
STATUTORY INSTRUMENTS

1991 No. 2731

**The Judicial Pensions (Widowers' and
Children's Benefits) Regulations 1991**

PART III

PERIODICAL PAYMENTS

Election to make periodical payments

8. –

(1) Subject to the following provisions of this regulation, an office-holder may elect to make periodical payments.

(2) Without prejudice to regulation 9, periodical payments may only be made at the standard rate, that is to say–

(a) in the case of a 15-year office, 4 per cent.; and

(b) in the case of a 20-year office, 3 per cent. of the office-holder's salary for the time being.

(3) An office-holder who elects to make periodical payments must do so by notice in writing to the responsible authority not later than six months after her first appointment to her office–

Provided that an office-holder who marries (or remarries) while in office and who is not then making periodical payments may elect to do so by giving notice in writing to the responsible authority not later than six months after her marriage or remarriage, as the case may be.

(4) An election made under this regulation shall be irrevocable, save that an office-holder who ceases to be married after having made such an election may revoke her election by notice in writing to the responsible authority not later than six months after her so ceasing.

(5) Nothing in this regulation shall be construed as preventing an office-holder who is not married from electing to make periodical payments.

(6) For the purposes of paragraph (3) above the appointment of an office-holder to another office (for example, the appointment to the circuit bench of a stipendiary magistrate or to the Court of Appeal of a puisne judge of the High Court) shall be treated as a first appointment.

Additional payments for back service

9. –

(1) In this regulation–
“back service” means–

(a) in the case of an office-holder who has specified that the annual value of the widower's pension is to be calculated on the assumption under paragraph 27(2)(b) of Schedule 2 to the Act, service before 1st January 1992; and

(b) in the case of an office-holder who has married on or after that date, service on or after that date for any period during which she has made no periodical payments;

(2) An office-holder who has back service and who elects to make periodical payments at the standard rate may also elect to make, in respect of that back service, additional payments at such of the following rates as she may specify—

- (a) if she is serving in a 15-year office, 4 per cent., 8 per cent. or 11 per cent. of her salary for the time being (that is to say, at the standard rate, or at twice, or at two and three quarters times that rate);
- (b) if she is serving in a 20-year office, 3 per cent., 6 per cent. 9 per cent., or 12 per cent., of her salary for the time being (that is to say at the standard rate, or at twice, three times or four times that rate).

(3) An election under this regulation must have been made, or be made—

- (a) not later than 1st July 1992; or
- (b) in the case of an office-holder marrying (or remarrying) after 31st December 1991 and while still serving, not later than six months after her marriage or remarriage.

(4) An office-holder who has made an election under this regulation may at any time by notice in writing to the responsible authority, either—

- (a) revoke her election; or
- (b) vary its effect by specifying a different rate of additional payments, being one of the rates mentioned in (a) or (b), as the case may be, of paragraph (2) above.

(5) An election made under this regulation shall, if it has not been previously revoked, cease to have effect when the office-holder has made additional payments for a period equal in length to her back service and for this purpose, for any period during which she has made additional payments at a rate higher than the standard rate, she shall be treated as having made such payments for a correspondingly longer period (so that, for example, if she has made additional payments at twice the standard rate for one year she shall be treated as having made additional payments for two years).

Method of payment

10. –

(1) An election under regulation 8 or 9 shall, so long as it is in force, constitute an instruction to the responsible authority to deduct the appropriate amounts from the office-holder's salary.

(2) Deductions under this regulation—

- (a) shall be made from each instalment of the office-holder's salary as it becomes due; and
- (b) may, if the office-holder so requests, also be made at the appropriate rate in respect of the office-holder's earlier salary specified in paragraph (3) below, and for this purpose, the responsible authority may require the office-holder to repay such sum, if any, as may be necessary to make up the total deduction.

(3) The earlier salary mentioned above is the salary paid to the office-holder before the date of the relevant election—

- (a) during the income tax year of assessment in which the relevant election was made, or
- (b) during that year and during so much of the preceding year of assessment as elapsed after the relevant appointment, marriage or remarriage.

