
STATUTORY INSTRUMENTS

2017 No. 522

The Judicial Pensions (Fee-Paid Judges) Regulations 2017

PART 12

FEE-PAID JUDICIAL ADDITIONAL VOLUNTARY CONTRIBUTION SCHEME

Interpretation

90. In this Part—

“the 2004 Act” means the Finance Act 2004(1);

“authorised provider” has the same meaning as in section 1(9) of the Superannuation Act 1972(2);

“historic contributions” mean contributions which a JAVC member would have been able to make to the JAVC scheme during the period beginning with 7th April 2000 and ending with the day before the commencement day if the JAVC scheme had been established on 7th April 2000;

“JAVC member” means a member of the principal scheme who has given a notice under regulation 91(2);

“the JAVC scheme” means the Fee-Paid Judicial Additional Voluntary Contributions Scheme constituted by this Part;

“judicial pension scheme” means the scheme constituted by the Judicial Pensions Regulations 2015(3), or any scheme constituted by the 1995 Regulations;

“qualifying recognised overseas pension scheme” has the meaning given in section 169(2) of the 2004 Act(4);

“scheme assets” means the total value of A minus B, where—

- (a) A is the sum of the realisable value of the investments made by the authorised provider with the JAVC member’s contributions under regulation 94 and any transfer payment accepted under regulation 96; and
- (b) B is the sum of—
 - (i) any amount deducted in respect of tax under regulation 101;
 - (ii) the fees or charges of an authorised provider in relation to those investments defrayed in accordance with regulation 102; and
 - (iii) any amount that has been transferred out of the scheme under regulation 100;

“scheme contributions” means the total of payments made under regulation 94(2).

(1) 2004 c. 12

(2) 1972 c. 11; section 1(9) was amended by S.I. 2001/3649 and paragraph 35 of Schedule 18 to the Financial Services Act 2012 (c. 21).

(3) S.I. 2015/182.

(4) Section 169 was amended by section 53(5)(a) of the Finance Act 2013 (c. 29).

Membership

91.—(1) Membership of the JAVC scheme is open to active members of the principal scheme.

(2) A person to whom membership of the JAVC scheme is open may become a member of the JAVC scheme by giving notice in writing to the administrators within 12 months of the commencement day (or by such later date as the administrators may agree).

(3) A notice under paragraph (2) must include such information as the administrators may, for the purposes of carrying out functions under the JAVC scheme, require.

Further information

92.—(1) A JAVC member must, if requested by the administrators, provide or authorise to be provided such information as is requested by the administrators—

- (a) relating to the JAVC member’s medical history and state of health;
- (b) about any benefits which the JAVC member may have which are derived from a registered pension scheme including information about any such benefits which have been transferred to another scheme, whether or not in the United Kingdom.

(2) The administrators may only request information under paragraph (1)(b) which relates to benefits accrued other than through contributions to a judicial pension scheme.

Disclosure of information

93. The administrators may disclose any information obtained under regulation 91 or 92 to—

- (a) the Commissioners for Her Majesty’s Revenue and Customs (or to the officers of the Commissioners for Her Majesty’s Revenue and Customs);
- (b) any authorised provider, or the servants or agents of that provider, who is, or may be, concerned in the investment of the funds or the provision of benefits under the JAVC scheme.

Contributions: JAVC members

94.—(1) A JAVC member (“M”) must inform the administrators by notice in writing as to the level and form of contributions that the JAVC member wishes to make.

(2) M may—

- (a) make contributions to the JAVC scheme by way of—
 - (i) regular payments of the same amount;
 - (ii) lump sum payments made from time to time of the same or a different amount;
- (b) if paragraph (4) applies, make historic contributions to the JAVC scheme by way of lump sum payments of the same or a different amount; or
- (c) make a combination of contributions under paragraphs (a) and (b).

(3) Contributions made under paragraph (2)(a) must be made by way of a deduction from fees which M has received in M’s capacity as a holder of an eligible fee-paid judicial office (“M’s fees”).

(4) M may make historic contributions to the JAVC scheme by way of lump sum payments provided that—

- (a) the lump sum payments are made within 3 years of the commencement day (and no more than one lump sum payment may be made in each year), and
- (b) the total historic contributions made by M do not exceed the maximum amount permitted under regulation 95.

