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## STATUTORY INSTRUMENTS

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# 2022 No. 319

## The Judicial Pensions Regulations 2022

### PART 4

#### Scheme membership

#### CHAPTER 1

#### Eligibility for active membership

#### Qualifying judicial office

7. For the purpose of these Regulations, a person who is appointed to an office specified in an order made under paragraph 2 of Schedule 1 (judiciary) to the Act is in a qualifying judicial office.

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#### Commencement Information

**I1** Reg. 7 in force at 1.4.2022, see [reg. 1\(4\)](#)

#### Eligible persons

8.—(1) For the purposes of this Part, an eligible person is a person who is eligible to be an active member of this scheme.

(2) A person who begins service in a qualifying judicial office (P) becomes an eligible person in relation to that service unless paragraph (3) applies.

(3) This paragraph applies if the terms of P's office exclude P from being an active member of this scheme.

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#### Commencement Information

**I2** Reg. 8 in force at 1.4.2022, see [reg. 1\(4\)](#)

#### Service in two or more qualifying judicial offices

9. If a person is in service in two or more qualifying judicial offices, regulation 8 applies separately in relation to each office.

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#### Commencement Information

**I3** Reg. 9 in force at 1.4.2022, see [reg. 1\(4\)](#)

## CHAPTER 2

### Pensionable service

#### Application of Chapter

**10.**—(1) This Chapter applies in relation to a continuous period of service in a qualifying judicial office.

(2) If a person is in service in two or more qualifying judicial offices, this Chapter applies separately in relation to each of the offices.

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#### Commencement Information

**I4** Reg. 10 in force at 1.4.2022, see [reg. 1\(4\)](#)

#### Enrolment

**11.** A person (P) begins pensionable service under this scheme in relation to a qualifying judicial office on the first day on which P becomes an eligible person in relation to service in that office unless regulation [13](#) (opting out before the end of one month) applies.

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#### Commencement Information

**I5** Reg. 11 in force at 1.4.2022, see [reg. 1\(4\)](#)

#### Opting out of this scheme

**12.**—(1) A person (P) opts out of this scheme in relation to service in a qualifying judicial office if P opts not to be an active member of this scheme in relation to that service.

(2) P may only exercise the option under paragraph (1) by notice to the scheme manager in a form required by the scheme manager (“opt-out notice”).

(3) The option is taken to be exercised on the date on which the opt-out notice is received by the scheme manager.

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#### Commencement Information

**I6** Reg. 12 in force at 18.3.2022, see [reg. 1\(2\)](#)

#### Opting out before the end of one month

**13.**—(1) This regulation applies if a person (P) opts out of this scheme in relation to a continuous period of service in a qualifying judicial office before the end of one month after P’s first day of a continuous period of service in that office (or within any longer period the scheme manager considers appropriate).

(2) If this regulation applies, P is taken never to have been in pensionable service under this scheme in relation to the continuous period of service in that office.

**Commencement Information**

**17** Reg. 13 in force at 1.4.2022, see [reg. 1\(4\)](#)

**Opting out after one month**

**14.**—(1) This regulation applies if a person (P) opts out of this scheme in relation to a continuous period of service in a qualifying judicial office not less than one month after P’s first day of a continuous period of service in that office.

(2) If P opts out of this scheme by opt-out notice, P ceases to be in pensionable service under this scheme in relation to that office—

- (a) on the first day of the first pay period beginning on or after the date on which the option is exercised; or
- (b) if the scheme manager considers that day inappropriate, on the first day of any later pay period the scheme manager considers appropriate.

**Commencement Information**

**18** Reg. 14 in force at 1.4.2022, see [reg. 1\(4\)](#)

**Opting into this scheme**

**15.**—(1) A person (P) who, in relation to a qualifying judicial office, is an eligible person but is not in pensionable service under this scheme may opt to become an active member of this scheme in relation to service in that office.

(2) The option under this regulation may only be exercised by notice to the scheme manager in a form required by the scheme manager (“opt-in notice”).

(3) If P exercises the option under this regulation in relation to service in a qualifying judicial office, P is taken to exercise that option on the date on which the opt-in notice is received by the scheme manager.

(4) If P opts out of this scheme within 12 months after opting in, P may not opt in again until after the end of that period of 12 months.

