

2023 No. 107

PUBLIC SERVICE PENSIONS

**The Judicial Pensions (Remediable Service etc.) Regulations
(Northern Ireland) 2023**

Made - - - - *28th June 2023*

Coming into operation- - *24th July 2023*

The Department of Justice makes the following Regulations in exercise of the powers conferred by section 1(1) and (2)(b), 2(1) (as read with paragraph 2 of Schedule 2) and 3(1), (2)(a) (as read with paragraphs 2, 9, 12 and 13 of Schedule 3) and (c), (3) and (4A) of the Public Service Pensions Act (Northern Ireland) 2014(a) (“the 2014 Act”) and sections 55(1) and (2), 56(1) to (3), 57(1), (4) and (5), 58(1) to (4), 61(1) and (2), 67(2) and (3), 74(2) and 103(1) and (2) of the Public Service Pensions and Judicial Offices Act 2022(b) (“the PSPJOA 2022”).

In accordance with section 21 of, and paragraph 2 of Schedule 2 to, the 2014 Act, the Department of Justice has consulted such persons and the representatives of such persons as appear to be affected by these Regulations.

In accordance with section 3(5) of the 2014 Act, the Department of Justice has obtained the consent of the Department of Finance(c) before making these Regulations.

The Department of Justice has had regard to the matters referred to in section 5(4) of the 2014 Act.

These Regulations are made in accordance with Treasury directions(d) made under section 62 of PSPJOA 2022.

In accordance with section 24(1)(c) of the 2014 Act, the Pension Board for the scheme of judicial office holders has stated that it considers these Regulations to be minor or wholly beneficial.

(a) 2014 c. 2. (N.I.). Section 3(1) was amended by section 94(2) of PSPJOA 2022, and section 3(2)(c) and (4A) were inserted by, respectively, section 94(3) and (4) of that Act.

(b) 2022 c. 7.

(c) Formerly the Department of Finance and Personnel, see section 1(4) and (11) of and Schedule 1 to, the Departments Act (Northern Ireland) 2016 (2016 c.5 (N.I.)).

(d) See section 75 of PSPJOA 2022 for the meaning of “Treasury directions”.

PART 1

Preliminary

Citation and commencement

1. These Regulations—

- (a) may be cited as the Judicial Pensions (Remediable Service etc.) Regulations (Northern Ireland) 2023; and
- (b) come into operation on 24th July 2023.

Interpretation

2.—(1) In these Regulations—

- “FPJR 2017” means the Judicial Pensions (Fee-Paid Judges) Regulations 2017(a);
- “PSPJOA 2022” means the Public Service Pensions and Judicial Offices Act 2022;
- “the 2015 Regulations” mean the Judicial Pensions Regulations (Northern Ireland) 2015(b);
- “the 2015 scheme” means the scheme established by the 2015 Regulations;
- “the PSP Directions 2023” means the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions (Northern Ireland) 2023(c);
- “appropriate Minister” has the meaning given in regulation 2 (interpretation) of the 2015 Regulations;
- “appropriate person” means—
 - (a) for the purposes of Part 4, R or, if R is deceased, R’s personal representatives;
 - (b) for all other purposes, P or, if P is deceased, P’s personal representatives;
- “Judicial Pension Board” means the Judicial Pension Board established by regulation 6(1) of the 2015 Regulations;
- “relevant service” has the meaning given in regulation 29(2);
- “scheme actuary” has the meaning given in regulation 2 (interpretation) of the 2015 Regulations;
- “scheme manager” has the meaning given in regulation 4 of the 2015 Regulations;
- “transfer value payment” has the meaning given in regulation 2 of the 2015 Regulations;
- “Treasury directions” has the meaning given in section 75 of the PSPJOA 2022.

(2) Except as provided for in these Regulations, expressions used in these Regulations have the same meaning as in Chapter 2 of Part 1 of PSPJOA 2022.

(3) A reference in these Regulations to a provision of the PSP Directions 2023 is a reference to that provision as amended from time to time.

Scheme manager

3.—(1) Before exercising any discretion under these Regulations, the scheme manager must obtain a recommendation from the Judicial Pension Board.

(2) If the scheme manager exercises any discretion under these Regulations contrary to a recommendation made by the Judicial Pension Board, the scheme manager must provide written

(a) S.I. 2017/522 as amended by S.I. 2018/1413, S.I. 2018/1149, S.I. 2019/781, S.I. 2020/386, S.I. 2021/444 and S.I. 2023/403.
(b) S.R. 2015 No. 76 as amended by S.R. 2016 No. 138, S.R. 2019 No. 26, S.R. 2020 No. 10, S.R. 2022 No.73 and S.R. 2023 No. 63.
(c) Published on 26 January 2023 and accessible online at <https://www.finance-ni.gov.uk/publications/directions-made-under-public-service-pensions-and-judicial-offices-act-2022>.

reasons for doing so to the Judicial Pension Board and to any member to whom the discretion relates.

(3) The scheme manager and the Judicial Pension Board may agree that paragraphs (1) and (2) do not apply to specific discretions or in specific circumstances.

Delegation

4.—(1) The scheme manager may delegate any functions under these Regulations, including this power.

(2) The Judicial Pension Board may delegate any functions under these Regulations.

Right of appeal

5. The scheme manager must, in consultation with the Judicial Pension Board, establish a procedure for the consideration of appeals against decisions taken under these Regulations.

PART 2

Provision about special cases where a member has remediable service

CHAPTER 1

Application of Part

Application of Part

6. This Part applies where—

- (a) a person (“P”) has remediable service^(a) in a judicial office^(b), and
- (b) an immediate detriment remedy^(c) has not been obtained in relation to that service.

CHAPTER 2

Member options

Compensation for special payments to buy out early payment reduction

7.—(1) This regulation applies where—

- (a) P has, during the period of remediable service, made any special payments under regulation 74(3)(a) or (c) of the 2015 Regulations, and
- (b) a legacy scheme election^(d) is made in respect of P.

(2) The rights that would otherwise have been secured by the special payments are extinguished.

(3) The scheme manager must pay to the appropriate person an amount by way of compensation equal to—

- (a) the aggregate of the special payments made by P, less
- (b) an amount determined by the scheme manager in respect of the value of the tax relief under section 188 of FA 2004^(e) (member contributions) to which P was entitled in respect of those payments.

(4) Where determining the tax relief amount under paragraph (3)(b), the scheme manager may adopt an approach which is reasonable in all the circumstances to approximate those amounts.

(a) See section 39 of PSPJOA 2022 for the meaning of “remediable service”.

(b) See section 71(1) of PSPJOA 2022 for the meaning of “judicial office”.

(c) See section 68 of PSPJOA 2022 for provision about whether an “immediate detriment remedy” has been obtained.

(d) See section 40(1) and 42 of PSPJOA 2022 for the meaning and effect of “a legacy scheme election”.

(e) In accordance with section 110(1) of PSPJOA 2022, “FA 2004” means the Finance Act 2004 (c. 12).

(5) The following provisions of the PSP Directions 2023 apply in relation to a determination under paragraph (3)(b) of this regulation as they apply in relation to a determination under direction 23(2)—

- (a) direction 23(4) (provision of explanation);
- (b) direction 23(5) and (6) (appeals).

Compensation for payments for added pension

8.—(1) This regulation applies where—

- (a) P has, during the period of remediable service, made any added pension payments under Part 2 of Schedule 1 to the 2015 Regulations,
- (b) regulation 129(1)(b) of the 2015 Regulations does not apply in respect of those added pension payments, and
- (c) a legacy scheme election is made in respect of P.

(2) Where the appropriate person makes a request for compensation in respect of the added pension payments—

- (a) the rights that would otherwise have been secured by the added pension payments are extinguished, and
- (b) the scheme manager must pay to the appropriate person an amount by way of compensation equal to—
 - (i) the aggregate of the added pension payments paid by P, less
 - (ii) an amount, determined in accordance with direction 23 of the PSP Directions 2023, in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which P was entitled in respect of those payments.

(3) The following apply in relation to a determination in accordance with direction 23(2)—

- (a) direction 23(4) (provision of explanation);
- (b) direction 23(5) and (6) (appeals).

(4) A request under paragraph (2) is irrevocable and must be—

- (a) made by notice to the scheme manager,
- (b) in a form required by the scheme manager,
- (c) received by the scheme manager before the end of the election period^(a).

Transfers out of the 2015 scheme

9.—(1) This regulation applies where a transfer value payment has been made during the period of remediable service under regulation 133 of the 2015 Regulations in respect of P's accrued rights under the 2015 scheme (disregarding any provision of Chapter 2 of Part 1 of PSPJOA 2022).

(2) Nothing in sections 40 to 66 of PSPJOA 2022 applies in relation to P's remediable service.

(3) The scheme manager must provide the appropriate person with a statement of the cash equivalent to which P would have been entitled, had—

- (a) sections 40 to 66 of PSPJOA 2022 applied in respect of P's accrued rights on the guarantee date in relation to the period of remediable service, and
- (b) a legacy scheme election been made in respect of P.

(4) Where—

- (a) the value of the cash equivalent in respect of the sum specified in regulation 137(3)(a) of the 2015 Regulations, is less than

(a) See section 69 of PSPJOA 2022 for the meaning of "the election period".

- (b) the value of the cash equivalent to which P would have been entitled under paragraph (3) in respect of that sum,

the scheme manager must pay to the appropriate person an amount equal to the value of the difference.

(5) The scheme manager is discharged from any further obligation to provide benefits in relation to the cash equivalent if—

- (a) the scheme manager makes any payment required to be made by paragraph (4), or
- (b) the amount mentioned in paragraph (4)(a) is greater than the amount mentioned in paragraph (4)(b).

(6) In this regulation, the “guarantee date” is the date specified in the statement of entitlement that was provided to P under regulation 135(1) of the 2015 Regulations in respect of the transfer value payment.

CHAPTER 3

Partial retirement

Partial retirement notice

10.—(1) Paragraph (2) applies where—

- (a) P exercised a partial retirement option under regulation 60(2) of the 2015 Regulations in respect of any fee-paid judicial office(a),
- (b) a legacy scheme election is made in respect of P, and
- (c) the conditions set out in regulation 27(1) of FPJR 2017 are met in respect of P.

(2) A notice in respect of P that complies with the requirement in regulation 27(3)(a) of FPJR 2017 is treated as having been given in accordance with sub-paragraph (3)(b) of that regulation if it is received by the appropriate Minister before the end of the election period.

(3) A notice under paragraph (2) has effect on the date agreed by the member and the scheme manager under regulation 61(1)(b) of the 2015 Regulations in relation to the exercise of the partial retirement option referred to in paragraph (1)(a).

(4) Paragraph (5) applies where—

- (a) P gave notice to take partial retirement under regulation 27(2) of FPJR 2017,
- (b) a 2015 scheme election is made, or is treated as having been made, in respect of P, and
- (c) the conditions set out in regulation 60(1) of the 2015 Regulations are met in respect of P.

(5) A partial retirement option in respect of P is treated as having been exercised in accordance with regulation 61(1)(b) of the 2015 Regulations if a partial retirement option notice that complies with the requirements of regulation 61(1)(a) and (2) of those Regulations is received by the scheme manager before the end of the election period.

(6) An option under paragraph (5) has effect on the day the notice mentioned in paragraph (4)(a) was received by the appropriate Minister.

Corrections for pension benefits and lump sum benefits on partial retirement

11. Where paragraph (2) or (5) of regulation 10 applies, section 51 of PSPJOA 2022 applies in relation to P as if for subsection (1) there were substituted—

“(1) This section applies in relation to a member (“M”) of a judicial scheme(b) who—

- (a) at the end of the election period has remediable service in a judicial office that is pensionable service under the scheme, and

(a) See section 71(3) of PSPJOA 2022 for the meaning of “fee-paid judicial office”.

(b) See section 70(1) of PSPJOA 2022 for the meaning of “a judicial scheme”.

- (b) during the period of remediable service has—
 - (i) exercised a partial retirement option under regulation 60(2) of the 2015 Regulations, or
 - (ii) given notice to take partial retirement under regulation 27(2) of FPJR 2017.”.

