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STATUTORY INSTRUMENTS

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**2023 No. 403**

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

**PART 2**

Amendments relating to service before 7th April 2000

**Commutation of small pensions**

43. After regulation 69 insert—

**“PART 10A**

**Commutation of small pensions**

**Commutation of small pensions**

**69A.**—(1) This regulation applies if the cash value of the retirement benefits of a member who retires on or after 1st April 2023, or of such a member’s beneficiary, does not exceed the small pensions commutation maximum.

(2) The administrators must, subject to paragraph (3) and after taking appropriate actuarial advice, pay the member or the member’s beneficiary a lump sum of such amount as represents the cash value of the retirement benefits if—

- (a) the member or the member’s beneficiary consents to receipt of a lump sum in place of the retirement benefits; 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 administrators may not pay a lump sum to a member 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 a trivial commutation lump sum from any 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).

(4) The administrators must, after taking appropriate actuarial advice, pay the member or the member’s beneficiary a lump sum of such amount as represents the cash value of the retirement benefits if—

- (a) the member or the member’s beneficiary consents to receipt of a lump sum in place of the retirement benefits; and
- (b) the cash value of the retirement benefits is less than £10,000.

- (5) A lump sum under this regulation may only be paid—
- (a) on or after the date when the member or member’s beneficiary is entitled to payment of a pension; and
  - (b) before the first payment of the pension is made.
- (6) 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.
- (7) In this regulation—
- “beneficiary” includes a transferee within the meaning of regulation 29(1);
- “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 the Finance Act 2004 (which defines trivial commutation lump sums for the purposes of Part 4 of that Act)**(1)** 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)**(2)**; and
  - (b) Part 2 (commutation payments) of the Registered Pension Schemes (Authorised Payments) Regulations 2009**(3)**;
- “retirement benefits” means all benefits payable under these Regulations, including any additional benefits purchased by the member;
- “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.”.

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(1) 2004 c. 12; paragraph 7 was amended by Finance Act 2011 (c. 11), Schedule 16 paragraphs 23 and 29 and Schedule 18 paragraphs 1, 3 and 4, the Finance Act 2014 (c. 26) section 42(1), the Taxation of Pensions Act 2014 (c. 30) Schedule 1, Part 5, paragraph 71(1)(a), (b) and (c), the Finance Act 2016 (c. 24) Schedule 5, paragraph 7(1), (2) and (3), the Finance Act 2021 (c. 26) Schedule 5, paragraph 21(1) and (6) and S.I. 2006/572 (as amended by S.I. 2009/1172).

(2) Paragraph 20 was amended by Finance Act 2011 (c. 11), Schedule 16 paragraphs 32 and 39 and Schedule 18 paragraphs 1, 3 and 6.

(3) 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, S.I. 2012/522 and 2013/1818.