Ministry of Justice

Judicial Pension Scheme 2022

Consultation on draft scheme regulations

This consultation begins on 23 July 2021

This consultation ends on 8 October 2021

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A consultation produced by the Ministry of Justice.

About this consultation

To:	This consultation seeks views from any member of the judiciary who is entitled to be a member of a judicial pension scheme, legal professionals, pension industry professionals and any persons likely to affected by these reforms.
Duration:	From 23/07/21 to 8/10/21
Enquiries (including requests for the paper in an alternative format) to:	Email: reformedpensionconsultation@justice.gov.uk
How to respond:	Responses to the consultation questions should be submitted via email to: reformedpensionconsultation@justice.gov.uk by 8 October 2021.

Contents

Executive summary

1. This consultation seeks views on the draft regulations for the Judicial Pension Scheme (JPS) 2022 which will reform the current judicial pensions arrangements.

2. The JPS 2022 will be open to all eligible salaried and fee-paid judicial office holders from 2022. Salaried and fee-paid judicial office holders who are in office when the scheme commences, and who are eligible for a judicial pension, would join the reformed scheme automatically in respect of future service in that office unless they decide to opt out of the scheme.

3. Those devolved judicial offices in Northern Ireland that are currently eligible to join the Northern Ireland Judicial Pension Scheme (NI JPS) will also be eligible to join JPS 2022, subject to the Northern Ireland Assembly passing a legislative consent motion.

4. Judges who have pension arrangements under the Judicial Pensions and Retirement Act (JUPRA) 1993[1] or its fee-paid equivalent, the Fee-Paid Judicial Pension Scheme (FPJPS) 2017, and those who are members of the 2015 scheme, the New Judicial Pension Scheme (NJPS),[2] will transfer into JPS 2022 and accrue benefits under it. From the date of its implementation, which is currently planned for 1 April 2022, the JPS 2022 will be the only scheme in which judges are able to accrue benefits, and all other judicial pension schemes will be frozen to future accruals. All benefits previously accrued in predecessor schemes will be protected, including the preservation of the automatic lump sum and final salary link in respect of service in those schemes.

5. The JPS 2022 will be established by regulations made under the Public Service Pensions Act (PSPA) 2013 and so will be subject to the PSPA statutory framework. This will ensure that JPS 2022 is subject to the modernised pension rules and governance requirements that were brought into force by the PSPA for most public service pension schemes. To allow for the creation of JPS 2022 and the closure to future accrual of pre-2022 judicial pension schemes, we are also seeking to amend the PSPA through the Public Service Pensions and Judicial Offices Bill. At the time of consultation this Bill is currently being considered by Parliament.

6. The key features of JPS 2022 and the retirement provisions that are detailed in the regulations are summarised below.

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[1] When this document refers to 'JUPRA', this definition covers all pre-JUPRA schemes in addition to the 1993 scheme.

[2] References to the New Judicial Pension Scheme (NJPS) throughout the consultation document encompass the Northern Ireland Judicial Pension Scheme (NI JPS).

Key features of the JPS 2022

- **Tax status:** JPS 2022 will be a tax-unregistered scheme meaning that benefits accrued in the scheme do not count towards either the annual allowance or lifetime allowance limits. This is a significant benefit to judges, particularly those who have already accrued pension in registered schemes before joining the judiciary. JUPRA/FPJPS are tax-unregistered schemes, whereas NJPS is a registered scheme.
- **Member contributions:** JPS 2022 will introduce a uniform contribution rate of 4.26%. Those judges in service before JPS 2022 comes into force, may opt for a lower contribution rate of 3%, for three years, in exchange for a commensurate reduction in their accrual rate from 2.5% to 2.42%. This is to allow judges to adjust to the new contribution rate, particularly where they would suffer a reduction in take-home pay as a result of the introduction of JPS 2022.
- **Accrual rate:** A scheme member will 'bank' an amount of pension at a rate of 2.5% of their pensionable earnings in that scheme year. This is the same accrual rate offered in JUPRA/FPJPS, and higher than NJPS, where the rate is 2.32%.
- **Lump sum commutation:** JPS 2022 will not provide an automatic lump sum as was available in JUPRA/FPJPS. However, scheme members will have the option to 'commute' or give up some of their pension in exchange for a lump sum. Members will receive a commutation supplement to compensate for the tax-unregistered status of the scheme.
- **No Service cap:** JPS 2022 will not limit the number of years for which a judge can accrue pensionable service. This reflects NJPS and differs from JUPRA/FPJPS, where a judge could only accrue service for 20 years.

Retirement provisions

- **Age at which pension is payable:** The age at which pension will become payable will be linked to the scheme member's State Pension age. This mirrors NJPS but differs from JUPRA/FPJPS where a member can take their pension at age 65.
- **Preserving final salary link:** Upon transferring to JPS 2022, any pension benefits that have already been earned in Pre-2022 Schemes will be protected. This includes maintaining the final salary link for those judges transferring from final salary schemes (JUPRA/FPJPS).
- **Early and late retirement:** Members will be able to draw their pension before scheme pension age, as in NJPS, but their pension will be subject to an early retirement reduction to reflect the fact that the pension will be in payment for longer than would be the case if the individual retires at the scheme pension age. If a

member retires after scheme pension age, they will be eligible for a late retirement addition to reflect the fact the pension will be in payment for a shorter period of time.

- **Partial retirement:** JPS 2022 will allow judges to partially retire by reducing their hours and taking all or some of the pension they have accrued in that office whilst still continuing to work in that office. The scheme regulations will clarify the conditions that must be met in order for a judge to partially retire in both JPS 2022 and NJPS.

7. Further details of the features and rules of the scheme can be found in the draft scheme regulations which are annexed to this consultation.

Background

8. In 2013, the Public Service Pensions Act 2013 (PSPA) introduced a statutory framework for reforming public service pension schemes. Following consultation with the judiciary, the then Lord Chancellor announced the principles for reform of judicial pension scheme arrangements in February 2013 and, after a public consultation exercise, the New Judicial Pension Scheme (NJPS)[3] was established under the Judicial Pensions Regulations 2015.[4]

9. For most judges, membership of NJPS is less financially beneficial compared to the scheme provided for under the provisions of the Judicial Pensions and Retirement Act 1993 (JUPRA) and its fee-paid equivalent, the Fee-Paid Judicial Pension Scheme (FPJPS). A significant reason for this is because NJPS is a registered scheme for tax purposes, meaning members are subject to annual and lifetime allowance limits on the tax-relieved benefits accrued within the scheme.

10. NJPS included transitional provisions to protect those closest to retirement from the effects of the 2015 pension reforms by allowing them to remain members of the scheme they were in until they retired. In December 2018, these arrangements were found by the Court of Appeal in *McCloud*[5] to constitute unlawful direct age discrimination. The Ministry of Justice's (MoJ) proposals for addressing past discrimination were set out in a separate consultation document which the Government responded to in February 2021.

11. In 2018, the Senior Salaries Review Body (SSRB) published its Major Review of the Judicial Salary Structure which highlighted escalating recruitment and retention problems at all levels of the judiciary. It concluded that these problems were caused principally by the introduction of NJPS in 2015 and subsequent changes to pension tax thresholds.

12. The Government has since made a public commitment to develop a pensions-based solution for the whole judiciary, which would aim to address, in the long-term, the recruitment and retention problems identified by the SSRB. The Public Service Pensions and Judicial Offices Bill, which was introduced to Parliament on 19 July 2021,

[3] References to the New Judicial Pension Scheme (NJPS) throughout the consultation document encompass the Northern Ireland Judicial Pension Scheme (NI JPS).

[4] Judicial Pensions Regulations 2015 (SI 2015/182) as amended by the Judicial Pensions (Amendment) Regulations 2017 (SI 2017/508)

[5] *Lord Chancellor and Secretary of State for Justice and another v McCloud and others; Secretary of State for the Home Department and others v Sargeant and others,* [2018] EWCA Civ 2844

includes provisions to implement a reformed judicial pension scheme to resolve these issues and to address the *McCloud* judgment.