CHAPTER 4

Annual allowance tax charges

Payment of annual allowance tax charges and provision of information

12. Where P is unable to give an effective notice to the scheme administrator under section 237B(3)(a) of FA 2004 in relation to an in-scope tax year (within the meaning of direction 24(7) of the PSP Directions 2023) because the time limit in section 237BA(b) has passed, direction 24(2) to (6) of the PSP Directions 2023 applies in relation to P.

PART 3

Provision where an immediate detriment remedy has been obtained

CHAPTER 1

Application and Interpretation

Application of Part

13.—(1) This Part applies where—

- (a) a person (“P”) has remediable service in a judicial office, and
- (b) an immediate detriment remedy has been obtained in relation to that service.

(2) This Part does not apply in relation to any payment or transfer of assets and liabilities that would otherwise be payable or required to be made under this Part to the extent that a corresponding payment or a corresponding transfer of assets and liabilities has been made.

(3) In this regulation—

- (a) a “corresponding payment” is a payment that has been made in accordance with—
 - (i) a determination described in section 68(2) of PSPJOA 2022, or
 - (ii) an agreement described in section 68(3) of PSPJOA 2022,that relates to the same period of remediable service as a payment that is payable or required to be made under this Part;
- (b) a “corresponding transfer of assets and liabilities” is a transfer of assets and liabilities that has been made in accordance with a determination described in section 68(2) of PSPJOA 2022 that relates to the same period of remediable service as a transfer of assets and liabilities that is required to be made under this Part.

(4) Regulations 17 to 28 do not apply in relation to P where P is a person described in —

- (a) regulation 16(1) and the steps mentioned in regulation 16(2) have not been taken in relation to P;
- (b) regulation 16(3) and the steps mentioned in regulation 16(4) have not been taken in relation to P.

(a) Section 237B was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011 (c. 11).

(b) Section 237BA was inserted by section 9(3) of the Finance Act 2022 (c. 3).

Interpretation of Part

14.—(1) In this Part—

“adult survivor” means a surviving spouse or surviving civil partner who is entitled under the relevant judicial legacy scheme to a pension determined (to any extent) by reference to P’s remediable service;

“relevant judicial legacy scheme” means—

(a) in the case of—

(i) a determination described in section 68(2) of PSPJOA 2022, or

(ii) an agreement described in 68(3) of PSPJOA 2022,

that P has rights under a judicial legacy salaried scheme(a), that scheme;

(b) in the case of—

(i) a determination described in section 68(2) of PSPJOA 2022, or

(ii) an agreement described in section 68(3) of PSPJOA 2022,

that P has rights under the judicial legacy fee-paid scheme(b), that scheme.

(2) Subject to paragraph (3), for the purposes of this Part, the “notification period”, in relation to a person who has obtained an immediate detriment remedy, is the period of three months beginning with the date on which the statement mentioned in regulation 15 is sent.

(3) The relevant authority(c) may extend the period mentioned in paragraph (2) in relation to P if the relevant authority considers it just and equitable to do so.

CHAPTER 2

Information statements

Information statements

15.—(1) The relevant authority must, as soon as reasonably practicable—

(a) prepare a statement in relation to P, and

(b) send it to the appropriate person.

(2) The statement must contain such information as the relevant authority considers relevant to P’s rights and liabilities under Chapter 2 of Part 1 of PSPJOA 2022 or these Regulations in respect of the immediate detriment remedy.

CHAPTER 3

Partnership pension account where an immediate detriment remedy has been obtained

Partnership pension account: requirement to transfer and surrender rights

16.—(1) Paragraph (2) applies where—

(a) P has remediable service in a salaried judicial office(d), and

(b) any of the remediable service is PPA opted-out service(e).

(2) The relevant person must, before the end of the notification period, take the steps specified in section 41(3) of PSPJOA 2022 and, for the purpose of this paragraph, section 41(3) is to be read as if—

(a) See section 70(4) of PSPJOA 2022 for the meaning of “judicial legacy salaried scheme”.

(b) See section 70(5) of PSPJOA 2022 for the meaning of “judicial legacy fee-paid scheme”.

(c) See section 72 of PSPJOA 2022 for the meaning of “the relevant authority”.

(d) See section 71(2) of PSPJOA 2022 for the meaning of “salaried judicial office”.

(e) See section 73(2) of PSPJOA 2022 for the meaning of “PPA opted-out service”.

- (a) references to the relevant judicial legacy salaried scheme were references to the scheme mentioned in sub-paragraph (a) of the definition of “relevant judicial legacy scheme” in regulation 14(1);
- (b) the reference in section 41(3)(c) to the appropriate person were a reference to the relevant person.

(3) Paragraph (4) applies where—

- (a) P has remediable service in a fee-paid judicial office, and
- (b) any of the remediable service is PPA opted-out service.

(4) The relevant person must, before the end of the notification period, take the steps specified in section 41(6) of PSPJOA 2022 and, for the purpose of this paragraph, section 41(6) is to be read as if the reference in section 41(6)(c) to the appropriate person were a reference to the relevant person.

(5) For the purposes of this regulation, “relevant person” means P or, if P is deceased—

- (a) the adult survivor, or
- (b) if there is no adult survivor, P’s personal representatives.

CHAPTER 4

Benefits for children where an immediate detriment remedy has been obtained

Benefits for children

17.—(1) This regulation applies where—

- (a) P died before the immediate detriment remedy was obtained,
- (b) the immediate detriment remedy was obtained by an adult survivor of P,
- (c) P is survived by a child who is not living in the same household as the adult survivor,
- (d) the child would have received benefits in respect of P under the 2015 scheme if—
 - (i) an immediate detriment remedy had not been obtained in relation to P’s remediable service, and
 - (ii) a 2015 scheme election had been made in respect of P, and
- (e) the benefits payable under the relevant judicial legacy scheme in respect of the child are, in the opinion of the scheme manager of the scheme, less valuable (looked at in the round) than those that would have been payable in respect of the child if—
 - (i) an immediate detriment remedy had not been obtained in relation to P’s remediable service, and
 - (ii) a 2015 scheme election had been made in respect of P.

(2) The benefits payable in respect of the child under the relevant judicial legacy scheme, so far as they are determined by reference to P’s remediable service, are such benefits as would have been payable in respect of the child, so far as they are determined by reference to P’s remediable service, if—

- (a) an immediate detriment remedy had not been obtained in relation to P’s remediable service, and
- (b) a 2015 scheme election had been made in respect of P.

(3) Paragraph (2) applies in relation to benefits that were payable in respect of the child before, as well as after, the immediate detriment remedy was obtained.

CHAPTER 5

Partial retirement where an immediate detriment remedy has been obtained

Partial retirement notice

18.—(1) Paragraph (2) applies where—

- (a) P exercised a partial retirement option under regulation 60(2) of the 2015 Regulations in respect of any fee-paid judicial office, and
- (b) the conditions set out in regulation 27(1) of FPJR 2017 are met in respect of P.

(2) A notice in respect of P that complies with the requirement in regulation 27(3)(a) of FPJR 2017 is treated as having been given in accordance with sub-paragraph (3)(b) of that regulation if it is received by the appropriate Minister before the end of the notification period.

(3) A notice under paragraph (2) has effect on the date agreed by the member and the scheme manager under regulation 61(1)(b) of the 2015 Regulations in relation to the exercise of the partial retirement option referred to in paragraph (1)(a).

CHAPTER 6

Benefits and contributions previously paid or payable

Effect of immediate detriment remedy on benefits previously paid or payable

19.—(1) Paragraph (2) applies in relation to any benefits (“the paid benefits”) that the 2015 scheme has at any time paid to a person so far as—

- (a) they are calculated by reference to P’s remediable service in a salaried judicial office, and
- (b) they are benefits that, as a result of any immediate detriment remedy that has been obtained in relation to that service, a person was not entitled to receive from the 2015 scheme.

(2) The paid benefits are to be treated for all purposes—

- (a) as not having been paid to the person by the 2015 scheme, but
- (b) as having been paid to the person instead by the scheme mentioned in sub-paragraph (a) of the definition of “relevant judicial legacy scheme” in regulation 14(1).

(3) Paragraph (4) applies in relation to any benefits (“the paid benefits”) that the 2015 scheme has at any time paid to a person so far as—

- (a) they are calculated by reference to P’s remediable service in a fee-paid judicial office, and
- (b) they are benefits that, as a result of any immediate detriment remedy that has been obtained in relation to that service, a person was not entitled to receive from the 2015 scheme.

(4) The paid benefits are to be treated for all purposes—

- (a) as not having been paid to the person by the 2015 scheme, but
- (b) as having been paid to the person instead by the judicial legacy fee-paid scheme.

(5) Where, as a result of any immediate detriment remedy that has been obtained (and after taking into account the effect of paragraphs (2) and (4))—

- (a) a judicial legacy scheme^(a) owes a person an amount in respect of benefits which are calculated by reference to P’s remediable service, or
- (b) a person owes a judicial legacy scheme an amount in respect of such benefit,

such amount must be paid in accordance with regulation 21.

(a) See section 70(3) for the definition of “judicial legacy scheme”.

Effect of immediate detriment remedy on pension contributions previously paid or payable

20.—(1) Paragraph (2) applies where P has paid any pension contributions (“the paid contributions”) under the 2015 scheme which—

- (a) are calculated by reference to P’s remediable service in a salaried judicial office, and
- (b) as a result of any immediate detriment remedy that has been obtained in relation to that service, P was not required to pay to the 2015 scheme.

(2) The paid contributions are to be treated for all purposes—

- (a) as not having been paid by P to the 2015 scheme, but
- (b) as having been paid by P instead to the scheme mentioned in sub-paragraph (a) of the definition of “relevant judicial legacy scheme” in regulation 14(1).

(3) Paragraph (4) applies where P has paid any pension contributions (“the paid contributions”) under the 2015 scheme which—

- (a) are calculated by reference to P’s remediable service in a fee-paid judicial office, and
- (b) as a result of any immediate detriment remedy that has been obtained in relation to that service, P was not required to pay to the 2015 scheme.

(4) The paid contributions are to be treated for all purposes—

- (a) as not having been paid by P to the 2015 scheme, but
- (b) as having been paid by P instead to the judicial legacy fee-paid scheme.

(5) Where, as a result of any immediate detriment remedy that has been obtained (and after taking into account the effect of paragraphs (2) and (4))—

- (a) a judicial legacy scheme owes a person an amount in respect of pension contributions which are calculated by reference to P’s remediable service, or
- (b) a person owes a judicial legacy scheme an amount in respect of such contributions,

such amount must be paid only in accordance with regulation 22.

CHAPTER 7

Corrections for benefits and contributions where an immediate detriment remedy has been obtained

Pension benefits and lump sum benefits

21.—(1) This regulation applies where—

- (a) a notice in respect of an option to take partial retirement is treated as having been given in relation to P by virtue of regulation 18(2),
- (b) P is a pensioner member in relation to the judicial office, or
- (c) P is deceased.

(2) Where—

- (a) the aggregate of the pension benefits that (after taking into account the effect, if any, of regulation 19(2) or (4)) have been paid under a judicial legacy scheme to any person (“the beneficiary”) in respect of P’s remediable service, exceeds
- (b) the aggregate of the pension benefits to which (after taking into account the effect, if any, of any immediate detriment remedy that has been obtained in relation to P’s remediable service) the beneficiary was entitled under the scheme in respect of the service,

the beneficiary must pay the difference to the scheme.

(3) Where—

- (a) the amount mentioned in sub-paragraph (2)(a), is less than
- (b) the amount mentioned in sub-paragraph (2)(b),

the scheme manager must pay the difference to the beneficiary.

(4) Where—

- (a) the aggregate of the lump sum benefits that (after taking into account the effect, if any, of regulation 19(2) or (4)) have been paid under a judicial legacy scheme to any person (“the beneficiary”) in respect of P’s remediable service, exceeds
- (b) the aggregate of the lump sum benefits to which (after taking into account the effect, if any, of any immediate detriment remedy that has been obtained in relation to P’s remediable service) the beneficiary was entitled under the scheme in respect of the service,

the beneficiary must pay the difference to the scheme.

