
STATUTORY INSTRUMENTS

2023 No. 403

**The Judicial Pensions (Fee-Paid Judges)
(Amendment) Regulations 2023**

PART 2

Amendments relating to service before 7th April 2000

Determination of applicable provisions to calculate benefits

12. After regulation 11 (opting back in) insert—

“PART 2A

Requirements and elections for retirement benefits and death benefits
to be calculated under pre-1995 provisions or post-1995 provisions

Calculation of retirement benefits

11A.—(1) Retirement benefits, death benefits and associated contributions for a member (“P”) in relation to an eligible fee-paid judicial office must be calculated under the post-1995 provisions, unless P meets the conditions in regulation 11B in relation to that office.

(2) Where benefits in relation to an eligible fee-paid judicial office have been paid to or in respect of P before the amendment day, and those benefits would have been calculated under the pre-1995 provisions if paragraph (1) had been in force on the date of P’s retirement or death, benefits and contributions in relation to that office must be re-calculated under the pre-1995 provisions.

Conditions for retirement benefits and death benefits to be calculated under Part 2B

11B.—(1) Retirement benefits, death benefits and associated contributions for P in relation to an eligible fee-paid judicial office which is listed in Table 1, 2 or 3 of Schedule 1 (the “relevant office”) are to be calculated under the pre-1995 provisions where P first held the relevant office before 31st March 1995, and also held judicial office on or after 31st March 1995, but P did not have a new appointment on or after 31st March 1995.

(2) P has a “new appointment” in relation to a relevant office upon appointment to another judicial office in place of that relevant office or, if after ceasing to hold the relevant office, P is appointed to another judicial office and in either case that other office is—

- (a) a salaried office; or
- (b) an eligible fee-paid judicial office with a different pre-1995 judicial pension scheme.

(3) For the purposes of paragraph (2)(b), an eligible fee-paid office has a different pre-1995 judicial pension scheme to the pre-1995 judicial pension scheme of another eligible fee-paid judicial office if it is specified in a different table in Schedule 1 and is not specified in Table 4 in that Schedule.

(4) This regulation is subject to any election under regulation 11C made by P in relation to the relevant office.

Elections available to members

11C.—(1) If the conditions in regulation 11B are met, P, or if P has died, P’s personal representative, may nevertheless elect for benefits in relation to the relevant office which would otherwise be calculated under the pre-1995 provisions to be calculated under the post-1995 provisions, by sending a notice to the appropriate Minister.

(2) A notice under this regulation—

- (a) must be in the form determined by the appropriate Minister;
- (b) must be received by the appropriate Minister within the period of 12 months beginning with the day on which P retires or dies, or, if P has retired or died before this regulation came into force, within the period of 12 months beginning with the amendment day;
- (c) has effect the day it is received; and
- (d) is irrevocable.

Benefits calculated under both the pre-1995 provisions and the post-1995 provisions

11D.—(1) Where either or both of paragraphs (2) or (3) apply to P, P’s benefits must be calculated under the pre-1995 provisions and the post-1995 provisions respectively and aggregated.

(2) P has benefits relating to more than one eligible fee-paid judicial office in relation to which benefits are to be calculated under the pre-1995 provisions and has made an election under regulation 11C for benefits in relation to one or more, but not all, of those offices to be calculated under the post-1995 provisions.

(3) P has benefits relating to more than one eligible fee-paid judicial office and regulation 11B applies in respect of one or more, but not all, of those offices.

PART 2B

Pre-1995 Provisions

CHAPTER 1

Retirement Benefits

Retirement at or after normal pension age: entitlement to ordinary pension

11E.—(1) This regulation applies to a member (“P”) whose benefits are to be calculated under the pre-1995 provisions in respect of one or more eligible fee-paid judicial offices (each “a relevant office”) where—

- (a) P retires; and
- (b) on the day on which P retires, P—

- (i) has reached normal pension age for a relevant office, and
 - (ii) has accrued reckonable service in relation to that office.
- (2) On the pension start day, P becomes entitled to the payment for life of a pension.
- (3) In this regulation “the pension start day” means—
- (a) the day after the day on which P retires; or
 - (b) if later, the amendment day.

