Changes to legislation: *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Judicial Pensions (Fee-Paid Judges) Regulations 2017. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

2017 No. 522

PUBLIC SERVICE PENSIONS

The Judicial Pensions (Fee-Paid Judges) Regulations 2017

Made - - - - 30th March 2017

Coming into force in accordance with regulation 1

The Lord Chancellor in relation to judicial offices for which she is the appropriate Minister within the meaning of section 30 of the Judicial Pensions and Retirement Act 1993 [F1] and the Secretary of State in relation to judicial offices for which he is the appropriate Minister within the meaning of section 30 of that Act, make the following Regulations in exercise of the powers conferred by section 18A of that Act [F2].

In accordance with section 29(2A) of that Act a draft of this instrument has been laid before, and approved by a resolution of, each House of Parliament.

F1 1993 c.8.
F2 Section 18A was inserted by section 78(1) of the Pension Schemes Act 2015 (c.8).

PART 1

PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Judicial Pensions (Fee-Paid Judges) Regulations 2017 and come into force on—

(a) 1st April 2017, or

(b) if later, the day after the day on which they are made.

Interpretation

2.—(1) In these Regulations—

"the 1995 Regulations" means the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995 [F3];

"the 2017 schemes" means the principal scheme, the JAVC scheme, the FPJAYS and the JASAPS;

"the JAVC scheme" has the meaning given by regulation 90;

"the FPJAYS" means the Fee-Paid Judicial Added Years Scheme constituted by Part 13;

"the JASAPS" means the Fee-Paid Judicial Added Surviving Adult's Pension Scheme constituted by Part 14;

"active member" has the meaning given by regulation 9;

"the administrators" means the administrators entrusted with the administration of the scheme constituted by Part 1 of the Judicial Pensions and Retirement Act 1993;

"appropriate annual salary" has the meaning given by regulation 7;

"benefits" means any pension or lump sum payable under the principal scheme except where the context otherwise requires;

"benefit crystallisation event" has the meaning given by section 216 of the Finance Act 2004 [F4];

"the commencement day" means the date on which these Regulations come into force;

"eligible child" has the meaning given by regulation 40;

"eligible fee-paid judicial office" has the meaning given by regulation 3(2);

"fee-paid judicial office" has the meaning given by regulation 3(1);

"guaranteed minimum pension" has the meaning given in paragraph 1(1) of Schedule 2 to the Judicial Pensions and Retirement Act 1993 [F5];

"the ill-health certification condition" has the meaning given by regulation 23;

"the interim payments amount" has the meaning given by regulation 49;

"judicial office" has the meaning given by regulation 3(1);

"lifetime allowance charge" has the meaning given by section 214 of the Finance Act 2004;

"member" means a person who is a member of the principal scheme under regulation 8;

"normal pension age" means (except in Part 11) age 65, or the age of a member on the date on which that member has completed in aggregate at least 5 years' qualifying judicial service if that date is later than the date on which the member attains the age of 65;

"opted-out member" has the meaning given by regulation 9;

"partial retirement" has the meaning given by regulation 3(4);

"permitted maximum" has the meaning given in section 3(3A) of the Judicial Pensions and Retirement Act 1993 [F6];

"the principal scheme" means the scheme constituted by Parts 1 to 11 of these Regulations;

"qualifying child" in relation to a member means a child who would be an eligible child if the member were dead;

"qualifying fee-paid day" has the meaning given by regulation 4;

"qualifying fee-paid service" has the meaning given by regulation 4;

"qualifying judicial service" has the meaning given by regulation 6;

"reckonable service" has the meaning given by regulation 5;

"registered pension scheme" means a pension scheme that is a registered pension scheme under Chapter 2 of Part 4 of the Finance Act 2004 [F7];

"retires" has the meaning given by regulation 3(3) and cognate expressions are to be construed accordingly;

"surviving adult" has the meaning given by regulation 35(a);

"surviving adult's pension" has the meaning given by regulation 35(d);

"surviving civil partner" has the meaning given by regulation 35(c);

"surviving spouse" has the meaning given by regulation 35(b);

"tax year" has the meaning given in section 4(2) of the Income Tax Act 2007 [F8].

(2) Where a calculation performed under these Regulations—

(a) results in an amount containing a fraction of £1, the amount is to be rounded up to the next whole £1,

(b) results in a period containing a fraction of a year, the period is to be given to four decimal places.

F3 S.I. 1995/639.

F4 2004 c.12. Section 216 was amended by paragraphs 31 and 42 of Schedule 10 to the Finance Act 2005 (c.7); paragraph 30 of Schedule 23 to the Finance Act 2006 (c.25); paragraphs 1, 4 and 5 of Schedule 29 to the Finance Act 2008 (c.9); paragraphs 62 and 73 of Schedule 16 to the Finance Act 2011 (c.11); paragraph 16 of Schedule 1 and paragraph 21 of Schedule 2 to the Taxation of Pensions Act 2014 (c.30); paragraph 4 of Schedule 4 to the Finance Act 2015 (c.11).

F5 The definition of "guaranteed minimum pension" in Schedule 2 to the Judicial Pensions and Retirement Act 1993 was amended by paragraph 46 of Schedule 8 to the Pension Schemes Act 1993 (c.48), and paragraph 43 to Schedule 7 to the Pension Schemes (Northern Ireland) Act 1993 (c.49).

F6 Subsection (3A) was inserted, with subsections (3B) to (3E), by S.I. 2006/497.