(5) Where—

- (a) the amount mentioned in sub-paragraph (4)(a), is less than
- (b) the amount mentioned in sub-paragraph (4)(b),

the scheme manager must pay the difference to the beneficiary.

Pension contributions

22.—(1) This regulation applies in relation to P after taking into account the effect, if any, of any immediate detriment remedy that has been obtained in respect of P’s remediable service.

(2) Where—

- (a) the paid contributions amount for an in-scope tax year in respect of P’s remediable service, exceeds
- (b) the payable contributions amount for that tax year in respect of that service,

the scheme manager must (directly or indirectly) pay an amount in respect of the difference to the appropriate person.

(3) Where—

- (a) the paid contributions amount for an out-of-scope tax year in respect of P’s remediable service, exceeds
- (b) the payable contributions amount for that tax year in respect of that service,

no amount is to be paid by the scheme manager in respect of the difference to the appropriate person.

(4) Where—

- (a) the paid contributions amount for an in-scope or out-of-scope tax year in respect of P’s remediable service, is less than
- (b) the payable contributions amount for that tax year in respect of that service,

the appropriate person must pay pension contributions in respect of the difference to the scheme.

(5) A reference in this regulation to “the paid contributions amount” for a tax year in respect of P’s remediable service in a judicial office is a reference to the sum of—

- (a) the aggregate of the pension contributions that (after taking into account the effect, if any, of regulation 20(2) and (4)), have been paid under the scheme by P in the tax year in respect of so much of the service as was not PPA opted-out service, and
- (b) where any of the remediable service was PPA opted-out service—
 - (i) the aggregate of the pension contributions and any voluntary contributions that have been paid by P under the partnership pension account in the tax year in respect of the PPA opted-out service, or
 - (ii) if lower, the aggregate of the pension contributions that (after taking into account the effect, if any, of regulation 22(2) and (4)) were payable under the scheme by P for that tax year in respect of the PPA opted-out service.

(6) A reference in this regulation to “the payable contributions amount” for a tax year in respect of P’s remediable service means the aggregate of the pension contributions that (after taking into

account the effect, if any, of regulation 22(2) and (4)) were payable under the scheme by P for that tax year in respect of the service.

(7) For the purposes of this regulation—

(a) a tax year is “in-scope” in relation to P if any necessary adjustment to the amount of income tax paid by P in respect of PAYE income for the tax year is capable of being enforced by HMRC under PAYE regulations;

(b) a tax year is “out-of-scope” in relation to P if it is not in-scope in relation to P.

(8) A reference in this regulation to pension contributions or voluntary contributions paid by a person under a partnership pension account is a reference to the amount of the contributions paid, net of any tax relief under section 188 of FA 2004 (relief for contributions) to which the person was entitled in respect of them.

CHAPTER 8

Compensation for voluntary payments where an immediate detriment remedy has been obtained

Compensation for special payments to buy out early payment reduction

23.—(1) This regulation applies where P has, during the period of remediable service, made any special payments under regulation 74(3)(a) or (c) of the 2015 Regulations.

(2) The rights that would otherwise have been secured by the special payments are extinguished.

(3) The scheme manager must pay to the appropriate person an amount by way of compensation equal to—

(a) the aggregate of the special payments made by P, less

(b) an amount determined by the scheme manager in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which P was entitled in respect of those payments.

(4) Where determining the tax relief amount under paragraph (3)(b), the scheme manager may adopt an approach which is reasonable in all the circumstances to approximate those amounts.

(5) The following provisions of the PSP Directions 2023 apply in relation to a determination under paragraph (3)(b) as they apply in relation to a determination under direction 23(2)—

(a) direction 23(4) (provision of explanation);

(b) direction 23(5) and (6) (appeals).

Compensation for payments for added pension

24.—(1) This regulation applies where—

(a) P has, during the period of remediable service, made any added pension payments under Part 2 of Schedule 1 to the 2015 Regulations, and

(b) regulation 129(1)(b) of the 2015 Regulations does not apply in respect of those payments.

(2) Where the appropriate person makes a request for compensation in respect of the added pension payments—

(a) the rights that would otherwise have been secured by the added pension payments are extinguished, and

(b) the scheme manager must pay to the appropriate person an amount by way of compensation equal to—

(i) the aggregate of the added pension payments paid by P, less

(ii) an amount determined by the scheme manager in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which P was entitled in respect of those payments.

(3) Where determining the tax relief amount under paragraph (2)(b), the scheme manager may adopt an approach which is reasonable in all the circumstances to approximate those amounts.

(4) The following provisions of the PSP Directions 2023 apply in relation to a determination under paragraph (2)(b) of this regulation as they apply in relation to a determination under direction 23(2)—

- (a) direction 23(4) (provision of explanation);
- (b) direction 23(5) and (6) (appeals).

(5) A request under paragraph (2) is irrevocable and must be—

- (a) made by notice to the scheme manager,
- (b) in a form required by the scheme manager, and
- (c) received by the scheme manager before the end of the notification period.

Compensation for effective pension age payments

25.—(1) This regulation applies where P has, during the period of remediable service, made any effective pension age payments under Part 3 of Schedule 1 to the 2015 Regulations.

(2) The rights that would otherwise have been secured by the effective pension age payments are extinguished.

(3) The scheme manager must pay to the appropriate person an amount by way of compensation equal to—

- (a) the aggregate of the effective pension age payments made by P, less
- (b) an amount determined by the scheme manager in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which P was entitled in respect of those payments.

(4) Where determining the tax relief amount under paragraph (3)(b), the scheme manager may adopt an approach which is reasonable in all the circumstances to approximate those amounts.

(5) The following provisions of the PSP Directions 2023 apply in relation to a determination under paragraph (3)(b) as they apply in relation to a determination under direction 23(2)—

- (a) direction 23(4) (provision of explanation);
- (b) direction 23(5) and (6) (appeals).

CHAPTER 9

Transitional protection allowance where an immediate detriment remedy has been obtained

Transitional protection allowance

26.—(1) This regulation applies where P’s employer^(a) has paid P a transitional protection allowance^(b).

(2) The appropriate person must pay to P’s employer an amount equal to—

- (a) the amount of the transitional protection allowance, less
- (b) an amount in respect of the income tax suffered by P that is attributable to the transitional protection allowance.

CHAPTER 10

Compensation for compensatable losses where an immediate detriment remedy has been obtained

Power to pay compensation in respect of compensatable losses

27.—(1) The scheme manager for a judicial scheme may pay amounts by way of compensation in respect of compensatable losses incurred by the appropriate person.

(a) See section 110 of PSPJOA 2022 for the meaning of “employer”.

(b) See section 54(4) of PSPJOA 2022 for the meaning of “transitional protection allowance”.

(2) For the purposes of this regulation a loss incurred by the appropriate person is “compensatable” if and to the extent that—

- (a) the first condition is met (see paragraph (5)) and the loss is—
 - (i) a direct financial loss, or
 - (ii) a specified Part 4 tax loss;
- (b) the second condition is met (see paragraph (6)) and the loss is—
 - (i) a direct financial loss which is directly related to the member’s remediable service in an employment or office which is mixed service(a), or
 - (ii) a specified Part 4 tax loss.

(3) For the purposes of paragraph (2)(a)(ii) and (b)(ii), a Part 4 tax loss is a “specified Part 4 tax loss” if and to the extent it falls within one of the descriptions listed in direction 26(4) of the PSP Directions 2023.

(4) For the purposes of paragraph (3), direction 26(4) is to be read as if—

- (a) references to a legacy scheme election being made by virtue of section 40(1) of PSPJOA 2022 were references to an immediate detriment remedy being obtained by virtue of—
 - (i) a determination mentioned in section 68(2)(a) of PSPJOA 2022, or
 - (ii) an agreement mentioned in section 68(3)(a) of PSPJOA 2022;
- (b) the reference in direction 26(4)(e) to section 52(3) of PSPJOA 2022 were a reference to regulation 22(3);
- (c) in direction 26(4)(f)—
 - (i) the reference to provision made by virtue of section 56(2) of PSPJOA 2022 were a reference to regulation 63(2);
 - (ii) the reference to section 52(4) of PSPJOA 2022 were a reference to regulation 22(4).

(5) The first condition is that the loss is attributable to, or is reasonably regarded as attributable to, a relevant breach of a non-discrimination rule(b).

(6) The second condition is that the loss is attributable to the application of any provision of this Part.

(7) Paragraph (1) does not confer power to pay amounts by way of compensation in respect of compensatable losses so far as—

- (a) the appropriate person has already received amounts by way of compensation in respect of them, or
- (b) amounts that any person has paid to the scheme have been reduced by amounts in respect of them,

whether pursuant to a court or tribunal order otherwise.

(8) For the purpose of this regulation, a breach of a non-discrimination rule is “relevant” if section 59(10) of PSPJOA 2022 applies to it.

(9) In this regulation, “loss”—

- (a) has the meaning given in section 59(6) and (7) of PSPJOA 2022;
- (b) does not include an amount that is payable under this Part.

(a) See section 58(5) of PSPJOA 2022 for the meaning of “mixed service”.
(b) See section 59(9) of PSPJOA 2022 for the meaning of “non-discrimination rule”.

CHAPTER 11

Unauthorised payments where an immediate detriment remedy has been obtained

Scheme rules that prohibit unauthorised payments

28.—(1) This regulation applies where—

- (a) a payment from a judicial scheme is permitted or required to be made under this Part,
- (b) the payment, if made, would be an unauthorised payment^(a), and
- (c) a rule of the scheme prohibits the scheme from making unauthorised payments.

(2) The payment may be made only if it falls within a description of payments that correspond to a description of payments specified for the purposes of section 63 of PSPJOA 2022 in Treasury directions.

(3) Paragraph (4) applies where—

- (a) in the course of taking the steps mentioned in regulation 16 a payment is made from a partnership pension account,
 - (b) the payment, if made, would be an unauthorised payment, and
 - (c) a rule of the scheme prohibits the scheme from making unauthorised payments.
- (4) The payment may be made notwithstanding the rule mentioned in paragraph (3)(c).

PART 4

Provision in relation to certain fee-paid judges

CHAPTER 1

Application and Interpretation

Application of Part

29.—(1) This Part applies where a relevant fee-paid judge^(b) (“R”) has relevant service in a judicial office.

(2) “Relevant service” is any continuous period of service that meets the following conditions.

(3) The first condition is that the service in question took place in the period beginning with 1st April 2015 and ending with 31st March 2022.

(4) The second condition is that the service—

- (a) is pensionable service under a judicial legacy scheme, or
- (b) would have been pensionable service under a judicial scheme but for the fact that the person, in accordance with the scheme, opted that it should not be (or failed to opt that it should be) pensionable service under the scheme.

(5) The second condition is met if all of the service in question falls within paragraph (4)(a) and (b) (even if it does not fall within only one of those paragraphs).

(6) The third condition is that there is no disqualifying gap in service^(c) falling within the period—

- (a) beginning with the day after the most recent day in relation to which section 103(3)(c) PSPJOA 2022 applies in relation to R, and
- (b) ending with the day before the first day of the relevant service.

(a) See section 63(5) of PSPJOA 2022 for the meaning of “unauthorised payment”.

(b) See section 103(3) of PSPJOA 2022 for the meaning of “relevant fee-paid judge”.

(c) See section 39(9) of PSPJOA 2022 for the meaning of “disqualifying gap in service”.

(7) For the purposes of paragraph (4)(b), a person is treated as having opted in accordance with the scheme that service should not be pensionable service under a judicial scheme if the service would have been pensionable service under that scheme (or would have been if the person had opted that it should be) but for the fact that the person had a partnership pension account.

(8) This Part does not apply in relation to any payment or transfer of assets and liabilities that would otherwise be payable or required to be made under this Part where a corresponding payment or a corresponding transfer of assets and liabilities has been made.

(9) In paragraph (8)—

a “corresponding payment” is a payment that has been made in relation to R’s relevant service that corresponds to a payment that is payable or required to be made under this Part;

a “corresponding transfer of assets and liabilities” is a transfer of assets and liabilities that has been made in relation to R’s relevant service that corresponds to a transfer of assets and liabilities that is required to be made under this Part.