Previous consultation

13. In producing the draft regulations, the Government has taken into consideration the responses received to its previous consultation on the proposed design of a reformed judicial pension scheme which ran in summer 2020. The consultation is available to view here:

    https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/901341/proposals-for-a-reformed-judicial-pension-scheme-consultation.pdf

14. We received a total of 39 responses to the consultation, including 16 from judicial associations (representing a significant proportion of the judiciary). Overall, the responses that we received provided support for the reformed scheme, agreeing that it would contribute to resolving the recruitment and retention issues identified by the SSRB and that it is a significant improvement on NJPS.

15. In response to our consultation we also received some concerns regarding certain features of the scheme, including the impact of the contribution rate proposals on the take-home pay of certain judges. In light of these comments, we amended our original proposal to give judges a time-limited option of reducing their contributions to the scheme in return for a commensurate reduction in the accrual rate for the first three years of the scheme. This was outlined in the Government's response to the consultation which was published in February 2021 and is available to view here:

    https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/964866/reformed-judicial-pension-scheme-consultation-response.pdf

About this document

16. This consultation seeks views on the draft regulations to create JPS 2022. This document sets out the proposed rules of the scheme, as well as its features, options for members, information about leaving the scheme, and how and where the draft regulations achieve this.

17. The draft scheme regulations for JPS 2022 are based on the NJPS regulations but with differences to reflect the fact that JPS 2022 is tax-unregistered, has a higher accrual rate than NJPS and has a uniform contribution rate. Therefore, many of the regulations set out below broadly mirror the NJPS regulations.

18. Where there is a divergence in policy from the previous judicial pension schemes (i.e. NJPS, JUPRA and/or FPJPS, referred to collectively as 'Pre-2022 Schemes'), the

document highlights this. Where appropriate, illustrative examples have also been provided to explain how members might be affected under JPS 2022.

19. Annexed to this consultation is a copy of the draft regulations.

Timing and process

20. We aim to issue a response to this consultation in autumn 2021 alongside an updated draft of the scheme regulations. The timing of the implementation of the scheme is dependent on the passage of the Public Service Pensions and Judicial Offices Bill through Parliament. It is our intention for the scheme to be implemented on 1 April 2022 subject to the Bill and scheme regulations being approved by Parliament before this date.

Judicial Pension Scheme 2022

21. The key features of JPS 2022 are as follows:

- A 'career average' accrual model
- No cap on the number of accruing years in service
- Normal pension age linked to State Pension age
- Tax-unregistered
- Member contribution rate of 4.26%
- Option for members to commute part of their earned pension into a lump sum at a rate of 12:1, with a commutation supplement to compensate for the tax status of the scheme
- An accrual rate of 2.5% of pensionable earnings (1/40th)
- A cost control mechanism

22. A summary of how these features compare to current judicial pension arrangements can be found at Annex A.

23. It is important to note that all benefits previously accrued in the Pre-2022 Schemes will be protected, including the preservation of the automatic lump sum and final salary link in respect of reckonable service in those schemes which offer this feature. The introduction of JPS 2022 will not change the benefits a member has previously accrued under the Pre-2022 Schemes up until April 2022.

Scheme governance

24. The scheme governance and administration arrangements for JPS 2022 are set out in Part 3 of the draft regulations. We intend for JPS 2022 to use the existing governance arrangements in place for NJPS and for the two existing governance boards to have responsibility for JPS 2022. The governance arrangements will therefore include:

- A Scheme Manager responsible for managing and administering the scheme and any statutory pension scheme connected with it. Mirroring the rules for NJPS, the Scheme Manager would be the Lord Chancellor.

- Two governance boards:

    - the Judicial Pensions Board, responsible for assisting the Scheme Manager in matters relating to good governance and administration. This board is independently chaired and has equality in representation between the Department[6] and the scheme membership.

- the Scheme Advisory Board, responsible for advising the Lord Chancellor, on the desirability of any potential changes to the scheme. This board is also independently chaired and has equality in representation between the Department and the judiciary.

Scheme membership

25. The scheme membership rules for JPS 2022 are set out in Part 4 of the draft regulations.

Eligibility for scheme membership

26. The JPS 2022 will be open to all UK judiciary, except where terms and conditions are specifically non-pensionable. This includes both salaried (full and part-time) and fee-paid judges. Those devolved judicial offices in Northern Ireland that are currently eligible to join the Northern Ireland Judicial Pension Scheme (NI JPS) will also be eligible, subject to the Northern Ireland Assembly passing a legislative consent motion.

27. A list of judicial offices which will be eligible for scheme membership is set out in the Public Service Pensions Act 2013 (Judicial Offices) Order 2015.[7] Further offices will be added to this Order by way of Part 12 and Schedule 2 to the scheme regulations.

Enrolment into the scheme

28. An eligible individual will be enrolled into JPS 2022 from their first day of service, or if moving from one of the Pre-2022 Schemes (i.e. a ‘transition member’), they will be automatically enrolled from the date the scheme is implemented. A member may also opt out of the scheme at any time.

29. Members who opt out of the scheme within one month of joining will be treated as never having joined the scheme and all contributions will be returned.

30. As outlined in our previous consultation on the scheme design, Partnership Pension Accounts (PPA) will no longer be an option under JPS 2022. Where an individual has previously been a member of a PPA, they will also be automatically enrolled into JPS

[6] The ‘Department’ may include representation from devolved administrations as well as the Ministry of Justice.

[7] Public Service Pensions Act 2013 (Judicial Offices) Order 2015 - https://www.legislation.gov.uk/uksi/2015/580/made/data.pdf

2022 from the date the scheme is implemented, assuming they hold an eligible judicial office on 1 April 2022.

31. Where an individual has previously opted out of a judicial pension, they will still be automatically enrolled into JPS 2022 from the date the scheme is implemented, assuming they hold an eligible judicial office.

Pensionable service

32. Scheme members will need two years' qualifying service in order to qualify for any pension benefits drawn before the scheme pension age (which is linked to the member's State Pension age - further detail on the scheme pension age is outlined in paragraph 63). If a judge was a member of a Pre-2022 Scheme prior to moving into JPS 2022, this service will generally be included when calculating whether a member has achieved the required period of qualifying service in JPS 2022 if they would like to draw their benefits before scheme pension age. The service will not be included if the member has a gap in service exceeding 5 years between the date active service in a Pre-2022 Scheme ended and the date service in JPS 2022 began. If a judge has been a member of a PPA, the service under this pension arrangement will not count towards their qualifying service in JPS 2022. If a member has reached the scheme pension age, the two years' qualifying service rule does not apply.

33. On leaving the scheme with less than two years' service, an individual will have the option of a refund of contributions, or a transfer value to another pension scheme or arrangement. Any member considering taking a transfer value to another pension scheme is strongly advised to seek independent financial advice to understand their options and to consider the tax implications of doing so.

34. The JPS 2022 will be open to both salaried and fee-paid judiciary. Qualifying service is calculated by reference to start and end dates and does not vary depending on full-time or part-time status. Any requirements for a minimum period of qualifying service will look at a member's service across JPS 2022 and the Pre-2022 Schemes, excluding any periods of PPA membership.

Pensionable earnings

35. For full time salaried members of the judiciary, and those on salaried part-time working arrangements, 'pensionable earnings' equates to their actual salary in that scheme year. For fee-paid members of the judiciary, their pensionable earnings are equivalent to their fees for service in a qualifying judicial office for that scheme year.

Deferred membership

36. A deferred member in JPS 2022 will be defined as a member who was previously an active member of the scheme, but who has now left pensionable service and not yet taken all pension benefits from the scheme. For example, if a judge retires from service but decides not to claim their pension straightaway, they will be a deferred member. If the member is under scheme pension age, they must have at least 2 years' qualifying service to be eligible to become a deferred member.

37. A deferred member's benefits will increase in line with the Pensions Increase Act 1971 (currently in line with the Consumer Price Index (CPI)) and, depending on the age the judge decides to draw their pension, will be subject to an early retirement reduction or late retirement addition. Further information on early and late retirement is set out in paragraphs 89-94.

38. Subject to the relevant restrictions outlined above, a member can retire any time after the normal minimum pension age (which is currently 55 - further information on the normal minimum pension age is set out in paragraph 65) and defer taking their pension for as long as they would like to, up until they have reached the Mandatory Retirement Age (MRA). Once a member has reached the MRA, they must withdraw their pension.