Annual rate of ordinary pension

11F.—(1) The annual rate of a pension to which P becomes entitled under regulation 11E is determined under paragraph (3), (5) or (7) (whichever applies).

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

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

$$\frac{R}{JS} \times AF \times S$$

where—

R is P’s reckonable service in the relevant office

JS is the number of years of qualifying judicial service that P has subject to a maximum of—

- (i) 15 years for an office specified in Table 1 or 2 in Schedule 1, or
- (ii) 20 years for an office specified in Table 3 in Schedule 1

AF is the accrual factor specified for the relevant office in column 2 of Table 1, 2 or 3, as the case may be, of Schedule 2, relating to P’s qualifying judicial service

S is the appropriate annual salary of the judicial office held by P immediately before retirement.

(4) Paragraph (5) applies where—

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

(5) The annual rate for any relevant offices is determined by taking the following steps—

Step 1

Determine the annual rate under paragraph (3) in relation to each relevant office.

Step 2

Add together the annual rates determined under Step 1.

(6) Paragraph (7) applies where—

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

(7) The annual rate for any relevant offices is determined by taking the following steps—

Step 1

Determine the annual rate under paragraph (3) in relation to each relevant office which P held simultaneously with another eligible fee-paid judicial office, as if—

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

Step 2

Determine the annual rate under paragraph (3) in relation to any relevant office which P did not hold simultaneously with another eligible fee-paid judicial office, and for these purposes, in paragraph (3), S is—

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

Step 3

Add together each of the rates determined under Steps 1 and 2.

(8) Paragraph (9) applies where—

- (a) during one or more parts of the period for which P held a relevant office (“office A”), P held one or more other eligible fee-paid judicial offices simultaneously; and
- (b) during one or more parts of that period P held no eligible fee-paid judicial office other than office A.

(9) For the purposes of paragraph (7)—

- (a) office A is to be treated as two different relevant offices—
 - (i) the first of which (“the first office”) is held for the period (or the aggregate of the periods) mentioned in paragraph (8)(a) and, accordingly, is taken into consideration in Step 1 in paragraph (7), and
 - (ii) the second of which (“the second office”) is held for the period (or the aggregate of the periods) mentioned in paragraph (8)(b) and, accordingly, is taken into consideration in Step 2 in paragraph (7); and
- (b) P’s reckonable service in office A is to be apportioned between the first and the second offices in the same proportion as that between the period P held the first office and the period P held the second office.

Retirement under normal pension age on removal from judicial office: entitlement to reduced pension

11G.—(1) This regulation applies to a member (“P”) whose benefits are to be calculated under this Part in respect of one or more eligible fee-paid judicial offices (each “a relevant office”) where—

- (a) P retires by virtue of having been removed from all judicial offices held by P;
- (b) on the day on which P retires, P has not reached normal pension age for one or more relevant offices; and

- (c) the appropriate Minister recommends to the administrators that P’s accrued rights under the principal scheme in relation to the relevant offices be given immediate effect.
- (2) The administrators must notify P of the recommendation under paragraph (1)(c).
- (3) If P elects in writing to the administrators within 3 months of receiving the notice referred to in paragraph (2), that P wishes to receive benefits under this regulation—
 - (a) P becomes entitled, on the day on which the administrators receive the election, to the payment for life of a pension in respect of the relevant offices; and
 - (b) P also becomes entitled, on that day, to the amount P would have been entitled to in respect of the relevant offices if P had been entitled under this regulation to the payment of a pension in respect of the period beginning with the pension start day and ending with the day before the day mentioned in sub-paragraph (a).
- (4) In this regulation “the pension start day” means—
 - (a) the day after the day on which P retires; or
 - (b) if later, the amendment day.

