

Regulations laid before Parliament under section 107 of the Public Service Pensions and Judicial Offices Act 2022, for approval by resolution of each House of Parliament within 28 days beginning with the day on which the Regulations were made, subject to extension for periods of dissolution, prorogation or adjournment during which either House is adjourned for more than four days.

STATUTORY INSTRUMENTS

2022 No. 319

PUBLIC SERVICE PENSIONS

The Judicial Pensions Regulations 2022

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Coming into force in accordance with regulation 1

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The Lord Chancellor makes the following Regulations in exercise of the powers conferred by sections 1(1) and (2)(b)(a), 2(1), 3(1), (2), (3), (4) and (4A), 8(1)(a)(b), 11(1)(a), 12(1), (1A), (6) and (7), 12A(1) and 39(1) of, and paragraph 2 of Schedule 2, Schedule 3, and paragraphs 1(2)(ii) and 5(1) of Schedule 7 to, the Public Service Pensions Act 2013(c) (“the 2013 Act”).

The Lord Chancellor and Secretary of State also make the following Regulations in exercise of the power conferred by paragraph 2 of Schedule 1 to the 2013 Act.

In accordance with section 21 and paragraph 2(2) to Schedule 2 of the 2013 Act, the Lord Chancellor has consulted the Secretary of State and representatives of such persons as appear to the Lord Chancellor likely to be affected by these Regulations.

In accordance with section 3(5) of the 2013 Act, the Lord Chancellor obtained the consent of the Treasury before making these Regulations.

The Lord Chancellor has had regard to the matters referred to in section 5(3) of the 2013 Act.

PART 1

Preliminary

Citation and commencement

1.—(1) These Regulations may be cited as the Judicial Pensions Regulations 2022.

(2) Parts 1 and 3, regulation 12, and paragraph 4(13) of Schedule 3 and regulation 137 insofar as it relates to that sub-paragraph come into force on the day after the day on which they are made.

(3) Regulations 132(1), (3) and (4) and Schedule 2 come into force in respect of an office specified in that Schedule on the same day as sections 123 and 124 of the Public Service Pensions and Judicial Offices Act 2022(d) come into force for all purposes in respect of that office.

(4) The remaining provisions come into force on 1st April 2022.

Interpretation

2. In these Regulations—

“the Act” means the Public Service Pensions Act 2013;

“the 2015 Regulations” means the Judicial Pensions Regulations 2015(e);

(a) See also section 1(3) and Schedule 1.

(b) See also section 8(2)(a) and (4).

(c) 2013 c. 25.

(d) 2022 c. 7.

(e) S.I. 2015/182 as amended by S.I. 2017/508 and S.I. 2021/36.

“the 2015 scheme” means the scheme established by the Judicial Pensions Regulations 2015;

“FA 2004” means the Finance Act 2004(a);

“FPJR 2017” means the Judicial Pensions (Fee-Paid Judges) Regulations 2017(b);

“PIA 1971” means the Pensions (Increase) Act 1971(c);

“PSA 1993” means the Pension Schemes Act 1993(d);

“PA 1995” means the Pensions Act 1995(e);

“WRPA 1999” means the Welfare Reform and Pensions Act 1999(f);

“accrued pension” means—

(a) in relation to another pension scheme, accrued rights to benefits under that scheme which are the equivalent of accrued standard earned pension under this scheme; and

(b) in relation to this scheme, accrued standard earned pension (if any);

“accrued rights”, in relation to benefits under this scheme, does not include a right to benefits attributable (directly or indirectly) to a pension credit;

“accrued standard earned pension”—

(a) for the purpose of calculating the amount of full retirement pension or the provisional amount of deferred pension, has the meaning given in regulation 24(2) (calculation of amount of accrued standard earned pension for purpose of deferment or full retirement);

(b) for the purpose of calculating the amount of partial retirement pension, has the meaning given in regulation 25(2) (calculation of amount of accrued standard earned pension for purpose of partial retirement);

“active member”, in relation to this scheme, means a person who is in pensionable service under this scheme or a person on unpaid leave;

“active member’s account” has the meaning given in regulation 29(2) (establishment of active member’s account);

“actuarial guidance” means guidance given by the scheme manager after consultation with the scheme actuary;

“actuarial reduction” in relation to reduction of pension payable to a member who has not reached normal pension age, means a reduction determined by the scheme manager after consultation with the scheme actuary or taking into account tables prepared by the scheme actuary;

“additional maternity leave” has the meaning given in regulation 2(1) (interpretation) of the Maternity and Parental Leave etc. Regulations 1999(g);

“additional paternity leave” has the meaning given in regulation 2(1) (interpretation) of the Additional Paternity Leave Regulations 2010(h);

“adoption leave” means ordinary adoption leave under section 75A (ordinary adoption leave), or additional ordinary adoption leave under section 75B (additional adoption leave), of the Employment Rights Act 1996(i);

“age addition” has the meaning given in regulation 22(3) (determination of “the age addition”);

(a) 2004 c. 12.

(b) S.I. 2017/522 as amended by S.I. 2018/1413; S.I. 2018/1149; S.I. 2019/781; S.I. 2020/386 and S.I. 2021/444.

(c) 1971 c. 56.

(d) 1993 c. 48.

(e) 1995 c. 26.

(f) 1999 c. 30.

(g) S.I. 1999/3312.

(h) S.I. 2010/1055.

(i) 1996 (c. 18); sections 75A and 75B were inserted by the Employment Act 2002, section 3 and amended by the Work and Families Act 2006, Schedule 1, paragraphs 33 and 34 and the Children and Families Act 2014, sections 118(1), (4) and (5), 121(1) and 122(1) and (2).

“allocation amount” means the amount of pension allocated as a result of making an allocation election;

“allocation election” means an election under regulation 63(2) (allocation election);

“amount of credited pension” means an amount equal to the pension credit calculated in accordance with regulations made under paragraph 5(b) of Schedule 5 (pension credits: mode of discharge) to WRPA 1999;

“amount of earned pension”, in relation to a scheme year, means an amount calculated in accordance with regulation 30(3) (amount of pension for a scheme year);

“annual rate”—

(a) in relation to standard earned pension, has the meaning given in Chapters 2 (regulations 48 and 49) and 3 (regulations 53 and 54) of Part 6 (retirement benefits); and

(b) in relation to pensionable earnings, means the amount of pensionable earnings payable for a scheme year;

“appropriate Minister” means—

(a) in relation to any qualifying judicial office whose jurisdiction is exercised exclusively in relation to Scotland, the Secretary of State; or

(b) subject to paragraph (a) above, the Lord Chancellor;

“assignment”, in relation to this scheme, means the assigning of a member in accordance with paragraph 9 of Part 2 of Schedule 4 to the Tribunals, Courts and Enforcement Act 2007(a);

“assumed age addition” has the meaning given in regulation 23(3) (determination of “the assumed age addition”);

“assumed pay” has the meaning given in regulation 17(2) (in respect of salaried office holders) and regulation 18(3) (in respect of fee-paid office holders);

“the beginning date”, in relation to a pension not attributable (directly or indirectly) to a pension credit, means the date on which the pension is deemed to begin for the purpose of section 8(2) (meaning of “pension” and other supplementary provisions) of PIA 1971(b);

“beneficiary”, in relation to a deceased member, means the surviving adult or eligible child of the member;

“closing date” in relation to a transition member, has the meaning given in paragraph 1 of Schedule 1(c);

“the commutation amount” means the amount of pension exchanged for a lump sum as a result of the exercise of the commutation option;

“commutation option” means the option to exchange part of a pension for a lump sum—

(a) exercisable under regulation 60 (option to commute part of pension) in relation to a retirement pension; or

(b) exercisable under regulation 72 (option for pension credit member to commute part of pension) in relation to a pension credit member’s pension;

“connected scheme” means another statutory pension scheme that is connected, within the meaning of section 4(6) (scheme manager) of the Act, with this scheme;

“continuity of service” has the meaning given in paragraph 2 of Schedule 1;

“continuous period of pensionable service” means a period of pensionable service under this scheme disregarding any gap in pensionable service not exceeding 5 years, unless otherwise provided;

(a) 2007 c. 15.

(b) Section 8(2) was amended by the Pensions (Miscellaneous Provisions) Act 1999 (c. 7) section 1(5) and the Welfare Reform and Pensions Act 1999 (c. 30) section 39(1) and (4).

(c) Under section 90(1) of the Public Service Pensions and Judicial Offices Act 2022, no benefits are to be provided under a pre-2022 scheme in relation to a person’s service after 31st March 2022.

“continuous period of service”, in relation to qualifying judicial office, means a period of service in one or more qualifying judicial offices disregarding any gap in service not exceeding 5 years;

“death benefits” means benefits payable under Part 8 (death benefits);

“deferred member” has the meaning given in regulation 19 (meaning of “deferred member”);

“deferred member’s account” has the meaning given in regulation 34(3) (establishment of deferred member’s account);

“dependant” has the meaning given in paragraph 15 of Schedule 28 to the FA 2004(a);

“dual capacity member” has the meaning given in regulation 118 (meaning of “dual capacity member”);

“early payment reduction” means the actuarial reduction that is applied when calculating the annual rate of pension payable to a member of this scheme who has not reached normal pension age under this scheme;

“eligible child” has the meaning given in regulation 87 (meaning of “eligible child”);

“eligible child’s pension” has the meaning given in regulation 86 (meaning of “eligible child’s pension”);

“employer” means the person responsible for the remuneration of a qualifying judicial officeholder;

“the Fee-Paid Judges Scheme” means the scheme established by Parts 1 to 11 of the FPJR 2017;

“fee-paid office” means an office where service is remunerated by payment of fees, as opposed to the payment of salary;

“full retirement account” has the meaning given in regulation 38(4) (establishment of full retirement account);

“full retirement pension” means full retirement standard earned pension;

“head of jurisdiction” means—

(a) in England and Wales, the Lord Chief Justice of England and Wales,

(b) in Scotland, the Lord President of the Court of Session, and

(c) in Northern Ireland, the Lord Chief Justice of Northern Ireland;

“ill-health pension” has the meaning given by regulation 56 (entitlement to ill-health pension);

“index adjustment” means, in relation to the opening balance of standard earned pension for any scheme year, the change in prices in the previous scheme year(b);

“Judicial Pension Board” means the Judicial Pension Board established by regulation 6(1) (Judicial Pension Board: establishment) of the 2015 Regulations;

“last active scheme year” means the scheme year in which an active member of this scheme ceases to be in pensionable service under this scheme;

“last day of pensionable service” means the last day of a continuous period of pensionable service under this scheme;

“late payment supplement”, in relation to the provisional amount of deferred pension, means an additional amount of pension determined by the scheme manager after consulting the scheme actuary to be appropriate if a deferred member of this scheme is over normal pension age under this scheme before becoming entitled to the immediate payment of a full retirement pension;

“the leaving year” means the scheme year in which the relevant last day falls;

(a) 2004 (c. 12); paragraph 15 of Schedule 28 was amended by S.I. 2005/3229; paragraph 26 and 64(1) of Schedule 10 the Finance Act 2005 (c. 7) and paragraph 6(2) and (4) of Schedule 5 to the Finance Act 2016 (c. 24).

(b) Under section 9 of the Public Services Pension Act 2013 (c. 25), the change in prices to be applied in a period is the percentage increase or decrease as a Treasury order under that section may specify in relation to the period.

“lump sum death benefit” means a lump sum paid under Chapter 4 of Part 8 (payment of lump sum death benefits) on the death of a member;

“maternity leave” means ordinary maternity leave or additional maternity leave as defined in regulation 2(1) (interpretation) of the Maternity and Parental Leave etc. Regulations 1999(a);

“medical certificate” is a certificate prepared by a registered medical practitioner at the request of the scheme manager;

“member” means an active member, deferred member, pensioner member or pension credit member of this scheme;

“member contributions” has the meaning given in regulation 108 (rate of member contributions);

“normal minimum pension age” has the same meaning as in section 279(1) (other definitions) of FA 2004(b);

“normal pension age”, in relation to this scheme, is determined in accordance with section 10 (pensions age) of the Act;

“occupational pension scheme” has the meaning given in section 1 (categories of pension schemes) of PSA 1993;

“opening balance” has the meaning given in regulation 31(3) (opening balance);

“option proportion” has the meaning given in regulation 50(2)(c) (partial retirement option notice);

“ordinary maternity leave” has the meaning given in regulation 2(1) (interpretation) of the Maternity and Parental Leave etc. Regulations 1999;

“parental leave” means leave under regulation 13(1) (entitlement to parental leave) of the Maternity and Parental Leave etc. Regulations 1999;

“partial retirement account” has the meaning given in regulation 40(2) (establishment of partial retirement account);

“partial retirement option” means the option exercisable under regulation 49(2) (exercise of partial retirement option);

“partial retirement pension” means partial retirement standard earned pension;

“partially retired”, in relation to a member of this scheme, means a member who has exercised the partial retirement option;

“paternity leave” means leave under regulation 4 (entitlement to paternity leave: birth) or 8 (entitlement to paternity leave: adoption) of the Paternity and Adoption Leave Regulations 2002(c);

“pay period” means the period in respect of which a payment of pensionable earnings is made;

“pension credit” has the meaning given in section 124(1) (interpretation of Part 1) of PA 1995(d);

“pension credit member”, in relation to this scheme, means a person who has rights under this scheme which are attributable (directly or indirectly) to a pension credit under a pension sharing order following divorce or nullity of marriage;

“pension credit member’s account” has the meaning given in regulation 42 (establishment of pension credit member’s account);

“pension credit member’s pension” means a pension payable under regulation 68 (entitlement to pension credit member’s pension);

(a) S.I. 1999/3312, to which there are amendments not relevant to these Regulations.

(b) There are amendments to section 279(1) but none are relevant.

(c) S.I. 2002/2788. Regulations 4 and 8 were amended by S.I. 2005/2114.

(d) The definition of “pension credit” was inserted in section 124(1) by the Welfare Reform and Pensions Act 1999 (c. 30) Schedule 12 paragraph 61(3).

“pension debit” means a debit under section 29(1)(a) (creation of pension credits and debits) of WRPA 1999;

“pension debit member”, in relation to this scheme, means a person who is a member of this scheme whose benefits or future benefits under this scheme have been reduced under section 31 (reduction under pension sharing order following divorce or nullity of marriage) of WRPA 1999;

“pensionable earnings” has the meaning given in regulation 16 (pensionable earnings);

“pensioner member”, in relation to this scheme, means a person who is entitled to the immediate payment of a retirement pension under this scheme;

“pension sharing order” means any provision or order specified in section 28 (activation of pension sharing) of WRPA 1999(a);

“period of assumed pay” has the meaning given in regulation 17(1) (in relation to salaried office holders) and regulation 18(1) (in relation to fee-paid office holders);

“pre-2022 scheme” means—

- (a) a scheme mentioned in any of paragraphs 2 to 15 of Schedule 5 to the Act (judicial schemes);
- (b) a scheme mentioned in paragraph 2 of Schedule 5 to the Public Service Pensions Act (Northern Ireland) 2014(b);
- (c) the 2015 scheme;
- (d) the scheme established by the Judicial Pensions Regulations (Northern Ireland) 2015(c); or
- (e) the Fee-Paid Judges Scheme;

“prospective normal pension age”, in relation to a member’s prospective entitlement to benefits under this scheme, means the normal pension age that the scheme manager, by reference to Treasury directions(d) made under section 11(2) (valuations) of the Act, determines would apply in relation to those benefits;

“provisional amount of deferred pension” has the meaning given in regulation 35(2) (provisional amount of deferred pension);

“qualifying judicial office” has the meaning given in regulation 7 (qualifying judicial office);

“qualifying judicial service” has the meaning given in regulation 6 (qualifying judicial service) of the FPJR 2017;

“qualifying service” has the meaning given in regulation 45 (qualifying service);

“registered”, in relation to a pension scheme, means registered under Chapter 2 of Part 4 (registration of pension schemes) of FA 2004;

“the relevant last day”, in relation to a continuous period of pensionable service, means—

- (a) for a partially retired member, the day before the day on which the partial retirement option was exercised in accordance with regulation 50, or
- (b) the member’s last day of pensionable service;

“retirement index adjustment”, in relation to an opening balance, has the meaning given in regulation 21 (calculation of “retirement index adjustment”);

“retirement benefits” means benefits payable under Part 6 (retirement benefits);

“retirement pension” means any of the following—

- (a) a full retirement pension;

(a) Section 28 was amended by the Civil Partnership Act 2004 (c. 33) Schedule 27 paragraph 159 and the Pensions Act 2008 (c. 30) section 128(1) and (2).