Member contributions

39. Member contributions are set out in Part 9 of the draft regulations. Contributions are compulsory for all members of the scheme and are made by deductions from the judicial office holder's pensionable earnings. As JPS 2022 is tax-unregistered (further information on the tax-unregistered status of the scheme is set out in paragraph 52), members will not receive tax relief on their contributions. However, the member contribution rate has been set at a lower rate to ensure members generally pay approximately the same average contribution rate to the scheme, net of tax, compared to NJPS.

Uniform contribution rate

40. The JPS 2022 will introduce a uniform contribution rate of 4.26% which will be applicable to all members of the scheme.

41. All scheme members will automatically be placed on the uniform contribution rate of 4.26%. However, those judges in service on 31 March 2022 will have an option to choose a lower contribution rate for a period of three years, and receive a corresponding lower accrual rate. Therefore, regardless of whether a judge was an active member of a Pre-2022 Scheme, a PPA member, or opted out of a Pre-2022 Scheme, they will be eligible for this option if they are transferring into JPS 2022. This option will allow judges time to adjust to the new contribution rate, particularly if they would otherwise face a reduction in their take-home pay. This option will require eligible

members to make a one-off decision that they will be able to exercise within the first three months of the scheme, up until 30 June 2022. Under this option, a judge would be able to pay a contribution rate of 3% instead of 4.26% and their accrual rate would be reduced from 2.5% to 2.42%. The option is time-limited to three years, after which all members of the scheme would pay the uniform contribution rate of 4.26% and have an accrual rate of 2.5%, as outlined in our consultation.

42. Members of JUPRA and FPJPS should note that these rates are inclusive of the contributions made for dependant's pensions. As JPS 2022 does not have a service cap, contributions will also be payable throughout a member's service whilst they are an active member of the scheme.

Additional options for pension contributions

43. Under the current judicial pension arrangements, judges can make additional voluntary contributions to save for their retirement via the Judicial Additional Voluntary Contribution Scheme (JAVCS). The JAVCS is a tax-registered, defined contribution scheme. Contributions attract tax relief and pension benefits count towards an individual's annual allowance and lifetime allowance. Contributions made to the scheme are invested with an authorised independent pension provider. They invest the member's contributions as requested by the member according to a range of investment options. The fund which is generated can be used to purchase pension benefits for the scheme member or their dependants. Members may, for example, contribute to the JAVCS to cover any gaps in their service where they were not contributing to a judicial pension scheme.

44. This arrangement will continue as part of JPS 2022. Any member of the scheme will be able to take out an additional JAVCS pension account as part of their pension arrangements and any member who currently holds one of these accounts will be able to continue to invest in this scheme.

45. The JPS 2022 will not give members the option to make additional contributions to purchase 'Added Pension' or the option to make periodical payments to attain a lower 'effective pension age'. However, transition members who have already purchased 'Added Years', 'surviving spouse's pensions' or 'Added Pension' contracts through a Pre-2022 Scheme will be allowed to continue making payments for the duration of those contracts, noting that the arrangements will remain tax-registered.

46. The decision to withdraw the option of 'Added Pension' and 'effective pension age' is consistent with the withdrawal of the ability to contribute to 'Added Years' when JUPRA became a tax-unregistered scheme in April 2006. Retaining these options in JPS 2022 would offer no tax benefits to the member and are therefore considered less attractive options in an unregistered pension scheme. Members have the option to retire before

the scheme pension age subject to an early retirement reduction (see paragraph 91) and can make additional contributions to a personal pension arrangement.

Assumed Pay

47. If a member takes sick leave on reduced pay, adoption leave, maternity pay, parental leave, paternity pay, or additional paternity pay whilst still remaining an active member of this scheme, their pensionable earnings will be based on their 'assumed pay'. This means that it will be based on the pay they would have normally received in that period if those circumstances had not applied. Therefore, the member's pension will build up as if their pensionable earnings were at their usual level.

48. For salaried judges, this is equal to the total amount of pensionable earnings that the member would have received in that period had these circumstances not applied.

49. For fee-paid judges, we are considering two different ways of calculating assumed pay and would welcome views on which would be the most appropriate to use for the scheme regulations.

    - Option 1) - Similar to the calculation of partial retirement (outlined in paragraph 102) in fee-paid offices, assumed pay would be taken as the pay a member earned in a 12-month period, across all of the fee-paid offices they hold, averaged over three years.

    - Option 2) - Take the actual pensionable pay a member has earned across all their offices over the preceding 12 months.

50. The amount calculated under either Option 1) or Option 2) would then be applied to the period of authorised leave and be used as the member's assumed pay to determine the amount of pension they would build up over this period.

Member contributions

51. If a member takes leave under one of the circumstances outlined above, they would only pay contributions on the amount of pay they are actually receiving, rather than their usual assumed pay.

Scheme features

Tax status

52. The JPS 2022 will be a non-registered scheme for tax purposes. This means that benefits accrued in the scheme do not count towards either the annual allowance or the lifetime allowance under the Finance Act 2004. However, none of the income tax

advantages conferred by the legislation governing tax-registered pension schemes would apply, such as tax relief on member contributions. JUPRA and FPJPS are tax-unregistered schemes whereas NJPS is a tax-registered scheme.

53. Conversely, the JAVCS is a registered scheme for tax purposes and contributions therefore attract tax relief and the annual and lifetime allowances do apply.

Accrual rate

54. Under JPS 2022, each member will have their own individual pension account. Every scheme year, a member will 'bank' an amount of pension in this account at a rate of 2.5% of their pensionable earnings in that scheme year. Where a judge opts to temporarily make lower contributions to their pension (see paragraph 41), the amount that they 'bank' in their pension account will be at the corresponding lower rate of 2.42%.

55. For full time salaried members of the judiciary, and those on salaried part-time working arrangements, 'pensionable earnings' will equate to their actual salary in that scheme year. For fee-paid judiciary eligible for the JPS 2022, the pensionable earnings will be equivalent to their total fee income from service in a qualifying judicial office in that scheme year.

56. A judge's final pension is then made up of the amounts 'banked' each scheme year, with index-linking applied. The accrual rate in JPS 2022 is set out in Part 5, Chapter 4 of the draft regulations.

Revaluation (index-linking) of benefits

57. The value of a member's pension whilst in active service will be maintained by applying index-linking annually. The indexing (revaluation) rate is in line with the index set under section 9 of the Public Service Pensions Act 2013, currently in line with CPI.

58. Deferred and retired scheme members' benefits will be subject to increases in accordance with the Pensions Increase Act 1971. This is also currently in line with CPI.

Lump sum commutation

59. The JPS 2022 will not provide an automatic lump sum as was available in JUPRA/ FPJPS. However, scheme members will have an option to take a part of their earned pension as a lump sum.

60. On retirement, members will have the option to 'commute' some pension in exchange for a lump sum. The commutation rate in JPS 2022 will be 12:1, the same as set out in NJPS. This means that each £1 of pension given up buys £12 of lump sum. This

commutation will have no knock-on effect on pensions for dependants, which continue to be based on pre-commutation amounts.

61. The maximum amount a member will be able to commute is 35.7% of their pension, unless they are commuting a small pension using the trivial commutation or small pot facility (see paragraphs 135-143). In NJPS, the maximum lump sum is set by rules for tax registered schemes and the limit is generally 25% of the HMRC pension valuation (subject to a maximum of 25% of the member's remaining lifetime allowance). Where the member commutes 35.7% of their pension in JPS 2022, a tax-unregistered scheme, the lump sum received represents 25% of the HMRC pension valuation. Members will also receive a commutation supplement to compensate for the tax-unregistered status of the scheme. This covers the tax due on the commuted lump sum and the tax that would be liable on the commutation supplement itself.

62. The calculation for the commuted lump sum and commutation supplement is set out in the scheme regulations at Part 6, Chapter 5 of the draft regulations.

Age at which pension is payable

63. The scheme pension age, the age at which pension in JPS 2022 will become payable on an unreduced basis if taken voluntarily, will be linked to a scheme member's State Pension age. This is often described as the normal pension age (or NPA). Members will have the right to draw their pension before scheme pension age subject to the normal minimum pension age being met. The scheme pension age is not the same as the Mandatory Retirement Age (MRA). The MRA is the upper age at which judicial office holders, including judges, are required to vacate office. The MRA does not prevent judicial office holders from retiring earlier should they wish to.