(10) Regulations 33 to 45 do not apply in relation to R where R is a person described in —

(a) regulation 32(1) and the steps mentioned in regulation 32(2) have not been taken in relation to R;

(b) regulation 32(3) and the steps mentioned in regulation 32(4) have not been taken in relation to R.

Interpretation of Part

30.—(1) In this Part—

“adult survivor” means a surviving spouse or surviving civil partner who is entitled under a judicial legacy scheme to a pension determined (to any extent) by reference to R’s relevant service;

“Part 4 judicial legacy salaried scheme”, in relation to a member’s relevant service in a salaried judicial office, means the judicial legacy salaried scheme under which the member most recently accrued pensionable service in the office.

(2) For the purposes of this Part—

(a) R’s relevant service is “PPA opted-out relevant service” if and to the extent that R made contributions to a partnership pension account in respect of it;

(b) the “notification period”, in relation to R, is (subject to sub-paragraph (c)) the period of three months beginning with the date on which the statement mentioned in regulation 31 is sent;

(c) the relevant authority may extend the period mentioned in sub-paragraph (b) in relation to R if the relevant authority considers it just and equitable to do so.

CHAPTER 2

Information statements

Information statements

31.—(1) The relevant authority must, as soon as reasonably practicable—

(a) prepare a statement in relation to R, and

(b) send it to the appropriate person.

(2) The statement must contain such information as the relevant authority considers relevant to R’s rights and liabilities under these Regulations.

CHAPTER 3

Partnership pension account where a person has relevant service

Partnership pension account: requirement to transfer and surrender rights.

32.—(1) Paragraph (2) applies where—

- (a) R has relevant service in a salaried judicial office, and
- (b) any of the relevant service is PPA opted-out relevant service.

(2) The relevant person must, before the end of the notification period, take the steps specified in section 41(3) of PSPJOA 2022 and for these purposes section 41(3) is to be read as if—

- (a) references to the relevant judicial legacy salaried scheme were references to the Part 4 judicial legacy salaried scheme;
- (b) the reference in section 41(3)(c) to the appropriate person were a reference to the relevant person.

(3) Paragraph (4) applies where—

- (a) R has relevant service in a fee-paid judicial office, and
- (b) any of the relevant service is PPA opted-out relevant service.

(4) The relevant person must, before the end of the notification period, take the steps specified in section 41(6) of PSPJOA 2022, and for these purposes the reference in section 41(6)(c) to the appropriate person is to be read as a reference to the relevant person.

(5) In this regulation, “relevant person” means “R” or, if R is deceased—

- (a) the adult survivor, or
- (b) if there is no adult survivor, R’s personal representatives.

CHAPTER 4

Benefits for children

Benefits for children

33.—(1) This regulation applies where—

- (a) R is deceased,
- (b) R is survived by a child who—
 - (i) is not living in the same household as an adult survivor of R, and
 - (ii) is entitled to benefits in respect of R under a judicial legacy scheme, and
- (c) the benefits payable under the judicial legacy scheme in respect of the child are, in the opinion of the scheme manager of the scheme, less valuable (looked at in the round) than those that would have been payable in respect of the child under the 2015 scheme.

(2) The benefits payable in respect of the child under the judicial legacy scheme, so far as they are determined by reference to R’s relevant service, are such benefits as would have been payable in respect of the child, so far as they are determined by reference to R’s relevant service, if R had been a member of the 2015 scheme.

CHAPTER 5

Partial retirement

Partial retirement notice

34.—(1) Paragraph (2) applies where—

- (a) R exercised a partial retirement option under regulation 60(2) of the 2015 Regulations in respect of any fee-paid judicial office, and

(b) the conditions set out in regulation 27(1) of FPJR 2017 are met in respect of R.

(2) A notice in respect of R that complies with the requirement in regulation 27(3)(a) of FPJR 2017 is treated as having been given in accordance with sub-paragraph (3)(b) of that regulation if it is received by the appropriate Minister before the end of the notification period.

(3) A notice under paragraph (2) has effect on the date agreed by the member and the scheme manager under regulation 61(1)(b) of the 2015 Regulations in relation to the exercise of the partial retirement option referred to in paragraph (1)(a).

CHAPTER 6

Benefits and contributions previously paid or payable

Benefits previously paid or payable

35.—(1) Paragraph (2) applies in relation to any benefits (“the paid benefits”) that the 2015 scheme has at any time paid to a person so far as—

- (a) they are calculated by reference to R’s relevant service in a salaried judicial office, and
- (b) they are benefits that a person was not entitled to receive from the 2015 scheme.

(2) The paid benefits are to be treated for all purposes—

- (a) as not having been paid to the person by the 2015 scheme, but
- (b) as having been paid to the person instead by the Part 4 judicial legacy salaried scheme.

(3) Paragraph (4) applies in relation to any benefits (“the paid benefits”) that the 2015 scheme has at any time paid to a person so far as—

- (a) they are calculated by reference to R’s relevant service in a fee-paid judicial office, and
- (b) they are benefits that a person was not entitled to receive from the 2015 scheme.

(4) The paid benefits are to be treated for all purposes—

- (a) as not having been paid to the person by the 2015 scheme, but
- (b) as having been paid to the person instead by the judicial legacy fee-paid scheme.

(5) Where, after taking into account the effect of paragraphs (2) and (4)—

- (a) a judicial legacy scheme owes a person an amount in respect of benefits which are calculated by reference to R’s relevant service in a judicial office, or
- (b) a person owes a judicial legacy scheme an amount in respect of such benefits,

such amount must be paid in accordance with regulation 37.

Pension contributions previously paid or payable

36.—(1) Paragraph (2) applies where R has paid any pension contributions (“the paid contributions”) under the 2015 scheme which—

- (a) are calculated by reference to R’s relevant service in a salaried judicial office, and
- (b) had R been recognised as a full protection member^(a) of a judicial legacy scheme in relation to that service, R would not have been required to pay to the 2015 scheme.

(2) The paid contributions are to be treated for all purposes—

- (a) as not having been paid by R to the 2015 scheme, but
- (b) as having been paid by R instead to the Part 4 judicial legacy salaried scheme.

(3) Paragraph (4) applies where R has paid any pension contributions (“the paid contributions”) under the 2015 scheme which—

- (a) are calculated by reference to R’s relevant service in a fee-paid judicial office, and

(a) See section 103(4) of PSPJOA 2022 for the meaning of “full protection member”.

- (b) had R been recognised as a full protection member of a judicial legacy scheme in relation to that service, R would not have been required to pay to the 2015 scheme.
- (4) The paid contributions are to be treated for all purposes—
 - (a) as not having been paid by R to the 2015 scheme, but
 - (b) as having been paid by R instead to the judicial legacy fee-paid scheme.
- (5) Where, after taking into account the effect of paragraphs (2) and (4)—
 - (a) a judicial legacy scheme owes a person an amount in respect of pension contributions which are calculated by reference to R’s relevant service, or
 - (b) a person owes a judicial legacy scheme an amount in respect of such contributions,
 such amount must be paid in accordance with regulation 38.

CHAPTER 7

Corrections for pension benefits and contributions

Pension benefits and lump sum benefits

37.—(1) This regulation applies where—

- (a) a notice in respect of an option to take partial retirement is treated as having been given in relation to R by virtue of regulation 34(2),
- (b) R is a pensioner member in relation to a judicial office, or
- (c) R is deceased.

(2) Where—

- (a) the aggregate of the pension benefits that (after taking into account the effect, if any, of regulation 35(2) or (4)) have been paid under a judicial legacy scheme to any person (“the beneficiary”) in respect of R’s relevant service in a judicial office, exceeds
- (b) the aggregate of the pension benefits to which the beneficiary was entitled under the scheme in respect of the service,

the beneficiary must pay the difference to the scheme.

(3) Where—

- (a) the amount mentioned in sub-paragraph (2)(a), is less than
- (b) the amount mentioned in sub-paragraph (2)(b),

the scheme manager must pay the difference to the beneficiary.

(4) Where—

- (a) the aggregate of the lump sum benefits that (after taking into account the effect, if any, of regulation 35(2) or (4)) have been paid under a judicial legacy scheme to any person (“the beneficiary”) in respect of R’s relevant service in a judicial office, exceeds
- (b) the aggregate of the lump sum benefits to which the beneficiary was entitled under the scheme in respect of the service,

the beneficiary must pay the difference to the scheme.

(5) Where—

- (a) the amount mentioned in sub-paragraph (4)(a), is less than
- (b) the amount mentioned in sub-paragraph (4)(b),

the scheme manager must pay the difference to the beneficiary.

Pension contributions

38.—(1) Where—

(a) the paid contributions amount for an in-scope tax year in respect of R's relevant service in a judicial office, exceeds

(b) the payable contributions amount for that tax year in respect of that service,

the scheme manager must (directly or indirectly) pay an amount in respect of the difference to the appropriate person.

(2) Where—

(a) the paid contributions amount for an out-of-scope tax year in respect of R's relevant service in a judicial office, exceeds

(b) the payable contributions amount for that tax year in respect of that service,

no amount is to be paid by the scheme manager in respect of the difference to the appropriate person.

(3) Where—

(a) the paid contributions amount for an in-scope or out-of-scope tax year in respect of R's relevant service in the judicial office, is less than

(b) the payable contributions amount for that tax year in respect of that service,

the appropriate person must pay pension contributions to the scheme in respect of the difference.

(4) A reference in this regulation to "the paid contributions amount" for a tax year in respect of R's relevant service in a judicial office is a reference to the sum of—

- (a) the aggregate of the pension contributions that (after taking into account the effect, if any, of regulation 36(2) and (4)), have been paid under the scheme by R in the tax year in respect of so much of the service as was not PPA opted-out service, and
- (b) where any of the relevant service was PPA opted-out service—
- (i) the aggregate of the pension contributions and any voluntary contributions that (after taking into account the effect, if any, of regulation 36(2) and (4)) have been paid by R under the partnership pension account in the tax year in respect of the PPA opted-out service, or
- (ii) if lower, the aggregate of the pension contributions that were payable under the scheme by R for that tax year in respect of the PPA opted-out service.

(5) A reference in this regulation to "the payable contributions amount" for a tax year in respect of R's relevant service in a judicial office means the aggregate of the pension contributions that were payable under the relevant judicial legacy scheme by R for that tax year in respect of the service.

(6) For the purposes of this regulation—

- (a) a tax year is "in-scope" in relation to R if any necessary adjustment to the amount of income tax paid by R in respect of PAYE income for the tax year is capable of being enforced by HMRC under PAYE regulations;
- (b) a tax year is "out-of-scope" in relation to R if it is not in-scope in relation to R.

(7) A reference in this regulation to pension contributions or voluntary contributions paid by a person under a partnership pension account is a reference to the amount of the contributions paid, net of any tax relief under section 188 of FA 2004 (relief for contributions) to which the person was entitled in respect of them.

CHAPTER 8

Compensation for voluntary payments

Compensation for special payments to buy out early payment reduction

39.—(1) This regulation applies where R has, during the period of relevant service, made any special payments under regulation 74(3)(a) or (c) of the 2015 Regulations.

(2) The rights that would otherwise have been secured by the special payments are extinguished.

(3) The scheme manager must pay to the appropriate person an amount by way of compensation equal to—

- (a) the aggregate of the special payments made by R, less
- (b) an amount determined by the scheme manager in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which P was entitled in respect of those payments.

(4) Where determining the tax relief amount under paragraph (3)(b), the scheme manager may adopt an approach which is reasonable in all the circumstances to approximate those amounts.

(5) The following provisions of the PSP Directions 2023 apply in relation to a determination under paragraph (3)(b) as they apply in relation to a determination under direction 23(2)—

- (a) direction 23(4) (provision of explanation);
- (b) direction 23(5) and (6) (appeals).

Compensation for payments for added pension

40.—(1) This regulation applies where—

- (a) R has, during the period of relevant service, made any added pension payments under Part 2 of Schedule 1 to the 2015 Regulations, and
- (b) regulation 129(1)(b) of the 2015 Regulations does not apply in respect of those payments.