Annual rate of reduced pension

- 11H.**—(1) The annual rate of a pension to which a member (“P”) becomes entitled under regulation 11G is determined under paragraph (3), (5) or (7) (whichever applies).
- (2) Paragraph (3) applies where on retirement, P has reckonable service in only one eligible fee-paid judicial office which is a relevant office.
- (3) The annual rate for the relevant office is determined in accordance with the following formula—

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

where—

- R is P’s reckonable service in the relevant office
- JS is the number of years of qualifying judicial service that P has, subject to a maximum of—
 - (i) 15 years for offices specified in Tables 1 and 2 in Schedule 1, and
 - (ii) 20 years for offices specified in Table 3 in Schedule 1
- AF is the accrual factor specified for the relevant office in column 2 of Table 1, 2 or 3, as the case may be, of Schedule 2, relating to P’s qualifying judicial service
- S is the appropriate annual salary of the judicial office held by P immediately before retirement
- A is the actuarial reduction factor set out in the Table in the Schedule to the Judicial Pensions (Miscellaneous) Regulations 1995(1) corresponding to P’s age on P’s birthday preceding the day on which P retires
- B is the number of days in the period beginning with P’s birthday preceding the day on which P retires and ending with the day on which P retires

(1) S.I. 1995/632; the Table was substituted by S.I. 2015/533.

C is the actuarial reduction factor set out in the Table in the Schedule to the Judicial Pensions (Miscellaneous) Regulations 1995 corresponding to P's age on P's birthday following the day on which P retires.

- (4) Paragraph (5) applies where—
- (a) on retirement, P has reckonable service in more than one eligible fee-paid judicial office; and
 - (b) P did not, at any time before retirement, hold two or more eligible fee-paid judicial offices simultaneously.
- (5) The annual rate for any relevant offices is determined by taking the following steps—
- Step 1*
- Determine the annual rate under paragraph (3) in relation to each relevant office.
- Step 2*
- Add together each of the annual rates determined under Step 1.
- (6) Paragraph (7) applies where—
- (a) on retirement P has reckonable service in more than one eligible fee-paid judicial office; and
 - (b) at any time before retirement, P held two or more eligible fee-paid judicial offices simultaneously.
- (7) The annual rate for any relevant offices is determined by taking the following steps—
- Step 1*
- Determine the annual rate under paragraph (3), in relation to each relevant office which P held simultaneously with another eligible fee-paid judicial office as if—
- (i) that office were the only office in which P had reckonable service on retirement (except in determining the maximum amount in relation to that office under regulation 5), and
 - (ii) P held that office (and held no other judicial office) immediately before retirement.
- Step 2*
- Determine the annual rate under paragraph (3), in relation to each relevant office which P did not hold simultaneously with another eligible fee-paid judicial office, and for these purposes, in paragraph (3), S is—
- (i) where P held a single judicial office immediately before retirement, the appropriate annual salary of that judicial office,
 - (ii) where P held more than one judicial office immediately before retirement, the highest appropriate annual salary of those offices.
- Step 3*
- Add together each of the rates determined under Steps 1 and 2.
- (8) Paragraph (9) applies where—
- (a) during one or more parts of the period for which P held a relevant office (“office A”), P held one or more other eligible fee-paid judicial offices simultaneously; and
 - (b) during one or more parts of that period P held no eligible fee-paid judicial office other than office A.
- (9) For the purposes of paragraph (7)—

- (a) office A is to be treated as two different relevant offices—
 - (i) the first of which (“the first office”) is held for the period (or the aggregate of the periods) mentioned in paragraph (8)(a) and, accordingly, is taken into consideration in Step 1 in paragraph (7), and
 - (ii) the second of which (“the second office”) is held for the period (or the aggregate of the periods) mentioned in paragraph (8)(b) and, accordingly, is taken into consideration in Step 2 in paragraph (7); and
- (b) P’s reckonable service in office A is to be apportioned between the first and the second offices in the same proportion as that between the period P held the first office and the period P held the second office.

