STATUTORY INSTRUMENTS

2017 No. 512

PUBLIC SERVICE PENSIONS

The Judicial Pensions (Additional Voluntary Contributions) Regulations 2017

Made - - - - 30th March 2017

Coming into force in accordance with regulation 1

The Lord Chancellor makes these Regulations in exercise of the powers conferred by the following provisions of the Public Service Pensions Act 2013(**1**): sections 1(1) (as read with paragraph 2 of Schedule 1), and (2)(b), 2(1) (as read with paragraph 2(1) of Schedule 2), 3(1), (2) and (3), 4(1) and (3), 5(1) and (2) (as read with section 8(1)(b)), and Schedule 3.

In accordance with section 3(5) of that Act, these Regulations are made with the consent of the Treasury.

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

In accordance with section 21 of and paragraph 2(2) of Schedule 2 to that 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.

A draft of this instrument has been laid before Parliament and approved by a resolution of each House of Parliament in accordance with sections 24(1)(c) and 32(2)(a) of that Act.

Citation and commencement

1. These Regulations may be cited as the Judicial Pensions (Additional Voluntary Contributions) Regulations 2017 and come into force on 1st April 2017 or, if later, the day after the day on which they are made.

Interpretation

2. In these Regulations –

"the 2004 Act" means the Finance Act 2004(**2**);

"the 2015 regulations" means the Judicial Pensions Regulations 2015(**3**);

"the 2015 scheme" means the judicial pension scheme created by the 2015 regulations;

(**1**) 2013 c. 25.
(**2**) 2004 c. 12.
(**3**) S.I. 2015/182.

"active member" means a person who is in pensionable service under the 2015 scheme;

"AVC member" means an active member who has given a notice under regulation 6(2);

"AVC scheme" means the scheme established under regulation 3;

"authorised provider" has the same meaning as in section 1(9) of the Superannuation Act 1972(**4**);

"Judicial Pension Board" means the Judicial Pension Board established by regulation 6(1) of the 2015 regulations in accordance with regulations 7 and 8 of those regulations;

"judicial pension scheme" means the 2015 scheme or the scheme constituted by the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995(**5**);

"normal minimum pension age" has the same meaning as in section 279(1) (other definitions) of the 2004 Act;

"pensionable service" has the same meaning as in Chapter 2 of Part 4 of the 2015 regulations;

"qualifying recognised overseas pension scheme" has the meaning given in section 169(2) of the 2004 Act(**6**);

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

"AVC scheme assets" means the total value of A minus B, where—

A is the sum of the realisable value of the investments made by the scheme manager with the contributions paid by the AVC member, plus any transfer value accepted under regulation 10; and

B is the sum of—

(i) any amount deducted for tax under regulation 15;

(ii) the fees or charges of an authorised provider in relation to the investments made by the scheme manager defrayed in accordance with regulation 16; and

(iii) any amount that has already been transferred out of the AVC scheme under regulation 14.

"scheme contributions" means the total of payments made under regulation 9(2)(a), (b) and (c);

"scheme manager" has the meaning given in regulation 4;

"tax year" has the meaning given in section 4(2) of the Income Tax Act 2007(**7**) (as applied by section 989 of that Act).

Establishment and scope

3. An additional voluntary contributions scheme is established as a defined contributions scheme for the judiciary.

Administration

4.—(1) The Lord Chancellor is the scheme manager for the AVC scheme and any statutory pension scheme that is connected with it.

(2) The AVC scheme is to be administered in accordance with these Regulations.

(**4**) 1972 c. 11; section 1(9) was amended by S.I. 2001/3649 Part. 3, article 106(3) and the Financial Services Act 2012 (c. 21), Schedule 18(2), paragraph 35.
(**5**) S.I. 1995/639, as amended by S.I. 1996/52, 2000/342, 2005/2506, 2005/3325, 2006/747, 2007/1898, 2012/516, and the Employment Rights (Dispute Resolution) Act 1998 (c. 8).
(**6**) Amended by the Finance Act 2013 (c. 29) Part 1, Chapter 4, section 53(5)(a).
(**7**) 2007 c. 3.

(3) The scheme manager is responsible for managing and administering the AVC scheme and any statutory pension scheme that is connected with it.

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

(5) 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 AVC member to whom the discretion relates.