64. The Government has stated its intention to increase the State Pension age to reflect increases in longevity and changing expectations of how long people will remain in work and in retirement. Further details on the current State Pension age timetable and the plans for future review are available here:

    www.gov.uk/government/policies/reviewing-the-state-pension-age

65. The Government has also stated its intention to increase the normal minimum pension age from 55 to 57 from 2028.[8] From then on, the intention is that normal minimum pension age would remain 10 years below State Pension age, with the State Pension age being reviewed every 5 years.

[8] https://www.gov.uk/government/consultations/increasing-the-normal-minimum-pension-age-consultation-on-implementation

66. If a scheme member's State Pension age changes, all benefits accrued under the scheme will be linked to the new age. This means any new State Pension age will be the age at which the member's entire pension under JPS 2022, including pension earned before that change, is available on an unreduced basis.

67. Pension drawn before scheme pension age (and after the normal minimum pension age) will be subject to an early retirement reduction, reflecting the fact that the pension will be in payment for longer than would have been the case if the member retired at scheme pension age. The reduction will be determined using factors set by the Lord Chancellor having taken advice from the scheme actuary.

68. If a member decides to stay in service beyond the scheme pension age, a late retirement enhancement will be applied, reflecting the fact that the pension will be in payment for a shorter time than would have been the case if the member had retired at scheme pension age. The enhancement, or 'late retirement addition', will be determined using factors set by the Lord Chancellor having taken advice from the scheme actuary.

69. Further information on early and late retirement is outlined in paragraphs 89-94.

Maximum accruable service

70. There will be no limit on the number of years in which a judge can accrue pensionable service in JPS 2022. This reflects the provisions set out in NJPS and differs from JUPRA and FPJPS which limited the amount of accruable service to 20 years. The number of years that a judge accrues in the JPS 2022 will not count towards the service cap in JUPRA and FPJPS.

Cost control mechanism

71. As with other reformed, post-2015 public service pension schemes, JPS 2022 will be subject to a cost control mechanism. The mechanism aims to protect the taxpayer from unforeseen increases in scheme costs and also maintains the value of pensions to members when costs fall. This is set out in Part 11 of the scheme regulations.

72. As part of this mechanism, an employer cost cap will be set for the scheme. This cap will be used for measuring changes in the cost of the scheme, by setting a benchmark for future valuations of scheme costs to be measured against. The initial employer cost cap will be the target cost to the employer for the judicial pension scheme, represented as a percentage of pensionable earnings.

73. The target cost for JPS 2022 will be set within a year of the first scheme valuation. Scheme valuations are then scheduled to take place every four years. Under the current cost control mechanism, if a future valuation indicates that the cost has gone

beyond a 2-percentage point margin above ('the ceiling') or below ('the floor') the employer cost cap, pension benefits or member contributions must be adjusted to bring costs back to the target.

74. However, the current cost control mechanism has been subject to a review by the Government Actuary to examine whether it was operating as intended and in line with the original policy intentions.[9] HMT have now published a consultation on reforms to the mechanism following the review, which can be found here:

    https://www.gov.uk/government/consultations/public-service-pensions-cost-control-mechanism-consultation

75. The outcome of the HMT consultation will determine how the employer cost cap is calculated for reformed judicial pensions and how any changes to how the mechanism works would apply to JPS 2022. Due to the implications of the reforms for the cost control mechanism on judicial pensions, members may wish to refer and submit their comments to HMT's consultation, which closes on 19 August.

Transfers

76. Under the JPS 2022 regulations, we are proposing that scheme members will be unable to transfer pension rights into the scheme. Due to the tax status of the scheme, any transfer into the scheme would attract charges for the member and likely the administrator of the pension fund from which the money was being transferred. Therefore, we consider that an option to transfer pension rights into JPS 2022 would be very unattractive to the member.

77. This is different from current judicial pension arrangements as NJPS allows transfers from other private or occupational pensions into the scheme within 12 months of joining the scheme, subject to a limit on the amount that can be transferred. JUPRA and FPJPS allow for transfers into these schemes but only where pension rights are accrued in a registered pension scheme before commencing judicial office. Where such a transfer is made in JUPRA or FPJPS, a tax charge on the member arises and the administrators of the pension fund from which the money is transferred could also receive a further charge. Once members transition to JPS 2022, they will no longer be able to make any further transfers in to the Pre-2022 Schemes.

78. Members of JPS 2022 will still have the right to transfer benefits out of the scheme to a registered pension scheme that is a defined benefit scheme or a qualifying recognised overseas pension scheme. Where a transfer out is paid, all rights to benefits under the

[9] https://www.gov.uk/government/publications/cost-control-mechanism-government-actuarys-review-final-report

JPS 2022 will be extinguished. Any member considering transferring out to another pension scheme is strongly advised to seek independent financial advice to understand their options and to consider the tax implications of doing so.

79. The provisions for transferring benefits out of the scheme are set out in Part 10 of the draft regulations.

Leaving the scheme

Opting out of the scheme

80. All scheme members will have the right to opt out of JPS 2022 at any point. Opting out within one month from first joining the scheme is backdated to the day of joining the scheme, otherwise the opt-out generally takes effect from the beginning of the pay period after notice of opting out is given.

Preserving final salary link

81. Upon transferring to JPS 2022, any pension benefits that have already been earned in Pre-2022 Schemes will be protected. This includes maintaining the final salary link for those judges transferring from final salary schemes (JUPRA and FPJPS). This also includes those judges who are transferring to JPS 2022 from NJPS, but who have previously accrued service in JUPRA and/or FPJPS, subject to any relevant gaps in service, as set out in paragraph 84.

82. This means that all accrual in a final salary scheme will be calculated in relation to a member's final salary when they retire or otherwise leave JPS 2022, and not their salary at the point when they left the final salary scheme.

83. The preservation of the final salary link is only applicable for those judges who were in a final salary scheme and remain in JPS 2022. In the event a judge opts out of the scheme, they would usually sacrifice this final salary linkage. In this case, the final salary would be based on the salary at the point in which they opted out of JPS 2022. The member's pension will be preserved upon leaving the scheme and uprated in accordance with the Pensions Increase Act 1971.

84. If a member opts out of the scheme but later chooses to opt back in, whether their final salary link is preserved depends on the amount of time they spend out of the scheme and/or if they were a member of another public service pension scheme during this period. These rules are also relevant for time spent outside of judicial pension schemes before JPS 2022 comes into force. For example:

- Where a period of less than 5 years has elapsed between a member opting out and opting back into the scheme, their final salary link would be preserved.

- Where a period of more than 5 years had elapsed since a member opted out of a final salary legacy scheme, they would lose their right to the final salary link. Their final salary would then be calculated by taking their salary immediately before their break in service.
- If a judge left the scheme but continued service in another public service pension scheme during this time, they would be treated as not having left the scheme and a final salary link would still apply.

Full retirement

85. Members of JPS 2022 are entitled to the immediate lifetime payment of their full retirement pension once they have reached normal minimum pension age. To draw their full pension, a member must make a formal claim to the scheme manager. However, if a member claims their pension after the normal minimum pension age, which is currently 55, but before the scheme pension age, they must also have a minimum of two years' qualifying service. Any pension taken before the scheme pension age will also be subject to an early retirement reduction as outlined in paragraphs 89-91.

86. For a member to claim their full retirement pension, they must cease pensionable service in all qualifying judicial offices that they hold. This is different from current judicial pension arrangements, as under NJPS, a member can exercise their full retirement option by ceasing judicial service under that scheme, rather than ceasing to hold all judicial offices. Amendments are therefore being made to NJPS so that it aligns with the full retirement provision in JPS 2022.

87. Once a member has claimed their full retirement pension, that member can resume service in judicial office without this impacting on their payment of pension.

88. In the draft regulations, provisions concerning full retirement accounts are set out in Part 5, Chapter 6, and provisions regarding full retirement benefits are set out in Part 6 Chapter 2.

Early retirement

89. Members of JPS 2022 have a right to draw their pension before the scheme pension age. This is known as early retirement. To take early retirement a member must make a formal claim to have their pension brought into payment early but the consent of the Department is not required.

90. A member can only take early retirement if they have reached the normal minimum pension age, which is currently 55, and have a minimum of two years' qualifying service.

91. Pension drawn before scheme pension age will be subject to an early retirement reduction. The early retirement reduction reflects the fact that the pension will be in payment for longer than would be the case if the individual retired at the scheme pension age. The reduction is permanent and determined using factors provided by the scheme actuary.