Retirement under normal pension age: entitlement to preserved pension

11I.—(1) This regulation applies to a member (“P”) whose benefits are to be calculated under this Part in respect of one or more eligible fee-paid judicial offices (each “a relevant office”) where—

- (a) P retires;
 - (b) if P retires by virtue of having been removed from all judicial offices held by P and the appropriate Minister makes a recommendation under regulation 11G(1)
 - (c), P does not make an election under regulation 11G(3); and
 - (c) on the day on which P retires, P—
 - (i) has not reached normal pension age for a relevant office, and
 - (ii) has at least 2 years’ qualifying judicial service.
- (2) On the pension start day, P becomes entitled to the payment for life of a pension in respect of the relevant office.
- (3) In this regulation “the pension start day” means—
- (a) the day on which P—
 - (i) reaches the normal pension age for the relevant office, or
 - (ii) (if later) would have completed the requirement for qualifying judicial service in relation to the relevant office, if P had continued to hold a judicial office; or
 - (b) if later, the amendment day.

Annual rate of preserved pension

11J.—(1) The annual rate of preserved pension to which a member (“P”) is entitled under regulation 11I is determined under paragraph (3) or (5) (whichever applies).

- (2) Paragraph (3) applies where, on retirement—
 - (a) P has reckonable service in one or more eligible fee-paid judicial offices; and
 - (b) P did not, at any time before retirement, hold two or more eligible fee-paid judicial offices simultaneously.
- (3) The annual rate for any relevant offices is determined by taking the following steps—
 - Step 1*
Determine the annual rate in relation to each relevant office in accordance with the following formula—

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$$\left(\frac{N}{JS} \times AF \times S \right) \times \frac{Z}{Z+Y}$$

where—

N is the reckonable service which P accrued, in the relevant office, before the date on which P retired, calculated under regulation 5(1) as though regulation 5(2) did not apply

JS is the number of years of qualifying judicial service that P has, subject to a maximum of—

- (i) 15 years for offices in Tables 1 or 2 in Schedule 1, and
- (ii) 20 years for offices in Table 3 in Schedule 1

AF is the accrual factor specified for the relevant office in column 2 of Table 1, 2 or 3, as the case may be, of Schedule 2, relating to P's qualifying judicial service as if P had continued to hold that office until the date on which P reaches the normal pension age applicable for that office, subject to a maximum of—

- (i) 15 years for offices in Tables 1 or 2 in Schedule 1, and
- (ii) 20 years for offices in Table 3 in Schedule 1

S is the appropriate annual salary of the judicial office held by P immediately before retirement

Z is the period, or the aggregate of the periods, expressed in years and any fraction of a year during which P held one or more eligible fee-paid judicial offices, disregarding any day in respect of which the conditions in regulation 4(2) (qualifying fee-paid days) are not met

Y is the period, expressed in years and any fraction of a year, beginning with the day on which P retired and ending with the day on which P reaches normal pension age for the relevant office.

Step 2

Add together the annual rates determined under Step 1.

(4) Paragraph (5) applies where—

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

(5) The annual rate for any relevant offices is determined by taking the following steps—

Step 1

Determine the annual rate under paragraph (3) of this regulation, in relation to each relevant office which P held simultaneously with another eligible fee-paid judicial office, as if—

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

Step 2

Determine the annual rate under paragraph (3) of this regulation in relation to each relevant office which P did not hold simultaneously with another eligible fee-paid judicial office, and for these purposes, in paragraph (3), S is—

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

Step 3

Add together each of the rates determined under Steps 1 and 2.

