Draft Regulations laid before Parliament under section 24(1)(c) of the Public Service Pensions Act 2013, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2017 No.

PUBLIC SERVICE PENSIONS

The Judicial Pensions (Amendment) Regulations 2017

Made - - - - ***

Coming into force in accordance with regulation 1

The Lord Chancellor makes these Regulations in exercise of the powers conferred by sections 1(1) and (2)(b), 2(1), 3(1) to (3), 18(5) (read with section 18A(4) of the Judicial Pensions and Retirement Act 1993(**1**)), (6) and (7) and 25(3) of, and paragraph 2 of Schedule 2 and Schedule 3 to, the Public Service Pensions Act 2013(**2**).

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

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

In accordance with section 24(1)(c) of that Act a draft of this instrument was laid before Parliament and approved by resolution of each House of Parliament.

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Judicial Pensions (Amendment) Regulations 2017.

(2) Save as provided by paragraph (3), these Regulations come into force on 1st April 2017 or, if later, the day after the day on which they are made.

(3) Regulations 1, 2(1) and (2), 4, 5(b), 6, 15, 16 and 17(2)(b), (5) and (6) come into force on the day after the day on which these Regulations are made.

(4) In these Regulations—

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

"the 2017 Regulations" means the Judicial Pensions (Fee-Paid Judges) Regulations 2017(**4**).

(**1**) 1993 c. 8. Section 18A was inserted by section 78 of the Pension Schemes Act 2015 (c. 8).
(**2**) 2013 c. 25. Section 18 was amended by section 52 of the Pensions Act 2014 (c. 19).
(**3**) S.I. 2015/182.
(**4**) S.I. 2017/xxxx.

Application, effect and transitory provision

2.—(1) Paragraph (2) to (4) and regulations 3 (in so far as it applies to regulations 5(b) and 17(2)(b), (5) and (6)), 5(b) and 17(2)(b), (5) and (6) are deemed to have effect from 1st April 2015.

(2) Until the coming into force of regulation 17(2)(e) the definition of "tapered protection member" in paragraph 1 of Schedule 2 to the 2015 Regulations is to have effect as though for "12 and 13" there were substituted "12, 13 and 13A".

(3) Paragraph (4) of this regulation applies where a person (P) is —

(a) a member of the scheme established by the 2015 Regulations; and

(b) a person to whom regulation 48(1) of the 2017 Regulations applies.

(4) The 2015 Regulations are to apply to the calculation of any sums payable in respect of P's retirement or death under the 2015 Regulations as though—

(a) the amendments made by these Regulations other than regulations 4, 6, 15 and 16; and

(b) the 2017 Regulations, had been in force on the day before the day on which P retired or died.

Amendment of the Judicial Pensions Regulations 2015

3. The 2015 Regulations are amended in accordance with regulations 4 to 18.

4. In regulation 1(3) (citation and commencement), after "Schedule" in the second place it occurs, insert "13".

5. In regulation 2 (interpretation)—

(a) in the appropriate places, insert—

""FPJR 2017" means the Judicial Pensions (Fee-Paid Judges) Regulations 2017;";

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

""qualifying judicial service" has the meaning given in regulation 6 of the FPJR 2017;";

""relevant scheme" means—

(i) an existing scheme;

(ii) the Fee-Paid Judges Scheme;", and

(b) in the definition of "index adjustment", for "that scheme year" substitute "the previous scheme year".

6. For regulation 3 (establishment and scope) substitute—

"**3.**—(1) 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, and

(b) persons to whom this scheme may potentially relate by virtue of paragraph (2) and in respect of whom the Lord Chancellor makes a determination under section 25(5) of the Act.

(2) A person appointed to one or more of the following offices is specified as a person to whom this scheme may potentially relate—

(a) part-time sheriff (Scotland);

(b) part-time stipendiary magistrate (Scotland);

(c) part-time summary sheriff (Scotland);

(d) temporary judge (Scotland).".

7. In regulation 17 (enrolment), in paragraph (2)(b)(ii), for "an existing" substitute "a relevant".

8. In regulation 55 (qualifying service)—

(a) for "an existing" in both places where it occurs substitute "a relevant", and

(b) after paragraph (2) insert—

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

9. In regulation 97 (entitlement to surviving adult's pension)—

(a) in paragraphs (1) and (2), for "an existing" substitute "a relevant", and

(b) after paragraph (5) insert—

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

10. In regulation 100 (annual rate of surviving adult's pension on death in service)—

(a) in paragraphs (2) and (5)(b)(i), for "an existing" substitute "a relevant", and

(b) at the end insert—

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

11. In regulation 119 (meaning of "final pay")—

(a) for paragraph (4) substitute—

"(4) In this regulation and in regulation 120, 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 an existing 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.", and

(b) after paragraph (4) insert—

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

12. In regulation 120 (meaning of "annualised final pay") omit paragraph (3).

13. In regulation 121 (amount payable on death in service)—

(a) in paragraph (2) for "an existing" substitute "a relevant", and

(b) after paragraph (7) insert—

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

14. In regulation 122 (amount payable on death out of service), in paragraph (2), for "an existing" substitute "a relevant".

15. In regulation 153 (forfeiture: relevant monetary obligations and relevant monetary losses), in paragraph (5)—

(a) in sub-paragraph (c) of the definition of "relevant monetary obligation" for "criminal, fraudulent or negligent" substitute "criminal or fraudulent", and

(b) in sub-paragraph (b) of the definition of "relevant monetary loss" for "criminal, fraudulent or negligent" substitute "criminal or fraudulent".

16. In regulation 154 (set-off)—

(a) after paragraph (3)(a), insert—

"(aa) arose out of P's criminal or fraudulent act or omission;", and

(b) in paragraph (4)(b), for "criminal, fraudulent or negligent" substitute "criminal or fraudulent".

17.—(1) Schedule 2 (transitional provisions) is amended as follows.

(2) In paragraph 1(interpretation)—

(a) in the definition of "closing date"—

(i) for "an existing" substitute "a relevant", and

(ii) for "that scheme" substitute "such a scheme";

(b) in the definition of "full protection member", for "8 and 9" substitute "8, 9 and 9A";

(c) in the definition of "protected member" for "an existing" substitute "a relevant";

(d) in the definition of "tapered protection closing date" for "an existing" substitute "a relevant";

(e) for the definition of "tapered protection member" substitute—

""tapered protection member"—

(a) in relation to an existing scheme, has the meaning given in paragraphs 12, 13 and 13A; and

(b) in relation to the Fee-Paid Judges Scheme, means a person who meets the conditions in sub-paragraphs (a) to (d) of regulation 14(6);";

(f) in the definition of "transition date"—

(i) for "an existing" substitute "a relevant";

(ii) for "that scheme" substitute "such a scheme", and

(g) in the definition of "transition member" for "an existing" substitute "a relevant".

(3) In paragraph 2 (meaning of "continuity of service")—

(a) renumber the existing text as sub-paragraph (1);

(b) in that paragraph for "an existing" substitute "a relevant", and

(c) at the end insert—

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

(4) In paragraph 3 (meaning of "tapered protection closing date")—

(a) in sub-paragraph (1)—

(i) for "an existing" substitute "a relevant", and