(4) No instruction under paragraph (1) above shall be taken to require the responsible authority to deduct, in any income tax year of assessment, more than 15 per cent. of the salary paid to the office-holder during that year.

Effect of making periodical payments

11. –

(1) In this regulation–

“appropriate fraction” means $\frac{1}{240}$ in the case of the holder of a 15-year office and $\frac{1}{320}$ in the case of the holder of a 20-year office;

“full period” means 15 years in the case of the holder of a 15-year office and 20 years in the case of the holder of a 20-year office;

“gross reduction” means the amount by which an office-holder’s lump sum would, under Part II, be reduced if she had made no periodical payments.

(2) An office-holder who makes periodical payments at the standard rate for the full period shall not be liable to make any further contribution notwithstanding that she continues in service for a further period.

(3) For the purposes of paragraph (2) above, an office-holder shall be treated, for every period of service during which she has made additional payments in accordance with regulation 9(2), as having made payments at the standard rate for an additional period equal to the period during which she has made (or is to be treated under regulation 9(5) (6) as having made) such additional payments.

(4) If an office-holder retires or dies after having made periodical payments at the standard rate for less than the full period, the deficiency in her contributions shall be made up by a reduction in her lump sum, the amount of such reduction depending on the rate of personal pension she has earned and the length of the period during which she has made periodical payments and being calculated in accordance with paragraph (5) below.

(5) The amount of the reduction referred to in paragraph (4) above shall be arrived at by deducting from the gross reduction, for every month in respect of which the office-holder has made (or is to be treated, by virtue of regulation 9(5) as having made) periodical payments at the standard rate, the appropriate fraction of her last annual salary.

Non-aggregable service

12. –

(1) In this regulation–

(a) “primary office” means the office in respect of which eligibility for the personal pension arises;

(b) “secondary office” means an office other than the primary office;

(c) references to an election made by an office-holder include references to any election that may, if she has died, be made by another person in respect of her.

(2) This regulation applies to an office-holder whose successive periods of service in different offices are not aggregable (so as to be treated as service wholly in the latest office) for the purposes of eligibility for pension and who, under any relevant enactment is entitled to elect between a pension based on service in a later office and one based on service in an earlier office.

(3) In determining the amount of any contribution to be made out of such office-holder’s lump sum, no account shall be taken of any periodical payments made by her during service in a secondary office if that service is to be disregarded for the purpose of determining the personal pension for which she elects and any such payments shall, in accordance with regulation 13, be refunded.

(4) If account is to be taken of service in a secondary office for the purpose of determining the personal pension for which the office-holder elects, then for the purpose of regulation 11 above–

- (a) if the primary and secondary offices were both 15-year offices or both 20-year offices, any period of service in the secondary office during which she made periodical payments shall be treated as if it had been a period of service in the primary office;
- (b) if the primary office was a 20-year office and the secondary office a 15-year office, any such period shall be treated as if it had been a corresponding period of service in the primary office multiplied by a factor of $\frac{2}{3}$; and
- (c) if the primary office was a 15-year office and the secondary office a 20-year office, any such period shall be treated as if it had been a corresponding period of service in the primary office multiplied by a factor of $\frac{3}{4}$.

periodical payments

13. –

(1) Periodical payments made by an office-holder shall (subject to paragraph (2) below) be refunded, with compound interest added at a rate of 4 per cent. a year, by the responsible authority to her (or, if she has died, to her personal representatives)–

- (a) if her service proves to have been insufficient to earn any widower's pension;
- (b) if and insofar as the payments exceed those required to avoid any deficiency in her contribution being made up by a reduction in her lump sum; or
- (c) in the circumstances mentioned in regulation 12(3).

(2) The responsible authority shall, in making any refund in pursuance of this regulation, deduct the appropriate amount in respect of tax charged under section 598 of the Income and Corporation Taxes Act 1988(1).

Time limit for elections

14. The responsible authority may, if satisfied in any particular case that it would be reasonable to do so, extend the time for giving any notice under these Regulations or for exercising any option under paragraph 27 of Schedule 2 to the Act.