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

Retirement due to ill-health: entitlement to ill-health ordinary pension

11K.—(1) This regulation applies to a member (“P”) whose benefits are to be calculated under this Part in respect of one or more eligible fee-paid judicial offices (each “a relevant office”) where P retires and the ill-health certification condition is met in relation to P.

(2) On the pension start day, P becomes entitled to the payment for life of a pension in respect of any relevant offices.

(3) In this regulation “the pension start day” means—

- (a) the day after that on which P retires; or
- (b) if later, the amendment day.

(4) It is not material whether P has reached the normal pension age or met any requirement for qualifying judicial service in relation to a relevant office.

(5) Where apart from this paragraph, P would be entitled to—

- (a) a pension under this regulation; and
- (b) a pension under—
 - (i) regulation 11G (retirement under normal pension age on removal from judicial office), or
 - (ii) regulation 11I (retirement under normal pension age: entitlement to preserved pension)

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

Annual rate of ill-health ordinary pension

11L. Regulation 11F applies in relation to the annual rate of pension to which a person is entitled under regulation 11K as it applies in relation to the annual rate of pension to which a person is entitled under regulation 11E.

Times at which pension under this Part is payable

11M. A pension under this Part is payable at such intervals, not exceeding 3 months, as the Treasury may determine.

Lump sum: entitlement and amount

11N.—(1) This regulation applies where a member (“P”) retires on or after the amendment day and becomes entitled to the payment of a pension under this Part.

(2) At the time P becomes entitled to the payment of a pension, P becomes entitled to a lump sum of twice the annual rate of pension payable to P under this Part.

Multiple retirements

11O. Regulation 26 applies to a member whose benefits are calculated under this Part, who retires and subsequently resumes judicial office, as it applies to a member whose benefits are calculated under Part 3.

CHAPTER 2

Death Benefits

Interpretation

11P. In this Chapter—

“surviving adult”, in relation to a deceased member (“P”), means P’s surviving spouse or surviving civil partner;

“surviving spouse”, in relation to P, means a person who—

- (i) was married to P on the date of P’s death, and
- (ii) if P retired before death, entered into the marriage before P retired;

“surviving civil partner”, in relation to P, means a person who—

- (i) was in a civil partnership with P on the date of P’s death, and
- (ii) if P retired before death, entered into the civil partnership before P retired;

“surviving adult’s pension” means a pension payable to a surviving adult under this Chapter.

Entitlement to surviving adult’s pension

11Q.—(1) This regulation applies where a member (“P”), whose benefits are to be calculated under this Part in respect of one or more eligible fee-paid judicial offices, dies leaving a surviving adult.

(2) On the pension start day, the surviving adult becomes entitled to the payment for life of a pension.

(3) For the purposes of paragraph (2) the “pension start day” means—

- (a) the day after the day on which P dies; or
- (b) if later, the amendment day.

(4) Where the surviving adult marries or enters into a civil partnership, the Treasury may, at any time, direct that payment of the pension be withheld.

(5) The Treasury may, at any time, direct that payment of a pension withheld under paragraph (4) be resumed.

Annual rate of surviving adult’s pension

11R.—(1) The annual rate of a pension to which a person becomes entitled under regulation 11Q is equal to one half of the rate of the pension of the deceased member (“P”).

(2) For the purposes of this regulation the rate of P’s pension is determined as follows.

(3) Where P dies on or after the amendment day after having retired, the rate of P’s pension is the annual rate of the pension to which P was entitled under this Part on the day on which P died.

(4) Where P dies on or after the amendment day without having retired, the rate of P’s pension is the annual rate of the pension to which P would have become entitled under this Part on the day after that on which P died if—

- (a) on the day on which P died, P had not died but had instead retired; and
- (b) the ill-health certification condition were met in relation to P.

(5) Where P dies before the amendment day after having retired, the rate of P’s pension is the annual rate of the pension to which P would have become entitled under this Part on the amendment day if P were still alive on that day.