(2) Where the appropriate person makes a request for compensation in respect of the added pension payments—

- (a) the rights that would otherwise have been secured by the added pension payments are extinguished, and
- (b) the scheme manager must pay to the appropriate person an amount by way of compensation equal to—
 - (i) the aggregate of the added pension payments paid by R, less
 - (ii) an amount determined by the scheme manager in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which R was entitled in respect of those payments.

(3) Where determining the tax relief amount under paragraph (2)(b), the scheme manager may adopt an approach which is reasonable in all the circumstances to approximate those amounts.

(4) The following provisions of the PSP Directions 2023 apply in relation to a determination under paragraph (2)(b) of this regulation as they apply in relation to a determination under direction 23(2)—

- (a) direction 23(4) (provision of explanation);
- (b) direction 23(5) and (6) (appeals).

(5) A request under paragraph (2) is irrevocable and must be—

- (a) made by notice to the scheme manager,
- (b) in a form required by the scheme manager, and
- (c) received by the scheme manager before the end of the notification period.

Compensation for effective pension age payments

41.—(1) This regulation applies where R has, during the period of relevant service, made any effective pension age payments under Part 3 of Schedule 1 to the 2015 Regulations.

(2) The rights that would otherwise have been secured by the effective pension age payments are extinguished.

(3) The scheme manager must pay to the appropriate person an amount by way of compensation equal to—

- (a) the aggregate of the effective pension age payments made by R, less
- (b) an amount determined by the scheme manager in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which R was entitled in respect of those payments.

(4) Where determining the tax relief amount under paragraph (3)(b), the scheme manager may adopt an approach which is reasonable in all the circumstances to approximate those amounts.

(5) The following provisions of the PSP Directions 2023 apply in relation to a determination under paragraph (3)(b) as they apply in relation to a determination under direction 23(2)—

- (a) direction 23(4) (provision of explanation);
- (b) direction 23(5) and (6) (appeals).

Transfers out of the 2015 scheme

42.—(1) This regulation applies where a transfer value payment has, during the period of relevant service, been made under regulation 133 of the 2015 Regulations in respect of R's accrued rights under the 2015 scheme.

(2) The scheme manager must provide the appropriate person with a statement of the cash equivalent to which R was entitled, under a judicial legacy scheme, in respect of R's accrued rights on the guarantee date in relation to the period of relevant service.

(3) Where—

- (a) the value of the cash equivalent in respect of the sum specified in regulation 137(3)(a) of the 2015 Regulations, is less than
- (b) the value of the cash equivalent to which R was entitled under paragraph (2) in respect of that sum,

the scheme manager must pay to the appropriate person an amount equal to the value of the difference.

(4) The scheme manager is discharged from any further obligation to provide benefits to which the cash equivalent related.

(5) In this regulation the “guarantee date” is the date specified in the statement of entitlement that was provided to R under regulation 135(1) of the 2015 Regulations in respect of the transfer value payment.

CHAPTER 9

Transitional protection allowance

Transitional protection allowance

43.—(1) This regulation applies where R's employer has paid R a transitional protection allowance.

(2) The appropriate person must pay to R's employer an amount equal to—

- (a) the amount of the transitional protection allowance, less
- (b) an amount in respect of the income tax suffered by R that is attributable to the transitional protection allowance.

CHAPTER 10

Compensation for compensatable losses

Power to pay compensation in respect of compensatable losses

44.—(1) The scheme manager for a judicial scheme may pay amounts by way of compensation in respect of compensatable losses incurred by the appropriate person.

(2) For the purposes of this regulation a loss incurred by the appropriate person is “compensatable” if and to the extent that—

- (a) the first condition is met (see paragraph (5)) and the loss is—
 - (i) a direct financial loss, or
 - (ii) a specified Part 4 tax loss;
- (b) the second condition is met (see paragraph (6)) and the loss is—
 - (i) a direct financial loss which is directly related to the member’s remediable service in an employment or office which is mixed service, or
 - (ii) a specified Part 4 tax loss.

(3) For the purposes of paragraph (2)(a)(ii) and (b)(ii), a Part 4 tax loss is a “specified Part 4 tax loss” if and to the extent it falls within one of the descriptions listed in direction 26(4) of the PSP Directions 2023.

(4) For the purposes of paragraph (3), direction 26(4) is to be read as if—

- (a) references to a legacy scheme election being made by virtue of section 40(1) of PSPJOA 2022 were references to the operation of this Part;
- (b) the reference in direction 26(4)(e) to section 52(3) of PSPJOA 2022 were a reference to regulation 38(2);
- (c) in direction 26(4)(f)—
 - (i) the reference to provision made by virtue of section 56(2) of PSPJOA 2022 were a reference to regulation 63(2);
 - (ii) the reference to section 52(4) of PSPJOA 2022 were a reference to regulation 38(3).

(5) The first condition is that the loss is attributable to, or is reasonably regarded as attributable to, the fact that R was not recognised as a full protection member of a judicial legacy scheme.

(6) The second condition is that the loss is attributable to the application of any provision of this Part.

(7) Paragraph (1) does not confer power to pay amounts by way of compensation in respect of compensatable losses so far as—

- (a) the appropriate person has already received amounts by way of compensation in respect of them, or
- (b) amounts that any person has paid to the scheme have been reduced by amounts in respect of them,

whether pursuant to a court or tribunal order or otherwise.

(8) In this regulation, “loss”—

- (a) has the meaning given in section 59(6) to (8) of PSPJOA 2022;
- (b) does not include an amount that is payable under this Part.

CHAPTER 11

Unauthorised payments

Scheme rules that prohibit unauthorised payments

45.—(1) Paragraph (2) applies where—

- (a) a payment from a judicial scheme is permitted or required to be made under this Part,
- (b) the payment, if made, would be an unauthorised payment, and
- (c) a rule of the scheme prohibits the scheme from making unauthorised payments.

(2) The payment may be made only if it falls within a description of payments that correspond to a description of payments specified for the purposes of section 63 of PSPJOA 2022 in Treasury directions.

- (3) Paragraph (4) applies where—
- (a) in the course of taking the steps mentioned in regulation 32 (requirement to transfer assets held in a partnership pension account) a payment is made from a partnership pension account,
 - (b) the payment, if made, would be an unauthorised payment, and
 - (c) a rule of the scheme prohibits the scheme from making unauthorised payments.
- (4) The payment may be made notwithstanding the rule mentioned in paragraph (3)(c).

PART 5

Pension Credit Members

CHAPTER 1

Preliminary

Application of Part

- 46.**—(1) This Part applies where—
- (a) a person (“P”) has remediable service in a judicial office,
 - (b) a pension sharing order is made in respect of P, and
 - (c) the transfer day of the pension sharing order is in the period beginning with 1st April 2015 and ending with the day before the day on which—
 - (i) the legacy scheme election or 2015 scheme election takes effect in respect of P, or
 - (ii) either of the conditions under section 68(2) or (3) of PSPJOA 2022 is satisfied in relation to P’s remediable service.
- (2) This Part also applies where—
- (a) a person (“P”) has relevant service in a judicial office,
 - (b) a pension sharing order is made in respect of P, and
 - (c) the transfer day of the pension sharing order is in the period beginning with 1st April 2015 and ending on the day before the day on which Part 4 takes effect in respect of P.

Interpretation of Part

- 47.**—(1) In this Part—
- “amount of credited pension” has the meaning given in regulation 2 of the 2015 Regulations;
- “appropriate amount” means the amount calculated under Article 26(2) and (3) of WRP(NI)O 1999(a) in respect of a pension sharing order;
- “cash equivalent” means a value calculated by virtue of Article 27 of WRP(NI)O 1999;
- “corresponding pension debit member”, in relation to a relevant pension credit member, means the person mentioned in paragraph (b) of the definition “relevant pension credit member”;
- “pension credit” and “pension debit” have the meanings given in section 57(7) of PSPJOA 2022;
- “pension sharing order” means an order or provision by virtue of which Article 26 of WRP(NI)O 1999 applies to a relevant pension credit member and the corresponding pension debit member;

(a) In accordance with section 110(1) of PSPJOA 2022, “WRP(NI)O 1999” means the Welfare Reform and Pensions (Northern Ireland) Order 1999 (S.I. 1999/3147 (N.I. 11)).

“relevant benefits” means—

- (a) where P was in pensionable service on the transfer day, the benefits or future benefits to which P was entitled under a judicial scheme by virtue of P’s shareable rights in the scheme in respect of P’s service beginning on 1st April 2015 and ending on the day before the transfer day;
- (b) otherwise, the benefits or future benefits to which P was entitled under a judicial scheme by virtue of P’s shareable rights in the scheme in respect of P’s service beginning on 1st April 2015 and ending on the last day of P’s service;

“relevant pension credit member”, in relation to a judicial scheme, means a person who has rights under the scheme—

- (a) which are attributable (directly or indirectly) to a pension credit;
- (b) the value of which was determined (to any extent) by reference to the value of benefits payable in respect of the remediable service or relevant service in a judicial office of another person;

“relevant period” means—

- (a) where P has remediable service and an immediate detriment remedy has not been obtained in relation to that service, the election period in relation to P, and
- (b) otherwise, the notification period in relation to P;

“shareable rights” has the meaning given in Article 24(2) of WRP(NI)O 1999;

“transfer day”, in relation to a pension sharing order, means the day on which the relevant pension sharing order takes effect;

“valuation day” has the meaning given in Article 26(7) of WRP(NI)O 1999 in respect of a pension credit member and the corresponding debit member.

(2) For the purposes of this Part, the “notification period”, in relation to P, has the meaning given—

- (a) where P has remediable service and an immediate detriment remedy has been obtained in relation to that service, in regulation 14(2) and (3);
- (b) where P has relevant service, in regulation 30(2)(b) and (c).

CHAPTER 2

Provision where all remediable or relevant service was in the 2015 scheme

Application of Chapter

48.—(1) This Chapter applies where the following three conditions are met.

(2) The first condition is that a relevant pension credit member (“C”) has rights in respect of a pension credit under the 2015 scheme.

(3) The second condition is that the corresponding pension debit member in relation to C (“P”) is subject to a pension debit in the 2015 scheme.

(4) The third condition is that—

- (a) this Part applies by virtue of regulation 46(1), but only if none of P’s remediable service is pensionable service in a judicial legacy scheme^(a) (disregarding any legacy scheme election or 2015 scheme election made in respect of P, or any immediate detriment remedy obtained in relation to P’s remediable service), or
- (b) this Part applies by virtue of regulation 46(2).

(a) See section 70(3) of PSPJOA 2022 for the meaning of “a judicial legacy scheme”.

Adjustments for pension credit members

49.—(1) The scheme manager must, after consultation with the scheme actuary, provide C with a statement of C’s remediable pension amount and remediable pension credit before the beginning of the relevant period.

(2) Where—

- (a) C’s remediable pension amount exceeds the appropriate amount in respect of the pension sharing order in the 2015 scheme, and
- (b) C requests that C’s remediable pension credit is added to C’s rights under—
 - (i) the 2015 scheme, or
 - (ii) a judicial legacy scheme (if any),

at the end of the relevant period, C becomes entitled to a remediable pension credit in accordance with the request, such credit to take effect as if it had been added to C’s rights with effect from the transfer day.

(3) A request under paragraph (2)(b)—

- (a) must be—
 - (i) made by notice to the scheme manager,
 - (ii) in a form required by the scheme manager, and
 - (iii) received by the scheme manager before the end of the relevant period, and
- (b) is irrevocable.

(4) Where no request is made in accordance with paragraph (3), at the end of the relevant period C becomes entitled to a remediable pension credit in the 2015 scheme, such credit to take effect as if it had been added to C’s rights with effect from the transfer day.

(5) Where C becomes entitled to a remediable pension credit under this regulation, C is entitled to rights under paragraph 1 of Schedule 2A(a) to JUPRA 1993(b) in respect of that remediable pension credit.