- (5) A notice under paragraph (1) must specify—
- (a) in the case of a regular payment, the amount of each regular payment or, if expressed as a percentage of M’s fees, that percentage;
 - (b) in the case of a lump sum, the amount of the contribution.

(6) M’s scheme contributions in any tax year must not exceed that amount which, when aggregated with all contributions by M to any other registered pension scheme in the same tax year, bring M’s total contributions for that tax year up to the maximum amount of relief as calculated under section 190 of the 2004 Act⁽⁵⁾.

(7) Contributions made by M in accordance with regulation 3 of the Judicial Pensions (Contributions) Regulations 2012⁽⁶⁾ are not to be taken into account for the purposes of calculating the total contributions in paragraph (6).

Historic contributions

95.—(1) The historic contributions made by a JAVC member (“M”) must not exceed that amount which is equal to the sum of the amounts determined for each tax year during the period from 6th April 2000 to the commencement day, in accordance with the following formula—

$$\left(\frac{15 \times FI}{100} \right) - C$$

where—

- (a) FI is M’s annual fee income for the tax year in question which is subject to income tax, or if lower, the permitted maximum for that tax year, and
- (b) C is the sum of any contributions made by M to any other judicial pension scheme in that tax year, excluding any contributions made by the member in accordance with regulation 3 of the Judicial Pensions (Contributions) Regulations 2012.

(2) For the purposes of paragraph (1)(a), M’s “annual fee income” is the total of the fees paid to M in respect of qualifying fee-paid days in the tax year concerned.

Transfers in

96.—(1) A JAVC member may, at any time before the JAVC member reaches the age of 55, make, or arrange for the making of, a payment representing the cash equivalent of the JAVC member’s accrued rights in any other registered pension scheme or a qualifying recognised overseas pension scheme (the “transferring scheme”) to be invested in the JAVC scheme.

(2) A JAVC member to whom paragraph (3) applies may also, within one year after the commencement day, make, or arrange for the making of, a payment representing the cash equivalent of the JAVC member’s accrued rights in a transferring scheme on the day before the JAVC member reached the age of 55 to be invested in the JAVC scheme.

(3) This paragraph applies to a JAVC member whose age on 6th February 2013 was more than one year under the age of 55.

(4) A payment under paragraph (1) or (2) from a registered pension scheme may be accepted by the administrators only if the administrator of the registered pension scheme certifies that the payment is a recognised transfer as defined in section 169 of the 2004 Act⁽⁷⁾.

(5) Part of section 190 was repealed by the Finance Act 2013 (c. 29).

(6) S.I. 2012/516. Regulation 3 was substituted by S.I. 2016/30.

(7) Amended by paragraph 36 of Schedule 10 to the Finance Act 2005 (c. 7), paragraph 66(a) and (b) of Schedule 16 to the Finance Act 2011 (c. 11), section 53(3), (4), (5), (6) and (7), of the Finance Act 2013 (c. 29), paragraph 92 of Schedule 1 and paragraph 23(a) of Schedule 7 to the Finance Act 2014 (c. 26), and paragraphs 8 and 92 of Schedule 1 and paragraph 4 of Schedule 2 to the Taxation of Pensions Act 2014 (c. 30).

Investment of funds

97.—(1) The administrators must, as soon as reasonably practicable, invest any contributions made by a JAVC member under regulation 94 and any transfer payment accepted under regulation 96 with an authorised provider for the purpose of providing benefits under regulation 98.

(2) Where the authorised provider offers more than one type of investment the JAVC member must elect that those sums be paid into particular types of investments.

(3) The administrators are not required to give effect to an election made under paragraph (2) if it is not reasonably practicable to do so.

(4) The investments made in respect of a JAVC member with the authorised provider may be realised and reinvested with the authorised provider at the request of the JAVC member, in such amounts, at such times, and in such manner as may be specified by the administrators with the approval of the authorised provider.

(5) The administrators may require an authorised provider to surrender the whole or part of the value of the sums referred to in paragraph (1).

(6) The administrators must re-invest a sum surrendered under paragraph (5) in accordance with paragraph (1).