(6) Where P dies before the amendment day without having retired, the rate of P’s pension is the annual rate of the pension to which P would have become entitled under this Part on the amendment day if—

- (a) on the day on which P died, P had not died but had instead retired;
- (b) the ill-health certification condition were met in relation to P; and
- (c) P were still alive on the amendment day.

Annual rate of surviving adult’s pension: special provision for surviving civil partners

11S.—(1) Paragraph (2) applies where—

- (a) the surviving civil partner in relation to a member (“P”) becomes entitled to a pension under regulation 11Q;
- (b) P held a judicial office before, and on, 5th December 2005; and
- (c) P elects in writing to the administrators, within the period of 6 months beginning with the relevant day, that the annual rate of the surviving civil partner’s pension under regulation 11R should be calculated as if P first held a judicial office on 5th December 2005.

(2) The rate of P’s pension, for the purposes of regulation 11R, is to be determined on the basis that P first held a judicial office on 5th December 2005.

(3) In this regulation “the relevant day” means—

- (a) the amendment day; or

- (b) if later, the day on which the civil partnership is entered into.
- (4) An election under this regulation is irrevocable.

Payment of a surviving adult's pension

11T. A surviving adult's pension is payable at such intervals, not exceeding 3 months, as the Treasury may determine.

Entitlement to an eligible child's pension

11U.—(1) This regulation applies if a member ("P"), whose benefits are to be calculated under this Part in respect of one or more eligible fee-paid judicial offices, dies leaving one or more eligible children.

(2) On the pension start day, and until such time as there are no more eligible children, the relevant person becomes entitled to the payment of a pension.

- (3) In this regulation, the "pension start day" means—
 - (a) the day after the day on which P dies; or
 - (b) if later, the amendment day.

(4) In this regulation, the "relevant person" means such person or persons as the Treasury may from time to time direct, and different parts of the pension may be directed to be paid to different persons.

Annual rate of eligible child's pension

11V.—(1) The annual rate of a pension to which a person becomes entitled under regulation 11U, where P dies without leaving a surviving adult, is—

- (a) in relation to any period during which there is only one eligible child, an annual rate equal to one third of the rate of P's pension;
- (b) in relation to any period during which there are two or more eligible children, an annual rate equal to two thirds of the rate of P's pension.

(2) The annual rate of a pension to which a person becomes entitled under regulation 11U, where P dies leaving a surviving adult, is—

- (a) in relation to any period during which there is only one eligible child and the surviving adult is still alive, an annual rate equal to one quarter of the rate of P's pension;
- (b) in relation to any period during which there is only one eligible child and the surviving adult is dead, an annual rate equal to one third of the rate of P's pension;
- (c) in relation to any period during which there are two or more eligible children and the surviving adult is still alive, an annual rate equal to one half of the rate of P's pension;
- (d) in relation to any period during which there are two or more eligible children and the surviving adult is dead, an annual rate equal to two thirds of the rate of P's pension.

(3) The Treasury may direct, where the deceased member leaves a surviving adult who marries or enters into a civil partnership, that the annual rate of the pension is to be calculated under paragraph (1) as if there were no surviving adult in respect of any period during which the surviving adult has a spouse or a civil partner.

- (4) The Treasury may, at any time, cancel a direction given under paragraph (3).

(5) For the purposes of this regulation the “rate of P’s pension” is determined as follows.

(6) Where P dies on or after the amendment day after having retired, the rate of P’s pension is the annual rate of the pension to which P was entitled under this Part on the day on which P died.

(7) Where P dies on or after the amendment day without having retired, the rate of P’s pension is the annual rate of the pension to which P would have become entitled under this Part on the day after that on which P died if—

(a) on the day on which P died, P had not died but had instead retired; and

(b) the ill-health certification condition were met in relation to P.

(8) Where P dies before the amendment day after having retired, the rate of P’s pension is the annual rate of the pension to which P would have become entitled under this Part on the amendment day if P were still alive on that day.