(b) 2014 c. 2 (N.I.).

(c) S.R. 2015/76.

(d) The Public Service Pensions (Valuations and Employer Cost Cap) Directions 2014.

(b) a partial retirement pension;

(c) an ill-health pension;

“salaried office” means an office where service is remunerated by the payment of salary, as opposed to the payment of fees;

“this scheme” means the scheme established by these Regulations;

“scheme actuary” means the actuary appointed by the Lord Chancellor under regulation 117 (appointment of scheme actuary and actuarial valuations);

“scheme advisory board” means the scheme advisory board established by regulation 9(1) (scheme advisory board: establishment) of the 2015 Regulations;

“scheme closing date” means 31st March 2022(a);

“scheme manager” has the meaning given in regulation 4 (scheme manager) of the 2015 Regulations;

“scheme year” means a period of one year beginning with 1st April and ending with 31st March;

“standard earned pension” means pension which is earned under this scheme and which is payable without actuarial reduction at normal pension age;

“statutory pay” means—

(a) statutory adoption pay within the meaning of section 171ZL(1) (entitlement) of the Social Security Contributions and Benefits Act 1992(24)(b);

(b) statutory maternity pay within the meaning of section 164(1) (statutory maternity pay - entitlement and liability to pay) of the Social Security Contributions and Benefits Act 1992;

(c) statutory paternity pay within the meaning of section 171ZA(1) (entitlement: birth) or 171ZB(1) (entitlement: adoption) of the Social Security Contributions and Benefits Act 1992(c); or

(d) statutory shared parental pay within the meaning of section 171ZU (entitlement: birth) or section 171ZV (entitlement: adoption) of the Social Security Contributions and Benefits Act 1992(d);

“surviving adult”, in relation to a deceased member of this scheme, has the meaning given in regulation 76 (surviving adults);

“surviving adult’s pension” has the meaning given in regulation 78 (meaning of “surviving adult’s pension”);

“surviving civil partner” has the meaning given in regulation 76;

“surviving spouse” has the meaning given in regulation 76;

“tax year” means a period of one year which is the period of assessment for income tax purposes;

“total allocation amount”, in relation to an amount of retirement pension, means the total amount of that pension allocated under Chapter 6 of Part 6 (allocation of part of pension);

“transfer value” has the meaning given in regulation 110 (interpretation of Part);

“transfer value payment” means payment of a transfer value;

“transition member” has the meaning given in paragraph 1 of Schedule 1;

“trivial commutation lump sum” has the meaning given in paragraph 7 of Schedule 29 to the FA 2004.

-
- (a) Under section 90(1) of the Public Service Pensions and Judicial Offices Act, no benefits are to be provided under a pre-2022 scheme in relation to a person’s service after 31 March 2022.
- (b) 1992 (c. 4); section 171ZL was inserted by the Employment Act 2002 (c. 22) section 4.
- (c) Sections 171ZA and 171ZB were inserted by the Employment Act 2002 (c. 22) section 2. Subsections (1) of those sections were amended by the Work and Families Act 2006 (c. 18) Schedule 1 paragraphs 12 and 13.
- (d) Sections 171ZU and 171ZV were inserted by the Children and Families Act 2014 (c. 6) section 119(1).

PART 2

Establishment of the scheme

Establishment and scope

3. A career average revalued earnings scheme is established as a defined benefits scheme for the payment of pensions and other benefits to or in respect of—

- (a) the judiciary^(a), and
- (b) persons in respect of whom the Lord Chancellor makes a determination under section 25(5) (extension of schemes) of the Act.

PART 3

Governance

Scheme manager

4.—(1) Before exercising any discretion under these Regulations, the scheme manager must obtain a recommendation from the Judicial Pension Board.

(2) If the scheme manager exercises any discretion under these Regulations contrary to a recommendation made by the Judicial Pension Board, the scheme manager must provide written reasons for doing so to the Judicial Pension Board and to the member to whom the discretion relates (if any).

(3) The scheme manager and the Judicial Pension Board may agree that paragraphs (1) and (2) do not apply to specific discretions or in specific circumstances.

Delegation

5.—(1) The Lord Chancellor may delegate any functions under these Regulations, including this power.

(2) The scheme manager may delegate any functions under these Regulations, including this power.

(3) The Judicial Pension Board may delegate any functions under these Regulations.

Payment of fees and expenses

6. The Lord Chancellor may—

- (a) pay fees to or in respect of members of the Judicial Pension Board and the scheme advisory board of such amounts as the Lord Chancellor may determine; and
- (b) reimburse members of the Judicial Pension Board and the scheme advisory board in respect of any reasonable expenses incurred by them in the performance of their duties in relation to this scheme.

(a) ‘The judiciary’ is defined in paragraph 2(1) of Schedule 1 to the Act.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

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.

PART 5

Pension accounts

CHAPTER 1

Calculation of adjustments

Calculation of “retirement index adjustment”

21.—(1) The retirement index adjustment for an opening balance is—

(opening balance) x (retirement index percentage)

where “retirement index percentage” means the retirement index percentage calculated under paragraph (2).

(2) The retirement index percentage is—

$$\frac{A \times B}{12}$$

where—

A means the index adjustment that applies in relation to this scheme for the leaving year;

B is the number of complete months in the period between the beginning of the leaving year and the end of the relevant last day; and

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

Determination of “the age addition”

22.—(1) This regulation applies in relation to every scheme year in which an active member’s account is open that is subsequent to the scheme year in which the member reaches normal pension age under this scheme, other than—

- (a) the scheme year in which the account is established under this Part; and
- (b) the scheme year immediately following that.

(2) At the beginning of the scheme year the scheme manager having regard to actuarial guidance must determine the age addition to be awarded for that scheme year by reference to the opening balance of that account for the previous scheme year.

(3) In these Regulations, “the age addition” means an additional amount of pension determined by reference to the proportion of the previous scheme year in which a member had reached normal pension age under this scheme.

Determination of “the assumed age addition”

23.—(1) This regulation applies when a deferred member’s account, full retirement account or partial retirement account is established under this Part for a member who reaches normal pension age under this scheme at least one month before the relevant last day.

(2) For each description of accrued pension specified in the account, the scheme manager having regard to actuarial guidance must determine the assumed age addition to be awarded.

(3) In these Regulations, “the assumed age addition” means the age addition that would have been awarded for standard earned pension had the member not left pensionable service or not partially retired in the leaving year, determined by reference to the proportion of the leaving year for which the member was an active member of this scheme who had reached normal pension age under this scheme.

CHAPTER 2

Calculation of accrued pension

Calculation of amount of accrued standard earned pension for purpose of deferment or full retirement

24.—(1) For the purpose of calculating the amount of full retirement pension or the provisional amount of deferred pension, the amount of accrued pension is an amount calculated in accordance with this regulation.

(2) The amount of accrued standard earned pension is the total of the following amounts specified in the active member’s account as at the end of the relevant last day—

- (a) the sum of the opening balance of standard earned pension for the last active scheme year and the retirement index adjustment for that opening balance;
- (b) the amount of standard earned pension for the last active scheme year.

Calculation of amount of accrued standard earned pension for purpose of partial retirement

25.—(1) For the purpose of calculating the amount of partial retirement pension, the amount of accrued pension is an amount calculated in accordance with this regulation.

(2) The amount of accrued standard earned pension is the option proportion of the total of the following amounts specified in the active member’s account as at the end of the relevant last day—

- (a) the sum of the opening balance of standard earned pension for the leaving year and the retirement index adjustment for that opening balance;
- (b) the amount of standard earned pension for the leaving year.

CHAPTER 3

Pension accounts: general

Establishment of pension accounts: general

26.—(1) A pension account—

- (a) may be kept in any form the scheme manager considers appropriate; and
- (b) must specify the details required by these Regulations.

(2) References in these Regulations to any amount specified in a pension account are references to the amount that is required by these Regulations to be so specified and not, if different, the amount actually so specified.

Closure and adjustment of pension accounts on transfer out

27.—(1) Except as otherwise provided in this regulation, the scheme manager must close all pension accounts relating to a member of this scheme if—

- (a) a transfer value payment is made in respect of the member’s accrued rights under this scheme; or
- (b) all members’ contributions made by the member are refunded to the member under Part 9 (contributions).

(2) Paragraph (1) does not require the scheme manager to close an account that includes amounts to which the transfer value payment does not relate or is not attributable.

(3) An account that is not closed because of paragraph (2) must be adjusted as the scheme manager considers appropriate to reflect the extinguishment of rights under this scheme.

(4) Paragraph (1)(a) does not require the scheme manager to close a pension credit member’s account if the transfer value payment is made in respect of the accrued rights of a member who is both—

- (a) a pension credit member of this scheme; and
- (b) an active member, deferred member or pensioner member of this scheme.

CHAPTER 4

Active member’s account

Application of Chapter

28.—(1) This Chapter applies in relation to a continuous period of pensionable service under this scheme.

(2) For a person who is an active member of this scheme in relation to two or more continuous periods of pensionable service at the same time, this Chapter applies separately in relation to each of those periods of service.

Establishment of active member’s account

29.—(1) The scheme manager must establish a pension account for a member who is in pensionable service from the day on which the member begins pensionable service.

(2) For the purpose of these Regulations, an account established under paragraph (1) is called an active member’s account.

(3) Where a member holds multiple assignments within the First-tier Tribunal or the Upper Tribunal, the scheme manager must establish a pension account in respect of each assignment.

Amount of pension for a scheme year

30.—(1) This regulation applies in relation to every scheme year in which an active member’s account is open.

(2) The active member’s account must specify the amount of standard earned pension for the scheme year.

(3) The amount of earned pension for a scheme year is—

- (a) in relation to a member exercising the option mentioned in regulation 105 (rate of member contributions), 2.42% of the member’s pensionable earnings for that year; and
- (b) in relation to any other case, 2.5% of the member’s pensionable earnings for that year.

Opening balance

31.—(1) This regulation applies in relation to every scheme year in which an active member’s account is open other than the scheme year in which that account is established.

(2) The active member’s account must specify—

- (a) the opening balance for the scheme year and the index adjustment for the opening balance; and
- (b) if applicable, the age addition awarded at the beginning of the scheme year.

(3) In these Regulations, “opening balance”—

- (a) for the scheme year immediately following the scheme year in which the active member’s account is established, means the amount of pension for the previous scheme year as at the end of the previous scheme year; and
- (b) for any subsequent scheme year, means the sum of the following amounts—
 - (i) the opening balance of pension for the previous scheme year and the index adjustment for that opening balance;
 - (ii) the amount of pension for the previous scheme year as at the end of the previous scheme year; and
 - (iii) if applicable, the age addition awarded at the beginning of the previous scheme year.

Closure of active member’s account

32.—(1) The scheme manager must close an active member’s account in relation to a period of service when the scheme manager establishes in relation to that period of service—

- (a) a deferred member’s account under regulation 34 (establishment of deferred member’s account); or
- (b) a full retirement account under regulation 38 (establishment of full retirement account).

(2) The scheme manager must re-establish an active member’s account under this Chapter when the scheme manager closes a deferred member’s account under regulation 37 (closure of deferred member’s account after gap in pensionable service not exceeding 5 years).

CHAPTER 5

Deferred member’s account

Application of Chapter

33.—(1) This Chapter applies in relation to a continuous period of pensionable service under this scheme.

(2) For a person who is a deferred member of this scheme in relation to two or more continuous periods of pensionable service, this Chapter applies separately in relation to each of those periods of service.

Establishment of deferred member's account

34.—(1) This regulation applies when an active member of this scheme becomes a deferred member of this scheme.

(2) The scheme manager must—

- (a) close the active member's account for the period of service in relation to which the member becomes a deferred member; and
- (b) establish a pension account for the deferred member for that period of service.

(3) For the purpose of these Regulations, an account established under paragraph (2)(b) is called a deferred member's account.

Provisional amount of deferred pension

35.—(1) The deferred member's account must specify the provisional amount of deferred pension.

(2) The provisional amount of deferred pension is the sum of—

- (a) the amount of accrued standard earned pension calculated under regulation 24 (calculation of amount of accrued standard earned pension for purpose of deferment or full retirement) ("accrued amount"); and
- (b) the assumed age addition (if any) for the accrued amount.

Adjustment of provisional amount

36.—(1) This regulation applies when a deferred member of this scheme in relation to a period of service becomes entitled to the immediate payment of a full retirement pension for that period of service.

(2) For the provisional amount of deferred pension, the deferred member's account must specify—

- (a) the late payment supplement (if any);
- (b) the early payment reduction (if any);
- (c) the commutation amount (if any); and
- (d) the total allocation amount (if any).

Closure of deferred member's account after gap in pensionable service not exceeding 5 years

37.—(1) This regulation applies when a deferred member of this scheme in relation to a continuous period of pensionable service re-enters pensionable service under this scheme after a gap in pensionable service not exceeding 5 years.

(2) The scheme manager must—

- (a) close the deferred member's account in relation to that period of service and treat the deferred member's account as if it were never established;
- (b) re-establish the active member's account under Chapter 4 (active member's account) in relation to that period of service; and
- (c) make entries in the active member's account as if, during the gap in pensionable service, the member—
 - (i) was in pensionable service under this scheme; but
 - (ii) received no pensionable earnings.

CHAPTER 6

Full retirement account

Establishment of full retirement account

38.—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme.

(2) When an active member of this scheme becomes entitled to the immediate payment of a full retirement pension or an ill-health pension in relation to a continuous period of pensionable service under this scheme, the scheme manager must—

- (a) close the active member's account (or accounts, as the case may be) for that continuous period of pensionable service; and
- (b) establish an account (or accounts, as the case may be) for the pensioner member for that period of service.

(3) When an active member of this scheme exercises the partial retirement option in respect of the whole of the member's accrued pensions in one of their offices in relation to a continuous period of service and becomes entitled to the immediate payment of a full retirement pension in respect of the office or offices in which they are taking partial retirement, the scheme manager must—

- (a) close the active member's account (or accounts, as the case may be) for the period of earlier service;
- (b) establish an account (or accounts, as the case may be) for the pensioner member for that period of earlier service; and
- (c) establish a new active member's account (or accounts, as the case may be) under Chapter 4 (active member's account) for the member's continuing service as if the first day of pensionable service is the day after the option date.

(4) For the purpose of these Regulations, an account established for a member under paragraph (2)(b) or (3)(b) is called a full retirement account.

(5) In this regulation—

“continuing service” means pensionable service that continues in accordance with regulation 49(2) (exercise of partial retirement option) from the option date;

“option date” means the date on which the partial retirement option is exercised and the member becomes entitled to the immediate payment of a full retirement pension; and

“period of earlier service” means the continuous period of pensionable service ending on the option date.

Amount of full retirement pension

39.—(1) A full retirement account under regulation 38(4) must specify the amount of full retirement pension.

(2) The amount of full retirement pension is the sum of—

- (a) the amount of the accrued standard earned pension calculated under regulation 24 (“accrued amount”); and
- (b) the assumed age addition (if any) for the accrued amount.

(3) The full retirement account must specify—

- (a) the early payment reduction (if any);
- (b) the commutation amount (if any); and
- (c) the total allocation amount (if any).

CHAPTER 7

Partial retirement account

Establishment of partial retirement account

40.—(1) This regulation applies if an active member of this scheme (P) in relation to a continuous period of pensionable service in respect of a particular office—

- (a) exercises the partial retirement option in respect of part only of P's accrued pensions for that period of service; and
- (b) becomes entitled under regulation 51(a) (entitlement to partial retirement pension or full retirement pension) to the immediate payment of a partial retirement pension for that period of service.

(2) The scheme manager must—

- (a) establish a pensioner member's account ("the partial retirement account") for that period of service; and
- (b) adjust P's active member's account in accordance with paragraph (3).

(3) The amount of accrued pension for which a partial retirement option notice specifies an option proportion is reduced by that option proportion.

(4) After that adjustment, Chapter 4 (active member's account) applies in relation to P as if the amount of accrued pension for which a partial retirement option notice specifies an option proportion had always been reduced by that option proportion.