Late retirement

92. Where a member of JPS 2022 chooses to retire after the scheme pension age, this is known as late retirement and will be subject to the late retirement addition.

93. The late retirement addition will be calculated by taking the balance in the individual’s pension account at 31 March of the previous year, multiplied by a percentage. This calculation will be determined using factors provided by the scheme actuary. The late retirement addition would be applied from the April following the individual’s attainment of scheme pension age. The member will continue to accrue pension on top of this late retirement addition and the pension earned in late retirement will be added to the member’s overall pension balance.

94. In subsequent years after scheme pension age, a late retirement addition will be calculated with reference to the pension account balance at the end of the previous year.

Late retirement in deferment

95. If a member has decided to become a deferred member, and therefore has retired and not immediately drawn their pension, they will be eligible for a late retirement addition if they take their pension after the scheme pension age. For example, if a member retires from service at 67 (their State Pension age and therefore the scheme pension age), becomes a deferred member and then decides to take their pension at 70, their pension will be subject to a late retirement addition to reflect the fact it will be in payment for a shorter period of time than if they had drawn their pension at scheme pension age.

96. The late retirement addition will be calculated by taking the balance in the individual’s pension account at 31 March of the previous year, multiplied by a percentage. This calculation will be determined using factors provided by the scheme actuary. The late retirement addition will be applied from the April following the individual’s attainment of scheme pension age.

97. The late retirement addition will be added to the member’s overall pension balance. In subsequent years after scheme pension age, a late retirement addition will be calculated with reference to the pension account balance at the end of the previous year.

Partial retirement

98. Partial retirement accounts are set out in Part 5, Chapter 7 and the benefits associated with partial retirement are set out in Part 6, Chapter 3 of the draft scheme regulations.

99. Partial retirement will be available in JPS 2022 (see Annex A for comparison on how partial retirement works in the different schemes). Currently, under NJPS, a member must reduce their pensionable earnings to 80% or less of this amount in order to partially retire, and they do not need to hold more than one office. This criterion will be clarified in the JPS 2022 regulations as well as the NJPS regulations with regards to how the reduction in earnings will be calculated for fee-paid judges.

100. The JPS 2022 regulations set out that, in order for a member who only holds one judicial office to take partial retirement, they must reduce their pensionable earnings to 80% or less of the amount before the change. For example, if they sat 5 days a week in that office, an 80% reduction would constitute a reduction to working 4 days a week in that office.

101. Where a member sits in multiple offices, they would have to meet the partial retirement criteria for each office they choose to draw their benefits from. This would only apply to the office that they opt to partially retire from and would not require any changes to the working patterns in the other offices that they sit in. The member would be able to draw only the pension accrued in the office in which they have exercised their partial retirement option.

102. In determining what constitutes the requisite reduction in earnings for partial retirement, we note that the sitting pattern of fee-paid judges can vary and is dependent on individual circumstances. In order to determine the required reduction in pensionable earnings, the total fee-paid income from the preceding three years, in respect of the office the member wishes to partially retire from, will be taken and used to determine the annualised total of fees for that particular office. This figure will then be used to determine the required reduction in fee-paid income to qualify for partial retirement. For example, if a judge’s total fee income for Office 1 over the preceding three years was £60,000, their annualised total of fees would be £20,000. In order to qualify for partial retirement, they would need to make sure that their total fee-income for the next year (and subsequent years) from that office was £16,000 or less.

103. Judges appointed to the First-tier Tribunal, or the Upper Tribunal may be deployed to sit in different chambers. For the purposes of partial retirement, they must reduce their pensionable earnings to 80% of their original amount across all chambers they are deployed in.

Sitting in retirement

104. Sitting in retirement is the policy that currently allows a salaried judge to retire from their salaried office and be appointed to fee-paid office without a Judicial Appointments Commission (JAC) selection exercise. It permits the accrual of judicial pension in the new fee-paid office whilst also being able to draw the pension for the salaried office from which they retired.

105. As detailed in the Government's response to the judicial Mandatory Retirement Age consultation, published in March 2021,[10] sitting in retirement is to be extended to fee-paid judicial office holders with a relevant salaried judicial office holder. The provisions to make this change were introduced in the Public Service Pensions and Judicial Offices Bill which was introduced in parliament on 19 July and which will create new 'sitting in retirement' judicial offices. Sitting in retirement will also be supported by a non-statutory policy, further details of which will be published later this year.

106. The provisions of JPS 2022 will enable a member to accrue pension benefit in JPS 2022 in respect of their new sitting in retirement office whilst at the same time drawing their pension benefit in respect of their retired office.

107. Where a member holds benefits in a judicial pension scheme other than JPS 2022, the ability to draw pension benefit in respect of their retired office will be determined by the criteria contained within the scheme in which the benefit is held. Amendments are being made to NJPS to ensure full effect is given to the new sitting in retirement policy so as to enable a member to draw pension in respect of their retired office while holding a new 'sitting in retirement office'. To note, no changes are being made to either JUPRA or to FPJPS as members will be able to access pension under these schemes whilst holding a 'sitting in retirement' office under the current provisions of these schemes. The amendments to NJPS will include removal of the full retirement restriction on re-entering service within 28 days and clarifying that resumption of service in judicial office will not affect entitlement to drawing a full retirement pension. These amending provisions are contained in Part 2 of Schedule 3 to the draft regulations.

108. As with partial retirement in the FPJPS, where a judge is assigned to more than one chamber within either the First-tier or Upper Tribunal, they must retire from all positions held (which arise from a single office in accordance with the appointments legislation) in order to sit in retirement. It will not be possible for a member to partially retire from a sitting in retirement office.

[10] Consultation on Judicial Mandatory Retirement Age - https://www.gov.uk/government/consultations/consultation-on-judicial-mandatory-retirement-age

Medical/ill-health retirement

109. Ill health benefits are set out in Part 6 Chapter 4 of the draft regulations. Ill-health pensions will be payable to a judge who has “suffered a permanent breakdown in health involving incapacity for employment”. This is a similar standard as is applied under the Pre-2022 Schemes.

110. An ill-health pension in JPS 2022 will be equal to the accrued pension, plus half of the expected pension that the member would have accrued before the scheme pension age. Where a member has opted for the lower contribution and lower accrual rate option for the first three years of the scheme, and ceases pensionable service due to ill-health at any point in this period, the calculation of the member’s expected pension will take into account the lower accrual rate of 2.42%. After the three-year period is over, the regular accrual rate of 2.5% will be used to calculate the rest of the expected pension. This situation will only arise if a member retires due to ill-health in the first three years of the scheme and has chosen the lower accrual rate option.

111. The ill-health enhancement is only available from JPS 2022 and therefore a member will not also receive ill health enhancement from JUPRA/FPJPS and/or NJPS. If the member was on a fixed term appointment, the pension would be equal to the accrued pension plus half of the expected pension that the member would have accrued up to the day on which that term was due to end.

112. A period of two years’ qualifying service will be required to apply for an award of pension benefits due to the incidence of ill-health. The Scheme Manager must be satisfied by means of a medical certificate that states that the member has suffered a permanent breakdown in health involving incapacity for employment. This is the same standard as applies in NJPS.

113. It is proposed that, in exceptional circumstances, the Scheme Manager, after consideration by the Pension Board, will have discretion to bring an ill-health pension into payment without the required two years’ qualifying service.

Death Benefits

114. Provisions for death benefits in JPS 2022 are set out in Part 8 of the draft scheme regulations.

Death in service

115. A scheme member’s dependants or nominated beneficiaries will be awarded a ‘Death in Service’ (DIS) lump sum should the member die in service. Along with a lump sum payment, JPS 2022 will also provide pensions for eligible children and surviving adults upon a member’s death. Only DIS benefits under JPS 2022 will be payable. No DIS benefits from Pre-2022 Schemes will be paid.

116. Under JPS 2022, the DIS lump sum will be calculated as the greater of:
    - 2 x 'final pay' (less any lump sum paid already to the member prior to the member's death); and
    - 5 x member's full retirement pension in relation to that period of service (less any payments of retirement pension made to the member under this scheme).

117. 'Final pay' in this context is defined as the greater of:
    - The amount of a member's pensionable earnings payable in respect of the 12 months ending with the last day of pensionable service;
    - The amount of a member's pensionable earnings for any scheme year in the 10 scheme years immediately before the last active scheme year ("the earnings year").