(9) Where P dies before the amendment day without having retired, the rate of P’s pension is the annual rate of the pension to which P would have become entitled under this Part on the amendment day if—

(a) on the day on which P died, P had not died but had instead retired;

(b) the ill-health certification condition were met in relation to P; and

(c) P were still alive on the amendment day.

Payment and application of an eligible child’s pension

11W.—(1) A pension to which a person is entitled under regulation 11U is payable at such intervals, not exceeding 3 months, as the Treasury may determine.

(2) A person to whom a pension or part of a pension under regulation 11U is paid must apply the pension for the benefit of—

(a) all eligible children of the deceased member; or

(b) such eligible children of the deceased member as the Treasury may direct.

Lump sum on death: death in service

11X.—(1) Paragraph (2) applies where a member (“P”), whose benefits are to be calculated under this Part in respect of one or more eligible fee-paid judicial offices (each “a relevant office”), dies without having retired.

(2) Unless a lump sum is payable on P’s death under any provision of—

(a) the Judicial Pensions Act 1981;

(b) the Judicial Pensions and Retirement Act 1993;

(c) a scheme under section 1 of the Public Service Pensions Act (Northern Ireland) 2014⁽²⁾; or

(d) a scheme under section 1 of the Public Service Pensions Act 2013⁽³⁾,

on the day after that on which P dies, the relevant person becomes entitled to a lump sum.

(3) The amount of the lump sum to which the relevant person becomes entitled under paragraph (2) is determined under paragraph (5), (7) or (9) (whichever applies).

(4) Paragraph (5) applies where, on P’s death, P has reckonable service in only one eligible fee- paid judicial office which is a relevant office.

(2) 2014 c. 2.

(3) 2013 c. 25.

- (5) The amount of the lump sum is the greater of—
- (a) twice the annual pension that P would have received in respect of the office if P had retired on ill-health grounds on the day of P's death; and
 - (b) a sum determined in accordance with the following formula—

$$S \times \frac{RS}{JS}$$

where—

S is the appropriate annual salary of the judicial office held by P immediately before P's death, determined as if P had retired on the date of P's death

RS is the amount of reckonable service P had in the relevant office at the time of death, calculated under regulation 5(1) as though regulation 5(2) did not apply

JS is P's qualifying judicial service, expressed in years and any fraction of a year.

- (6) Paragraph (7) applies where—
- (a) on P's death, P has reckonable service in more than one eligible fee-paid judicial office; and
 - (b) P did not, at any time before death, hold more than one eligible fee-paid judicial office simultaneously.
- (7) The amount of the lump sum is the greater of—
- (a) twice the annual pension that P would have received in respect of any relevant offices if P had retired on ill-health grounds on the day of P's death; and
 - (b) a sum determined in accordance with the following formula—

$$S \times \frac{ARS}{JS}$$

where—

S is the appropriate annual salary of the judicial office held by P immediately before P's death, determined as if P had retired on the date of P's death

ARS is the amount of reckonable service P had in all relevant offices at the time of death, calculated under regulation 5(1) as though regulation 5(2) did not apply

JS is P's qualifying judicial service expressed in years and any fraction of a year.

- (8) Paragraph (9) applies where—
- (a) on P's death, P has reckonable service in more than one eligible fee-paid judicial office; and
 - (b) at any time before death, P held two or more eligible fee-paid judicial offices simultaneously.
- (9) The amount of the lump sum in respect of any relevant offices is determined by taking the following steps—

Step 1

Determine the lump sum under paragraph (5) in relation to each relevant office which P held simultaneously with another eligible fee-paid office, as if that office were the only eligible fee-paid relevant office held by P.