(5) In this regulation, "partial retirement option notice" means an option notice under regulation 50 (partial retirement option notice).

(6) Where P exercises a partial retirement option under paragraph (1)(a) in respect of a First-tier Tribunal or Upper Tribunal office in which P holds multiple assignments (and therefore multiple accounts in accordance with regulation 29(3) (establishment of active member's account)), paragraph (2) applies in respect of each account held.

Amount of partial retirement pension

41.—(1) Any partial retirement account must specify the amount of partial retirement pension.

(2) The amount of partial retirement pension is the sum of—

- (a) the amount of accrued standard earned pension calculated under regulation 24 (accrued amount); and
- (b) the assumed age addition (if any) for the accrued amount.

(3) The partial retirement account must specify—

- (a) the early payment reduction (if any);
- (b) the commutation amount (if any); and
- (c) the total allocation amount (if any).

CHAPTER 8

Pension accounts for pension credit members

Establishment of pension credit member's account

42.—(1) The scheme manager must establish a pension account for each pension credit member of this scheme ("the pension credit member's account").

(2) If a pension credit is derived from two or more pension debit members, the scheme manager must establish a pension credit member's account in relation to each pension debit member.

(3) The pension credit member's account must specify the amount of credited pension.

(4) On the establishment of the pension credit member's account, the accounts established under this Part for the pension debit member must be reduced by the relevant amount.

(5) In this regulation—

“relevant amount” is the amount that the scheme manager, after consultation with the scheme actuary, considers appropriate having regard to—

- (a) the cash equivalent that would have been payable under Chapter 2 of Part 4A (requirements relating to pension credit benefit: transfer values) of PSA 1993(a) had this scheme been a funded occupational pension scheme in respect of the pension credit member's right to benefits under this scheme attributable (directly or indirectly) to the pension credit; and
- (b) the provisions of sections 29 (creation of pension credits and debits) and 31 (reduction of benefit) of WRPA 1999.

Other pension accounts

43. If a pension credit member of this scheme is also an active member, deferred member or pensioner member of this scheme, the scheme manager must establish a pension credit member's account in addition to any other account established for the member under this Part.

PART 6

Retirement benefits

CHAPTER 1

General

Application of Part

44. This Part applies in relation to retirement benefits payable in respect of a continuous period of pensionable service under this scheme.

Qualifying service

45.—(1) In these Regulations, “qualifying service” means the total of—

- (a) any continuous period of pensionable service under this scheme;
- (b) for a transition member with continuity of service, the member's pensionable service under a pre-2022 scheme before the transition date for that member.

(2) None of the following counts as qualifying service—

- (a) any pensionable service under this scheme in respect of which a person's rights under this scheme are extinguished;
- (b) any pensionable service under a pre-2022 scheme in respect of which a person's rights under that scheme are extinguished;
- (c) any unauthorised absence from qualifying judicial office.

(3) In this regulation a reference to “pensionable service” in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service.

(a) Part 4A was inserted by the Welfare Reform and Pensions Act 1999 (c.30) section 37.

CHAPTER 2

Full retirement benefits

Entitlement to full retirement pension

46.—(1) A member of this scheme (P) is entitled to the immediate payment for life of a full retirement pension if—

- (a) P has reached normal minimum pension age;
- (b) subject to sub-paragraph (3), has ceased to be in qualifying judicial office; and
- (c) P has claimed payment of a full retirement pension.

(2) But if P has not reached normal pension age under this scheme, P is not so entitled unless P has at least two years' qualifying service.

(3) Where P exercises a partial retirement option under regulation 49(2) (exercise of partial retirement option), P is entitled to a full retirement pension under paragraph (1) in respect of the particular office or offices for which the option is being exercised, notwithstanding that P remains in qualifying judicial office.

(4) The claim for payment of a full retirement pension may only be made by notice to the scheme manager in a form required by the scheme manager.

(5) Where P resumes service in qualifying judicial office, this will not affect any entitlement under this regulation.

Annual rate of full retirement pension (active members)

47.—(1) This regulation applies when an active member of this scheme becomes entitled to the immediate payment of a full retirement pension in respect of a particular office.

(2) The annual rate of a full retirement pension payable to the member is calculated by—

- (a) taking the amount of that full retirement pension specified in the full retirement account;
- (b) subtracting the early payment reduction (if any) specified in that account in relation to that amount;
- (c) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (d) subtracting the total allocation amount (if any) specified in that account in relation to that amount.

(3) Where a member holds multiple accounts in respect of multiple assignments within the First-tier Tribunal or the Upper Tribunal, paragraph (2) applies in respect of each account held.

Annual rate of full retirement pension (deferred members)

48.—(1) This regulation applies when a deferred member of this scheme becomes entitled to the immediate payment of a full retirement pension in respect of a particular office.

(2) The annual rate of full retirement pension payable to the member is calculated by—

- (a) taking the provisional amount of deferred pension specified in the deferred member's account;
- (b) adding the late payment supplement (if any) specified in that account in relation to that provisional amount;
- (c) subtracting the early payment reduction (if any) specified in that account in relation to that amount;
- (d) subtracting the commutation amount (if any) specified in that account in relation to that amount; and
- (e) subtracting the total allocation amount (if any) specified in that account in relation to that amount.

(3) Where a member holds multiple accounts in respect of multiple assignments within the First-tier Tribunal or the Upper Tribunal, paragraph (2) applies in respect of each account held.

CHAPTER 3

Partial retirement benefits

Exercise of partial retirement option

49.—(1) This regulation applies if—

- (a) a person (P) is an active member of this scheme in relation to a continuous period of pensionable service;
- (b) P has reached normal minimum pension age;
- (c) the terms of P's appointment have changed and as a result of that change the amount of P's annual pensionable earnings in respect of service in a particular office is reduced to 80% of the amount before the change or less; and
- (d) P would be entitled to the immediate payment of a full retirement pension if P left pensionable service and claimed payment of the pension in respect of that particular office.

(2) P may opt to continue in pensionable service but claim payment of the whole or part only of P's accrued pensions in respect of a particular office for the continuous period of pensionable service before P's pensionable earnings were reduced ("partial retirement option").

(3) P may not exercise a partial retirement option more than once in respect of a particular judicial office.

(4) Where P holds more than one judicial office—

- (a) P may exercise a partial retirement option separately in relation to each office held; and
- (b) P may only access the pension accrued in relation to the particular office or offices in respect of which P is exercising the partial retirement option.

(5) For the purposes of calculating P's annual pensionable earnings in relation to paragraph (1)(c) where P is a fee-paid office holder, 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 office over the preceding three years, or, if less than three years, over the period since P was first appointed to that office;

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 date of partial retirement;
- "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.

(6) Where P holds multiple assignments within the First-tier Tribunal or the Upper Tribunal—

- (a) the reduction in earnings in paragraph (1)(c) refers to service in each chamber of the relevant tribunal; and
- (b) in paragraph (5) references to an office are to be taken as references to an assignment to a tribunal chamber.

Partial retirement option notice

- 50.**—(1) A partial retirement option may only be exercised—
- (a) by notice to the scheme manager in a form required by the scheme manager (“option notice”); and
 - (b) in the 3 months after P’s pensionable earnings are reduced, on a date agreed by the member and the scheme manager.
- (2) An option notice must specify—
- (a) if P holds more than one office, the office or offices in respect of which P is exercising the partial retirement option;
 - (b) whether P claims payment of—
 - (i) the whole of P’s accrued pensions to which the office relates; or
 - (ii) part only of P’s accrued pensions to which the office relates; and
 - (c) if P claims payment of part only, the proportion of each description of accrued pension for which payment is claimed (“option proportion”).

Entitlement to partial retirement pension or full retirement pension

51. An active member of this scheme (P) who exercises the partial retirement option is entitled to the immediate payment for life of—

- (a) if P claims payment of part only of P’s accrued pensions, a partial retirement pension calculated in accordance with regulation 41(2) (amount of partial retirement pension); or
- (b) if P claims payment of the whole of P’s accrued pensions, a full retirement pension calculated in accordance with regulation 39(2) (amount of full retirement pension).

Annual rate of partial retirement pension

52.—(1) This regulation applies if an active member of this scheme (P) exercises the partial retirement option in respect of part only of P’s accrued pensions in the office from which P is taking partial retirement.

(2) The annual rate of partial retirement pension is calculated under regulation 47 (annual rate of full retirement pension (active members)) by reference to the amount of full retirement pension specified in the full retirement account.

- (3) Regulation 47 applies as if—
- (a) the reference to a full retirement pension were a reference to a partial retirement pension; and
 - (b) the reference to the full retirement account were a reference to the partial retirement account.

Annual rate of full retirement pension when taking partial retirement

53.—(1) This regulation applies if an active member of this scheme (P) exercises the partial retirement option in respect of the whole of P’s accrued pensions in the office for which P is taking partial retirement.

(2) The annual rate of full retirement pension is calculated under regulation 47 (annual rate of full retirement pension (active members)) by reference to the amount of full retirement pension specified in the full retirement account.

(3) Regulation 47 applies as if the last day of pensionable service were the day before the day on which the member exercised the partial retirement option.

CHAPTER 4
Ill-health benefits

Meaning of “permanent breakdown in health”

54. For the purposes of this Chapter, a member’s breakdown in health is “permanent” if it is likely to continue until the member reaches prospective normal pension age.

Meaning of “incapacity for employment”

55. For the purposes of this Chapter, a member’s permanent breakdown in health involves “incapacity for employment” if, as a result of the breakdown, the member is incapable of discharging the duties of their qualifying judicial office.

Entitlement to ill-health pension

56.—(1) An active member of this scheme who has not reached normal pension age under this scheme is entitled to immediate payment of an ill-health pension under this scheme, in accordance with the provisions of this Chapter, if the following conditions are met—

- (a) a member has claimed payment of an ill-health pension;
- (b) a medical certificate states that the member has suffered a permanent breakdown in health involving incapacity for employment; and
- (c) either—
 - (i) the member has at least two years’ qualifying service, or
 - (ii) where the member has less than two years’ qualifying service, the scheme manager determines that the member is entitled to an ill-health pension.

(2) The annual rate of an ill-health pension payable under this regulation is calculated in accordance with regulation 57.

Annual rate of ill-health pension

57.—(1) The annual rate of an ill-health pension is the sum of—

- (a) the annual rate of full retirement pension, calculated in the same way as for an active member under regulation 47 (annual rate of full retirement pension (active members)), but without subtracting the early payment reduction; and
- (b) an ill-health enhancement.

(2) In this regulation—

“an ill-health enhancement” means—

- (a) for a salaried member, half the annual rate of a full retirement pension calculated in respect of the member’s assumed period of pensionable service and based on the member’s pensionable earnings in that particular office as at the date their pensionable service ceases;
- (b) for a fee-paid member, half the annual rate of a full retirement pension calculated in respect of the member’s assumed period of pensionable service in that particular office and based on the member’s pensionable earnings calculated in accordance with paragraph (3), as at the date their pensionable service ceases;

“the member’s assumed period of pensionable service” means the period (expressed in years and complete months)—

- (a) beginning with the day after the member’s continuous period of pensionable service in that particular office ceased; and
- (b) ending with—
 - (i) for a member appointed for a fixed term, the day with which that term ends; or

- (ii) for all other appointments, the day before the day on which the member will reach prospective normal pension age (assuming that the member lives until that age);

“complete months” includes an incomplete month that consists of at least 16 days.

(3) In this regulation, for the purposes of calculating an ill-health enhancement for a fee-paid office-holder, the amount of pensionable earnings in 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;

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.

CHAPTER 5

Payment options

Options under this Chapter

58. The options under this Chapter are—

- (a) the option under regulation 60 (option to commute part of pension) to exchange part of a retirement pension for a lump sum;
- (b) the option under regulation 61 (option to commute whole of member’s accrued pensions (serious ill-health)) to exchange the total of the member’s accrued pensions for a lump sum in cases of serious ill-health.

Exercising an option under this Chapter

59. A member may exercise an option under this Chapter by notice (a “commutation notice”) to the scheme manager in a form required by the scheme manager.

Option to commute part of pension

60.—(1) A member who becomes entitled to the immediate payment of a retirement pension under this scheme may opt under this regulation to exchange part of the pension for a lump sum.

(2) An option under this regulation may only be exercised before the first payment of the pension is made.

(3) Where a member exercises the option mentioned in paragraph (1), for every £1 by which the amount of the member’s annual rate of pension is reduced, the member must be paid a lump sum of £12.

(4) A member may not exchange pension for lump sum under this regulation to the extent that it would result in more than 35.7% of the member’s pre-commuted pension being exchanged for the lump sum.

Option to commute whole of member's accrued pensions (serious ill-health)

61.—(1) This regulation applies where there is a medical certificate stating that an active member or deferred member of this scheme has a life-expectancy of less than 12 months.

(2) The member may opt under this regulation to exchange the total of that member's accrued pensions for a lump sum.

(3) An option under this regulation may only be exercised before the first payment of the pension is made.

(4) The lump sum payable to the member is an amount equal to—
 $(A+B+C) \times 5$

where—

A means the total annual amount of full retirement pension;

B means the total annual amount of partial retirement pension; and

C means the total annual amount of ill-health pension.

(5) For the purpose of paragraph (4), “total annual amount” means—

(a) in relation to a full retirement pension or partial retirement pension to which the member would be entitled apart from this option, the sum of—

(i) the annual rate of pension to which the member would be entitled apart from this option, calculated as at the date the option is exercised, but without subtracting the early payment reduction (if any); and

(ii) the amount of increase (if any) in the annual rate of that pension under PIA 1971 calculated as at that date; and

(b) in relation to an ill-health pension, the sum of—

(i) the annual rate of pension to which the member would be entitled apart from this option, calculated as at the date when payment would first be due, but without subtracting the early payment reduction (if any); and

(ii) the amount of increase (if any) in the annual rate of that pension under PIA 1971 calculated as at that date.

(6) The lump sum must be paid to the member as soon as is reasonably practicable after the option is exercised.

Commutation supplement

62.—(1) Where—

(a) a member (P) ceases to be in pensionable service under this scheme (other than by death in service); and

(b) P has exercised the option under either regulation 61(3) or regulation 61(2),

P is entitled to be paid an additional amount (a “commutation supplement”) calculated under paragraph (2).

(2) The sum payable to P is an amount sufficient, after deduction of any applicable income tax and national insurance payable by P arising as a result of such payment, to result in P receiving a net sum equal to—

(a) the income tax payable by P on any lump sum payable under either regulation 61(3) or regulation 61(2) that relates only to uncrystallised rights under this scheme; plus

(b) the national insurance contributions payable by P (if any) in relation to the lump sum received pursuant to either of those regulations.

(3) The commutation supplement is payable at the same time as payment of the lump sum.

(4) In this regulation, “uncrystallised rights” has the meaning given in section 212 (valuation of uncrystallised rights) of the FA 2004.

CHAPTER 6

Allocation of part of pension

Allocation election

63.—(1) This regulation applies in relation to a full retirement pension or a partial retirement pension payable in respect of a member’s pensionable service under this scheme.

(2) The member may elect to allocate part of the retirement pension to a beneficiary (“allocation election”).

(3) The beneficiary of an allocation election must be a person who, when the allocation election is made, is—

- (a) the member’s spouse or civil partner;
- (b) financially wholly or mainly dependent on the member; or
- (c) financially interdependent with the member.

(4) If the member wishes to allocate pension to more than one beneficiary, the member must make a separate allocation election in respect of each beneficiary.

Restriction on total amount of pension that may be allocated

64.—(1) The sum of the following must not exceed the annual rate of retirement pension that would be payable to the member (P)—

- (a) the total amount of retirement pension allocated under this Part (“total allocation amount”); and
- (b) the annual rate of surviving adult’s pension that would be payable on P’s death.

(2) In determining whether the restriction in paragraph (1) is met, it is to be assumed that—

- (a) P will have become a pensioner member before P’s death;
- (b) P will exercise the commutation option so as to exchange for a lump sum the maximum amount possible;
- (c) P’s spouse or civil partner status will not change before P dies; and
- (d) all of the beneficiaries of P to whom an allocation is made will survive P.

(3) If at the time an allocation election is made it would result in the restriction in paragraph (1) not being met, the scheme manager may treat the election (or each of the elections) as allocating a smaller amount that would result in the restriction being met.