Benefits which may be provided

98.—(1) A JAVC member is entitled to the benefits attributable to the scheme assets.

(2) The administrators must provide only benefits authorised by or under Chapter 3 of Part 4 of the 2004 Act.

(3) Where the JAVC member wishes, from time to time, to take benefits under this scheme the member must give notice in writing to the administrators.

(4) A notice under paragraph (3) must specify—

- (a) the proportion of the JAVC member's benefits referred to in paragraph (1) to which the notice relates;
- (b) the JAVC member's preference as to the benefits to be provided under paragraph (2) in relation to that proportion; and
- (c) if the JAVC member wishes a combination of benefits to be provided, what proportion of the JAVC member's benefits the member wishes to be allocated to each type of benefit.

Death

99.—(1) Where a JAVC member dies, any lump sum payable to that JAVC member under the JAVC scheme must be paid to the person (if any) nominated by that JAVC member for the purposes of this paragraph by notice in writing to the administrators.

(2) If no such nomination is made, the administrators must pay the amount payable to the personal representatives of the JAVC member.

Transfers out

100.—(1) A JAVC member may cease to be a member of the JAVC scheme in relation to all or part of the scheme assets at any time before those benefits are provided under regulation 98.

(2) Subject to Chapters 1 and 2 of Part 4ZA of the Pension Schemes Act 1993⁽⁸⁾, or Chapters 1 and 2 of Part 4ZA of the Pension Schemes (Northern Ireland) Act 1993⁽⁹⁾, the JAVC member must, on leaving the JAVC scheme, request the administrators (in such manner as may be specified by the administrators) to take one or more of the following actions—

- (a) to transfer all or part of the JAVC member's scheme assets to any other registered pension scheme or a qualifying recognised overseas pension scheme in which the JAVC member may be participating (provided that the other pension scheme is willing and able to accept such a transfer value);
- (b) to use all or part of the value of the JAVC member's scheme assets to purchase one or more insurance policies of the type described in section 95(2)(c) of the Pension Schemes Act 1993⁽¹⁰⁾ or section 91(2)(c) of the Pension Schemes (Northern Ireland) Act 1993;
- (c) if the JAVC member's reckonable service, together with any service whilst a member of another registered pension scheme or a qualifying recognised overseas pension scheme from which a transfer value has been paid to the JAVC scheme is less than 2 years, to pay the JAVC member the value of the JAVC member's scheme assets;
- (d) to use all or part of the JAVC member's scheme assets in any other way which is not an unauthorised payment within the meaning of section 160(5) of the 2004 Act⁽¹¹⁾.

Tax

101. Whenever the appropriate Minister is liable for any tax in respect of any payment made to any person under this Part, the administrators must deduct sums equal in total to such tax out of the realisable value of any investments made by the authorised provider with the JAVC member's scheme contributions under regulation 94 and any transfer payment accepted under regulation 96.

Administrative expenses

102. Any administrative expenses incurred by an authorised provider by virtue of acting as such under this Part may be defrayed, to the extent agreed by the administrators, out of the realisable value of any investments made by the authorised provider with the JAVC member's scheme contributions under regulation 94 and any transfer payment accepted under regulation 96.

(8) 1993 c.48; Part 4, Chapters 4 and 5 were renumbered as Part 4ZA Chapters 1 and 2 by paragraph 50 of Schedule 4 to the Pension Schemes Act 2015 (c.8), and amended by S.I. 1996/1847, 2001/3649, 2015/182, the Pension Schemes Act 1993 (c.48), the Pensions Act 2004 (c.34), the Pensions Act 2014 (c.19).

(9) 1993 c.49; Part 4 Chapters 4 and 5 were renumbered as Part 4ZA Chapters 1 and 2 by the Pension Schemes Act 2015 (c.8), and section 91(2)(c) was amended by article 133 of S.I. 2001/3649.

(10) Part 4, Chapters 4 and 5 of the 1993 (c.48) were renumbered as Part 4ZA Chapters 1 and 2 by the Pension Schemes Act 2015 (c.8), and section 95(2)(c) was amended by article 121 of S.I. 2001/3649.

(11) Sections 160(2) and (4) relevant to this definition were amended by the Finance Act 2006 (c.25) and the Finance Act 2007 (c.11)