118. Members can nominate one or more beneficiaries to receive this lump sum and specify how these benefits are to be apportioned between them. The scheme rules provide for the nomination of:
    - One or more individuals;
    - One incorporated or unincorporated body; or
    - One or more individuals and one incorporated or unincorporated body.

119. Members will also receive a DIS lump sum supplement to compensate for the tax-unregistered status of the scheme. This covers the tax due on the DIS lump sum and the tax that would be liable on the DIS supplement itself.

120. Members of JPS 2022 who were previously members of FPJPS may have contributions outstanding for benefits in those Pre-2022 Schemes. Those outstanding liabilities can be paid by deduction from the DIS lump sum payable under JPS 2022 in respect of that member.

121. Alongside the DIS lump sum, JPS 2022 will also provide for pensions for eligible children and surviving adults upon a member's death.

Dependants' pensions

122. The JPS 2022 will pay a pension to a surviving spouse, surviving civil partner or surviving cohabiting partner. This pension will be equal to 3/8ths (37.5%) of the scheme member's pension plus an enhancement factor and will be payable for life.

123. Similar to NJPS, where there is no surviving spouse or civil partner, JPS 2022 may pay a pension to a surviving 'cohabiting partner', who will be paid a pension which is calculated in the same manner as any pension for a spouse or civil partner. To be defined as a surviving 'cohabiting partner', a person must satisfy the Scheme Manager that, immediately before the member's death:

a. The person and the member were cohabiting as partners in an exclusive, committed long-term relationship;
b. That neither party was prevented from marrying or entering into a civil partnership; and
c. The relationship was one of financial dependence or interdependence.

124. A 'surviving adult' pension under JPS 2022 will be paid for life. It does not stop if the survivor remarries or enters into a new relationship. However, where the surviving adult is more than 12 years younger than the member, the pension is to be reduced by 2.5% for every year over twelve years (subject to a maximum reduction of 50%).

Children's Pensions

125. Similar to NJPS, eligible children in the context of death benefits are defined as a natural or adopted child of the member who meets any of the following conditions:
- Under age 18;
- In full-time education and under age 23; or
- Unable to engage in gainful employment because of physical or mental impairment **and** either a) aged under 23, or b) the impairment is, in the opinion of the scheme medical advisor, likely to be permanent and the person is dependent on the member as at the date of the member's death because of physical or mental impairment.

126. Any other young person who meets any of the three conditions listed above and was financially dependent on the member at the date of the member's death, will also be eligible for a pension.

127. When a child ceases to be an eligible child (typically on leaving full-time education or reaching age 23), their pension will stop, but this will not result in the recalculation of pensions for any other children. If the child subsequently re-qualifies for pension – for instance, going into higher education after a gap year – their pension will recommence without impacting pensions for any other children.

128. To meet the HMRC definition of 'dependant', financial dependency must exist. The Pension Board will be asked to consider whether or not a person is considered an eligible child based on these requirements, with the ability to make recommendations to the Scheme Manager if any discretion is to be exercised.

Death out of service

129. A scheme member's dependants or nominated beneficiaries will be awarded a lump sum if the person dies while a deferred member or pensioner member of the scheme. To be eligible for this lump sum, the person's death must be less than 5 years after their full retirement pension or ill-health pension becomes payable.

130. The amount of the lump sum benefit payable will be equal to:
    - The total amount of the member's full retirement pension, multiplied by 5; less
    - The total amount of pension paid to the member under the scheme.

131. Members will also receive a death out of service supplement to compensate for the tax-unregistered status of the scheme. This covers the tax due on the DIS lump sum and the tax that would be liable on the DIS supplement itself.

General information

Partnership Pension Account

132. As per our previous consultation, the option of opening a Partnership Pension Account (PPA) in lieu of joining the scheme has been removed. We consider this option unnecessary given the attractiveness of JPS 2022 and the small number of members that took up this option under the current pension arrangements.

Allocation

133. Members can opt to allocate part of their pension in the JPS 2022. The option for allocation allows a member to surrender part of their own pension to provide a pension for a financial dependant, payable following the member's death. Once this decision is made it cannot be revoked.

134. The rules regarding allocation in JPS 2022 are set out in Part 6, Chapter 6 of the draft regulations and mirror those set out in NJPS.

Commutation of small pensions

135. Where members have a small amount of JPS 2022 pension they can opt to receive a single lump sum payment instead of pension payment, by taking a 'small pot' or trivially commuting their pension. The trivial commutation facility allows scheme members to receive a single lump sum payment, instead of pension payments, subject to certain restrictions being met. Small pots are managed under separate HMRC rules. The small pots facility allows members to take up to three small pots of £10,000 each from non-occupational schemes and an unlimited number from occupational schemes, subject to certain restrictions being met. The restrictions for JPS 2022 mirror the restrictions set in tax-registered pension schemes. The relevant provisions can be found in Part 12 Chapter 2.

Trivial commutation

136. Trivial commutation allows a member to receive a single lump sum payment, instead of pension payments for benefits they have accrued across all of their judicial pension schemes. The rules and restrictions around taking trivial commutation in the JPS 2022 will reflect those in tax registered schemes. Therefore, members will need to:
    - be within the commutation limit of £30,000 across all judicial pension schemes and registered pension schemes;
    - have reached the normal minimum pension age or satisfy the definition for ill-health early retirement;
    - have some lifetime allowance available;
    - have not taken any other trivial commutation lump sum within the 12-month commutation period; and
    - will be extinguishing all benefits under the scheme making the payment.

137. The 35.7% commutation limit that applies when a member commutes a lump sum does not apply under the trivial commutation provisions.

Small pots

138. The small pots provision will allow a member to receive a single lump sum payment, instead of pension provision for those benefits accrued under JPS 2022. The rules around small pots will generally reflect those in a tax registered scheme and therefore, to take a small pot, the total cash equivalent transfer value of the member's JPS 2022 pension entitlements should be £10,000 or less (including the lump sum that would be payable in any case).

139. Small pot eligibility is not affected by any separate pension entitlements the member may have in other judicial or non-judicial pension schemes. In addition, members do not have to have any available lifetime allowance to make use of the small pot option. Where a member receives a small pot lump sum payment it will extinguish their right to any JPS 2022 pension benefits in respect of that entitlement.

140. In a registered pension scheme, if the pension is not already in payment, 25% of the lump sum taken via trivial commutation or small pots is tax-free. To ensure that members are no worse off in the unregistered JPS 2022, a commutation supplement will be paid. The commutation supplement will be calculated using the same method as for larger commutations in the scheme.

141. The value of JPS 2022 pension for the purpose of taking a small pot or trivial commutation will be determined by the scheme actuary and a request for this valuation can be made when a retirement illustration is sought by the member.

142. The small pot and trivial commutation options are only applicable in respect of the total benefits due to a member under the scheme. This means they are only available when a member retires by ceasing to hold all judicial offices, both fee-paid and salaried. The small pot and trivial commutation options are not available when partial retirement is taken or if any JPS 2022 pension payments have commenced.

143. Members should consider taking independent advice before opting to take the trivial commutation or small pots facility options as this may impact their ability to take commutation from any other defined benefit pension arrangements they might have, including any time limits in that respect.

Pension sharing on divorce or dissolution

144. As with previous judicial pension schemes, where a Pension Sharing Order on Divorce or Dissolution is made, the former spouse or civil partner becomes a pension credit member of JPS 2022. The value of the member's accrued judicial pension rights in JPS 2022 to be shared will be determined as at the date of the Decree Absolute or Final Order.

145. The pension credit member will receive a pension for life at the level determined by the Pension Sharing Order. They will be able to claim this when they reach scheme pension age and the Pension Sharing Order comes into effect.

146. A pension credit member will have the option to request an early payment, subject to meeting the normal minimum pension age and an early payment reduction being applied. They will also have the option to commute part of the pension into a lump sum unless the pension debit member, from whose rights the pension is derived from, received a lump sum before the date on which the pension sharing order takes effect.

147. The provisions concerning pension accounts for pension credit members are set out in Part 5 Chapter 8 and pension benefits for pension credit members are set out in Part 7 of the draft scheme regulations.

