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STATUTORY INSTRUMENTS

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**2017 No. 522**

**The Judicial Pensions (Fee-Paid Judges) Regulations 2017**

**PART 3**

**RETIREMENT BENEFITS**

**Retirement aged 65 or over: entitlement to ordinary pension**

- 12.**—(1) This regulation applies where—
- (a) a member (“P”) retires (whether before, on or after the commencement day); and
  - (b) on the day on which P retires, P—
    - (i) has reached the age of 65;
    - (ii) has at least 5 years’ qualifying judicial service, and
    - (iii) has accrued reckonable service in relation to an eligible fee-paid judicial office.
- (2) On the pension start day, P becomes entitled to the payment for life of a pension.
- (3) In this regulation “the pension start day” means—
- (a) the day after that on which P retires; or
  - (b) if later, the commencement day.

**Annual rate of ordinary pension**

**13.**—(1) The annual rate of a pension to which a member (“P”) becomes entitled under regulation 12 is determined under paragraph (3), (5) or (7) (whichever applies).

(2) Paragraph (3) applies where, on retirement, P has reckonable service in only one eligible fee-paid judicial office (“the relevant office”).

(3) The annual rate is determined in accordance with the following formula—

$$\frac{R}{40} \times S$$

where—

- (a) R is P’s reckonable service in the relevant office;
  - (b) S is the appropriate annual salary of the judicial office held by P immediately before retirement.
- (4) Paragraph (5) applies where—
- (a) on retirement, P has reckonable service in more than one eligible fee-paid judicial office; and
  - (b) P did not, at any time before retirement, hold two or more eligible fee-paid judicial offices simultaneously.
- (5) The annual rate is determined in accordance with the following formula—

$$\frac{AR}{40} \times S$$

where—

- (a) AR is the aggregate length of P’s reckonable service in eligible fee-paid judicial offices;
- (b) S is the appropriate annual salary of the judicial office held by P immediately before retirement.
- (6) Paragraph (7) applies where—
  - (a) on retirement, P has reckonable service in more than one eligible fee-paid judicial office (“the relevant offices”); and
  - (b) at any time before retirement, P held two or more relevant offices simultaneously.
- (7) The annual rate is determined by taking the following steps—

*Step 1*

Determine the annual rate under paragraph (3) in relation to each relevant office which P held simultaneously, as if—

- (i) that office were the only office in which P had reckonable service on retirement (except in determining the maximum amount in relation to that office under regulation 5); and
- (ii) P held that office (and held no other judicial office) immediately before retirement.

*Step 2*

Determine the annual rate under paragraph (5) in relation to those relevant offices which P did not hold simultaneously with another relevant office, and for these purposes, in paragraph (5), S is—

- (i) where P held a single judicial office immediately before retirement, the appropriate annual salary of that judicial office;
- (ii) where P held more than one judicial office immediately before retirement, the highest appropriate annual salary of those offices.

*Step 3*

Add together each of the rates found under Step 1 and the rate found under Step 2.

- (8) Paragraph (9) applies where—
  - (a) during one or more parts of the period for which P held an eligible fee-paid judicial office (“office A”), P held one or more other eligible fee-paid judicial offices simultaneously, and
  - (b) during one or more parts of that period P held no eligible fee-paid judicial office other than office A.
- (9) For the purposes of paragraph (7)—
  - (a) office A is to be treated as two different relevant offices—
    - (i) the first of which (“the first office”) is held for the period (or the aggregate of the periods) mentioned in paragraph (8)(a), and accordingly, is taken into consideration in Step 1 in paragraph (7), and
    - (ii) the second of which (“the second office”) is held for the period (or the aggregate of the periods) mentioned in paragraph (8)(b) and, accordingly is taken into consideration in Step 2 in paragraph (7), and
  - (b) P’s reckonable service in office A is to be apportioned between the first and the second offices in the same proportion as that between the period P held the first office and the period P held the second office.

### **Retirement between the ages of 60 and 65: entitlement to reduced pension**

14.—(1) This regulation applies where—

- (a) a member (“P”) retires (whether before, on or after the commencement day); and
  - (b) on the day on which P retires, P—
    - (i) has reached the age of 60 but not the age of 65, and
    - (ii) has at least 5 years’ qualifying judicial service.
- (2) On the pension start day, P becomes entitled to the payment for life of a pension.
- (3) In this regulation “the pension start day” means—
- (a) the day after that on which P retires; or
  - (b) if later, the commencement day.