Step 2

Determine the lump sum under paragraph (7) in relation to those relevant offices which P did not hold simultaneously with another eligible fee-paid office and, for these purposes, in paragraph (7)(b), S is—

- (i) where P held a single eligible fee-paid judicial office immediately before P's death, the appropriate annual salary of that judicial office, determined as if P had retired on the date of P's death;
- (ii) where P held more than one eligible fee-paid judicial office immediately before P's death, the highest appropriate annual salary of those offices, determined as if P had retired on the date of P's death.

Step 3

Add together each of the lump sums determined under Step 1 and the lump sum determined under Step 2.

- (10) Paragraph (11) applies where—
 - (a) during one or more parts of the period for which P held a relevant office ("office A"), P held one or more other eligible fee-paid judicial offices simultaneously; and
 - (b) during one or more parts of that period P held no eligible fee-paid judicial office other than office A.
- (11) For the purposes of paragraph (9)—
 - (a) office A is to be treated as two different relevant offices—
 - (i) the first of which ("the first office") is held for the period (or the aggregate of the periods) mentioned in paragraph (10)(a), and accordingly, is taken into consideration in Step 1 in paragraph (9), and
 - (ii) the second of which ("the second office") is held for the period (or the aggregate of the periods) mentioned in paragraph (10)(b) and, accordingly is taken into consideration in Step 2 in paragraph (9); and
 - (b) P's reckonable service in office A is to be apportioned between the first and the second offices in the same proportion as that between the period P held the first office and the period P held the second office.
- (12) In this regulation "the relevant person" means—
 - (a) the person nominated by P for the purpose of this regulation by notice in writing to the administrators; or
 - (b) in default of such nomination, P's personal representatives, on behalf of P's estate.

Lump sum on death: death after retirement of member with preserved pension

- 11Y.—**(1) Paragraph (2) applies if—
- (a) a member ("P"), whose benefits are to be calculated under this Part in respect of one or more eligible fee-paid judicial offices (each "a relevant office"), dies having retired;
 - (b) where P retires on or after the amendment day, P is not, on retirement, an opted-out member; and

- (c) if P had not died P would, on reaching normal pension age for one or more relevant offices, have become entitled to a pension under regulation 11I.
- (2) On the day after that on which P dies, P's personal representatives become entitled to a lump sum on behalf of P's estate.
- (3) The amount of the lump sum is twice the notional annual rate of pension determined in accordance with regulation 11J as though P had reached normal pension age for each relevant office on the day P died.

Lump sum on death: death soon after retirement of member entitled to pension

11Z.—(1) Paragraph (2) applies if—

- (a) a member (“P”), whose benefits are to be calculated under this Part in respect of one or more eligible fee-paid judicial offices (each a “relevant office”), dies having retired;
- (b) where P retires on or after the amendment day, P is not, on retirement, an opted-out member;
- (c) immediately before death, P was entitled to the payment of a pension under this Part in respect of the relevant offices; and
- (d) the total benefits received are less than the minimum benefits amount.

(2) On the day after that on which P dies, P's personal representatives become entitled on behalf of P's estate to a lump sum equal to the difference between the total benefits received in respect of the relevant offices and the minimum benefits amount.

(3) In this regulation “the total benefits received” means the amount determined in accordance with the following formula—

$$A + B + C - D$$

where—

A is the interim amendments payments amount (if any) in relation to P in respect of the relevant offices

B is the amount (if any) payable to P where no, or an insufficient interim amendments payments amount has been made in respect of the relevant offices

C is the total of the sums paid or payable to P under this Part on account of the pension (including any increases under the Pensions (Increase) Act 1971(4)), and by way of lump sum in respect of the relevant offices, in relation to the period after the amendment day

D is the amount (if any) payable by P where an excess interim amendments payments amount has been made in respect of the relevant offices.

(4) In this regulation—

“interim amendments payments amount” has the same meaning as in Part 3 of the Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023;

“the minimum benefits amount” means the amount the relevant person would have been entitled to under regulation 11X if P had died without retiring.”