(6) In this regulation—

“remediable pension amount” means—

- (a) where the pension sharing order specified a percentage value to be transferred from the 2015 scheme, the specified percentage of the cash equivalent of P’s relevant benefits on the valuation day calculated as if the relevant benefits were in P’s judicial legacy scheme;
- (b) where the pension sharing order specified an amount to be transferred from the 2015 scheme, the percentage which this amount represented of the cash equivalent of P’s relevant benefits in the 2015 scheme on the valuation day disregarding any—
 - (i) legacy scheme election made in respect of P,
 - (ii) immediate detriment remedy obtained in relation to P’s remediable service, or
 - (iii) where this Part applies in respect of P by virtue of the application of regulation 46(2), the effect of Part 2 of Schedule 2 to the 2015 Regulations in relation to P,calculated instead as if P’s relevant benefits were in P’s judicial legacy scheme;

“remediable pension credit” means the greater of—

- (a) zero, and
- (b) the remediable pension amount minus the appropriate amount.

(a) Schedule 2A was inserted by S.I. 2000/2986 and paragraph 1 was amended by section 79 of the Pension Schemes Act 2015.
(b) In accordance with section 110(1) of PSPJOA 2022, “JUPRA 1993” means the Judicial Pensions and Retirement Act 1993 (c.8).

Adjustments for pension debit members where a legacy scheme election is made

50.—(1) This regulation applies where—

- (a) a legacy scheme election is made in respect of P,
- (b) an immediate detriment remedy is obtained in relation to P's remediable service, or
- (c) this Part applies by virtue of regulation 46(2).

(2) At the end of the relevant period, the scheme manager must adjust the value of P's shareable rights in P's judicial legacy scheme as the scheme manager, after consultation with the scheme actuary, considers appropriate having regard to—

- (a) the cash equivalent of P's shareable rights in P's judicial legacy scheme in respect of P's remediable service or relevant service from 1st April 2015 to the day before the transfer day,
- (b) the percentage value or the amount to be transferred specified in the pension sharing order in respect of the 2015 scheme, and
- (c) the provisions of Articles 26 (creation of pension credits and debits) and 28 (reduction of benefit) of WRP(NI)O 1999.

(3) The adjustment made under paragraph (2) has effect from the transfer day.

CHAPTER 3

Provision where all remediable service subject to a relevant pension sharing order was in a judicial legacy scheme

Application of Chapter

51. This Chapter applies where—

- (a) a relevant pension credit member ("C") has rights in respect of a pension credit in a judicial legacy scheme,
- (b) the corresponding debit member in relation to C ("P") is subject to a pension debit in a judicial legacy scheme, and
- (c) all of P's remediable service beginning on 1st April 2015 and ending on the day before the transfer day is, disregarding any legacy scheme election or 2015 scheme election made in respect of P, pensionable service in a judicial legacy scheme.

Adjustments for pension credit members

52.—(1) The scheme manager must, after consultation with the scheme actuary and before the beginning of the relevant period, provide C with a statement of—

- (a) C's 2015 scheme remediable pension amount,
- (b) C's legacy scheme remediable pension amount, and
- (c) C's remediable pension credit.

(2) Where the value of C's 2015 scheme remediable pension amount exceeds the value of C's legacy scheme remediable pension amount, both calculated on the valuation day at the end of the relevant period, C becomes entitled to a remediable pension credit, such credit to take effect as if it had been added to C's rights in C's judicial legacy scheme on the transfer day.

(3) Where C becomes entitled to a remediable pension credit under this regulation, C is entitled to rights under paragraph 1 of Schedule 2A to JUPRA 1993 in respect of that remediable pension credit.

(4) In this regulation—

“2015 scheme remediable pension amount” means—

- (a) where the pension sharing order specified a percentage value to be transferred from P's judicial legacy scheme, the specified percentage of the cash equivalent of P's relevant

benefits on the valuation day calculated as if the relevant benefits were in the 2015 scheme;

- (b) where the pension sharing order specified an amount to be transferred from P's judicial legacy scheme, the percentage which this amount represented of the cash equivalent of P's relevant benefits in P's judicial legacy scheme on the valuation day (disregarding any 2015 scheme election), calculated instead as if P's relevant benefits were in the 2015 scheme;

“legacy scheme remediable pension amount” means—

- (a) where the pension sharing order specified a percentage value to be transferred from P's judicial legacy scheme, the specified percentage of the cash equivalent of P's relevant benefits on the valuation day calculated as if the relevant benefits were in P's judicial legacy scheme;
- (b) where the pension sharing order specified an amount to be transferred from P's judicial legacy scheme, the percentage which this amount represented of the cash equivalent of P's relevant benefits in P's judicial legacy scheme on the valuation day (disregarding any 2015 scheme election) calculated as if the relevant benefits were in P's judicial legacy scheme;

“remediable pension credit” means the greater of—

- (a) zero, and
- (b) the 2015 scheme remediable pension amount minus the legacy scheme remediable pension amount.

Adjustments for pension debit members where a 2015 scheme election is made

53.—(1) This regulation applies where a 2015 scheme election is made in respect of P.

(2) At the end of the relevant period, the scheme manager must adjust the value of P's shareable rights in P's judicial legacy scheme and 2015 scheme as the scheme manager, after consultation with the scheme actuary, considers appropriate having regard to—

- (a) the cash equivalent of P's shareable rights in P's judicial legacy scheme in respect of P's service up to and including 31 March 2015,
 - (b) the cash equivalent of P's shareable rights in the 2015 scheme in respect of P's remediable service from 1 April 2015 to the day before the transfer day,
 - (c) the percentage value or the amount to be transferred specified in the pension sharing order in respect of a judicial legacy scheme, and
 - (d) the provisions of Articles 26 (creation of pension credits and debits) and 28 (reduction of benefit) of WRP(NI)O 1999.
- (3) The adjustment made under paragraph (2) has effect from the transfer day.

CHAPTER 4

Provision where the relevant pension sharing order is in respect of mixed service

Application of Chapter

54. This Chapter applies where—

- (a) a relevant pension credit member (“C”) has rights in the 2015 scheme and a judicial legacy scheme, and
- (b) the corresponding debit member (“P”) has remediable service which is mixed service.

Interpretation of Chapter

55. In this Chapter—

“mixed service” means remediable service of P in a judicial office where, disregarding any legacy scheme election or 2015 scheme election made in respect of P or any immediate detriment remedy obtained in relation to the service—

- (a) some of the service on or before transfer day is pensionable service under a judicial legacy scheme, and
- (b) some of the service on or before transfer day is pensionable service under the 2015 scheme;

“relevant legacy scheme order or provision” means the order or provision by virtue of which Article 26 of WRP(NI)O 1999 applied to the relevant pension credit member and corresponding debit member in respect of a judicial legacy scheme;

“relevant 2015 scheme order or provision” means the order or provision by virtue of which Article 26 of WRP(NI)O 1999 applied to the relevant pension credit member and corresponding debit member in respect of the 2015 scheme.

Adjustments for pension credit members where there is mixed service

56.—(1) The scheme manager must, after consultation with the scheme actuary, calculate the value of C’s—

- (a) legacy scheme remediable pension amount, and
- (b) 2015 scheme remediable pension amount.

(2) The scheme manager must, before the beginning of the relevant period, provide C with a statement of C’s—

- (a) amount of credited pension in the 2015 scheme,
- (b) rights in respect of a pension credit in a judicial legacy scheme,
- (c) higher remediable pension amount, and
- (d) remediable pension credit and remediable pension reduction.

(3) Paragraphs (4) to (6) apply where C has a remediable pension credit that is greater than zero.

(4) Where C requests that the remediable pension credit is added to C’s rights in the 2015 scheme or a judicial legacy scheme, at the end of the relevant period, C becomes entitled to a remediable pension credit in accordance with the request, such credit to take effect as if it had been added to C’s rights in the judicial scheme with effect from the transfer day.

(5) A request under paragraph (4)—

- (a) must be—
 - (i) made by notice to the scheme manager,
 - (ii) in a form required by the scheme manager, and
 - (iii) received by the scheme manager before the end of the relevant period, and
- (b) is irrevocable.

(6) Where no request is made in accordance with paragraph (5), at the end of the relevant period C becomes entitled to a remediable pension credit in the 2015 scheme, such credit to take effect as if it had been added to C’s rights in the 2015 scheme on the transfer day.

(7) Paragraphs (8) to (10) apply where C is subject to a remediable pension reduction that is less than zero.

(8) Where C requests that the remediable pension reduction is applied to C’s rights in the 2015 scheme or judicial legacy scheme, at the end of the relevant period C becomes subject to a remediable pension reduction in accordance with the request, such reduction to take effect as if it had reduced C’s rights in the judicial scheme on the transfer day.

(9) A request under paragraph (8)—

- (a) must be—
 - (i) made by notice to the scheme manager,

- (ii) in a form required by the scheme manager, and
 - (iii) received by the scheme manager before the end of the relevant period, and
- (b) is irrevocable.

(10) Where no request is made in accordance with paragraph (9), at the end of the relevant period C becomes subject to a remediable pension reduction from the 2015 scheme, such reduction to take effect as if it had reduced C's rights in the 2015 scheme on the transfer day.

(11) Where, under this regulation, C becomes—

- (a) entitled to a remediable pension credit, C is entitled to rights under paragraph 1 of Schedule 2A to JUPRA 1993 in respect of that remediable pension credit;
- (b) subject to a remediable pension reduction, C's rights under that paragraph are reduced by the amount of that remediable pension reduction.

(12) In this regulation—

“2015 scheme remediable pension amount” means—

- (a) where the relevant orders or provisions specified a percentage value to be transferred, the sum of—
 - (i) the specified percentage in the relevant legacy scheme order or provision of the cash equivalent of P's pre-taper date relevant benefits on the valuation day calculated as if the pre-taper date relevant benefits were in the 2015 scheme, and
 - (ii) the specified percentage in the relevant 2015 scheme order or provision of the cash equivalent of P's post-taper date relevant benefits on the valuation day, calculated as if the post-taper date relevant benefits were in the 2015 scheme;
- (b) where the pension sharing order specified an amount to be transferred, the sum of—
 - (i) the percentage which the amount in the relevant legacy scheme order or provision represented of the cash equivalent of P's pre-taper date relevant benefits in P's judicial legacy scheme on the valuation day (disregarding any 2015 scheme election), calculated instead as if P's pre-taper date relevant benefits were in the 2015 scheme, and
 - (ii) the percentage which the amount in the relevant 2015 scheme order or provision represented of the cash equivalent of P's post-taper date relevant benefits in the 2015 scheme on the valuation day (disregarding any 2015 scheme election);

“higher remediable pension amount” means the greater of—

- (a) the legacy scheme remediable pension amount, and
- (b) the 2015 scheme remediable pension amount;

“legacy scheme remediable pension amount” means—

- (a) where the relevant orders or provisions specified a percentage value to be transferred, the sum of—
 - (i) the specified percentage in the relevant legacy scheme order or provision of the cash equivalent of P's pre-taper date relevant benefits on the valuation day calculated as if the pre-taper date relevant benefits were in P's judicial legacy scheme, and
 - (ii) the specified percentage in the relevant 2015 scheme order or provision of the cash equivalent of P's post-taper date relevant benefits on the valuation day, calculated as if the post-taper date relevant benefits were in P's judicial legacy scheme;
- (b) where the pension sharing order specified an amount to be transferred, the sum of—
 - (i) the percentage which the amount in the relevant legacy scheme order or provision represented of the cash equivalent of P's pre-taper date relevant benefits in P's judicial legacy scheme on the valuation day (disregarding any 2015 scheme election made in respect of P or immediate detriment remedy obtained in relation to P's remediable service), and

- (ii) the percentage which the amount in the relevant 2015 scheme order or provision represented of the cash equivalent of P's post-taper date relevant benefits in the 2015 scheme on the valuation day (disregarding any legacy scheme election made in respect of P or immediate detriment remedy obtained in relation to P's remediable service), calculated instead as if P's post-taper date relevant benefits were in P's judicial legacy scheme;

“pre-taper date relevant benefits” means the benefits or future benefits to which P was entitled under a judicial scheme by virtue of P's shareable rights in the scheme in respect of P's service beginning on 1 April 2015 and ending on the day before P's taper date;

“post-taper date relevant benefits” means—

- (a) where P was in pensionable service on the transfer day, the benefits or future benefits to which P was entitled under a judicial scheme by virtue of P's shareable rights in the scheme in respect of P's service beginning on P's taper date and ending on the day before the transfer day;
- (b) otherwise, the benefits or future benefits to which P was entitled under a judicial scheme by virtue of P's shareable rights in the scheme in respect of P's service beginning on P's taper date and ending on the last day of P's service;

“remediable pension credit” means the greater of—

- (a) zero, and
- (b) the higher remediable pension amount minus the remediable service appropriate amount;

“remediable pension reduction” means the lesser of—

- (a) zero, and
- (b) the higher remediable pension amount minus the remediable service appropriate amount;

“remediable service appropriate amount” means the pension credit, calculated in accordance with Article 26(2) and (3) of WRP(NI)O 1999 period of remediable service;

“taper date” means (disregarding any legacy scheme election or 2015 scheme election made in respect of P or immediate detriment remedy obtained in relation to P's remediable service) the day after the taper protection closing date for P;

“taper protection closing date” has the meaning given in paragraph 3 of Schedule 2 to the 2015 Regulations.