Annex A – Comparison of judicial pension features

Scheme feature	JPS 2022	JUPRA 1993 / FPJPS 2017	NJPS 2015
Tax status	Unregistered for tax purposes.	Unregistered for tax purposes.	Registered for tax purposes.
Accrual service	No maximum amount of service set.	The maximum amount of reckonable service used in calculating benefits is 20 years' worth of service.	No maximum amount of service set.
Pension age	State Pension age	65 years of age	State Pension age
Contribution rates	4.26% with a time-limited option for a lower contribution rate of 3% for active members of Pre-2022 Schemes at the scheme implementation date.	Variable contribution rate dependent on the members annual rate of pensionable earnings. Total member contribution rate ranged from 2.76% to 6.23%, which included a dependent contribution rate of 1.8%.	Variable contribution rate dependent on the members annual rate of pensionable earnings. Total member contribution rate ranged from 5.45% to 8.05%.
Accrual rate	2.5%, with a time-limited option for a lower accrual rate of 2.42% for active members of Pre-2022 Schemes at the scheme implementation date.	2.5%	2.32%

Lump sum	Option for members to commute part of their earned pension into a lump sum at a rate of 12:1, with a commutation supplement to compensate for the tax-unregistered status of the scheme.	Automatic lump sum on retirement (2.25 x annual pension) plus a Judicial Service Award payment to compensate for the tax-unregistered status of the scheme.	Option for members to commute part of their earned pension into a lump sum at a rate of 12:1.
Transfers in/ out	Members can transfer out of the scheme but are unable to transfer into the scheme.	Only pension rights that were accrued in a registered pension scheme before commencing judicial office could be transferred in. Such transfers were subject to a tax charge. Members could elect to take a transfer of their judicial pension rights out of the scheme, subject to certain qualifying conditions.	Members are able to transfer in pension rights accrued from a registered pension scheme prior to joining judicial office. Members can elect to take transfers out thereby extinguishing accrued benefits under this scheme.
Surviving spouses and civil partners benefits	Pension payable to a surviving spouse, surviving civil partner or surviving co-habiting partner upon death during service. The eligible pension is equal to 3/8 (37.5%) of the scheme member's pension plus an enhancement factor paid for life.	Pension payable to a surviving spouse or civil partner upon death during service. For death in service the rate of pension at one-half of the pension to which the judicial office holder would have been entitled if they retired on grounds of ill health at the time of death. For death in retirement, a pension paid at a rate of one-	Pension payable to surviving spouse or civil partner upon death during service. The eligible pension is equal to 3/8 (37.5%) of the scheme member's pension plus an enhancement factor paid for life.

		half of the judicial pension actually in payment at the time of death.	
Pension for children, definition of children	Payable in respect of the child or children being the adopted or natural child of the member and is under the age of 18; in full time education or under the age of 23; or unable to engage in gainful employment because of physical or mental impairment and either a) aged under 23, or b) the impairment is likely to be permanent and the person is dependent on the member as at the date of the member's death because of physical or mental impairment. Where another young person meets any of the three criteria listed above and was financially dependent on the member at the date of their death, that young person will also be eligible for a pension.	Payable in respect of a child or children under the age of 16, or over that age and in full-time education, at the time of the judicial office holder's death.	Payable in respect of the child or children being the adopted or natural child of the member and is under the age of 18; in full time education or under the age of 23; or unable to engage in gainful employment because of physical or mental impairment and either a) aged under 23, or b) the impairment is likely to be permanent and the person is dependent on the member as at the date of the member's death because of physical or mental impairment. Where another young person meets any of the three criteria listed above and was financially dependent on the member at the date of their death, that young person will also be eligible for a pension.
Death in service benefits	Dependants or nominated beneficiaries will get a	If an active member dies whilst holding judicial office, a lump	Dependants or nominated beneficiaries will get a

	death in service lump sum, which is calculated as the greater of: 2 x 'Final Pay' (less any lump sums already paid – from all schemes); and 5 x the member's new scheme pension (less the total of pension payments already made from the new scheme).	sum death benefit equal to twice the amount of pensionable pay is payable.	death in service lump sum, which is calculated as the greater of: 2 x 'Final Pay' (less any lump sums already paid – from all schemes); and 5 x the member's new scheme pension (less the total of pension payments already made from the new scheme)
Partial retirement	Member can take partial retirement if they reduce their pensionable earnings to 80% or less of the amount before the change in the office they wish to partially retire from.	JUPRA does not offer partial retirement. FPJPS does not offer partial retirement for an individual office. Partial retirement is possible only where (i) a member holds two consecutive offices, in which case they may retire from one whilst immediately being appointed to the other; (ii) a member holds more than one office simultaneously, in which case they may retire from one and continue to serve in the other.	Members can take partial retirement if they reduce their pensionable earnings to 80% or less of the amount before the change in the office they wish to partially retire from.
Medical retirement	Ill-health pensions payable to a judge who had "suffered a permanent breakdown	Immediate payment of a pension based on actual service and a lump sum of two	Ill-health pensions payable to a judge who had "suffered a permanent

	in health involving incapacity for employment”. The pension would be equal to the accrued pension, plus half of the expected pension that the member would have accrued before scheme pension age.	and a quarter times the member’s pension, with enhancement if applicable.	breakdown in health involving incapacity for employment”. The pension would be equal to the accrued pension, plus half of the expected pension that the member would have accrued before scheme pension age.
Pension sharing on divorce	When a Pension Sharing Order is made, the former spouse or civil partner of the judicial office holder becomes a member of the scheme in his or her own right.	When a Pension Sharing Order is made, the former spouse or civil partner of the judicial office holder becomes a member of the scheme in his or her own right.	When a Pension Sharing Order is made, the former spouse or civil partner of the judicial office holder becomes a member of the scheme in his or her own right.
Re-evaluation of benefits	In line with Pension (Increase) Act 1971.	In line with Pension (Increase) Act 1971.	In line with Pension (Increase) Act 1971.
Added Pension	No option to purchase ‘Added Pension’.	‘Added Years’ available for judicial office holders to purchase added years (or part years) of reckonable service in judicial office. Available in respect of eligible service prior to 5 April 2006 only.	Members could opt to pay additional contributions (or lump sums) to purchase ‘Added Pension’ priced by the scheme actuary.
Effective Pension Age	No option to purchase effective pension age.	No option to purchase effective pension age.	Members could opt to make periodical payments throughout their career to attain a pension age of any period up to three

			years below the member's normal pension age, provided that it would achieve an 'effective pension age' of at least 65.
Judicial Added Voluntary Contributions (JAVC)	JAVC available for judicial office holders to top-up their benefits. This is a registered scheme for tax purposes and contributions to this scheme attract tax relief.	JAVC available for judicial office holders to top-up their benefits. This is a registered scheme for tax purposes and contributions to this scheme attract tax relief.	JAVC available for judicial office holders to top-up their benefits. This is a registered scheme for tax purposes and contributions to this scheme attract tax relief.
Partnership Pensions Account (PPA)	No Partnership Pensions Account available.	No Partnership Pensions Account available.	Partnership Pension Accounts offered as an alternative to NJPS.

Glossary

A full list of definitions is set out in Part 1 of the draft scheme regulations.

Accrual rate: The rate, as a proportion of pensionable earnings, at which pension builds up for each year of membership. For JUPRA and FPJPS, the accrual rate is a proportion of the member's final salary.

Accrued pension: The amount of pension built up in the final salary or career average (reformed) scheme up to the current date.

Active scheme members: Members paying contributions and accruing benefits in the scheme.

Actuarial adjustment: The adjustment applied to a member's accrued pension to take account of the fact that it is being paid early, or in some cases late. The adjustment is determined by the scheme manager after consultation with the scheme actuary or taking into account factor tables prepared by the scheme actuary. The factor tables are calculated in a way that aims to reflect fairly the fact that benefits are expected to be in payment for a longer, or a shorter, period.

Annual Allowance: The annual allowance is a limit on the amount that you can accrue to your pension each year, while still receiving tax relief. The annual allowance applies to tax-registered pension schemes (e.g. NJPS) but not to tax-unregistered schemes (e.g. JPS 2022, JUPRA/FPJPS).

Career average scheme: A defined benefit scheme that gives scheme members a pension based on pensionable pay/fees earned in each scheme year. Amounts of pension earned in previous years have index-linking applied in order to maintain their value.

