



Public Service Pensions and Judicial Offices Act 2022

2022 CHAPTER 7

PART 1

PUBLIC SERVICE PENSION SCHEMES

CHAPTER 2

JUDICIAL SCHEMES

Options exercise

40 Legacy scheme elections

- (1) An election (“a legacy scheme election”) may be made in respect of a person who has remediable service in a judicial office.
- (2) Subsection (1) is subject to subsection (3) and section 41(2) and (5) (partnership pension account: requirement to transfer and surrender rights).
- (3) A legacy scheme election may not be made in respect of a person if a 2015 scheme election has been made in respect of the person.
- (4) A legacy scheme election—
 - (a) must be in writing,
 - (b) must be received by the relevant authority before the end of the election period,
 - (c) (subject to subsection (5)) takes effect at the end of the election period, and
 - (d) is irrevocable.
- (5) In a case in which—

Status: This is the original version (as it was originally enacted).

- (a) section 41(2) or (5) applies (election made in respect of a person with PPA opted-out service), and
- (b) the steps mentioned in section 41(3) or (6) have not been taken at the end of the election period,

the legacy scheme election takes effect immediately after the steps are taken.

41 Partnership pension account: requirement to transfer and surrender rights

(1) Subsection (2) applies where—

- (a) a person (“P”) has remediable service in a salaried judicial office, and
- (b) any of the remediable service is PPA opted-out service.

(2) A legacy scheme election in respect of P may not be made unless—

- (a) the relevant authority is satisfied that the steps mentioned in subsection (3) have been taken, or
- (b) the appropriate person has notified the relevant authority that they intend to instigate and facilitate the taking of those steps.

(3) The steps are—

- (a) the transfer of any relevant assets and liabilities to the relevant judicial legacy salaried scheme,
- (b) the surrender of any entitlement to a pension under the relevant judicial legacy salaried scheme, and any right to a future pension under that scheme, that would otherwise arise under the rules of the scheme in respect of the value of the assets and liabilities transferred, and
- (c) if at any time any relevant assets and liabilities were transferred out of the partnership pension account (otherwise than in the course of a transfer to the relevant judicial legacy salaried scheme), the payment by the appropriate person to the relevant judicial legacy salaried scheme of an amount, determined by the relevant authority after consulting the Government Actuary, in respect of the value of the relevant assets transferred.

(4) Subsection (5) applies where—

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

(5) A legacy scheme election in respect of P may not be made unless—

- (a) the relevant authority is satisfied that the steps mentioned in subsection (6) have been taken, or
- (b) the appropriate person has notified the relevant authority that they intend to instigate and facilitate the taking of those steps.

(6) The steps are—

- (a) the transfer of any relevant assets and liabilities to the judicial legacy fee-paid scheme,
- (b) the surrender of any entitlement to a pension under the judicial legacy fee-paid scheme, and any right to a future pension under that scheme, that would otherwise arise under the rules of the scheme in respect of the value of the assets and liabilities transferred, and
- (c) if at any time any relevant assets and liabilities were transferred out of the partnership pension account (otherwise than in the course of a transfer to the

judicial legacy fee-paid scheme), the payment by the appropriate person to the judicial legacy fee-paid scheme of an amount, determined by the relevant authority after consulting the Government Actuary, in respect of the value of the relevant assets transferred.

- (7) In this section “the appropriate person”, in relation to a person (“P”) who has PPA opted-out service, means the person by whom a legacy scheme election in respect of P may be made (see section 46).
- (8) For the purposes of this section assets and liabilities are “relevant” in relation to any PPA opted-out service of a person (“P”) if—
- (a) they are referable to pension contributions or voluntary contributions that were made by or on behalf of P in respect of the service, and
 - (b) they are held for the purposes of a partnership pension account.

This is subject to subsection (9).

- (9) Where—
- (a) the total of the pension contributions, together with any voluntary contributions, that were paid by P in respect of the PPA opted-out service, exceeds
 - (b) the total of the pension contributions that would have been payable by P in respect of that service if the service had been pensionable service under the judicial legacy scheme to which the relevant assets and liabilities are to be transferred,
- the assets and liabilities that the relevant authority, after consulting the Government Actuary, determines are referable to the excess are not “relevant” in relation to the PPA opted-out service.
- (10) A reference in subsection (9) to pension contributions or voluntary contributions paid by P in respect of PPA opted-out service 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 P was entitled in respect of them.

42 Legacy scheme elections: effect

- (1) Subsections (2) to (5) apply where a legacy scheme election is made in respect of a person.
- (2) The person’s remediable service in any salaried judicial office, to the extent that it is otherwise pensionable service under a judicial 2015 scheme, is treated—
 - (a) as not being, and as never having been, pensionable service under that scheme, and
 - (b) as being, and as always having been, pensionable service under the relevant judicial legacy salaried scheme.
- (3) The person’s remediable service in any salaried judicial office, to the extent that it is otherwise opted-out service, is treated as being, and as always having been, pensionable service under the relevant judicial legacy salaried scheme.
- (4) The person’s remediable service in any fee-paid judicial office, to the extent that it is otherwise pensionable service under a judicial 2015 scheme, is treated—
 - (a) as not being, and as never having been, pensionable service under that scheme, and

Status: This is the original version (as it was originally enacted).