Making an allocation election

65.—(1) If requested by a member (P), the scheme manager must advise P of the last day on which P may make an allocation election.

(2) An allocation election may only be made—

- (a) by notice to the scheme manager in a form required by the scheme manager; and
- (b) before the election closing date.

(3) An allocation election must—

- (a) specify the amount of retirement pension to be allocated;
- (b) name the beneficiary;
- (c) be accompanied by a declaration in a form required by the scheme manager stating that—
 - (i) P is in good health; and
 - (ii) the beneficiary is a person who meets the conditions set out in regulation 63(3) (allocation election); and
- (d) be accompanied by a medical certificate giving the opinion that P is in good health.

(4) Before the election closing date, the member may, by notice to the scheme manager in a form required by the scheme manager—

- (a) revoke the election; or
- (b) amend the election by altering the amount of retirement pension to be allocated.

(5) Subject to paragraph (6) or (7), the election takes effect on the election closing date.

(6) An allocation election has no effect unless the scheme manager is satisfied that when P made the election the matters stated in the declaration were true.

(7) An allocation election has no effect if P or the beneficiary dies before the election closing date.

(8) In this regulation, “election closing date” means the earlier of—

- (a) the date advised by the scheme manager under paragraph (1); or
- (b) the day before the pension becomes payable.

Effect of allocation election

66.—(1) If an allocation election takes effect—

- (a) the member’s pension is reduced accordingly (and this reduction applies even if the beneficiary predeceases the member); and
- (b) if the beneficiary survives the member, on the member’s death the beneficiary becomes entitled to the payment of a pension for life (“allocated pension”) of an amount determined by the scheme manager, after consultation with the scheme actuary, having regard to—
 - (i) the amount of retirement pension allocated under the election, and
 - (ii) the beneficiary’s age and gender.

(2) The scheme manager may withhold payment from the beneficiary if—

- (a) the member dies before the end of the period of two years beginning with the date on which the election takes effect; and
- (b) the scheme manager is satisfied that the member made a false declaration about the member’s state of health when making the election.

(3) An allocation election in relation to a retirement pension has no effect if it would result in an allocated pension being paid—

- (a) on the member becoming entitled to the retirement pension, to a person who is not—
 - (i) the member’s spouse or civil partner;
 - (ii) financially wholly or mainly dependent on the member; or
 - (iii) financially interdependent with the member;
- (b) on the death of the member, to a person who is not the member’s surviving adult.

Adjustment of allocated benefit (members who have reached the age of 75)

67.—(1) The amount of allocated pension payable to the beneficiary of an allocation election may be adjusted in a manner determined by the scheme manager if the member who made the allocation election dies after reaching the age of 75.

(2) In this regulation, “allocated pension” has the meaning given in regulation 66(1)(b).

PART 7

Pension credit and debit members

CHAPTER 1

Benefits for pension credit members

Entitlement to pension credit member's pension

68. A pension credit member (P) of this scheme is entitled to the immediate payment for life of a pension credit member's pension under this scheme if—

- (a) P has reached normal pension age;
- (b) the pension sharing order under which P is entitled to the pension credit has taken effect; and
- (c) P has claimed payment of the pension.

Claim for early payment

69.—(1) This regulation applies in relation to a pension credit member (P) who—

- (a) has reached normal minimum pension age; and
- (b) has not reached normal pension age under this scheme.

(2) P may claim early payment of a pension credit member's pension by notice to the scheme manager in a form required by the scheme manager.

(3) A claim for early payment must specify the date on which payment of the pension is claimed ("the claim date").

(4) P is entitled to the immediate payment for life of a pension credit member's pension on the claim date if the scheme manager is reasonably satisfied that on that date the requirements of regulation 7(5) (early retirement or deferred retirement) of the Pension Sharing (Pension Credit Benefit) Regulations 2000(a) are met.

Pension credit member's rights

70.—(1) Benefits that are attributable (directly or indirectly) to a pension credit may not be aggregated with any other benefit to which a pension credit member is entitled under this scheme.

(2) If a pension credit member is a dual capacity member, the benefits that are payable to or in respect of the member in each of the member's capacities are treated separately for the purposes of these Regulations.

Annual rate of pension credit member's pension

71. The annual rate of a pension credit member's pension is calculated by—

- (a) taking the amount of credited pension specified in the pension credit member's account;
- (b) subtracting the early payment reduction (if any) specified in that account in relation to that amount; and
- (c) subtracting the commutation amount (if any) specified in that account in relation to that amount.

(a) S.I. 2000/1054. Regulation 7 was amended by S.I. 2009/615.

Option for pension credit member to commute part of pension

72.—(1) A pension credit member who becomes entitled to payment of a pension credit member’s pension under this scheme may, subject to paragraph (5), opt to exchange part of the pension for a lump sum.

(2) The option under this regulation may only be exercised—

- (a) by notice to the scheme manager in a form required by the scheme manager; and
- (b) before the first payment of the pension is made.

(3) If a pension credit member exercises the option under this regulation, for every £1 by which the amount of the member’s annual rate of pension is reduced, the member must be paid a lump sum of £12.

(4) This regulation does not apply if the pension debit member from whose rights the pension is derived received a lump sum under this Part before the date on which the pension sharing order takes effect.

(5) For the purposes of paragraph (1) the part of the pension exchanged must not exceed 35.7% of the overall value of the pension.

Option for pension credit member to commute whole pension (serious ill-health)

73.—(1) This regulation applies to a pension credit member who can show, to the satisfaction of the scheme manager, that they have a life expectancy of less than 12 months.

(2) The pension credit member may opt to exchange the whole of the pension credit member’s pension under this scheme for a lump sum.

(3) The option under this regulation (“this option”) may only be exercised—

- (a) by notice to the scheme manager in a form required by the scheme manager; and
- (b) before the first payment of the pension is made.

(4) The lump sum—

- (a) is an amount equal to the total annual amount of the pension credit member’s pension, multiplied by 5; and
- (b) must be paid to the pension credit member as soon as is reasonably practicable after this option is exercised.

(5) In this regulation, “total annual amount” in relation to a pension credit member’s pension means the total of—

- (a) the annual rate of pension to which the member would be entitled if they had not exercised this option, calculated as at the date this option is exercised, but without subtracting the early payment reduction (if any); and
- (b) the amount of increase (if any) in the annual rate of that pension under PIA 1971 calculated as at that date.

Commutation supplement

74.—(1) Where a pension credit member (P) has exercised the option under either regulation 72(1) (option for pension credit member to commute part of pension) or 73(2) (option for pension credit member to commute whole pension (serious ill-health)), P is entitled to be paid an additional amount (a “commutation supplement”) calculated under paragraph (2).

(2) The sum payable to P is an amount sufficient, after deduction of any applicable income tax and national insurance payable by P arising as a result of such payment, to result in P receiving a net sum equal to—

- (a) the income tax payable by P on any lump sum payable under either regulation 72(1) or 73(2) that relates only to uncrystallised rights under this scheme; plus

- (b) the national insurance contributions payable by P (if any) in relation to the lump sum received pursuant to either of those regulations.
- (3) The commutation supplement is payable at the same time as payment of the lump sum.
- (4) In this regulation, “uncrystallised rights” has the meaning given in section 212 of the FA 2004.

CHAPTER 2

Pension debit members

Reduction in pension debit member’s benefits

75. The benefits to which a pension debit member is entitled are subject to the reduction to be made under section 31 (reduction of benefit) of WRPA 1999.

PART 8

Death benefits

CHAPTER 1

Pensions for surviving adults

Surviving adults

76. In these Regulations—

“surviving adult”, in relation to a deceased member of this scheme, means the member’s surviving spouse, surviving civil partner or surviving cohabiting partner;

“surviving civil partner”, in relation to a deceased member of this scheme, means a person who was in a civil partnership with the member as at the date of the member’s death; and

“surviving spouse”, in relation to a deceased member of this scheme, means a person who was married to the member as at the date of the member’s death.

Meaning of “surviving cohabiting partner”

77. A person (P) is a surviving cohabiting partner of a deceased member of this scheme if P satisfies the scheme manager that immediately before the member’s death—

- (a) P and the member were cohabiting as partners in an exclusive, committed long-term relationship;
- (b) P and the member were not prevented from entering into a marriage or a civil partnership; and
- (c) either P was financially dependent on the member or P and the member were financially interdependent.

Meaning of “surviving adult’s pension”

78. In these Regulations, “surviving adult’s pension” means any of the following pensions payable to a surviving adult under this Chapter—

- (a) a dependant’s earned pension;
- (b) a dependant’s ill-health pension.

Meaning of dependant’s earned pension

79. A dependant’s earned pension is a pension payable on the death of a member of this scheme if the member was a pensioner member or would have become entitled to a full retirement pension had the member not died.

Meaning of dependant’s ill-health pension

80. A dependant’s ill-health pension is a pension payable on the death of a member of this scheme if the member was entitled to the immediate payment of an ill-health pension as at the date of the member’s death.

Entitlement to surviving adult’s pension

81.—(1) This regulation applies in relation to a member who, at the date of the member’s death is—

- (a) an active member of this scheme in relation to a continuous period of pensionable service of at least 12 months;
- (b) a deferred member of this scheme; or
- (c) a pensioner member of this scheme.

(2) If the member is a transition member with continuity of service, the continuous period of pensionable service mentioned in paragraph (1)(a) includes the member’s period of pensionable service under a pre-2022 scheme before the closing date.

(3) The surviving adult of the member is entitled to payment for life of a surviving adult’s pension as follows—

- (a) if the member was a pensioner member or would have become entitled to a full retirement pension had the member not died, a dependant’s earned pension;
- (b) if an ill-health pension was payable as at the date of the member’s death, a dependant’s ill-health pension.

(4) The scheme manager may withhold a surviving adult’s pension as follows—

- (a) for a pension that would otherwise be payable to the surviving spouse, if the member and the surviving spouse married less than 6 months before the member’s death;
- (b) for a pension that would otherwise be payable to a surviving civil partner, if the civil partnership was formed less than 6 months before the member’s death.

(5) In this regulation a reference to “pensionable service” in relation to the Fee-paid Judges scheme is a reference to qualifying judicial service (within the meaning of regulation 6 (qualifying judicial service) of the FPJR 2017).

Annual rate of surviving adult’s pensions payable on death of pensioner member

82.—(1) This regulation applies on the death of a pensioner member of this scheme (P) and applies in respect of each account held by that member.

(2) The annual rate of a dependant’s earned pension is an amount equal to 37.5% of the sum of—

- (a) the amount of full retirement pension specified in P’s full retirement account as at the date of P’s death; and
- (b) the amount of partial retirement earned pension specified in P’s partial retirement account as at the date of P’s death.

(3) The annual rate of a dependant’s ill-health pension is an amount equal to 37.5% of the annual rate of ill-health pension, calculated without subtracting the commutation amount (if any) and the total allocation amount (if any).

(4) In accordance with section 7(4) (administrative provisions) of PIA 1971, for the purposes of this scheme there is to be disregarded any increase in the annual rate of a pension since the beginning date for that pension.

Annual rate of surviving adult’s pensions payable on death of deferred member

83.—(1) This regulation applies on the death of a deferred member of this scheme and applies in respect of each account held by that member.

(2) The annual rate of a dependant’s earned pension is an amount equal to 37.5% of the provisional amount of deferred pension specified in the deferred member’s account.

Annual rate of surviving adult’s pensions payable on death of active member (death in service)

84.—(1) This regulation applies on the death of an active member of this scheme in relation to a continuous period of pensionable service of at least 12 months.

(2) This regulation applies in respect of each account held by the active member.

(3) If the member is a transition member with continuity of service, the continuous period of pensionable service mentioned in paragraph (1) includes the member’s period of pensionable service under a pre-2022 scheme before the closing date.

(4) The annual rate of a dependant’s earned pension is an amount equal to 37.5% of the amount of full retirement pension that would have been specified in the member’s full retirement account under regulation 39(2) had P become entitled to the immediate payment of a full retirement pension on the date of P’s death.

(5) When calculating the amount of a member’s full retirement pension (except in relation to a member who before the member’s death was entitled under regulation 51(a) to the immediate payment of a partial retirement pension)—

(a) the accrued pension includes an additional amount equal to the lesser of—

- (i) the amount of accrued pension; and
- (ii) the enhancement fraction of the amount mentioned in paragraph (i);

(b) if the member is a transition member with continuity of service, the accrued pension includes an additional amount equal to the lesser of—

- (i) the total amount of accrued pension under this scheme and the equivalent of accrued pension earned under a pre-2022 scheme which is not attributable to a transfer value payment; and
- (ii) the enhancement fraction of the amount mentioned in sub-paragraph (a)(i); and

(c) the early payment reduction (if any), the commutation amount (if any) and the total allocation amount (if any) are not subtracted.

(6) In this regulation—

“the enhancement fraction” means:

$$\frac{X}{Y}$$

where—

X is the lower of—

- (a) the member’s assumed period of pensionable service; and
- (b) 10;

Y is the lower of—

- (a) the number of years (expressed in years and a fraction of a year, determined by complete months) for which the member has been an active member of this scheme; and

- (b) the number of scheme years (expressed in years and a fraction of a year, determined by complete months) in relation to which an amount of earned pension was specified in the active member's account;

“the member's assumed period of pensionable service” means the period (expressed in years and a fraction of a year, determined by complete months)—

- (a) beginning with the day after the date of the member's death; and
- (b) ending with—
 - (i) for a member appointed for a fixed term, the day on which that term would have ended; and
 - (ii) for all other appointments, the day before the day on which the member would have reached prospective normal pension age if the member had lived until that age; and

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

(7) In this regulation a reference to “pensionable service” in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service.

Reduction in pensions in cases of wide age disparity

85.—(1) This regulation applies if, on the death of a member of this scheme, a surviving adult's pension is payable to a person (“the surviving adult”) who is more than 12 years younger than the member.

- (2) The annual rate of the surviving adult's pension is reduced by the lower of—
 - (a) 50% of the amount of the annual rate of the pension calculated under regulation 82, 83 or 84 as applicable; and
 - (b) $2.5 \times (N - 12) \%$ of the amount of the annual rate of the pension so calculated,

where N is the number of whole years by which the surviving adult is younger than the member.

CHAPTER 2

Pensions for eligible children

Meaning of “eligible child's pension”

86. In these Regulations, “eligible child's pension” means any of the following pensions payable under this Part—

- (a) a child's earned pension;
- (b) a child's ill-health pension.

Meaning of “eligible child”

87.—(1) In these Regulations, “eligible child”, in relation to a deceased member of this scheme, means—

- (a) a birth child of the member where—
 - (i) the child meets any of conditions A to C; and
 - (ii) at the date of the member's death the child was born or the child's mother was pregnant with the child;
- (b) an adopted child of the member who meets any of the conditions A to C; or
- (c) any other child or young person who—
 - (i) meets any of the conditions A to C; and
 - (ii) in the opinion of the scheme manager, was financially dependent on the member as at the date of the member's death.

(2) Condition A is that the person is under the age of 18.

(3) Condition B is that the person is in full-time education or vocational training and is under the age of 23.

(4) Condition C is that in the opinion of the scheme manager the person is unable to engage in gainful employment because of physical or mental impairment and either—

- (a) the person is under the age of 23; or
- (b) that impairment is likely to be permanent and the person is dependent on the member as at the date of the member's death because of physical or mental impairment.

(5) For the purpose of Condition B, a person who is under the age of 19 on the date on which the person stops full-time education or vocational training is taken to be in full-time education until the first of the following dates after the person stops full-time education or vocational training—

- (a) the second Monday in January;
- (b) the second Monday after Easter Monday;
- (c) the second Monday in September;
- (d) the date on which the person becomes engaged full-time in gainful employment;
- (e) the person's 19th birthday.

Eligibility for eligible child's pension

88.—(1) This regulation applies if a member of this scheme dies leaving an eligible child.

(2) An eligible child's pension is only payable in respect of such period or periods during which a child or young person is an eligible child.

(3) An eligible child's pension is not payable in respect of any period before a child's birth.

(4) An eligible child's pension is payable in respect of an eligible child as follows—

- (a) a child's earned pension is payable if the member was entitled to the immediate payment of a full retirement pension as at the date of the member's death or the member would have become entitled to such a pension had the member not died;
- (b) a child's ill-health pension is payable if an ill-health pension was payable to the member as at the date of the member's death.