### **Retirement under age of 60 on removal from judicial office: entitlement to reduced pension**

15.—(1) This regulation applies where—

- (a) a member (“P”) retires (whether before, on or after the commencement day) by virtue of having been removed from all judicial offices held by P;
  - (b) on the day on which P retires, P has not reached the age of 60; and
  - (c) the appropriate Minister recommends to the administrators that P’s accrued rights under the principal scheme be given immediate effect.
- (2) The administrators must notify P of the recommendation under paragraph (1)(c).
- (3) If P elects in writing to the administrators within 3 months of receiving the notice that P wishes to receive benefits under this regulation—
- (a) P becomes entitled, on the day on which the administrators receive the election, to the payment for life of a pension; and
  - (b) P also becomes entitled, on that day, to the amount P would have been entitled to if P had been entitled under this regulation to the payment of a pension in respect of the period beginning with the pension start day and ending with the day before the day mentioned in sub-paragraph (a).
- (4) In this regulation “the pension start day” means—
- (a) the day after that on which P retires; or
  - (b) if later, the commencement day.

### **Annual rate of reduced pension**

16.—(1) The annual rate of a pension to which a member (“P”) becomes entitled under regulation 14 or 15 is determined under paragraph (3), (5) or (7) (whichever applies).

(2) Paragraph (3) applies where, on retirement, P has reckonable service in only one eligible fee-paid judicial office (“the relevant office”).

(3) The annual rate is determined in accordance with the following formula—

$$\left( \frac{R}{40} \right) \times \left( A + \left( \frac{B}{365} \times (C - A) \right) \right)$$

where—

- (a) R is P’s reckonable service in the relevant office;
- (b) S is the appropriate annual salary of the judicial office held by P immediately before retirement;

- (c) A is the actuarial reduction factor set out in the Table corresponding to P's age on P's birthday preceding the retirement day;
  - (d) B is the number of days in the period beginning with P's birthday preceding the retirement day and ending with the retirement day;
  - (e) C is the actuarial reduction factor set out in the Table appropriate to P's age on P's birthday following the retirement day.
- (4) Paragraph (5) applies where—
- (a) on retirement, P has reckonable service in more than one eligible fee-paid judicial office; and
  - (b) P did not, at any time before retirement, hold two or more eligible fee-paid judicial offices simultaneously.
- (5) The annual rate is determined in accordance with the following formula—

$$\left( \frac{AR}{40} \times S \right) \times \left( A + \left( \frac{B}{365} \times (C - A) \right) \right)$$

where—

- (a) AR is the aggregate length of P's reckonable service in eligible fee-paid judicial offices;
  - (b) S is the appropriate annual salary of the judicial office held by P immediately before retirement;
  - (c) A is the actuarial reduction factor set out in the Table corresponding to P's age on P's birthday preceding the retirement day;
  - (d) B is the number of days in the period beginning with P's birthday preceding the retirement day and ending with the retirement day;
  - (e) C is the actuarial reduction factor set out in the Table appropriate to P's age on P's birthday following the retirement day.
- (6) Paragraph (7) applies where—
- (a) on retirement P has reckonable service in more than one eligible fee-paid judicial office ("the relevant offices"); and
  - (b) at any time before retirement, P held two or more relevant offices simultaneously.
- (7) The annual rate is determined by taking the following steps:

*Step 1*

Determine the annual rate under paragraph (3), in relation to each relevant office which P held simultaneously, as if—

- (i) that office were the only office in which P had reckonable service on retirement (except in determining the maximum amount in relation to that office under regulation 5), and
- (ii) P held that office (and held no other judicial office) immediately before retirement.

*Step 2*

Determine the annual rate under paragraph (5), in relation to those relevant offices which P did not hold simultaneously with another judicial office, and for these purposes, in paragraph (5) S is—

- (i) where P held a single judicial office immediately before retirement, the appropriate annual salary of that judicial office;
- (ii) where P held more than one judicial office immediately before retirement, the highest appropriate annual salary of those offices.

*Step 3*

Add together each of the rates found under Step 1 and the rate found under Step 2.