F7 2004 c. 12.

F8 2007 c. 3.

Judicial office, retirement and partial retirement

3.—(1) In these Regulations—

(a) "judicial office" means an office specified in column 1 of the Schedule ("a specified office"), an office which has been replaced by a specified office, or an office specified in Schedule 1 to the Judicial Pensions and Retirement Act 1993 [F9];

(b) "fee-paid judicial office" means a judicial office held by a person whose service in that office is remunerated by the payment of fees (as opposed to the payment of salary).

(2) For the purposes of these Regulations, a fee-paid judicial office held by a person ("P") is an "eligible fee-paid judicial office" if P satisfies the conditions for membership of the principal scheme under regulation 8(1) or (5) (members) in respect of that office.

(3) For the purposes of these Regulations, P "retires" at the time when P, having held one or more judicial offices—

(a) ceases to hold all such offices, other than by reason of P's death; and

(b) is not immediately afterwards appointed to another judicial office.

(4) In these Regulations, a reference to a member taking "partial retirement" in respect of a fee-paid judicial office is to the member giving notice in relation to that office under regulation 27(2).

F9 Schedule 1 was amended by paragraphs 39 and 40 of Schedule 11 to the Access to Justice Act 1999 (c.22); section 37 of, and paragraphs 226 and 229 of Schedule 4 to the Constitutional Reform Act 2005 (c.4); S.I. 2015/109.

Qualifying fee-paid days and qualifying fee-paid service

4.—(1) For the purposes of these Regulations, a day ("the relevant day") is a "qualifying fee-paid day" worked by a member ("P") in an eligible fee-paid judicial office, if—

(a) P received a fee, in P's capacity as the holder of that fee-paid judicial office, in respect of the relevant day; and

(b) the following conditions are met.

(2) The conditions are—

(a) that P is not an opted-out member of the principal scheme on the relevant day;

(b) that the relevant day is on or after 7th April 2000;

(c) that P is not eligible to be a member of the pension scheme established by the Judicial Pensions Regulations 2015 [F10] in relation to the relevant day.

(3) In these Regulations "qualifying fee-paid service", in relation to an eligible fee-paid judicial office held by P, means (subject to paragraph (5)) the total number of qualifying fee-paid days worked by P in that office.

(4) Where the fee paid to P in respect of a qualifying fee-paid day was not paid at the full daily rate for the fee-paid judicial office in question but at a proportion of that rate, only that proportion of the qualifying fee-paid day is to be taken into account under paragraph (4) in determining P's qualifying fee-paid service.

(5) For the purposes of this regulation, "fee" does not include statutory sick pay, statutory maternity pay, statutory paternity pay, statutory adoption pay or statutory shared parental pay.

(6) Where at any time after 1st April 2010 P takes maternity leave during P's appointment to an eligible fee-paid judicial office P's qualifying fee-paid service is to be increased by adding Z days in relation to each period of maternity leave taken by P after that date, where Z is determined in accordance with the following formula—

$$W \times \frac{A}{52}$$

where—

a W is the number of weeks of P's maternity leave;

b A is the number of qualifying fee-paid days worked by P in the twelve months ending with the day before the fifteenth week before the date notified by P to the Ministry of Justice as P's expected date of childbirth.

(7) For the purposes of paragraph (6), "maternity leave" includes compulsory maternity leave and ordinary maternity leave as defined in section 213 of the Equality Act 2010 [F11].

F10 S.I.2015/182.
F11 2010 c.15.

Reckonable service

5.—(1) In these Regulations, "reckonable service", in relation to an eligible fee-paid judicial office ("the relevant office") held by a member ("P"), means the period, expressed in years and any fraction of a year, determined in accordance with the following formula—

$$\frac{M}{N}$$

where—

a M is P's qualifying fee-paid service in the relevant office;

b N is the annual divisor for that office specified in column 2 of the Schedule.

(2) But where P's reckonable service in relation to the relevant office, as determined under paragraph (1), is greater than the maximum amount in relation to that office, P's reckonable service is instead that maximum amount.

(3) Paragraph (4) applies where, on the reckonable service date, the only eligible fee-paid judicial office in which P has qualifying fee-paid service is the relevant office.

(4) The maximum amount in relation to the relevant office is the amount determined in accordance with the formula—

$$20 - A$$

(5) Paragraph (6) applies where—

(a) on the reckonable service date, P has qualifying fee-paid judicial service in more than one eligible fee-paid judicial offices, but

(b) the relevant office is the only such office that P holds on that date.

(6) The maximum amount in relation to the relevant office is the amount determined in accordance with the formula—

$$20 - (A + B)$$

(7) Paragraph (8) applies where P ceases to hold one or more eligible fee-paid judicial offices on the reckonable service date.

(8) The maximum amount in relation to each of those eligible fee-paid judicial offices is to be calculated separately by taking the following steps.

Step 1
Calculate the maximum amount for the eligible fee-paid judicial office with the highest appropriate annual salary in accordance with the formula—

$$20 - (A + B)$$

Step 2
Calculate the maximum amount for each of the other eligible fee-paid judicial offices in turn, taking the judicial office with the next highest appropriate annual salary before judicial offices with a lower appropriate annual salary, in accordance with the formula—

(9) For the purposes of this regulation, A is—

(a) where P is not entitled to a pension under Part 1 of the Judicial Pensions and Retirement Act 1993 on the reckonable service date and will not become entitled to such a pension at any time after that date, nil;