Adjustments for pension debit members

57.—(1) Paragraph (2) applies where a legacy scheme election is made in respect of P.

(2) At the end of the relevant period, the scheme manager must adjust the value of P's shareable rights in P's judicial legacy scheme as the scheme manager, after consultation with the scheme actuary, considers appropriate having regard to—

- (a) the cash equivalent of P's shareable rights in P's judicial legacy scheme in respect of P's remediable service from 1 April 2015 to the day before the transfer day,
- (b) the percentage value to be transferred or the amount to be transferred specified in the relevant legacy scheme order or provision and the relevant 2015 scheme order or provision, and
- (c) the provisions of Articles 26 (creation of pension credits and debits) and 28 (reduction of benefit) of WRP(NI)O 1999.

(3) Paragraph (4) applies where a 2015 scheme election is made in respect of P.

(4) At the end of the relevant period, the scheme manager must adjust the value of P's shareable rights in P's judicial legacy scheme and 2015 scheme as the scheme manager, after consultation with the scheme actuary, considers appropriate having regard to—

- (a) the cash equivalent of P's shareable rights in P's judicial legacy scheme in respect of P's service up to and including 31 March 2015,

- (b) the cash equivalent of P’s shareable rights in the 2015 scheme in respect of P’s remediable service from 1 April 2015 to the day before the transfer day,
 - (c) the percentage value to be transferred or the amount to be transferred specified in the relevant legacy scheme order or provision and the relevant 2015 scheme order or provision, and
 - (d) the provisions of Articles 26 (creation of pension credits and debits) and 28 (reduction of benefit) of WRP(NI)O 1999.
- (5) The adjustments made in paragraphs (2) and (4) have effect from the transfer day.

CHAPTER 5

Correction of pension benefits and lump sum benefits

Correction of pension benefits and lump sum benefits where underpayment

58.—(1) This regulation applies in relation to a relevant pension credit member (“C”) who, at the end of the relevant period—

- (a) has a remediable pension credit in a judicial scheme by virtue of this Part, and
- (b) is a pensioner member(a) of that scheme.

(2) The scheme manager must pay to C the aggregate of the pension benefits and lump sum benefits (if any) to which C was entitled by virtue of their remediable pension credit.

Correction of pension benefits and lump sum benefits where overpayment

59.—(1) This regulation applies in relation to a pension credit member (“C”) who, at the end of the relevant period—

- (a) is subject to a remediable pension reduction from a judicial scheme by virtue of this Part, and
- (b) is a pensioner member of that scheme.

(2) C must pay to the scheme manager the difference between—

- (a) the aggregate of the pension benefits and lump sum benefits, if any, that have been paid under a judicial scheme to C, and
- (b) the aggregate of the pension benefits and lump sum benefits to which (after taking into account the remediable pension reduction) C was entitled under any judicial scheme.

PART 6

Liabilities and amounts owed

CHAPTER 1

Interest

Interest

60.—(1) This regulation applies to—

- (a) relevant amounts(b), and
- (b) amounts payable by way of benefits or compensation described in section 68(2)(b)(i) or (3)(b)(ii) (whether an “immediate detriment remedy” has been obtained) of PSPJOA 2022.

(a) See section 109(3) of PSPJOA 2022 for the meaning of “pensioner member”.

(b) See section 61(3) of PSPJOA 2022 for the meaning of “relevant amounts”.

(2) The scheme manager must calculate interest on an amount described in direction 28 of the PSP Directions 2023 in accordance with the provisions of directions 28 and 29 which apply to that description of amount.

(3) For the purposes of this regulation—

- (a) the references in direction 28(1) and (6) to section 59(1) of PSPJOA 2022 are to be read as including references to regulations 27(1) and 44(1);
- (b) direction 29 is to be read as if—
 - (i) the reference in paragraph (1) to section 51(2) of PSPJOA 2022 includes a reference to regulations 21(2) and 37(2);
 - (ii) the reference in paragraph (3) to section 51(3) of PSPJOA 2022 includes a reference to regulations 21(3) and 37(3);
 - (iii) the reference in paragraph (5) to section 51(4) of PSPJOA 2022 includes a reference to regulations 21(4) and 37(4);
 - (iv) the reference in paragraph (6) to section 51(5) of PSPJOA 2022 includes a reference to regulations 21(5) and 37(5);
 - (v) the reference in paragraph (7) to section 52(2) of PSPJOA 2022 includes a reference regulations 22(2) and 38(1);
 - (vi) the reference in paragraph (9) to section 52(4) of PSPJOA 2022 includes a reference to regulations 22(4) and 38(3);
 - (vii) the reference in paragraph (11) to section 53(3) of PSPJOA 2022 includes a reference to regulations 25(3) and 41(3);
 - (viii) the reference in paragraph (13) to section 54(2) of PSPJOA 2022 includes a reference to regulations 26(2) and 43(2);
 - (ix) the reference in paragraph (14) to scheme regulations made by virtue of section 58(2)(a) of PSPJOA 2022 which make provision as mentioned in section 58(3) of PSPJOA 2022 were a reference to regulation 8(2)(b);
 - (x) the reference in paragraph (16) to section 59(1) of PSPJOA 2022 includes a reference to regulations 27(1) and 44(1).

(4) In relation to an amount not described in direction 28 of the PSP Directions 2023, the scheme manager must determine whether interest is paid and, if so, what rate of interest applies and how it is calculated.

(5) The following provisions of the PSP Directions 2023 apply in relation to a determination under paragraph (4) as if it were a determination under direction 30(1) of those Directions—

- (a) direction 30(2) (provision of explanation);
- (b) direction 30(3) and (4) (appeals).

CHAPTER 2

Reduction or waiver of liabilities owed to a judicial scheme

Application of Chapter

61. This Chapter applies after taking into account the effect of regulation 60 (interest) in respect of an amount.

Reduction of liability to pay pension contributions by tax relief amounts

62.—(1) This regulation applies where the appropriate person has a liability to pay pension contributions to the 2015 scheme under regulations 22(4) or 38(3) or section 52(4) of PSPJOA 2022.

(2) The scheme manager must reduce the liability for the appropriate person to pay the pension contributions by tax relief amounts^(a) determined in accordance with direction 22(5) and (6) of the PSP Directions 2023.

(3) The scheme manager must make the reduction mentioned in paragraph 2 before the liability is netted off in accordance with regulation 64.

(4) The following provisions of the PSP Directions 2023 apply where the scheme manager makes a determination in accordance with direction 22(5)—

- (a) direction 22(7) (provision of explanation);
- (b) direction 22(8) and (9) (appeals).

Reduction or waiver of liability to repay overpaid pension benefits

63.—(1) This regulation applies where a person (“Y”) owes a liability to a judicial scheme under—

- (a) regulation 21(2) or (4) or 37(2) or (4), or
- (b) section 51(2) or (4) of PSPJOA 2022 (corrections for pension benefits and lump sum benefits in relation to persons with remediable service).

(2) The scheme manager may reduce or waive the liability where—

- (a) Y makes an application under paragraph (3), and
- (b) the scheme manager complies with the requirements set out in direction 22(1)(a) to (c) of the PSP Directions 2023 (and the reference in direction 22(1)(c) to “any scheme regulations made by virtue of section 61(1)(b) of PSPJOA 2022” is to be read as a reference to regulation 66).

(3) An application must be—

- (a) in writing,
- (b) in a form required by the scheme manager,
- (c) accompanied by such information and documents as the scheme manager may require as evidence of Y’s circumstances, and
- (d) received by the scheme manager before the end of the period of six months beginning with the date on which Y is notified of the liability.

(4) The scheme manager may extend the period mentioned in paragraph (3)(d) in relation to Y if the scheme manager considers it just and equitable to do so.

CHAPTER 3

Netting off

Netting off

64.—(1) This regulation applies where—

- (a) amounts mentioned in regulation 60(1) owed by and to a person (“P”) fall to be paid at the same or approximately the same times, and
- (b) the scheme manager has—
 - (i) determined the interest (if any) that is to be paid on the relevant amounts in accordance with regulation 60, and
 - (ii) where regulation 62 applies in relation to any of the amounts, reduced such amounts by tax relief amounts in accordance with that regulation.

(a) For the meaning of “tax relief amounts”, see section 56(4) of PSPJOA 2022.

(2) The scheme manager may determine, in accordance with direction 31(3) to (6) of the PSP Directions 2023, that the amounts (and interest on them) must be aggregated and that the difference must be paid by P to the scheme or (as the case may be) by the scheme to P.

(3) The following provisions of the PSP Directions 2023 apply in relation to a determination under paragraph (2) as if were a determination under direction 31(2) of those Directions—

- (a) direction 31(7) (provision of explanation);
- (b) direction 31(8) and (9) (appeals).

CHAPTER 4

Amounts owed to a judicial scheme or employer or to a person

Application

65. This Chapter applies after taking into account the effect, if any, of regulations 60 to 64.

Amounts owed to a judicial scheme

66.—(1) This regulation applies where a person (“Y”) owes an amount to the scheme under these Regulations or Chapter 2 of PSPJOA 2022.

(2) Except where paragraph (3) applies, Y must pay the amount to the scheme before the end of the period of six months beginning with the day on which Y is notified that the amount must be paid.

(3) Where the scheme manager considers it reasonable in the circumstances the amount may be reduced (including to zero) by payments made in one or more of the following ways—

- (a) instalments as may be specified in an agreement between Y and the scheme manager, or
- (b) deductions from—
 - (i) where Y is in judicial office, any salary or fees payable in respect of Y’s judicial office as may be specified in an agreement between Y and the employer;
 - (ii) any lump sum payable in accordance with section 4 of JUPRA 1993 or regulation 25 of FPJR 2017 as may be specified in an agreement between Y and the scheme manager;
 - (iii) the pension entitlements mentioned in paragraph (4) as may be specified in an agreement between Y and the scheme manager.

(4) The pension entitlements are—

- (a) where Y is a member of a judicial scheme, any pension to which Y is entitled under section 2 of JUPRA 1993, Part 6 of the 2015 Regulations or Parts 3 (with the exception of regulation 25) and 4 of FPJR 2017;
- (b) where the member in relation to whose service the amount is owed is deceased, any pension to which Y is entitled under sections 5 or 6 of JUPRA 1993, Part 8 of the 2015 Regulations or Part 6 of FPJR 2017;
- (c) where Y is a member of a judicial scheme by virtue of another person’s pensionable service in a judicial office, any pension to which Y is entitled under Schedule 2A to JUPRA 1993, Part 7 of the 2015 Regulations or Part 5 of FPJR 2017.

(5) The deductions from the payments specified in paragraph (3)(b)(i)—

- (a) may be of fixed monetary amounts, or
- (b) may be calculated as a percentage of the salary or fees payable.