Commutation / Commutation rate: Commutation allows a member to exchange an amount of annual pension in return for a retirement lump sum. The rate at which pension is given up for a lump sum is known as the commutation rate.

Consumer Prices Index (CPI): An index of inflation published by the Office for National Statistics. This is the current basis for determining cost of living increases for public sector pensions.

Defined benefit pension scheme: A pension scheme where the pension is related to a member's salary or some other value fixed in advance. Final salary and career average schemes are examples of such a scheme.

Employer cost cap: The employer cost cap is a mechanism designed to ensure a fair balance of risks between scheme members and the taxpayer. Each public service pension scheme must set a cap, expressed as a percentage of pensionable earnings of all members of the scheme. If a future valuation shows that the costs of the scheme have risen more than two percentage points above the cap, or fallen two percentage points below the cap, action must be taken to bring the costs of the scheme back to within the cap. This mechanism is currently subject to a public consultation on how it should operate in the future.

Fee-Paid Judicial Pension Scheme (FPJPS): Pension scheme established for eligible fee-paid judges. This scheme offers benefits in line with the scheme for salaried judges (JUPRA).

Final salary scheme: A defined benefit scheme that gives members a pension based on their final salary, the accrual rate and the period of service.

Index-linking addition: The amount of revaluation added to a scheme member's accrued pension at the beginning of each scheme year.

In-service index-linking: The rate at which amounts of career average benefits are revalued while the scheme member remains in pensionable service as an active member of JPS 2022.

Lifetime allowance: A limit on the amount of pension benefit that can be built up in pension schemes – whether lump sums or retirement income – that can be paid without triggering an extra tax charge. The lifetime allowances apply to tax-registered pension schemes (e.g. NJPS) but not to tax-unregistered schemes (e.g. JPS 2022, JUPRA/FPJPS).

Normal pension age (NPA): The age at which pension benefits would be payable in full.

Pension Board: The Pension Board is to support the Scheme Manager in matters relating to good governance and administration. This will include both departmental and judicial representatives and will be independently chaired.

Pensionable earnings: Pensionable earnings are the earnings against which the scheme member and the employer will pay contributions and is the salary or fees used to calculate the pension earned in any given year.

Pensionable service: A period where the scheme member is an active member.

Pensions Increase Act 1971: This Act makes provision for increases and supplements to be paid on certain pensions and related benefits.

Responsible Authority: The Responsible Authority has the power to make scheme regulations. The Responsible Authority in the JPS 2022 is to be the Lord Chancellor.

Scheme Advisory Board: The Scheme Advisory Board is a group which sits at the request of the Responsible Authority to consider the desirability of any potential changes to schemes.

Scheme Manager: The Scheme Manager is responsible for managing and administering the scheme and any statutory pension scheme connected with it.

State Pension age (SPA): The age at which the State Pension would normally become payable.

Valuation: A report, carried out by the scheme actuary, of the financial position of a defined benefit pension scheme, which informs the future contribution rates needed.

Questionnaire

The Department welcomes the views of consultees relating to all sections of this consultation by 8th October 2021. Comments are welcomed on the following areas:

1. **Scheme features:** Do you have any views on any of the scheme features that have been outlined in this consultation document or included in the draft regulations?

2. **'Assumed pay':** Do you have any views on how 'assumed pay' should be calculated?

3. **Equalities:** Do you have any concerns that the proposals could result in individual groups being disproportionately affected by the reforms?

However, this list is not meant to be exhaustive or exclusive, and the Department welcomes views of consultees on all aspects of the judicial pension reforms.

Thank you for participating in this consultation exercise.

Annex A – List of Consultees

We particularly invite responses from representatives or members of the organisations listed below. This list is not comprehensive and we welcome views from all members of the public.

This consultation will close on 8th October 2021.

United Kingdom

- Judicial Pensions Committee
- President of UK Supreme Court
- Senior President of Tribunals
- The United Kingdom Association of Women Judges

England and Wales

- Association of Fee-Paid Judges
- Association of Her Majesty's District Judges
- Association of High Court Judges
- Association of High Court Masters
- Association of Members of the Immigration & Asylum Tribunal
- Association of Regional Medical Members
- Association of Salaried Tribunal Judges for Health, Education and Social Care
- Association of the Special Educational Needs Tribunal
- Chamber President for War Pensions & Armed Forces Compensation Chamber
- Chartered Institute of Legal Executives (CILEx)
- Council of Appeal Tribunal Judges
- Council of Employment Judges
- Council of Her Majesty's Circuit Judges
- Council of Her Majesty's District Judges (Magistrates' Courts)
- Council of Immigration Judges
- Council of Tribunal Members Association
- Council of Upper Tribunal Judges
- Employment Appeal Tribunal Lay Members Committee
- Forum of Tribunal Membership Associations
- Lord Chief Justice of England and Wales
- Mental Health Tribunal Members Association
- President of Welsh Tribunals
- Salaried Tribunal Judges' Association
- The Bar Council (England and Wales)
- The Coroners' Society (England and Wales)
- The Law Society (England and Wales)

Northern Ireland

- Council of Employment Judges
- Judges' Council (Northern Ireland)

- Lord Chief Justice of Northern Ireland
- Northern Ireland Judicial Appointments Commission
- Office of the President of the Appeals Tribunal for Northern Ireland
- Office of the President of the Industrial and Fair Employment Tribunals Northern
- The Bar Council of Northern Ireland
- The Law Society of Northern Ireland
- Tribunal Presidents Group
- Secretary of State for Northern Ireland

Scotland

- Judicial Appointments Board for Scotland
- Judges' Council (Scotland)
- Judicial Council for Scotland
- Lord President of the Court of Session
- Part Time Sheriffs' Association
- President of the Lands Tribunal (Scotland)
- Sheriffs' Association
- Sheriffs Principal
- Summary Sheriffs' Association

However, this list is not meant to be exhaustive or exclusive and responses are welcomed from anyone with an interest in or views on the subject covered by this consultation.

How to respond

Please send your response by 8th October 2021 to:

Email: reformedpensionconsultation@justice.gov.uk

Complaints or comments

If you have any complaints or comments about the consultation process you should contact the Ministry of Justice at the above address.

Representative groups

Representative groups are asked to give a summary of the people and organisations they represent when they respond.

Confidentiality

By responding to this consultation, you acknowledge that your response, along with your name/corporate identity will be made public when the Department publishes a response to the consultation in accordance with the access to information regimes (these are primarily the Freedom of information Act 2000(FOIA), the Data Protection Act 2018 (DPA), the General Data Protection Regulation (GDPR) and the Environmental Information Regulations 2004).

Government considers it important in the interests of transparency that the public can see who has responded to Government consultations and what their views are. Further, the Department may choose not to remove your name/details from your response at a later date, for example, if you change your mind or seek to be 'forgotten' under data protection legislation, if Department considers that it remains in the public interest for those details to be publicly available.

If you do not wish your name/corporate identity to be made public in this way then you are advised to provide a response in an anonymous fashion (for example 'local business owner', 'member of public'). Alternatively, you may choose not to respond.

Publication of response

A paper summarising the responses to this consultation will be published in autumn 2021.

Impact Assessment, Equalities and Welsh Language

Impact assessment

We conducted a regulatory impact assessment which outlines our policy objectives and the costs and benefits of a range of options we considered before deciding the proposals to put forward for consultation. Our assessment indicated that these proposals are unlikely to lead to additional costs or savings for businesses, charities or the voluntary sector. All of our options incur costs for MoJ and the devolved administrations to fund the proposed pension scheme.

Equalities

Section 149 of the Equality Act 2010 requires public authorities, including the Ministry of Justice, to have due regard to the need to:

- eliminating discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- advancing equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- fostering good relations between persons who share a relevant protected characteristic and persons who do not share it.

The proportionate equality analysis that accompanied our consultation response to the design of a reformed judicial pension scheme has been updated following the publication of this consultation on the scheme regulations. The updated equality statement will be published alongside this consultation.

Welsh Language Impact Test

We will provide a Welsh translation of the executive summary.

Consultation principles

The principles that Government departments and other public bodies should adopt for engaging stakeholders when developing policy and legislation are set out in the Cabinet Office Consultation Principles 2018 that can be found here:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691383/Consultation_Principles__1_.pdf

Alternative format versions of this report are available on request from reformedpensionconsultation@justice.gov.uk