- (b) as being, and as always having been, pensionable service under the judicial legacy fee-paid scheme.
- (5) The person’s remediable service in any fee-paid judicial office, to the extent that it is otherwise opted-out service, is treated as being, and as always having been, pensionable service under the judicial legacy fee-paid scheme.
- (6) Subsections (2) to (5) have effect—
- (a) for the purposes of determining which judicial scheme is (or at any time was) required to pay benefits to or in respect of a member,
 - (b) for the purposes of determining the amount of any benefits that are (or at any time were) payable under a judicial scheme to or in respect of a member,
 - (c) for the purposes of determining the judicial scheme to which a member is (or at any time was) required to pay pension contributions under a judicial scheme,
 - (d) for the purposes of determining the amount of any pension contributions that are (or at any time were) payable under judicial schemes by members, and
 - (e) subject to any provision of this Chapter to the contrary, for all other purposes.
- (7) Subsections (2) to (5) do not affect—
- (a) any arrangements under a judicial scheme under which a member pays contributions to the scheme on a voluntary basis so as to secure additional benefits, or the earlier payment of benefits, under the scheme, or
 - (b) any rights under a judicial scheme in respect of a transfer in to the scheme of an amount in respect of rights accrued under another pension scheme.

43 Meaning of “the relevant judicial legacy salaried scheme”

In this Chapter “the relevant judicial legacy salaried scheme”, in relation to a person’s remediable service in a salaried judicial office, means—

- (a) in a case in which, before 1 April 2015, the person accrued pensionable service in a salaried judicial office under only one judicial legacy salaried scheme, that scheme;
- (b) in a case in which, before 1 April 2015, the person accrued pensionable service in a salaried judicial office under more than one judicial legacy salaried scheme, the judicial legacy salaried scheme under which the person most recently accrued pensionable service in the office;
- (c) in a case in which, before 1 April 2015, the person did not accrue pensionable service in a salaried judicial office under any judicial legacy salaried scheme, the scheme constituted by Part 1 of JUPRA 1993.

44 2015 scheme elections

- (1) An election (a “2015 scheme election”) may (subject to subsection (2)) be made in respect of a person who has remediable service in a judicial office.
- (2) A 2015 scheme election may not be made in respect of a person if—
 - (a) any of the person’s remediable service is opted-out service, or
 - (b) a legacy scheme election has been made in respect of the person.
- (3) A 2015 scheme election—
 - (a) must be in writing,

- (b) must be received by the relevant authority before the end of the election period,
 - (c) takes effect at the end of the election period, and
 - (d) is irrevocable.
- (4) Subsection (2)(a) does not apply in a case in which—
- (a) some of the person’s service in a judicial office is pensionable service under a judicial legacy scheme, and
 - (b) section 39(4)(b) applies to the person’s opted-out service only in relation to a judicial 2015 scheme.

45 2015 scheme elections: effect

- (1) Subsection (2) applies where a 2015 scheme election is made in respect of a person.
- (2) The person’s remediable service in any judicial office (whether salaried or fee-paid), to the extent that it is otherwise pensionable service under a judicial legacy scheme, is treated—
- (a) as not being, and as never having been, pensionable service under that scheme, and
 - (b) as being, and as always having been, pensionable service under the relevant 2015 scheme.
- (3) In subsection (2) “the relevant 2015 scheme” means—
- (a) in relation to service in a judicial office within section 71(1)(a) or (b), the Judicial Pensions Regulations 2015 (S.I. 2015/182);
 - (b) otherwise, the Judicial Pensions Regulations (Northern Ireland) 2015 (S.R. (N.I.) 2015 No. 76).
- (4) Subsection (2) has effect—
- (a) for the purposes of determining which judicial scheme is (or at any time was) required to pay benefits to or in respect of a member,
 - (b) for the purposes of determining the amount of any benefits that are (or at any time were) payable under a judicial scheme to or in respect of a member,
 - (c) for the purposes of determining the judicial scheme to which a member is (or at any time was) required to pay pension contributions under a judicial scheme,
 - (d) for the purposes of determining the amount of any pension contributions that are (or at any time were) payable under judicial schemes by members, and
 - (e) subject to any provision of this Chapter to the contrary, for all other purposes.
- (5) Subsection (2) does not affect—
- (a) any arrangements under a judicial scheme under which a member pays contributions to the scheme on a voluntary basis so as to secure additional benefits, or the earlier payment of benefits, under the scheme, or
 - (b) any rights under a judicial scheme in respect of a transfer in to the scheme of an amount in respect of rights accrued under another pension scheme.

46 Person by whom election is to be made

- (1) The person by whom a legacy scheme election or 2015 scheme election in respect of a person (“P”) is to be made is P or, if P is deceased—

Status: This is the original version (as it was originally enacted).

- (a) the adult survivor, or
 - (b) if there is no adult survivor, P’s personal representatives.
- (2) In this section “adult survivor” means a surviving spouse, civil partner or other adult who is entitled under the relevant judicial scheme to a pension determined (to any extent) by reference to P’s remediable service.
- (3) In subsection (2) “the relevant judicial scheme” means the judicial scheme under which P most recently accrued pensionable service.