, to state their opinion on the desirability of any potential changes to the scheme to returns the costs back to the level of the cap.

After considering the evidence and reaching an agreement, the Scheme Advisory Board will make a recommendation to the Lord Chancellor on the actions proposed to return the costs of the scheme to the cap. He in turn will request clearance from HM Treasury and the Public Expenditure (Pay and Pensions) Cabinet Sub-Committee before implementing the changes to the scheme to

[17] "Future service costs" are the expected costs of the pension rights that members will accrue over a specified period in the future. These can increase or decrease between valuations if assumptions or the scheme's membership profile changes – for example due to a change in life expectancy assumptions.

[18] "Past service costs" – which may be deficits or surpluses – arise if the costs of pension rights that have already been accrued turn out to be higher or lower than expected. This may happen if the scheme experience – for example, about retirement behaviour – differs from scheme expectations and so the contributions paid do not match the cost of the pension rights accrued during this period.

return it to the cap. This is in line with the general requirement for HM Treasury consent to scheme changes.

If clearance to make the proposed changes to the scheme is not provided by HM Treasury, the Responsible Authority will inform the Scheme Advisory Board of the decision and the Board will be required to reconsider their proposal.

If agreement cannot be reached by the Scheme Advisory Board

The Public Service Pensions Act 2013 sets out that the regulations may set a default option to bring the cost of the scheme back to the employer cost cap, in the event of agreement not being reached through the stated procedure above. In the NJPS 2015, this will be to amend the accrual rate.

New Judicial Pension Scheme (NJPS 2015)
Discretionary decisions to be considered by the Pension Board

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Scheme features

- As stated in the NJPS 2015 regulations (4(3)) “Before exercising any discretion under the regulations, the Scheme Manager must obtain a recommendation from the Pension Board”. The proposed discretionary decisions that the Pension Board will be able to consider and then make a recommendation to the Scheme Manager are outlined below:

- **When does opt-in take effect? (Regulation 18)**
- **Entitlement to ill-health pension (Regulation 67)**
- **Meaning of ‘surviving nominated partner’ (Regulation 91)**
- **Entitlement to surviving adult’s pension (Regulation 96)**
- **Meaning of ‘eligible child’ (Regulation 102)**
- **Payment of pensions for surviving adults and eligible children (Regulation 105)**
- **Suspension and recovery of pensions paid for surviving adults and eligible children (Regulation 106)**
- **Invalid nominations of individuals (Regulation 112)**
- **Payment of lump sum death benefit to nominees or personal representatives (Regulation 113)**
- **Recovery of payments (Regulation 116)**
- **Request for acceptance of a transfer payment (Regulation 141)**
- **Evidence of entitlement (Regulation 163)**