Annual rate of eligible child's pension

89.—(1) The annual rate of an eligible child's pension is determined by reference to the annual rate of the corresponding surviving adult's pension (disregarding any reduction falling to be made under regulation 85 (reduction in pensions in cases of wide age disparity) whether or not a surviving adult's pension is payable on the death of the member.

(2) For the purposes of this regulation, the corresponding surviving adult's pensions are—

- (a) for a child's earned pension, a dependant's earned pension;
- (b) for a child's ill-health pension, a dependant's ill-health pension.

(3) If a surviving adult's pension is payable on the death of the member—

- (a) if an eligible child's pension is payable in respect of only one eligible child, the annual rate of eligible child's pension is equal to 80% of the annual rate of the corresponding surviving adult's pension; and
- (b) if an eligible child's pension is payable in respect of two or more eligible children, the annual rate of eligible child's pension payable to each eligible child is equal to the appropriate fraction of 80% of the annual rate of the corresponding surviving adult's pension.

(4) If a surviving adult's pension is not payable on the death of the member—

- (a) if an eligible child’s pension is payable in respect of only one eligible child, the annual rate of eligible child’s pension is equal to the annual rate of the corresponding surviving adult’s pension multiplied by 4 and divided by 3; and
 - (b) if an eligible child’s pension is payable in respect of two or more eligible children, the annual rate of eligible child’s pension payable to each eligible child is equal to the appropriate fraction of the annual rate of the corresponding surviving adult’s pension multiplied by 4 and divided by 3.
- (5) In this regulation, “the appropriate fraction” means:

$$\frac{\underline{2}}{Y}$$

where—

Y is the number of eligible children in respect of whom an eligible child’s pension is payable immediately after the date of the member’s death.

CHAPTER 3

Payment of pensions for surviving adults and eligible children

Payment of pensions under this Part

90.—(1) A surviving adult’s pension or eligible child’s pension is payable from the day after the date of the member’s death.

(2) Unless the scheme manager directs otherwise, an eligible child’s pension payable in respect of an eligible child aged under the age of 18 must be paid—

- (a) if the child is in the care of the member’s surviving adult, to the surviving adult; and
- (b) in any other case, to the child’s guardian.

Stopping payment and recovery of pensions paid under this Part

91.—(1) This regulation applies if—

- (a) on a member’s death a pension has been awarded and paid under this Part; and
- (b) it later appears to the scheme manager that the member or the person to whom the pension has been paid made a false declaration or deliberately suppressed a material fact in connection with the award.

(2) The scheme manager may—

- (a) stop paying the pension; and
- (b) recover any payment made under the award.

Provisional awards of eligible child’s pensions: later adjustment

92.—(1) This regulation applies where—

- (a) an active member, deferred member or pensioner member of this scheme has died;
- (b) a pension is paid in respect of one or more persons under this Part on the basis that they were eligible children as at the date of the member’s death and that there were then no other eligible children; and
- (c) it later appears that—
 - (i) a person in respect of whom such a pension has been paid was not an eligible child on the date of death;
 - (ii) on that date a further person was an eligible child; or
 - (iii) a child who was born after the member’s death is an eligible child.

(2) The scheme manager may adjust the amount of pension payable in respect of each eligible child to take account of matters referred to in paragraph (1)(c) as applicable.

CHAPTER 4

Payment of lump sum death benefits

Payment of lump sum death benefit

93.—(1) A lump sum death benefit is payable in respect of—

- (a) an active, deferred or pensioner member of this scheme who dies; or
- (b) a pension credit member of this scheme who dies before any benefits attributable (directly or indirectly) to a pension credit become payable.

(2) Payment of a lump sum death benefit must be made within the period of two years beginning with the earlier of—

- (a) the day on which the scheme manager first knew of the member's death; and
- (b) the day on which the scheme manager could reasonably be expected to have known of the member's death.

(3) The scheme manager may decide not to pay a lump sum death benefit if it is impracticable to pay it.

Supplement: lump sum death benefit

94.—(1) Where a lump sum death benefit is payable in respect of a member under regulation 93(1), an additional amount (a “lump sum supplement”) calculated under paragraph (2) is also payable.

(2) The sum payable is an amount sufficient, after deduction of any applicable income tax and national insurance payable arising as a result of such payment, to result in a net sum equal to the income tax payable on any lump sum payable under regulation 93(1).

(3) The lump sum supplement is payable at the same time as payment of the lump sum mentioned in regulation 93(1).

Nominations for lump sum death benefits

95.—(1) A member of this scheme may nominate a person or persons to receive a lump sum death benefit.

(2) The member may nominate—

- (a) one or more individuals;
- (b) one incorporated or unincorporated body; or
- (c) one or more individuals and one incorporated or unincorporated body.

(3) A nomination may specify how payments are to be apportioned between—

- (a) two or more individuals; or
- (b) one or more individuals and one incorporated or unincorporated body.

(4) A nomination may only be made by notice to the scheme manager in a form required by the scheme manager.

(5) A member may revoke or alter a nomination by notice to the scheme manager in a form required by the scheme manager.

Invalid nominations of individuals

96.—(1) If the nomination of an individual is invalid, any lump sum death benefit that would have been payable to the individual is payable to the member's personal representatives.

(2) A nomination of an individual is invalid if—

- (a) the individual nominated is the member’s spouse or civil partner and the individual is not the member’s spouse or civil partner when the member dies;
- (b) the individual predeceases the member; or
- (c) the individual is convicted of the offence of murder of the member.

(3) The scheme manager may determine that the nomination of an individual is invalid if the individual is convicted of manslaughter of the member or any other offence (apart from murder) of which the unlawful killing or wounding of the member is an element.

Payment of lump sum death benefit to nominees or personal representatives

97.—(1) The scheme manager may pay a lump sum death benefit to—

- (a) the person or persons nominated by the member under regulation 95 (“the nominees”);
- (b) the member’s personal representatives; or
- (c) both the nominees and the member’s personal representatives.

(2) If the scheme manager decides to pay all or part of the lump sum death benefit to the nominees and more than one individual has been nominated, the payment is to be made to them—

- (a) in the proportions specified by the member in the nomination; or
- (b) if the member has not specified proportions, in the proportions the scheme manager considers appropriate.

(3) If the scheme manager decides to pay the lump sum death benefit to both the nominees and the personal representatives, the payment is to be made to them in the proportions the scheme manager considers appropriate.

Members affected by court orders to former spouses and civil partners on death

98.—(1) This regulation applies if on a member’s death the scheme manager is required under a court order to pay any part of a lump sum death benefit to the member’s former spouse or civil partner.

(2) The amount of lump sum death benefit payable under regulation 97 is first determined as if no such order had been made, and then this Part applies as if the amount payable under regulation 97 were reduced by the amount payable under the court order.

Recovery of payments

99. The scheme manager may recover a lump sum death benefit paid to any person if the person’s nomination is subsequently found to be invalid.

CHAPTER 5

Amount of lump sum death benefits

Meaning of “final pay”

100.—(1) In this Chapter, “final pay” in relation to a continuous period of pensionable service means the greater of the following amounts—

- (a) the amount of a member’s pensionable earnings payable in respect of the 12 months ending with the last day of pensionable service;
- (b) the amount of a member’s pensionable earnings payable in respect of any scheme year (“the earnings year”) in the 10 scheme years immediately before the last active scheme year.

(2) For the purpose of determining which of the amounts mentioned in paragraph (1) is the greater—

- (a) if the member's continuous period of pensionable service was less than 12 months, the amount in paragraph (1)(a) is an amount equal to the member's annualised final pay; and
- (b) the amount in paragraph (1)(b) is adjusted for inflation in accordance with paragraph (3).

(3) The amount of pensionable earnings payable in respect of the earnings year is adjusted for inflation by increasing it by the same amount as that by which the annual rate of a pension of an amount equal to the amount of pensionable earnings would have been increased under PIA 1971 by the day following the last day of pensionable service if—

- (a) that pension was eligible to be so increased; and
- (b) the beginning date for that pension was the first day of the next scheme year after the earnings year.

(4) In this regulation and in regulation 101, if the member is a transition member with continuity of service, "pensionable earnings" in respect of any period includes—

- (a) the member's pensionable earnings under a pre-2022 scheme before the closing date; and
- (b) the amount which is the higher of—
 - (i) the total fees paid to the member in respect of qualifying fee-paid service in the period in question, or
 - (ii) the total fees which would have been paid to the member in respect of such service in the period in question if, for any office held by the member, the daily fee paid to the member had been the daily fee determined by an Employment Tribunal or accepted by the appropriate Minister to be payable in respect of that period.

(5) In this regulation "qualifying fee-paid service" has the meaning given in regulation 4 of the FPJR 2017.

Meaning of "annualised final pay"

101.—(1) For the purposes of this Chapter, for a continuous period of pensionable service that is less than 12 months, a member's annualised final pay is:

$$\frac{FP \times 365}{N}$$

where—

FP is the amount of the member's pensionable earnings payable in respect of that period of service; and

N is the number of days in that period.

(2) If the continuous period of pensionable service includes the day 29th February, paragraph (1) has effect with the substitution for "365" of "366".

Amount payable on death of active member (death in service)

102.—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme ("period of service").

(2) If the member is a transition member with continuity of service, the period of service includes the member's period of pensionable service under a pre-2022 scheme before the closing date.

(3) For the purpose of this regulation, a person dies in service if the person dies while an active member of this scheme in relation to a period of service.

(4) The amount of the lump sum death benefit payable in respect of a person who dies in service (P) is the amount in paragraph (5) or (6), whichever is the greater.

(5) The amount in this paragraph is an amount equal to X-Y where—

X is—

- (a) if P's period of service was at least 12 months, twice the amount that would have been P's final pay if P had ceased to be in pensionable service at the time of death; or
 - (b) if P's period of service was less than 12 months, twice P's annualised final pay; and
- Y is—

- (a) any lump sum paid under this scheme to P before P's death; and
- (b) any lump sum death benefit payable under this scheme in respect of P after P's death.

(6) The amount in this paragraph is an amount equal to X-Y where—

X is the total annual amount of P's full retirement pensions in relation to that period of service, multiplied by 5;

Y is the total amount of any payments of retirement pension made to P under this scheme; and "total annual amount" in relation to P's full retirement pensions means the total of—

- (a) the annual rate of full retirement pension calculated as if the beginning date for that pension were the date of P's death, but without subtracting the early payment reduction (if any); and
- (b) the amount of increase (if any) in the annual rate of that pension under PIA 1971 payable as at the date of P's death.

(7) For the purpose of this regulation, any amounts paid or payable to or in respect of P in the capacity of a pension credit member are disregarded.

(8) In this regulation a reference to "pensionable service" in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service.

Amount payable on death of deferred member or pensioner member (death out of service)

103.—(1) This regulation applies in relation to a continuous period of pensionable service under this scheme ("period of service").

(2) If the member is a transition member with continuity of service, the period of service includes the member's period of pensionable service under a pre-2022 scheme before the closing date.

(3) For the purpose of this regulation, a person dies out of service if the person—

- (a) dies while a deferred member or pensioner member of this scheme in relation to that period of service; and
- (b) is not an active member of the scheme when the person dies.

(4) The amount of the lump sum death benefit payable in respect of a person who dies out of service (P) is equal to—

- (a) the total annual amount of P's full retirement pensions in relation to the period of service, multiplied by 5; less
- (b) the total amount of any payments of retirement pension made to P under this scheme.

(5) In paragraph (4)(a), "total annual amount" in relation to P's full retirement pensions means the total of—

- (a) the annual rate of full retirement pension calculated as if the beginning date for that pension were—
 - (i) if P died while a deferred member of the scheme, the date of P's death; or
 - (ii) if P died while a pensioner member of the scheme, the day P's pension was deemed to begin for the purposes of section 8(2) (meaning of "pension" and other supplementary provisions) of the PIA 1971(a); and

(a) Section 8(2) was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7) section 1(5) and the Welfare Reform and Pensions Act 1999 (c. 30) section 39(1) and (4).

- (b) the amount of increase (if any) in the annual rate of that pension under PIA 1971 payable as at the date of P's death.

(6) For the purpose of this regulation any amounts paid or payable to or in respect of the member in the capacity of a pension credit member are disregarded.

Amount payable on death of pension credit member

104.—(1) Paragraph (2) applies if a pension credit member of this scheme dies before any benefits derived from a pension credit have become payable to the member.

(2) The amount of the lump sum death benefit is equal to 25% of the cash equivalent that would have been payable under Chapter 2 of Part 4A (requirements relating to pension credit benefit: transfer values) of PSA 1993(a) in respect of the member's right to benefits under this scheme attributable (directly or indirectly) to a pension credit if—

- (a) the member had been entitled to require the payment of that amount; and
(b) the amount had been payable as at the date of the member's death.

(3) Paragraph (4) applies if a pension credit member dies after the pension credit member's pension becomes payable.

(4) The amount of the lump sum death benefit is equal to the amount of pension credit member's pension that would have been payable to the member during so much of the period of 5 years beginning with the date on which the pension became payable as falls after the date of the member's death.

(5) In paragraph (4), "amount of pension credit member's pension" means the sum of—

- (a) the annual rate of that pension as at the date the pension was deemed to begin for the purposes of section 8(2A) (meaning of "pension" and other supplementary provisions) of PIA 1971(b); and
(b) the amount of increase (if any) in the annual rate of that pension under that Act payable as at the date of the member's death.

PART 9

Contributions

Rate of member contributions

105.—(1) An active member of this scheme must pay contributions to this scheme ("member contributions") on the member's pensionable earnings for each pay period at a rate determined under this regulation ("member contributions rate").

(2) The member contributions rate which applies to a member's pensionable earnings is the rate which applies when the member's pensionable earnings are paid.

(3) For the purposes of paragraph (2), assumed pay for any pay period is treated as having been paid when pensionable earnings for that period would have been paid if the circumstances in regulation 17(3) (in relation to salaried office holders) or regulation 18(5) (in relation to fee-paid office holders) which apply to the member had not applied.

(4) Subject to paragraph (5), the member contributions rate in relation to each payment of a member's pensionable earnings is 4.26%.

(5) Where the member was the holder of a qualifying judicial office on 31st March 2022, the member may exercise an option within 3 months of the closing date to pay pension contributions at a rate of 3% during the period from 1st April 2022 to 31st March 2025.

(a) Part 4A was inserted by the Welfare Reform and Pensions Act 1999 (c. 30) section 37.

(b) Subsection (2A) was inserted by the Welfare Reform and Pensions Act 1999 (c. 30) section 39(1) and (4).

(6) The option under paragraph (5) may only be exercised by notice to the scheme manager in a form required by the scheme manager (“opt-in notice”).

(7) A member who exercises the option under paragraph (5) is taken to exercise that option on the date on which the opt-in notice is received by the scheme manager.

Amount of pensionable earnings: assumed pay

106.—(1) For the purposes of regulation 105, the amount of a member’s pensionable earnings for any period of assumed pay is determined in accordance with this regulation.

(2) Unless paragraph (3) or (4) applies, the amount of the member’s pensionable earnings is equal to the member’s assumed pay.

(3) For any period of assumed pay under regulation 17(3)(a) (meaning of “assumed pay”: salaried office holders) or 18(5)(a) (meaning of “assumed pay”: fee-paid office holders), the amount of the member’s pensionable earnings is equal to the member’s reduced pay while on sick leave.

(4) For any period of assumed pay under regulation 17(3)(b) or (c) or 18(5)(b) or (c), the amount of the member’s pensionable earnings is the amount of remuneration or statutory pay actually paid to or for the member in respect of the period of adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave.

Payment of member contributions

107.—(1) Member contributions are to be deducted by the member’s employer from the member’s pensionable earnings for each pay period.

(2) A member’s employer may make contributions on the member’s behalf in circumstances determined by the scheme manager.

(3) A member is not required to pay member contributions—

(a) while the member is on unpaid adoption leave, maternity leave, parental leave, paternity leave or additional paternity leave; or

(b) with the employer’s approval, while the member is on unpaid leave.

Employers’ contributions

108.—(1) Each employer of an active member of this scheme must pay contributions to this scheme in respect of the member at the rate and at the intervals the scheme manager may for the time being determine after consultation with the scheme actuary.