- (8) In this regulation—
- (a) “the retirement day” means the day on which P retires;
  - (b) “the Table” means the Table in the Schedule to the Judicial Pensions (Miscellaneous) Regulations 1995(1), as it has effect on the retirement day.
- (9) Paragraph (10) applies where—
- (a) during one or more parts of the period for which P held an eligible fee-paid judicial office (“office A”), P held one or more other eligible fee-paid judicial offices simultaneously, and
  - (b) during one or more parts of that period P held no eligible fee-paid judicial office other than office A.
- (10) For the purposes of paragraph (7)—
- (a) office A is to be treated as two different relevant offices—
    - (i) the first of which (“the first office”) is held for the period (or the aggregate of the periods) mentioned in paragraph (9)(a), and accordingly, is taken into consideration in Step 1 in paragraph (7), and
    - (ii) the second of which (“the second office”) is held for the period (or the aggregate of the periods) mentioned in paragraph (9)(b) and, accordingly is taken into consideration in Step 2 in paragraph (7), and
  - (b) P’s reckonable service in office A is to be apportioned between the first and the second offices in the same proportion as that between the period P held the first office and the period P held the second office.

**Retirement under the normal pension age: entitlement to preserved pension**

- 17.—(1) This regulation applies where—
- (a) a member (“P”) retires (whether before, on or after the commencement day);
  - (b) if P retires by virtue of having been removed from all judicial offices held by P—
    - (i) the appropriate Minister makes a recommendation under regulation 15(1)(c), and
    - (ii) P does not make an election under regulation 15(3); and
  - (c) on the day on which P retires, P—
    - (i) has not reached normal pension age,
    - (ii) has at least 2 years’ qualifying judicial service; and
    - (iii) is not entitled to a pension under regulation 14.
- (2) On the pension start day, P becomes entitled to the payment for life of a pension.
- (3) In this regulation “the pension start day” means—
- (a) the day on which P—
    - (i) reaches the age of 65, or
    - (ii) (if later) would have completed five years’ qualifying judicial service, if P had continued to hold a judicial office; or
  - (b) if later, the commencement day.

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(1) [S.I. 1995/632](#). The Table in the Schedule to these Regulations was substituted by [S.I. 2015/533](#).

**Annual rate of preserved pension**

**18.**—(1) The annual rate of a pension to which a member (“P”) is entitled under regulation 17 is determined under paragraph (3) or (5) (whichever applies).

(2) Paragraph (3) applies where, on retirement—

- (a) P has reckonable service in one or more eligible fee-paid judicial offices, and
- (b) P did not, at any time before retirement, hold two or more eligible fee-paid judicial offices simultaneously.

(3) The annual rate is determined in accordance with the following formula—

$$\left( \frac{R}{40} \times S \right) \times \frac{Z}{Z + Y}$$

where—

(a) R is the maximum amount of reckonable service which P would be able to accrue if P continued in eligible fee-paid judicial office until the date on which P reaches normal pension age, assuming that P would have accrued reckonable service each year until that date equal to—

$$\frac{N}{Z}$$

where—

- (i) N is the reckonable service which P accrued before the date on which P retired, calculated under regulation 5(1) as though regulation 5(2) did not apply;
- (ii) Z is the period, or the aggregate of the periods, expressed in years and any fraction of a year during which P held one or more eligible fee-paid judicial offices, disregarding any day in respect of which the conditions in regulation 4(2) (qualifying fee-paid days) are not met;
- (b) S is the appropriate annual salary of the judicial office held by P immediately before retirement;
- (c) Z has the meaning given in sub-paragraph (a)(ii);
- (d) Y is the period, expressed in years and any fraction of a year, beginning with the day on which P retired and ending with the day on which P reaches normal pension age.

(4) Paragraph (5) applies where—

- (a) on retirement P has reckonable service in more than one eligible fee-paid judicial office (“the relevant offices”), and
- (b) at any time before retirement, P held two or more relevant offices simultaneously.

(5) The annual rate is determined by taking the following steps—

*Step 1*

Determine the annual rate under paragraph (3) of this regulation in relation to those relevant offices which P did not hold simultaneously with another relevant office, and for these purposes, in paragraph (3)(b), S is—

- (i) where P held a single judicial office immediately before retirement, the appropriate annual salary of that judicial office;
- (ii) where P held more than one judicial office immediately before retirement, the highest appropriate annual salary of those offices.

*Step 2*

Determine the annual rate under paragraph (3) of this regulation, in relation to each relevant office which P held simultaneously, as if—

- (i) that office were the only office in which P had reckonable service on retirement (except in determining the maximum amount in relation to that office under regulation 5), and
- (ii) P held that office (and held no other judicial office) immediately before retirement.

*Step 3*

Add together the rate found under Step 1 and each of the rates found under Step 2.