(6) Where—

- (a) an agreement between Y and the employer specifies deductions from payments specified in paragraph (3)(b)(i), and
- (b) Y ceases to be in service in any judicial office before all of the specified deductions have been made,

Y must pay the outstanding amount to the scheme within a period of six months beginning with the last day of Y's service.

(7) The scheme manager may extend the period mentioned in paragraph (6) if the scheme manager considers it just and equitable to do so.

(8) For the purpose of paragraph (6) the "outstanding amount" is—

- (a) an amount equal to the amount of the specified deductions that have not been made on the last day of Y's service, plus
- (b) any interest which has accrued on that amount under regulation 60.

Amounts owed to a person's employer

67.—(1) Paragraph (2) applies where a person ("Y") owes an amount to a person's employer under section 54 of PSPJOA 2022 or regulation 26 or 43 (transitional protection allowance).

(2) Paragraphs (2) to (8) of regulation 66 apply in respect of the amount as if the reference to the "scheme" or the "scheme manager" in the following provisions of that regulation were to Y's employer—

- (a) paragraph (2);
- (b) in paragraph (3)—
 - (i) the opening words;
 - (ii) sub-paragraph (a);
- (c) the closing words of paragraph (6);
- (d) paragraph (7).

Amounts owed to a person

68.—(1) This regulation applies where an amount is payable by a judicial scheme to a person ("Y") under these Regulations or Chapter 2 of PSPJOA 2022.

(2) The scheme manager may require Y to make an application for payment of the amount.

(3) Where the scheme manager requires Y to make an application the scheme manager may pay the amount on receipt of an application that meets the requirements of paragraph (4).

(4) An application must be—

- (a) in writing,
- (b) in a form required by the scheme manager,
- (c) accompanied by such information and documents as the scheme manager may require, and
- (d) received by the scheme manager before the end of the period of three months starting with the day on which Y receives notification that an application for payment of the amount must be made.

PART 7

Miscellaneous amendments

Miscellaneous amendments

69. The Schedule contains miscellaneous amendments by virtue of, and in consequence of, PSPJOA 2022.

Sealed with the Official Seal of the Department of Justice on 28th June 2023



Richard Pengelly
Senior Officer
Department of Justice

The Department of Finance consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance on 28th June 2023



Patrick Neeson
Senior Officer
Department of Finance

SCHEDULE

Regulation 69

Miscellaneous amendments

Amendment of the Judicial Pensions Regulations (Northern Ireland) 2015

1. The 2015 Regulations are amended as follows.
2. In regulation 2 (interpretation)—
 - (a) after the opening words insert—

““2023 Regulations” means the Judicial Pensions (Remediable Service etc.) Regulations (Northern Ireland) 2023;”;
 - (b) for the definition of “active member” substitute—

““active member”, in relation to this scheme, means a person who is—

 - (i) in pensionable service under this scheme; or
 - (ii) deemed to have been an active member of this scheme by virtue of regulations 38A(2) or 38B(2) or paragraphs 23A(2) or 23B(2) of Schedule 1;”;
 - (c) for the definition of “amount of credited pension” substitute—

““amount of credited pension” means the sum of the pension credit calculated in accordance with regulations made under paragraph 5(b) of Schedule 5 (pension credits: mode of discharge) to WRP(NI)O 1999 and any remediable pension credit or remediable pension reduction, where—

 - (a) “remediable pension credit”, in the circumstances mentioned in—
 - (i) regulation 48 of the 2023 Regulations, has the meaning given in regulation 49(5) of those Regulations;
 - (ii) regulation 51 of the 2023 Regulations, has the meaning given in regulation 52(3) of those Regulations;
 - (iii) regulation 55 of the 2023 Regulations, has the meaning given in regulation 56(12) of those Regulations;

- (b) “remediable pension reduction” has the meaning given in regulation 56(12) of the 2023 Regulations;”;
- (d) after the definition of “provisional amount” insert—
““PSPJOA 2022” means the Public Service Pensions and Judicial Offices Act 2022;”;
- (e) after the definition of “registered” insert—
““relevant fee-paid judge” has the meaning given in section 103 of PSPJOA 2022;”;
- (f) after the definition of “relevant scheme” insert—
““relevant service” has the meaning given in regulation 29(2) of the 2023 Regulations;”

3. After regulation 38 (receipt of transfer value payment) insert—

“Accrued earned pension attributable to a transfer value payment where a legacy scheme election is made

38A.—(1) Paragraph (2) applies where—

- (a) a person “P” has remediable service in a judicial office;
- (b) a transfer value payment has been received by this scheme in relation to P during the period of remediable service; and
- (c) either—
 - (i) a legacy scheme election under section of 40 PSPJOA 2022 is made in respect of P; or
 - (ii) an immediate detriment remedy has been obtained in relation to the period of remediable service.

(2) P is deemed to have been an active member of this scheme for all purposes in connection with the transfer value payment.

Accrued earned pension attributable to a transfer value payment in respect of relevant fee-paid judges

38B.—(1) Paragraph (2) applies where—

- (a) a relevant fee-paid judge “R” has relevant service in a judicial office; and
- (b) a transfer value payment has been received by this scheme in relation to R during the period of relevant service.

(2) R is deemed to have been an active member of this scheme for all purposes in connection with the transfer value payment.”.

4. In regulation 52(5) (establishment of pension credit member’s account)—

- (a) omit the “and” immediately after sub-paragraph (a);
- (b) at the end of (b) insert—
“; and
- (c) any adjustment required by Part 5 of the 2023 Regulations other than a remediable pension credit to which the pension credit member has become entitled under that Part”.

5. After regulation 126(1) (payment of member contributions) insert—

“(1A) Member contributions that must be paid under section 52(4) of PSPJOA 2022 are to be paid in accordance with regulation 66 of the 2023 Regulations.”.

6. In Schedule 1, after paragraph 23 insert—

“CHAPTER 5

Deemed membership for added pension payments

Added pension where a legacy scheme election is made

23A.—(1) This paragraph applies where—

- (a) a person “P” has remediable service in a judicial office;
- (b) P has, during the period of remediable service, made an added pension payment under this Part;
- (c) either—
 - (i) a legacy scheme election is made in respect of P under section 40 of PSPJOA 2022; or
 - (ii) an immediate detriment remedy has been obtained in relation to the period of remediable service; and
- (d) a request has not been made in respect of P under regulations 8 or 24 of the 2023 Regulations.

(2) P is deemed to have been an active member of this scheme for all purposes in connection with the added pension payments.

Added pension in respect of relevant fee-paid judges

23B.—(1) This paragraph applies where—

- (a) a relevant fee-paid judge “R” has relevant service in a judicial office;
- (b) R has, during the period of relevant service, made any added pension payments under this Part; and
- (c) a request has not been made in respect of R under regulation 40 of the 2023 Regulations 2023.

(2) R is deemed to have been an active member of this scheme for all purposes in connection with the added pension payments.”.

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Public Service Pensions Act (Northern Ireland) 2014 (c. 2) (“PSPA 2014”) makes provision, and confers powers to make further provision (in the form of “scheme regulations” as defined in section 1 of PSPA 2014), about the establishment of public service pension schemes. The Judicial Pensions Regulations (Northern Ireland) 2015 (S.R. 2015 No. 76) (“the 2015 Regulations”) are the scheme regulations establishing the successor judicial pension scheme (“the 2015 scheme”) to the judicial legacy schemes (as defined in section 70(3) of the Public Service and Pensions and Judicial Offices Act 2022 (c.7) (“PSPJOA 2022”). The 2015 Regulations provided for transitional protection for certain cohorts of judicial legacy scheme members. This transitional protection was subsequently found to unlawfully discriminate between judicial pension scheme members on the basis of age.

The PSPJOA 2022, at Chapter 2, makes provision, and confers powers for scheme regulations under PSPA 2014 to make further provision, in relation to specified service (“remediable service” as defined in section 39 of PSPJOA 2022) of members who benefitted from transitional protection, and of members who did not benefit from transitional protection only by reason of their age. Section 62 of PSPJOA 2022 requires certain powers to make scheme regulations to be exercised in accordance with Department of Finance directions.

These Regulations are scheme regulations under PSPA 2014 and in accordance with PSPJOA 2022 in relation to a member’s remediable service in the judicial legacy schemes and in the 2015 scheme. They are, to the extent required by section 62 of PSPJOA 2022, made in accordance with

Department of Finance directions under that section (in the form of the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions (Northern Ireland) 2023. These Regulations have retrospective effect, which is authorised by section 3(3)(b) of PSPA 2014.

Part 1 of these Regulations contains provision about, among other things, governance, including the delegation of functions, a requirement to establish a procedure for consideration of appeals, and the relationship between the scheme manager and the Judicial Pension Board when exercising a discretion.

Part 2 of these Regulations makes provision about special cases where a member has remediable service and an immediate detriment remedy (within the meaning of section 68 of PSPJOA 2022) has not been obtained in relation to that service—

- (a) Chapter 2 makes provision about cases where a member makes an election for legacy scheme benefits and they have previously exercised, in relation to their remediable service, options to purchase additional rights in the 2015 scheme, or to transfer rights out of the 2015 scheme;
- (b) Chapter 3 makes provision about cases where a member has previously exercised a partial retirement option under either the 2015 scheme or the judicial legacy fee-paid scheme (as defined in section 70(5) of PSPJOA 2022), and the member makes an election for benefits in the other scheme;
- (c) Chapter 4 makes provision about the payment by a judicial scheme of annual allowance charges.

Part 3 makes provision about cases where an immediate detriment remedy has been obtained in relation to a member's remediable service—

- (a) Chapter 2 makes provision about the provision of information in relation to a member's rights and liabilities under PSPJOA 2022 and these Regulations;
- (b) Chapter 3 makes provision about a requirement to transfer and surrender rights in relation to any remediable service that is PPA opted-out service (as defined in section 73(2) of PSPJOA 2022);
- (c) Chapter 4 makes provision about the benefits payable to a child survivor of member who died before the immediate detriment remedy was obtained;
- (d) Chapter 5 makes provision about a partial retirement option exercised in respect of a fee-paid judicial office;
- (e) Chapters 6 and 7 makes provision about the treatment, including the correction, of benefits and contributions previously paid or payable;
- (f) Chapter 8 makes provision about the payment of compensation for voluntary contributions paid to purchase additional pension rights;
- (g) Chapter 9 makes provision about the repayment of a transitional protection allowance (as defined in section 54(4) of PSPJOA 2022);
- (h) Chapter 10 makes provision about the payment of compensation;
- (i) Chapter 11 makes provision about unauthorised payments (within the meaning of section 63(5) of PSPJOA 2022).

Part 4 makes provision in relation to certain fee-paid judges which is similar to the provision made by Part 3 in relation to cases where an immediate detriment remedy has been obtained.

Part 5 makes provision about cases in which the value of pension rights secured by virtue of a member's remediable service rights under are to be shared under a pension sharing order in accordance with Article 26 of the Welfare Reform and Pensions (Northern Ireland) Order 1999 (1999 No. 3147 (N.I. 11)). It provides, in particular, for the calculation or, where appropriate, the re-calculation of the value of a pension debit and a pension credit in relation to the rights.

Part 6 makes provision about any amounts owed to or by a person as a result of PSPJOA 2022, these Regulations or an immediate detriment remedy—

- (a) Chapter 1 makes provision about the calculation of interest;
- (b) Chapter 2 makes provision about the reduction and waiver of an amount owed, in particular a requirement for the scheme manager to reduce some amounts by tax relief amounts and the discretion of the scheme manager to reduce or waive relevant amounts owed by a person to a scheme in certain circumstances;
- (c) Chapter 3 makes provision about netting off amounts owed to and by a person;
- (d) Chapter 4 makes provision about when and how relevant amounts must be paid.

Part 7, together with the Schedule, makes provision for the amendment of the Judicial Pensions Regulations (Northern Ireland) 2015 (S.R. 2015 No. 76) by virtue of, and in consequence of, PSPJOA 2022 and in consequence of these Regulations.

An impact assessment has not been completed for these Regulations. An Explanatory Memorandum has been published alongside these Regulations on <http://www.legislation.gov.uk>.

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