(2) Each employer of an active member of this scheme must in addition pay to this scheme—

(a) annual administration charges; and

(b) any other administrative charges,

at such intervals and at such rates as the scheme manager may from time to time determine.

PART 10

Transfers

CHAPTER 1

Preliminary

Application of Part

109. This Part—

- (a) supplements the rights conferred by or under Chapter 1 (transfer values) of Part 4ZA of PSA 1993(a) and is without prejudice to that Chapter; and
- (b) supplements the rights conferred by or under Chapter 2 (early leavers: cash transfer sums and contribution refunds) of Part 4ZA of PSA 1993 and is without prejudice to that Chapter.

Interpretation of Part

110. In this Part—

“cash equivalent” means an amount calculated in accordance with regulations made under section 97 (calculation of cash equivalents) of PSA 1993(b);

“guarantee date” has the meaning given in regulation 113;

“guaranteed cash equivalent” means, in relation to calculating the transfer value of accrued rights to benefits under this scheme, the cash equivalent of those benefits as at the guarantee date, as specified in a statement of entitlement;

“statement of entitlement” means, in relation to an active or deferred member’s accrued rights to benefits under this scheme, a statement by the scheme manager of the cash equivalent of those benefits as at the guarantee date;

“transfer value” means an amount equal to—

- (a) the guaranteed cash equivalent of the accrued rights to benefits under this scheme; or
- (b) the guaranteed cash equivalent together with any increase payable under regulation 115.

CHAPTER 2

Transfers out

Transfer value payments made to other schemes or pension arrangements

111.—(1) A transfer value payment may only be made in respect of the accrued rights to benefits of an active or deferred member of this scheme.

(2) A transfer value payment may only be made to—

- (a) a registered pension arrangement in the United Kingdom; or
- (b) a pension arrangement that is a qualifying recognised overseas pension scheme for the purposes of Part 4 (pension schemes etc.) of FA 2004.

(3) A transfer value payment may not be made in respect of rights that are attributable (directly or indirectly) to a pension credit.

(4) A member may only require the scheme manager to use a transfer value payment in a way specified in section 95(2A) (ways of taking right to cash equivalent) of PSA 1993(c).

(5) The whole of the transfer value payment must be made in accordance with the provisions of this regulation.

Application for a statement of entitlement

112.—(1) This regulation applies in relation to an active or deferred member of this scheme (P) who requires a transfer value payment to be made in respect of P’s accrued rights to benefits under this scheme.

(2) Before requesting the transfer value payment, P must apply for a statement of entitlement by notice to the scheme manager.

(a) Part 4ZA was inserted by paragraph 8 of Schedule 4 to the Pension Schemes Act 2015 (c. 8).

(b) Section 97 was amended by the Pensions Act 1995 (c. 26) Schedule 6 paragraph 4 and the Child Support, Pensions and Social Security Act 2000 (c. 19) Schedule 5 paragraph 8.

(c) Section 95(2A) was inserted by the Pension Schemes Act 2015, section 68(1) and (3).

(3) P may withdraw the application by notice to the scheme manager at any time before the statement is provided.

(4) P may make a second application by notice to the scheme manager in the period of 12 months beginning with the date of the first application^(a).

Statement of entitlement

113.—(1) The scheme manager must specify in the statement of entitlement the date by reference to which the cash equivalent is calculated (“guarantee date”).

(2) The guarantee date must fall within both the following periods—

- (a) unless paragraph (4) applies, the 3 months beginning with the date of the member’s application for the statement of entitlement (“the 3 month period”); and
- (b) the 10 days ending with the date on which the member is provided with that statement (“the 10 day period”).

(3) In counting the 10 day period, Saturdays, Sundays, Christmas Day, New Year’s Day and Good Friday are excluded.

(4) The scheme manager may specify in the statement of entitlement a guarantee date that falls within the 6 months beginning with the date of the member’s application for the statement of entitlement if—

- (a) for reasons beyond the control of the scheme manager, the information needed to calculate the amount of the cash equivalent cannot be obtained before the end of the 3 month period; and
- (b) the scheme manager considers it reasonable to specify a guarantee date that falls outside the 3 month period.

Request for transfer value payment to be made

114.—(1) An active or deferred member of this scheme who is provided with a statement of entitlement may request a transfer value payment to be made in respect of the member’s accrued rights to benefits under this scheme.

(2) The request for the transfer value payment must—

- (a) be made by notice to the scheme manager;
- (b) specify the pension scheme or other pension arrangement to which the transfer value payment is to be made; and
- (c) meet any other conditions the scheme manager requires.

(3) The member may, by notice to the scheme manager, withdraw the request at any time before the transfer value payment is made.

(4) The member may not withdraw the request if an agreement for the use of the whole or part of the transfer value payment has already been entered into with a third party.

Calculating the amount of a transfer value

115.—(1) If a transfer value is paid later than 6 months after the guarantee date, the amount of the guaranteed cash equivalent must be increased in accordance with regulations made under section 97 (calculation of cash equivalents) of PSA 1993.

(2) If the transfer value is less than the minimum transfer value, the amount of the transfer value must be increased so that it is equal to the amount of the minimum transfer value.

(3) In this regulation—

(a) Regulation 6(3) of S.I. 1996/1847 provides that a member may not make a second application within this period unless the rules of the scheme provide otherwise.

“minimum transfer value” means the total of the sum of all member contributions made by the member; and

“member contributions” has the meaning given in regulation 105 (rate of member contributions).

Effect of transfers-out

116. If a transfer value payment is made under this Chapter in respect of a member’s accrued rights to benefits under this scheme, those rights are extinguished.

PART 11

Actuarial valuations and employer cost cap

Appointment of scheme actuary and actuarial valuations

117.—(1) The Lord Chancellor must appoint an individual (the “scheme actuary”) to provide a consulting service on actuarial matters in relation to this scheme and any connected scheme.

(2) Subject to paragraph (3), the scheme actuary is responsible for—

- (a) carrying out valuations of this scheme and any connected scheme; and
- (b) preparing reports on the valuations.

(3) The scheme actuary is not required to value a connected scheme which is a specified restricted scheme for the purposes of section 12A(3) (sections 11 and 12: restricted schemes) of the Act.

(4) Before appointing an individual as scheme actuary the Lord Chancellor must be satisfied that the actuary is appropriately qualified to carry out valuations of this scheme and any connected scheme in accordance with Treasury directions under section 11 (valuations) of the Act (the “Treasury directions”).

(5) The scheme manager is responsible for providing the scheme actuary with any data that the scheme actuary requires in order to carry out a valuation and prepare a report on the valuation.

(6) A valuation of the scheme and any connected scheme and the preparation of a report on the valuation must be carried out in accordance with the Treasury directions.

(7) Valuations of the scheme must be carried out within a time-frame which enables requirements in the Treasury directions regarding dates which are applicable to the valuation to be met.

PART 12

Supplementary

CHAPTER 1

Dual capacity members

Meaning of “dual capacity member”

118.—(1) A person (P) is a dual capacity member of this scheme if—

- (a) P is a member of this scheme in two or more of the following capacities—
 - (i) an active member;
 - (ii) a deferred member;
 - (iii) a pensioner member;

- (b) P is both a pension credit member of this scheme and a member of this scheme in one or more of the following capacities—
 - (i) an active member;
 - (ii) a deferred member;
 - (iii) a pensioner member;
 - (c) P is a member of this scheme in relation to two or more continuous periods of pensionable service; or
 - (d) P is a pension credit member of this scheme entitled to two or more pension credits.
- (2) For the purpose of paragraph (1)(a) or (b)—
- (a) in determining whether a person who is an active member is also a pensioner member, the fact that the person is an active member and the person's rights in that capacity are to be disregarded; and
 - (b) in determining whether a person who is an active member or pensioner member is also a deferred member, the fact that the person is an active member or pensioner member and the person's rights in that capacity are to be disregarded.

Payment of benefits to or in respect of a dual capacity member

- 119.**—(1) If a person is a dual capacity member of this scheme—
- (a) the benefits that are payable to or in respect of the member in each of the member's capacities are treated separately for the purposes of these Regulations; and
 - (b) the amounts payable to or in respect of the member in each of the member's capacities are determined accordingly.
- (2) In relation to payment of retirement benefits, paragraph (1) does not affect the interpretation of regulation 49 (exercise of partial retirement option) if a member is both an active member and a pensioner member by virtue of that regulation.
- (3) In relation to payment of death benefits, paragraph (1) does not prevent—
- (a) the calculation under regulation 97 (payment of lump sum death benefit to nominees or personal representatives) of a lump sum payable on the death of an active member of this scheme being made by reference to amounts that are relevant to the member in another capacity;
 - (b) the calculation under regulation 98 (members affected by court orders to former spouses and civil partners) on death of a lump sum payable on the death of a deferred member or pensioner member of this scheme being made by reference to amounts that are relevant to the member in both of those capacities; or
 - (c) the calculation under regulation 98 of a lump sum payable on the death of—
 - (i) a deferred member of this scheme in relation to two or more continuous periods of pensionable service; or
 - (ii) a pensioner member of this scheme in relation to two or more continuous periods of pensionable service.

CHAPTER 2

Payment of benefits: general

Late payment of retirement index adjustment

120. Nothing in these Regulations requires any part of a pension attributable to a retirement index adjustment to be paid before the end of the last active scheme year.

Commutation of small pensions

- 121.**—(1) This regulation applies if—

- (a) the pension entitlement of a single capacity member or the pension entitlement of a single capacity member's beneficiary does not exceed the small pensions commutation maximum; or
- (b) the total pension entitlement of a dual capacity member or the total pension entitlement of a dual capacity member's beneficiary does not exceed the small pensions commutation maximum.

(2) The scheme manager may, subject to paragraph (4), pay the member or the member's beneficiary a lump sum of an amount advised by the scheme actuary as representing the cash value of the pension if—

- (a) the member or the member's beneficiary consents to receipt of a lump sum in place of the pension; and
- (b) the requirements of the commutation provisions that apply in the circumstances, had this scheme been a registered pension scheme, are met.

(3) The lump sum under paragraph (2) may only be paid before the first payment of the pension is made.

(4) The scheme manager may not pay a lump sum under paragraph (2) which would be a trivial commutation lump sum had this scheme been a registered pension scheme where—

- (a) the member has been paid—
 - (i) a trivial commutation lump sum under the 2015 Regulations or from any registered pension scheme; or
 - (ii) a lump sum from the FPJR 2017 which would have been a trivial commutation lump sum had that scheme been a registered pension scheme; and
- (b) a period of 12 months has elapsed from the date of that payment (or the earlier or earliest such payment where there is more than one).

(5) The payment of a lump sum under this regulation in place of a pension discharges all liabilities under this scheme in respect of that pension.

(6) In this regulation—

“the commutation provisions” means the provisions permitting the commutation of pensions set out in—

- (a) paragraph 7 of Schedule 29 (registered pension schemes: authorised lump sums - supplementary) to FA 2004 (which defines trivial commutation lump sums for the purposes of Part 4 of that Act)(a) and, in relation to a pension payable under Part 8, paragraph 20 of that Schedule (which defines trivial commutation lump sum death benefit for the purposes of Part 4 of that Act)(b); and
- (b) Part 2 (commutation payments) of the Registered Pension Schemes (Authorised Payment) Regulations 2009(c);

“single capacity member” means a member of this scheme who is not a dual capacity member; and

“the small pensions commutation maximum” means the amount that is permitted to be commuted taking account of all sources of pension and having regard to the commutation provisions that apply in the circumstances, had this scheme been a registered pension scheme.

Commutation supplement: small pensions

122.—(1) Where—

-
- (a) Paragraph 7 was amended by the Finance Act 2011 (c. 11), Schedule 16 paragraphs 23 and 29 and Schedule 18 paragraphs 1, 3 and 4 and S.I. 2006/572.
 - (b) Paragraph 20 was amended by the Finance Act 2011, Schedule 16 paragraphs 32 and 39 and Schedule 18 paragraphs 1, 3 and 6.
 - (c) S.I. 2009/1171, amended by the Finance Act 2014 (c. 26), section 42(6), the Taxation of Pensions Act 2014 (c. 30), Schedule 1 paragraph 73(3), S.I. 2011/1751 and 2013/1818.

- (a) a member (P) ceases to be in pensionable service under this scheme (other than by death in service); and
- (b) P has exercised the option under regulation 121(2),

P is entitled to be paid an additional amount (a “commutation supplement”) calculated under paragraph (2).

(2) The sum payable to P is an amount sufficient, after deduction of any applicable income tax and national insurance payable by P arising as a result of such payment, to result in P receiving a net sum equal to—

- (a) the income tax payable by P on 25% of any lump sum payable under regulation 121(2) that relates only to uncrystallised rights under this scheme; plus
- (b) the national insurance contributions payable by P (if any) in relation to the lump sum received pursuant to regulation 121(2).

(3) The commutation supplement is payable at the same time as payment of the lump sum mentioned in regulation 121(2).

(4) In this regulation, “uncrystallised rights” has the meaning given in section 212 of the FA 2004(a).

CHAPTER 3

Forfeiture and set-off

Forfeiture: offences committed by members

123.—(1) If a member is convicted of a relevant offence, the appropriate Minister may, in agreement with the relevant head of jurisdiction and to the extent that they both consider appropriate, withhold benefits payable under this scheme to or in respect of the member.

(2) In this regulation—

“forfeiture certificate” means a certificate stating that the appropriate Minister and relevant head of jurisdiction issuing the certificate consider that the offence—

- (a) has been gravely injurious to the administration of justice; or
- (b) is liable to lead to serious loss of confidence in the judiciary; and

“relevant offence” means—

- (a) one or more offences under the Official Secrets Acts 1911 to 1989 for which the member has been sentenced on the same occasion to—
 - (i) a term of imprisonment of at least 10 years; or
 - (ii) two or more consecutive terms of imprisonment which add up to at least 10 years;
- (b) offences committed in connection with service in a qualifying judicial office and in respect of which the appropriate Minister and relevant head of jurisdiction have issued a forfeiture certificate.

Forfeiture: offences committed by a member’s beneficiary

124.—(1) Where a member of this scheme (D) dies, and the beneficiary of D is convicted of a relevant criminal offence, the appropriate Minister may, in agreement with the relevant head of jurisdiction and to the extent that they both consider appropriate, withhold benefits payable to the beneficiary in respect of D.

(2) If the appropriate Minister withholds all of the benefits payable to a beneficiary, Part 8 applies as if the beneficiary had died before D.

(3) In this regulation, “relevant criminal offence” means—

(a) 2004 c. 12.

- (a) the murder of D;
- (b) the manslaughter of D; or
- (c) any other offence of which the unlawful killing of D is an element.

Forfeiture: relevant monetary obligations and relevant monetary losses

125.—(1) If a member (P) owes a relevant monetary obligation or has caused a relevant monetary loss, the appropriate Minister may, in agreement with the relevant head of jurisdiction and to the extent that they both consider appropriate, withhold benefits payable to P under this scheme.

(2) The appropriate Minister may not withhold more than the lesser of—

- (a) the amount of the relevant monetary obligation or relevant monetary loss; and
- (b) the value of P’s entitlement to benefits.

(3) The appropriate Minister may only withhold benefits if—

- (a) there is no dispute as to the amount of the relevant monetary obligation or relevant monetary loss; or
- (b) the relevant monetary obligation or relevant monetary loss is enforceable as follows—
 - (i) under an order of a competent court;
 - (ii) in consequence of an award of an arbitrator;
 - (iii) in Scotland, in consequence of an award of an arbiter appointed (failing agreement between the parties) by the sheriff.

(4) In this regulation—

“relevant monetary obligation” means a monetary obligation which—

- (a) was incurred to the Crown or P’s employer (if different);
- (b) was incurred after P became an active member of this scheme;
- (c) arose out of P’s criminal or fraudulent act or omission; and
- (d) arose out of or was connected with service in a qualifying judicial office in respect of which P is a member of this scheme.

“relevant monetary loss” means a monetary loss which—

- (a) was caused to this scheme; and
- (b) arose as a result of P’s criminal or fraudulent act or omission.

Set-off

126.—(1) The appropriate Minister may, in agreement with the relevant head of jurisdiction, set off an applicable monetary obligation against a member’s entitlement to benefits under this scheme.

(2) In this regulation, an “applicable monetary obligation” is a monetary obligation owed by a member (P), which satisfies the conditions in paragraph (3), (4) or (5).