(6) The scheme manager and the Judicial Pension Board may agree that paragraphs (4) and (5) do not apply to specific discretions or in specific circumstances.

(7) The scheme manager may delegate any functions under these Regulations.

Pension board

5.—(1) The Judicial Pension Board is responsible for assisting the scheme manager—

(a) to secure compliance with—

(i) these Regulations;

(ii) any other legislation relating to the governance and administration of the AVC scheme and of any statutory pension scheme that is connected with it; and

(iii) any requirements imposed by the Pensions Regulator in relation to the AVC scheme and any statutory pension scheme that is connected with it; and

(b) in the performance of the scheme manager's functions under these Regulations.

(2) The Judicial Pension Board may determine its own procedures.

Membership

6.—(1) Membership of the AVC scheme is only open to active members.

(2) An active member becomes an AVC member by giving valid notice in writing to the scheme manager.

(3) A notice under paragraph (2) is a valid notice if it contains such information as the scheme manager may specify.

(4) The scheme manager must only specify such information under paragraph (3) as the scheme manager may require for the purposes of carrying out functions under these Regulations or the AVC scheme.

(5) If a person ceases to be an active member they also cease to be an AVC member.

Further information

7. An AVC member must, if requested by the scheme manager, provide or authorise to be provided such information as is requested by the scheme manager—

(a) relating to the AVC member's medical history and state of health; or

(b) about any benefits which the AVC member may have which are derived from a registered scheme (including information about any such benefits which have been transferred to another scheme, whether or not in the United Kingdom) and which relates to benefits accrued other than through contributions to a judicial pension scheme.

Disclosure of information

8. In order to establish or ensure compliance with the 2004 Act the scheme manager may disclose any financial information obtained under regulation 6 or 7(b) to —

(a) the Commissioners for Her Majesty's Revenue and Customs (or to the officers of the Commissioners for Her Majesty's Revenue and Customs); or

(b) any authorised provider, or the servants or agents of that provider, who is, or may be, concerned in the investment of the funds or the provision of benefits under the AVC scheme.

Contributions

9.—(1) An AVC member must from time to time, as required by the scheme manager, instruct the scheme manager by notice in writing as to the level and form of contributions that the AVC member wishes to make.

(2) An AVC member may contribute to the AVC scheme by way of —

(a) lump sum payments made from time to time of the same or a different amount;

(b) regular payments of the same amount; or

(c) a combination of lump sum and regular payments,

and in any case payment must be made by way of a deduction from the AVC member's salary or fees.

(3) A notice under paragraph (1) must specify—

(a) in the case of a regular payment, the amount of each regular payment or, if expressed as a percentage of salary or fees, that percentage;

(b) in the case of a lump sum, the amount of the contribution.

(4) An AVC member's scheme contributions in any tax year must not exceed that amount which, when aggregated with all contributions to any other registered scheme in the same tax year, bring the AVC member's total contributions for that tax year up to the maximum amount of relief as calculated under section 190 of the 2004 Act(**8**).

Transfers in

10.—(1) At any time before the AVC member's normal minimum pension age, an AVC member may make, or arrange to be made, a payment representing the cash equivalent of the AVC member's accrued rights in any other registered scheme or a qualifying recognised overseas pension scheme to be invested in the scheme.

(2) A payment under paragraph (1) from a registered scheme may be accepted by the scheme manager only if the administrator of the registered scheme certifies that the payment is a recognised transfer as defined in section 169 of the 2004 Act(**9**).

Investment of funds

11.—(1) The scheme manager must, as soon as reasonably practicable, invest an AVC member's scheme contributions made under regulation 9 and any transfer payment accepted under regulation 10 with an authorised provider for the purpose of providing benefits under regulation 12.

(**8**) Part of section 190 was repealed by the Finance Act 2013 (c. 29).

(**9**) Amended by the Finance Act 2005 (c. 7), Schedule 10, paragraph 36, Finance Act 2011 (c. 11), Schedule 16(2), paragraph 66(a) and (b), Finance Act 2013 (c. 29), Part 1, Chapter 4, section 53(3), (4), (5), (6) and (7), Finance Act 2014 (c. 26), Schedule 1(7), paragraph 92, Schedule 7, paragraph 23(a), and the Taxation of Pensions Act 2014 (c. 30), Schedule 1(1), paragraph 8, Schedule 1(7), paragraph 92 and Schedule 2(1), paragraph 4.