- (6) Paragraph (7) applies where—
  - (a) during one or more parts of the period for which P held an eligible fee-paid judicial office (“office A”), P held one or more other eligible fee-paid judicial offices simultaneously, and
  - (b) during one or more parts of that period P held no eligible fee-paid judicial office other than office A.
- (7) For the purposes of paragraph (5)—
  - (a) office A is to be treated as two different relevant offices—
    - (i) the first of which (“the first office”) is held for the period (or the aggregate of the periods) mentioned in paragraph (6)(a), and accordingly, is taken into consideration in Step 1 in paragraph (5), and
    - (ii) the second of which (“the second office”) is held for the period (or the aggregate of the periods) mentioned in paragraph (6)(b) and, accordingly is taken into consideration in Step 2 in paragraph (5); and
  - (b) P’s reckonable service in office A is to be apportioned between the first and the second offices in the same proportion as that between the period P held the first office and the period P held the second office.

**Retirement aged 65 or over due to ill-health: entitlement to ill-health ordinary pension**

- 19.**—(1) This regulation applies where—
- (a) a member (“P”) retires (whether before, on or after the commencement day);
  - (b) on the day on which P retires, P—
    - (i) has reached the age of 65; and
    - (ii) has less than 5 years’ qualifying judicial service; and
  - (c) the ill-health certification condition is met in relation to P.
- (2) On the pension start day, P becomes entitled to the payment for life of a pension.
- (3) In this regulation “the pension start day” means—
- (a) the day after that on which P retires, or
  - (b) if later, the commencement day.

**Annual rate of ill-health ordinary pension**

**20.** Regulation 13 applies in relation to the annual rate of a pension to which a member becomes entitled under regulation 19 as it applies in relation to the annual rate of a pension to which a member becomes entitled under regulation 12.

**Retirement under 65 due to ill-health: entitlement to ill-health enhanced pension**

- 21.**—(1) This regulation applies where—

- (a) a member (“P”) retires (whether before, on or after the commencement day);
  - (b) on the day on which P retires, P has not reached the age of 65; and
  - (c) the ill-health certification condition is met in relation to P.
- (2) On the pension start day, P becomes entitled to the payment for life of a pension.
- (3) In this regulation “the pension start day” means—
- (a) the day after that on which P retires, or
  - (b) if later, the commencement day.
- (4) Where, apart from this paragraph, P would be entitled to—
- (a) a pension under this regulation, and
  - (b) a pension under—
    - (i) regulation 14 (retirement between the ages of 60 and 65: entitlement to reduced pension),
    - (ii) regulation 15 (retirement under the age of 60 due to removal from judicial office: entitlement to reduced pension), or
    - (iii) regulation 17 (retirement under the normal pension age: entitlement to preserved pension),

P is not entitled to any pension mentioned in sub-paragraph (b).

#### **Annual rate of ill-health enhanced pension**

**22.**—(1) The annual rate of a pension to which a member (“P”) becomes entitled under regulation 21 is determined in accordance with the following steps.

##### *Step 1*

Determine the annual rate of the pension to which P is entitled under regulation 13.

##### *Step 2*

Determine the annual rate of the enhancement (see paragraph (2)).

##### *Step 3*

Add together the rate determined under Step 1, and the rate determined under Step 2.

(2) Subject to paragraph (3), the annual rate of the enhancement is determined in accordance with the following formula—

$$\frac{E}{40} \times S$$

where—

- (a) E is the smaller of—
  - (i) the service enhancement (see paragraph (4)), and
  - (ii) the amount determined in accordance with the formula  $20 - (AR + Z)$ ;
- (b) AR is the aggregate length of P’s reckonable service in eligible fee-paid judicial offices (including any eligible fee-paid judicial office in respect of which P has taken partial retirement);
- (c) Z is —
  - (i) where P is not entitled to a pension under Part 1 of the Judicial Pensions and Retirement Act 1993 on the date P retires, nil;

- (ii) otherwise, the smaller of—
    - (aa) the aggregate length of P’s service in qualifying judicial office (within the meaning of that Part of that Act), and
    - (bb) 20;
  - (d) S is—
    - (i) where P held a single judicial office immediately before retirement, the appropriate annual salary of that judicial office;
    - (ii) where P held more than one judicial office immediately before retirement, the highest appropriate annual salary of those offices.
- (3) Where the judicial office (or one of the judicial offices) held by P immediately before retirement was an office specified in Schedule 1 to the Judicial Pensions and Retirement Act 1993(2), the annual rate of the enhancement determined under Step 2 is to be nil.