**Commencement Information**

**19** Reg. 15 in force at 1.4.2022, see [reg. 1\(4\)](#)

**CHAPTER 3**

**Pensionable earnings**

**Pensionable earnings**

**16.** For the purpose of calculating a member’s pension or other benefits under this scheme, the member’s pensionable earnings for any period are the sum of—

- (a) the member’s earnings for service in a qualifying judicial office for that period; and
- (b) any allowance granted on a permanent basis that the scheme manager determines to be pensionable earnings for that period.

### Commencement Information

**I10** Reg. 16 in force at 1.4.2022, see [reg. 1\(4\)](#)

### Meaning of “assumed pay”: salaried office holders

**17.**—(1) For the purpose of these Regulations, an active member of this scheme who is a salaried office holder (P) receives assumed pay in that office in respect of any period in which any of the circumstances in paragraph (3) apply (“period of assumed pay”).

(2) For the purpose of paragraph (1), “assumed pay” means the amount equal to the pensionable earnings that P would have received in that period if those circumstances had not applied.

(3) The circumstances are—

- (a) P is on sick leave on reduced pay;
- (b) P is on adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave;
- (c) P is receiving statutory pay; or
- (d) P is on secondment to a different employer under an arrangement providing for P to continue to be an active member of this scheme in relation to P’s service although P is paid by that employer.

### Commencement Information

**I11** Reg. 17 in force at 1.4.2022, see [reg. 1\(4\)](#)

### Meaning of “assumed pay”: fee-paid office holders

**18.**—(1) Where a fee-paid office holder holds more than one judicial office, this regulation applies separately in relation to each office held.

(2) For the purpose of these Regulations, an active member of this scheme who is a fee-paid office holder (P) receives assumed pay in respect of any period in which any of the circumstances in paragraph (5) apply (“period of assumed pay”).

(3) For the purposes of paragraph (2), “assumed pay” means an amount of pensionable earnings for the period in question based upon the annualised amount calculated in accordance with paragraph (4).

(4) For the purposes of paragraph (3), the amount of pensionable earnings that P receives in respect of a particular office is calculated as follows—

Z per annum, where:

$$Z = \frac{J}{K}$$

where—

J means the total fee-paid income in respect of that particular office over the preceding three years, or, if less than three years, over the period since the first sitting day in that particular office;

“preceding three years” means the period of three years ending with the day before the period of assumed pay;

“period since the first sitting day in that particular office” means the period beginning with the first day in the particular office and ending with the day before the beginning of the period of assumed pay;

K means the lesser of—

- (a) 3; or
- (b) the period in years (and a fraction of a year, determined by complete months) from the first sitting day in that particular office until the beginning of the period of assumed pay;

“complete month” includes an incomplete month that consists of at least 16 days; and

Z means the annualised total of fees from that particular office.

(5) The circumstances are—

- (a) P is on sick leave on reduced pay;
- (b) P is on adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave;
- (c) P is receiving statutory pay; or
- (d) P is on secondment to a different employer under an arrangement providing for P to continue to be an active member of this scheme in relation to P’s service although P is paid for by that employer.

(6) In this regulation, where P holds multiple assignments within the First-tier Tribunal or the Upper Tribunal, references to an office are to be taken as references to an assignment to a particular chamber.

**Commencement Information**

**I12** Reg. 18 in force at 1.4.2022, see [reg. 1\(4\)](#)

CHAPTER 4

Deferred membership

**Meaning of “deferred member”**

**19.** A person (P) becomes a deferred member of this scheme in relation to a continuous period of pensionable service under this scheme if—

- (a) P ceases to be an active member of this scheme in relation to that period of service;
- (b) P does not become a pensioner member of this scheme in relation to that period of service; and
- (c) where P is not over normal pension age, P has at least two years’ qualifying service.

**Commencement Information**

**I13** Reg. 19 in force at 1.4.2022, see [reg. 1\(4\)](#)

**Refund of all member contributions made by the member**

**20.—(1)** Member contributions made by the member are only refundable if—

- (a) regulation 13 (opting out before the end of one month) applies; or
- (b) the member ceases to be in pensionable service under this scheme and—

- (i) the member has less than two years' qualifying service; and
- (ii) the member has not reached normal pension age under this scheme.

(2) If all member contributions made by the member are refunded under this regulation, the member's rights under this scheme are extinguished.

(3) For the purposes of this regulation a refund of contributions may be made (at the election of the member)—

- (a) by payment to the member; or
- (b) by payment to a registered pension scheme.

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**Commencement Information**

**I14** Reg. 20 in force at 1.4.2022, see [reg. 1\(4\)](#)

**Changes to legislation:**

There are currently no known outstanding effects for the The Judicial Pensions Regulations 2022, PART 4.