(3) The conditions of this paragraph are that the monetary obligation—

- (a) was incurred to the Crown or P’s employer (if different);
- (b) arose out of P’s criminal or fraudulent act or omission;
- (c) was incurred after P became an active member of this scheme; and
- (d) arose out of or was connected with service in a qualifying judicial office in respect of which P is a member of this scheme.

(4) The conditions of this paragraph are that the monetary obligation—

- (a) was incurred to this scheme; and
- (b) arose out of P’s criminal or fraudulent act or omission.

- (5) The conditions of this paragraph are that the monetary obligation—
- (a) was incurred to this scheme; and
 - (b) arose out of a payment made to P in error by the scheme manager.
- (6) The value of the set-off applied must not exceed the lesser of—
- (a) the amount of the relevant monetary obligation;
 - (b) the value of P’s entitlement to benefits.
- (7) The appropriate Minister may only set off a relevant monetary obligation against P’s entitlement to benefits if—
- (a) there is no dispute as to the amount of the relevant monetary obligation; or
 - (b) the relevant monetary obligation is enforceable—
 - (i) under an order of a competent court;
 - (ii) in consequence of an award of an arbitrator;
 - (iii) in Scotland, in consequence of an award of an arbiter appointed (failing agreement between the parties) by the sheriff.

CHAPTER 4

General

Calculation of periods of membership and service

127.—(1) For the purposes of this scheme, periods of membership and service are to be expressed in the first instance in whole years, and days and fractions of a day, and the initial aggregation of periods that require to be aggregated is done in the first instance by reference to periods so expressed.

(2) If, when all periods of membership or service that require to be aggregated have been aggregated, there is any excess part day over the number of whole days, that excess is rounded up to a full day.

(3) Paragraphs (1) and (2) are subject to paragraph (4).

(4) If membership or service is referred to in these Regulations as membership or service in years—

- (a) the days referred to in paragraph (1); and
- (b) the full days referred to in paragraph (2),

are converted into years by dividing the number of days in excess of the period of whole years by 365, and using the result to 4 decimal places.

(5) If a period of membership or service is less than one year, this regulation applies as if the words “whole years, and” were omitted from paragraph (1) and the words “in excess of the period of whole years” were omitted from paragraph (4).

Determination of questions

128.—(1) Except as otherwise provided by these Regulations, any question arising under this scheme is to be determined by the scheme manager, whose decision on it is final.

(2) The scheme manager must, in consultation with the Judicial Pension Board, establish a procedure for the determination of disputes relating to members or other persons with an interest in the scheme.

(3) A procedure established under paragraph (2) must meet the requirements of section 50 (requirement for dispute resolution arrangements) of the PA 1995(a).

Evidence of entitlement

129.—(1) The scheme manager may require any person who is receiving a pension under this scheme to provide evidence to establish—

- (a) the person's identity; and
- (b) the person's continuing entitlement to payment of any amount.

(2) If the person does not provide the required evidence, the scheme manager may withhold the whole or any part of any benefits payable under this scheme in respect of the person.

Provision of benefit information statements to members

130.—(1) The scheme manager must provide benefit information statements to each active member of this scheme in accordance with—

- (a) section 14 (information about benefits) of the Act; and
- (b) directions given under that section (“Treasury directions”).

(2) The statement must contain the following information about the member's benefits as at the date of the statement—

- (a) the amount of accrued pension specified in the each of the active member's accounts as at that date;
- (b) the opening balance for that year and the index adjustment for that opening balance;
- (c) the amount of pension for that year as at that date; and
- (d) any other information required by Treasury directions.

Amendment to the Public Service Pensions Act 2013 (Judicial Offices) Order 2015

131.—(1) In article 3 of the Public Service Pensions Act 2013 (Judicial Offices) Order 2015(b) (“the Judicial Offices Order”), for “the Schedule” substitute “Schedule 1 or Schedule 2”.

(2) The Schedule to the Judicial Offices Order is amended as follows—

- (a) after the entry for “Chair of the Health Service Products (Pricing, Cost Control and Information) Appeals Tribunal holding office on or after 1st April 2021” insert the following entries—

“Chair of the Police Appeals Tribunal”;

“Chair of the Plant Varieties and Seeds Tribunal”;

- (b) after the entry for “Master of the Rolls” insert the following entries—

“Member of a panel constituted under Article 7(1) of the Social Security (Northern Ireland) Order 1998 who is appointed to serve as a member of that panel and is a barrister or solicitor”;

“Member of a panel of chairmen appointed under Article 82 of the Fair Employment and Treatment (Northern Ireland) Order 1998”;

“Member of a panel of chairmen appointed under regulation 4(1)(a) of the Industrial Tribunals (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2005”;

(a) 1995 (c. 26); section 50 was substituted by the Pensions Act 2004 (c. 35) section 273 and amended by the Pensions Act 2007 (c. 22) section 16.

(b) S.I. 2015/580. The Public Service Pensions Act 2013 (Judicial Offices) Order 2015 has been amended by S.I. 2015/1483; S.I. 2018/186; S.I. 2018/130 and S.I. 2021/36.

- (c) after the entry for “Other member of the Upper Tribunal, where the office is held by a person who sits as a Chairman in the Lands Chamber and is a Member or Fellow of the Royal Institution of Chartered Surveyors holding office on or after 1st April 2021” insert the following entries—
 - “Part-time Sheriff (Scotland)”;
 - “Part-time Stipendiary Magistrate (Scotland)”;
 - “Part-time Summary Sheriff (Scotland)”;
 - “President of appeals tribunals (within the meaning of Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998) appointed under Article 6 of that Order”;
 - (d) after the entry “President of the Welsh Tribunals holding office on or after 1st April 2021” insert the following entries—
 - “President or other member of the Lands Tribunal where that office is held on a salaried basis”;
 - “President or Vice-President of the Industrial Tribunals and Fair Employment Tribunal appointed under Article 82 of the Fair Employment and Treatment (Northern Ireland) Order 1998”;
 - (e) for the entry for “President or Chairman of the Special Educational Needs Tribunal for Wales” substitute—
 - “President or member of the legal chair panel of the Education Tribunal for Wales”;
 - (f) after the entry for “Temporary High Court Judge (Northern Ireland)” insert—
 - “Temporary Judge (Scotland)”.
- (3) The existing Schedule to the Judicial Offices Order is renamed “Schedule 1”.
- (4) After Schedule 1 to the Judicial Offices Order, as so renamed, insert the Schedule set out in Schedule 2 to these Regulations.

Information to be provided by employers

132. An employer of a member of this scheme must, by such date as the scheme manager may specify, provide the scheme manager with such information as the scheme manager may request—

- (a) in connection with the scheme manager’s or scheme administrator’s functions in relation to this scheme; or
- (b) to enable the scheme manager or Lord Chancellor to fulfil any obligations on the scheme manager or Lord Chancellor set out in or under legislation.

Financial provision

133. Any pension or lump sum payable under this scheme to or in respect of a person who has held an office specified in Part 1 of Schedule 1 to the Judicial Pensions and Retirement Act 1993(a) is to be charged on, and paid out of, the Consolidated Fund.

Transitional provisions

134. Schedule 1 has effect.

Sitting in retirement offices

135. Schedule 2 has effect.

(a) 1993 c. 8.

Modifying provisions and amendments

136. Schedule 3 has effect.

We consent to the making of these Regulations

Michael Tomlinson

Alan Mak

16th March 2022

Two of the Lord Commissioners of Her Majesty's Treasury

Dominic Raab

Lord Chancellor

Ministry of Justice

At 9.21 a.m. on 17th March 2022

Alister Jack

Secretary of State

Scotland Office

16th March 2022

SCHEDULE 1

Regulation 134

Transitional provisions

PART 1

General

Interpretation

1. In this Schedule—

“closing date”, in relation to a transition member, means 31st March 2022(a);

“transition date”, in relation to a transition member, means the day after the closing date;

“transition member” means a person—

- (a) who is a member of a pre-2022 scheme by virtue of the person's pensionable service under that scheme before the transition date; and
- (b) who is a member of this scheme by virtue of the person's pensionable service under this scheme.

Meaning of “continuity of service”

2.—(1) A transition member (T) has continuity of service between pensionable service in a pre-2022 scheme and pensionable service in this scheme (“continuity of service”) unless T has a gap in service exceeding 5 years which—

- (a) begins on or before the transition date; and
- (b) ends on the day on which T becomes an active member of this scheme.

(2) In this paragraph a reference to “pensionable service” in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service.

(a) Under section 90(1) of the Public Service Pensions and Judicial Offices Act 2022 (c. 7), no benefits are to be provided under the 2015 scheme, the Fee-Paid Judges Scheme, or the scheme established by the Judicial Pensions Regulations (Northern Ireland) 2015 in relation to a person's service after 31st March 2022.

Commencement of active membership of this scheme

3.—(1) A person who is a transition member on entering pensionable service under this scheme who does not have continuity of service becomes an active member of this scheme on the day the person is appointed to qualifying judicial office.

(2) A person who is a transition member on entering pensionable service under this scheme who has continuity of service (T) becomes an active member of this scheme—

- (a) if T is in pensionable service in a qualifying judicial office on the transition date, on that date; or
- (b) if T is not in pensionable service in a qualifying judicial office on the transition date, on the day T enters pensionable service in a qualifying judicial office after that date.

PART 2

Payment of ill-health benefits to transition members with continuity of service

Transition member who has not reached normal pension age under a pre-2022 scheme

4.—(1) This paragraph applies to a transition member with continuity of service who becomes entitled to an ill-health pension under this scheme and a pre-2022 scheme.

(2) If the member is entitled under this scheme and a pre-2022 scheme to immediate payment of an ill-health pension, the annual rate of that ill-health pension is, subject to sub-paragraph (3), the sum of—

- (a) the annual rate of an ill-health pension under the pre-2022 scheme; and
- (b) the annual rate of an ill-health pension under this scheme.

(3) Where a member is entitled to immediate payment of an ill-health pension, payment of any enhancement in respect of the member's assumed period of pensionable service is not payable under a pre-2022 scheme.

(4) In this paragraph, "the member's assumed period of pensionable service" means the period—

- (a) beginning with the day after the day on which the member's continuous period of pensionable service ceased; and
- (b) ending with—
 - (i) for a member appointed for a fixed term, the day on which that term ends; or
 - (ii) for all other appointments, the day before the day on which the member will reach prospective normal pension age (assuming that the member lives until that age).

(5) In this paragraph a reference to "pensionable service" in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service.

PART 3

Payment of death benefits in respect of transition members with continuity of service

Annual rate of surviving adults' pensions payable under this scheme when a transition member dies in service

5.—(1) This paragraph applies in relation to a transition member with continuity of service—

- (a) who dies as an active member of this scheme; and
- (b) whose period of service is at least 12 months.

(2) Where there is an entitlement under this scheme and a pre-2022 scheme to a surviving adult's pension, the annual rate of that pension is, subject to sub-paragraph (3), the sum of—

- (a) the amount of dependant's earned pension calculated under regulation 84 (annual rate of surviving adult's pensions payable on death of active member (death in service)) at the date of death; and
- (b) the amount of the equivalent surviving adult's pension payable under the pre-2022 scheme.

(3) Where there is an entitlement to a surviving adult's pension, the payment of any enhancement in respect of the member's assumed period of pensionable service is not payable under a pre-2022 scheme.

(4) In this paragraph—

“the member's assumed period of pensionable service” means the period—

- (a) beginning with the day after the date of the member's death; and
- (b) ending with—
 - (i) for a member appointed for a fixed term, the day on which that term would have ended; and
 - (ii) for all other appointments, the day before the day on which the member would have reached prospective normal pension age if the member had lived until that age; and

“period of service” means—

- (a) the member's continuous period of pensionable service under this scheme; and
- (b) the member's pensionable service under a pre-2022 scheme before the closing date.

(5) In this paragraph a reference to “pensionable service” in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service.

Annual rate of eligible child's pension payable under this scheme when a transition member dies in service

6.—(1) This paragraph applies in relation to a transition member with continuity of service—

- (a) who dies as an active member of this scheme; and
- (b) whose period of service is at least 12 months.

(2) The annual rate of child's pension payable is, subject to sub-paragraph (3), the sum of—

- (a) the annual rate of child's earned pension calculated under regulation 89 (annual rate of eligible child's pension); and
- (b) the annual rate of child's pension payable under the pre-2022 scheme.

(3) Where a child's pension is payable, the payment of any enhancement in respect of the member's assumed period of pensionable service is not payable under a pre-2022 scheme.

(4) In this paragraph—

“the member's assumed period of pensionable service” means the period—

- (a) beginning with the day after the date of the member's death; and
- (b) ending with—
 - (i) for a member appointed for a fixed term, the day on which that term would have ended; and
 - (ii) for all other appointments, the day before the day on which the member would have reached prospective normal pension age if the member had lived until that age; and

“period of service” means—

- (a) the member's continuous period of pensionable service under this scheme; and
- (b) the member's pensionable service under a pre-2022 scheme before the closing date.

(5) In this regulation a reference to “pensionable service” in relation to the Fee-Paid Judges Scheme is a reference to qualifying judicial service.

Death in service lump sum

7.—(1) This paragraph applies in relation to a transition member with continuity of service who dies in service within the meaning of regulation 97 (payment of lump sum death benefit to nominees or personal representatives).

(2) On the death of the member—

- (a) a lump sum death benefit is payable under regulation 97; but
- (b) a death in service lump sum death benefit is not payable under a pre-2022 scheme.

Death out of service lump sum

8.—(1) For the purpose of payment of death benefits, a transition member with continuity of service who dies as a deferred member or pensioner member of this scheme dies out of service under this scheme and a pre-2022 scheme.

(2) On the death of such a member—

- (a) if regulation 103 (amount payable on death of deferred member or pensioner member (death out of service)) applies to the member, a lump sum death benefit is payable under that regulation; and
- (b) if the member is a pensioner member of a pre-2022 scheme and the conditions for payment of a death out of service lump sum death benefit under the rules of the pre-2022 scheme are met, a death out of service lump sum death benefit is payable under that scheme.

PART 4

Transitional provisions relating to pre-2022 scheme

Pensionable service under pre-2022 scheme

9.—(1) This paragraph applies in relation to a transition member with continuity of service (T) who is in pensionable service under this scheme.

(2) In determining whether T qualifies under a pre-2022 scheme for retirement benefits, T's pensionable service under that scheme is to be treated as terminating when T's pensionable service under this scheme terminates;

(3) In determining T's final salary for any purposes of a pre-2022 scheme under Schedule 7 (final salary link) to the Act, pensionable earnings derived from service under this scheme are to be regarded as derived from service under a pre-2022 scheme; and

(4) Where T has a working pattern or patterns involving a pro rata reduction in salary as at the date when they cease pensionable service in this scheme, T's final salary for a pre-2022 scheme is to be calculated by reference to their full-time equivalent final salary, or to the proportion or proportions of their full-time equivalent final salary appropriate to T's working pattern as at the closing date.

Repayment of contributions under pre-2022 scheme

10. If a transition member with continuity of service (T) opts out of this scheme and T has less than 2 years' qualifying service, T must be repaid T's member's contributions under a pre-2022 scheme.

Qualifying for retirement benefits under the pre-2022 scheme

11. In determining whether a transition member with continuity of service (T) qualifies for retirement benefits under a pre-2022 scheme, T’s qualifying service includes the total of—

- (a) T’s qualifying service under a pre-2022 scheme; and
- (b) T’s qualifying service under this scheme.

Nomination under the pre-2022 scheme continues to have effect

12.—(1) This paragraph applies if a transition member with continuity of service (T) has not nominated a person under these Regulations to receive a lump sum death benefit under this scheme.

(2) An existing nomination has effect as if made under these Regulations until T makes a nomination under these Regulations.

(3) In this paragraph, “existing nomination” means a nomination which—

- (a) was made for the purpose of a pre-2022 scheme; and
- (b) as at the closing date, had effect under that scheme.

Pre-commencement contributions

13. Regulation 58(4) (payment of pre-commencement contributions amount) of the FPJR 2017 applies with the modification that for the words in sub-paragraph (b) from “where P dies before retiring” to the end there is substituted “if applicable, the death in service lump sum payable under regulation 102 in the Judicial Pensions Regulations 2022.”.