(4) The service enhancement is determined in accordance with the following formula—

$$F \times \frac{X}{Y}$$

where—

- (a) F is the period, expressed in years and any fraction of a year, which is one half of the period—
  - (i) beginning with the day after that on which P retires, and
  - (ii) ending with the day on which P would reach normal pension age;
- (b) X is the aggregate length of P’s reckonable service in eligible fee-paid judicial offices (including any eligible fee-paid judicial offices in respect of which P has taken partial retirement) determined in accordance with the formula in regulation 5(1) as though regulation 5(2) does not apply;
- (c) Y is the period, or the aggregate of the periods, expressed in years and any fraction of a year, during which P held one or more eligible fee-paid judicial offices, disregarding any day in respect of which the conditions in regulation 4(2) (qualifying fee-paid days) are not met.

### **Ill-health certification condition**

**23.**—(1) The ill-health certification condition is met in relation to a member (“P”) if the appropriate Minister—

- (a) has received a medical certificate—
  - (i) stating that P has suffered a permanent breakdown in health that makes P incapable of discharging the duties of the judicial office or offices which P held immediately before retirement; or
  - (ii) (where P retired due to ill-health before the commencement day), stating that at the date on which P had retired, P had suffered a permanent breakdown in health that made P incapable of discharging the duties of the judicial office or offices which P held immediately before retirement;
- (b) is satisfied as to the matters contained in that certificate; and
- (c) has, where the appropriate Minister is the Lord Chancellor, consulted—
  - (i) the Lord Chief Justice of England and Wales (if P held a judicial office in England and Wales);

(ii) the Lord Chief Justice of Northern Ireland (if P held a judicial office in Northern Ireland).

(2) For the purposes of this regulation P's breakdown in health is "permanent" if it is likely to continue until—

- (a) the day on which P reaches the age of 65; or
- (b) if later, the day on which, if P had not retired, P would have completed 5 years' qualifying judicial service.

(3) The Lord Chief Justice of England and Wales may nominate a judicial office holder (as defined in section 109(4) of the Constitutional Reform Act 2005<sup>(3)</sup>) to exercise any of his or her functions under this regulation.

(4) The Lord Chief Justice of Northern Ireland may nominate—

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002<sup>(4)</sup>, or
- (b) a Lord Justice of Appeal (as defined in section 88 of that Act<sup>(5)</sup>),

to exercise any of his or her functions under this regulation.

#### **Times at which pension under this Part is payable**

**24.** A pension under this Part is payable at such intervals, not exceeding 3 months, as the Treasury may determine.

#### **Lump sum: entitlement and amount**

**25.—**(1) This regulation applies where a member ("P") retires on or after the commencement day, and becomes entitled to the payment of a pension under this Part.

(2) At the time P becomes entitled to the payment of the pension, P becomes entitled to a lump sum.

(3) The amount of the lump sum is to be determined in accordance with the following formula—

$$A \times 2.25$$

where A is the annual rate of the pension payable to P under this Part.

#### **Multiple retirements**

**26.—**(1) This regulation applies where a member ("P") retires and subsequently resumes judicial office.

(2) The resumption of judicial office does not affect the entitlement of P to any payment under the principal scheme in respect of any period before the resumption.

(3) No amounts are payable to or in respect of P under the principal scheme as a result of the retirement mentioned in paragraph (1) in respect of any period after the resumption.

(4) On P's retirement after resuming judicial office—

- (a) P's entitlement (and that of any other person) to any payment under the principal scheme; and

(3) 2005 c.4. Section 109 was amended by paragraph 63 of Schedule 8 to the Tribunals, Courts and Enforcement Act 2007 (c.15).

(4) 2002 c.26. Schedule 1 was amended by paragraph 122 of Schedule 5 to the Constitutional Reform Act 2005 (c.4); paragraph 35 of Schedule 4 to the Northern Ireland Act 2009 (c.3); Part 1 of Schedule 23 to the Tribunals, Courts and Enforcement Act 2007; S.I. 2005/1117; S.I. 2009/56; S.R. 2006/469.

(5) Section 88 was amended by paragraph 14(3) of the Schedule to the Department of Justice Act (Northern Ireland) 2010 (c.3) and paragraph 2 of Schedule 6 to the Public Services Ombudsman Act (Northern Ireland) 2016 (c.4 (N.I.)).

(b) the rate or amount of any such payment,  
are (subject to paragraph (5)) to be determined as if no amounts had previously been paid under the principal scheme as a result of the retirement mentioned in paragraph (1).

(5) A person to whom a lump sum is paid under the principal scheme as a result of the retirement mentioned in paragraph (1) is not required to refund the lump sum; but if the whole or any part of it is not refunded, an amount equal to so much of it as has not been refunded is to be deducted from any lump sum which subsequently becomes payable to or in respect of that person under the principal scheme.