PART 5

Transitional provisions relating to the 2015 scheme

Deferred members of the 2015 scheme

14.—(1) This paragraph applies to a transition member with continuity of service (T) who is a member of the 2015 scheme by virtue of T’s pensionable service under that scheme before the transition date.

(2) Subject to sub-paragraph (3), T is deemed to be an active member of the 2015 scheme until T becomes a deferred or pensioner member of this scheme.

(3) T is not required to make any member contributions in the 2015 scheme after the transition date.

(4) If T re-enters pensionable service under this scheme after a gap in service not exceeding 5 years, T ceases to be a deferred member of the 2015 scheme.

SCHEDULE 2

Regulation 135

Sitting in Retirement offices

“SCHEDULE 2

Admiralty Registrar (sitting in retirement)

Appointed Person for design right appeals (sitting in retirement)

Appointed Person for trademark appeals (sitting in retirement)

Assistant Judge Advocate General (sitting in retirement)

Chair of the Health Service Products (Pricing, Cost Control and Information) Appeals Tribunal (sitting in retirement)

Chair of the Reinstatement Committee (sitting in retirement)

Chairman of the Competition Appeal Tribunal (sitting in retirement)

Chairman of the National Security Certificate Appeals Tribunal (Northern Ireland) (sitting in retirement)

Chairman of the Reserve Forces Appeal Tribunal (sitting in retirement)

Child Support Commissioner for Northern Ireland (sitting in retirement)

Circuit Judge (sitting in retirement)

Coroner (Northern Ireland) (sitting in retirement)

County Court Judge (Northern Ireland) (sitting in retirement)

Deputy Admiralty Registrar (sitting in retirement)

Deputy Chair of the Agricultural Land Tribunal for Wales (sitting in retirement)

Deputy Chairman of the National Security Certificate Appeals Tribunal (Northern Ireland) (sitting in retirement)

Deputy Child Support Commissioner for Northern Ireland (sitting in retirement)

Deputy Coroner (Northern Ireland) (sitting in retirement)

Deputy County Court Judge (Northern Ireland) (sitting in retirement)

Deputy District Judge (sitting in retirement)

Deputy District Judge (Magistrates' Courts) (England and Wales) (sitting in retirement)

Deputy District Judge (Magistrates' Courts) (Northern Ireland) (sitting in retirement)

Deputy District Judge of the Principal Registry of the Family Division (sitting in retirement)

Deputy Insolvency and Companies Court Judge (sitting in retirement)

Deputy Master, Chancery Division (sitting in retirement)

Deputy Master, Queen's Bench Division (sitting in retirement)

Deputy Registrar of Civil Appeals (sitting in retirement)

Deputy Social Security Commissioner for Northern Ireland (sitting in retirement)

Deputy Taxing Master of the Senior Courts (sitting in retirement)

Deputy Statutory Officer within the meaning of section 74 of the Judicature (Northern Ireland) Act 1978 (sitting in retirement)

District Judge (sitting in retirement)

District Judge (Magistrates' Courts) (England and Wales) (sitting in retirement)

District Judge (Magistrates' Courts) (Northern Ireland) (sitting in retirement)

District Judge of the Principal Registry of the Family Division (sitting in retirement)

Employment Judge (sitting in retirement)

High Court Judge (England and Wales) (sitting in retirement)

High Court Judge (Northern Ireland) (sitting in retirement)

Insolvency and Companies Court Judge (sitting in retirement)

Judge of the First-tier Tribunal (sitting in retirement)

Judge of the Upper Tribunal (sitting in retirement)

Legal member of the Mental Health Review Tribunal for Wales (sitting in retirement)

Legally Qualified Member of the Pensions Appeal Tribunal for Northern Ireland (sitting in retirement)

Legal member of the Rent Assessment Committee Wales (sitting in retirement)

Legal member of the Welsh Language Tribunal (sitting in retirement)

Lord Justice of Appeal (England and Wales) (sitting in retirement)

Lord Justice of Appeal (Northern Ireland) (sitting in retirement)

Master, Chancery Division (sitting in retirement)

Master, Queen's Bench Division (sitting in retirement)

Member of a panel constituted under Article 7(1) of the Social Security (Northern Ireland) Order 1998 (sitting in retirement) who is appointed to serve as a member of that panel and is a barrister or solicitor

Member of a panel of employment judges appointed in accordance with regulation 7(1)(a) of the Industrial Tribunals and Fair Employment Tribunal (Constitution and Rules of Procedure) Regulations (Northern Ireland) 2020 (sitting in retirement)

Member of the Adjudication Panel for Wales (sitting in retirement) who is legally qualified

Member of the Lands Tribunal of Northern Ireland (sitting in retirement)

Member of the legal chair panel of the Education Tribunal for Wales (sitting in retirement)

Other member of the First-tier Tribunal (sitting in retirement), where the office is held by a person who sits as a Chairman in the Property Chamber (Residential Property)

Other member of the Upper Tribunal (sitting in retirement), where the office is held by a person who sits as a Chairman in the Lands Chamber and is a Member or Fellow of the Royal Institution of Chartered Surveyors

Recorder (sitting in retirement)

Registrar of Civil Appeals (sitting in retirement)

Social Security Commissioner for Northern Ireland (sitting in retirement)

Statutory Officer within the meaning of section 70(1) of the Judicature (Northern Ireland) Act 1978 (sitting in retirement)

Taxing Master of the Senior Courts (sitting in retirement)''

Modifying provisions and amendments

PART 1

Modification of early leaver and other provisions

Application of this Part

- 1.—(1) This Part applies where a person (P)—
- (a) is a member of an existing scheme listed in paragraphs 2 to 15 of Schedule 5 (existing pension schemes) to the Act, whether by virtue of pensionable service for that scheme or deemed transfer scheme service under paragraph 2 of Schedule 7 (final salary link) to the Act;
 - (b) is a member of this scheme by virtue of pensionable service under this scheme; and
 - (c) is a person to whom paragraph 1 or 2 of Schedule 7 to the Act applies by virtue of that person’s pensionable service for this scheme, and whose final salary falls for the purposes of the old scheme to be determined by reference to that paragraph.
- (2) This Part also applies where a person (P)—
- (a) is a member of the Fee-Paid Judges Scheme by virtue of pensionable service under that scheme;
 - (b) is a member of this scheme by virtue of pensionable service under this scheme; and
 - (c) P’s service in the Fee-Paid Judges Scheme and service in the new scheme are continuous.
- (3) In this Part “the old scheme” means a scheme referred to in sub-paragraph (1)(a) or (2)(a) of which P is a member.

Preservation of benefit

- 2.—(1) Chapter 1 of Part 4 of the PSA 1993 (protection for early leavers: preservation of benefit) is modified as follows in relation to P.
- (2) In the application of that Chapter to the old scheme—
- (a) in section 70(a) (interpretation), in the definitions of “relevant employment” and “long service benefit” a reference to the scheme is to be taken as a reference to either the old scheme or this scheme, as appropriate in the relevant contexts;
 - (b) in section 71(1) (basic principle as to short service benefit)—
 - (i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or this scheme must make that provision;
 - (ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to this scheme;
 - (iii) a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service under this scheme;
 - (iv) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under this scheme, and subsequent references in the Chapter to “short service benefit” are to be construed accordingly;

(a) Section 70 was amended by S.I. 2005/2053.

- (c) in section 71(5), a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service under this scheme;
 - (d) in section 71(7)(a), the reference to P’s pensionable service under the scheme is to be taken as a reference to P’s pensionable service either under the old scheme or under the old scheme and this scheme taken together; and
 - (e) in sections 72(2) (no discrimination between short service and long service beneficiaries), 74(6) and (7) (computation of short service benefit), 75(3) and (4) (credits) and 76(1) and (3) (pension increases), a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service under this scheme.
- (3) In the application of that Chapter to this scheme—
- (a) in section 70, in the definitions of “relevant employment” and “long service benefit” a reference to the scheme is to be taken as a reference to either the old scheme or this scheme;
 - (b) in section 71(1)—
 - (i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or this scheme must make that provision;
 - (ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to this scheme;
 - (iii) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under this scheme, and subsequent references in the Chapter to “short service benefit” are to be construed accordingly;
 - (c) in section 71(7)(a), the reference to P’s pensionable service under the scheme is to be taken as a reference to P’s pensionable service either under this scheme or under the old scheme and this scheme taken together; and
 - (d) in section 74(6), in relation to pensionable service which is terminated, the reference to the beginning of that service is to be taken as a reference to the beginning of pensionable service under the old scheme.

Revaluation of preserved benefit

3.—(1) Chapter 2 of Part 4 of the PSA 1993 (protection for early leavers: revaluation of accrued benefits) is modified as follows.

(2) In the application of Chapter 2 for the purpose of revaluing benefit payable to or in respect of P under the old scheme—

- (a) in section 83(1)(a)(ii)(a) (scope of Chapter 2), the reference to the date on which P’s pensionable service ends is to be taken as a reference to the date on which P’s pensionable service ends under this scheme; and
- (b) subsequent references in that Chapter to “the termination date” and the “pre-pension period” are to be construed accordingly.

PART 2

Amendments

Amendments to the Judicial Pensions Regulations 2015

4.—(1) The 2015 Regulations are amended as follows.

(a) Section 83 was amended by section 84(1) of, and paragraphs 28 and 31 of Schedule 12 to, the Welfare Reform and Pensions Act 1999 (c. 30). It was amended further in relation to the definition of “normal pension age” by section 27 of, and paragraphs 18 and 20 of Schedule 8 to, the Public Service Pensions Act 2013 (c. 25).

(2) In regulation 9(2) (scheme advisory board: establishment), after “making changes to this scheme” insert “and the scheme established by the Judicial Pensions Regulations 2022”.

(3) For regulation 41(2) (closure of active member’s account) substitute—

“(2) The scheme manager must re-establish an active member’s account under this Chapter when the scheme manager closes a deferred member’s account under regulation 46.”

(4) Omit regulation 49 (closure of full retirement account).

(5) In regulation 56(1)(b) (entitlement to full retirement pension) for “pensionable service under this scheme” substitute “qualifying judicial office”.

(6) After regulation 56(6) insert—

“(7) Where P resumes service in qualifying judicial office, this will not affect any entitlement under this regulation.”

(7) Omit regulation 59 (full retirement pension ceases to be payable).

(8) In regulation 60 (exercise of partial retirement option)—

(a) in paragraph (1)(c), for “annual rate” substitute “amount”,

(b) in paragraph (2), after “part only of P’s accrued pensions” insert—

“in respect of a particular office”, and

(c) after paragraph (3), insert—

“(4) Where P holds more than one judicial office—

(a) P may exercise a partial retirement option separately in relation to each office held; and

(b) P may only access the pension accrued in relation to the particular office or offices in respect of which P is exercising the partial retirement option.

(5) For the purposes of calculating P’s annual pensionable earnings in relation to paragraph (1)(c) where P is a fee-paid office holder, 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 office over the preceding three years, or, if less than three years, over the period since P was first appointed to that office;

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 date of partial retirement,

“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.

(6) Where P holds multiple assignments within the First-tier Tribunal or the Upper Tribunal—

(a) the reduction in earnings in paragraph (1)(c) refers to service in each chamber of the relevant tribunal; and

(b) in paragraph (5) references to an office are to be taken as references to an assignment to a tribunal chamber.”

- (9) In regulation 61 (partial retirement option notice)—
- (a) in paragraph (2)(a)(i) after “pensions” insert—
“to which the office relates”, and
 - (b) in paragraph (2)(a)(ii) after “pensions” insert—
“to which the office relates”, and
 - (c) at the end of paragraph (2)(b) insert—
“, and
 - (d) if P holds more than one office, the office or offices in respect of which P is exercising the partial retirement option.”
- (10) In regulation 64 (annual rate of partial retirement pension) at the end of paragraph (1) insert “in the office from which P is taking partial retirement.”.
- (11) In regulation 65 (annual rate of full retirement pension) at the end of paragraph (1) insert “in the office from which P is taking partial retirement.”.
- (12) Omit regulation 144 (appointment of scheme actuary and actuarial valuations)(a).
- (13) After regulation 167 insert—
“Financial provision

168.—(1) Except as otherwise provided in this regulation, any pension or lump sum payable under this scheme to or in respect of a person who has held an office specified in Part 1 of Schedule 1 to the Judicial Pensions and Retirement Act 1993 is to be charged on, and paid out of, the Consolidated Fund.

(2) Paragraph (1) does not apply in relation to any pension or other benefits payable in respect of—

- (a) payments for added pension or effective pension age;
- (b) special payments to buy out the early payment reduction;
- (c) a transferred pension;
- (d) a partnership pension account.

(3) This regulation is treated as having come into force on 1st April 2015.”

Amendments to the Judicial Pensions (Additional Voluntary Contributions) Regulations 2017

5.—(1) The Judicial Pensions (Additional Voluntary Contributions) Regulations 2017(b) are amended as follows.

- (2) In regulation 2 (interpretation)—
- (a) in the appropriate places, insert—
““the 2022 Regulations” means the Judicial Regulations 2022;”;
““the 2022 Scheme” means the Judicial pension scheme created by the 2022 Regulations;” and
 - (b) in the definition of “active member”, insert at the end “or the 2022 scheme”.

(a) Since valuation provisions are included in these scheme regulations, section 11(1A) of the Act mean that the 2015 Regulations are not required to include valuation provisions.
(b) S.I. 2017/512.

EXPLANATORY NOTE

(This note is not part of the Regulations)

Part 2 of these Regulations establishes a scheme for the payment of pensions and other benefits to members of the judiciary. The scheme so established is a career average revalued earnings scheme.

Part 3 contains governance provisions, including the responsibilities of the scheme manager and the delegation of the scheme manager's functions.

Part 4 provides for scheme membership. It sets out the key concepts of qualifying judicial office and pensionable earnings. It contains eligibility and enrolment provisions.

Part 5 provides for the establishment of a member's pension accounts in relation to a continuous period of pensionable service under this scheme. It also provides for the establishment of a pension credit member's account.

Chapter 1 explains how adjustments to amounts of accrued pension are calculated.

Chapter 2 explains how the amount of accrued pension is calculated.

Chapter 4 provides for the establishment of the active member's account. This Chapter shows how the proportion of pensionable earnings accrued as pension is revalued each year until the member leaves pensionable service.

Chapter 5 provides for the establishment of the deferred member's account and explains how the provisional amount of each description of deferred pension is calculated.

Chapter 6 provides for the establishment of a full retirement account is established and sets out how the amount of full retirement pension must be specified.

Chapter 7 provides for the establishment of a partial retirement account is established in respect of a particular office held, and sets out how the amount of partial retirement pension must be specified.

Chapter 8 provides for the establishment of a pension credit member's account.

Part 6 provides for a member's entitlement to payment of retirement benefits including partial retirement benefits and ill-health benefits. It also provides for the allocation of benefits. It sets out the key concept of qualifying service.

Part 7 provides for benefits for pension credit members.

Part 8 provides for death benefits payable to surviving adults and eligible children and for the payment of lump sums. It provides for payments to be stopped and recovered in certain cases.

Part 9 provides for the payment of contributions by members and employers.

Part 10 provides for making transfer value payments.

Part 11 provides for actuarial valuations and the employer cost cap.

Part 12 contains supplementary provisions on payment of pensions, forfeiture and set off, payment and deduction of tax and miscellaneous provisions including the determination of questions.

Schedule 1 contains transitional provisions, including the key concepts of transition members and continuity of service. It provides for ill-health benefits and death benefits for transition members with continuity of service.

Schedule 2 contains the list of specified Sitting in Retirement offices which are created under section 123 of the Public Service Pensions and Judicial Offices Act 2022 (c. 7) and are added as Schedule 2 to the Public Sector Pensions Act 2013 (Judicial Offices) Order 2015 (S.I. 2015/580 as amended).

Schedule 3 modifies provisions of the Pension Schemes Act 1993 (c. 48). It also amends the Judicial Pensions Regulations (S.I. 2015/182 as amended), the Judicial Pensions (Additional Voluntary Contributions) Regulations 2017 (S.I. 2017/512) and the Judicial Pensions (Fee-Paid Judges) Regulations 2017 (S.I. 2017/522 as amended).

An impact assessment has not been prepared for this instrument as no impact on the costs of business or the voluntary sector is foreseen.

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