



Ministry  
of Justice

## **Judicial Pensions – Proposed *McCloud* Regulations: The Judicial Pensions (Remediable Service etc.) Regulations 2023**

December 2022

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The Lord Chancellor makes the following Regulations in exercise of the powers conferred by sections 1(1) and (2)(b), 2(1) (as read with paragraph 2(1) of Schedule 2), 3(1), (2)(a) (as read with paragraph 13 of Schedule 3) and (c), (3) and (4A) and 5(1) and (2)(c) of the Public Service Pensions Act 2013<sup>(1)</sup> (“the 2013 Act”) and sections 55(1) and (2), 56(1) to (3), 57(1), (4) and (5), 58(1), (2)(a) to (c), (e) and (f), (3) and (4), 61(1) and (2), 67(2) and (3), 74(2) and 103(1) and (2) of the Public Service Pensions and Judicial Offices Act 2022<sup>(2)</sup> (“the PSPJOA 2022”).

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

In accordance with section 3(5) of the 2013 Act, the Lord Chancellor has obtained the consent of the Treasury before making these Regulations.

The Lord Chancellor has had regard to the matters referred to in section 5(3) of the 2013 Act.

These Regulations are made in accordance with Treasury directions made under section 62 of the PSPJOA 2022.

### **PART 1**

#### **Preliminary**

##### **Citation and commencement**

- 1.—(1) These Regulations may be cited as the Judicial Pensions (Remediable Service etc.) Regulations 2023.
- (2) These Regulations come into force on [xxx] 2023.

##### **Interpretation**

2. In these Regulations—

“FPJR 2017” means the Judicial Pensions (Fee-Paid Judges) Regulations 2017<sup>(3)</sup>;

“PSPJOA 2022” means the Public Service Pensions and Judicial Offices Act 2022;

“the 2015 Regulations” mean the Judicial Pensions Regulations 2015<sup>(4)</sup>;

“the 2015 scheme” means the scheme established by the 2015 Regulations;

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<sup>(1)</sup> 2013 c. 25. Section 3(1) was amended by section 94(2) of the PSPJOA 2022, and section 3(2)(c) and (4A) were inserted by, respectively, section 94(3) and (4) of that Act.

<sup>(2)</sup> 2022 c. 7.

<sup>(3)</sup> S.I. 2017/522 as amended by S.I. 2018/1413, S.I. 2018/1149, S.I. 2019/781, S.I. 2020/386 and S.I. 2021/444.

<sup>(4)</sup> S.I. 2015/182 as amended by S.I. 2017/508, S.I. 2021/36 and S.I. 2022/319.

“the PSP Directions 2022” means the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022;

“appropriate Minister” has the meaning given in section 30 (interpretation) of JUPRA 1993;

“appropriate person” means—

(a) for the purposes of Part 5, R or, if R is deceased, R’s personal representatives; and

(b) for all other purposes, P or, if P is deceased, P’s personal representatives;

“Judicial Pension Board” means the Judicial Pension Board established by regulation 6(1) of the 2015 Regulations;

“relevant service” has the meaning given in regulation [31];

“scheme actuary” has the meaning given in regulation 2 (interpretation) of the 2015 Regulations;

“scheme manager” has the meaning given in regulation 4 of the 2015 Regulations;

“transfer value payment” has the meaning given in regulation 2 of the 2015 Regulations.

(2) Except as provided for in these Regulations, expressions used in these Regulations have the same meaning as in Chapter 2 of Part 1 of PSPJOA 2022.

### **Scheme manager**

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

(2) If the scheme manager exercises any discretion under these Regulations contrary to a recommendation made by the Judicial Pension Board, the scheme manager must provide written reasons for doing so to the Judicial Pension Board and to the member to whom the discretion relates (if any).

(3) The scheme manager and the Judicial Pension Board may agree that paragraphs (1) and (2) do not apply to specific discretions or in specific circumstances.

### **Delegation**

**4.**—(1) The scheme manager may delegate any functions under these Regulations, including this power.

(2) The Judicial Pension Board may delegate any functions under these Regulations.

### **Right of Appeal**

**5.** The scheme manager must, in consultation with the Judicial Pension Board, establish a procedure for the consideration of appeals against decisions taken under these Regulations.

## **PART 2**

### **Provision about special cases where a member has remediable service**

#### **CHAPTER 1**

#### **Application of Part**

### **Application of Part**

**6.** This Part applies where—

(a) a person (“P”) has remediable service<sup>(5)</sup> in a judicial office<sup>(6)</sup>; and

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<sup>(5)</sup> See section 39 of the PSPJOA 2022 for the meaning of “remediable service”.

<sup>(6)</sup> See section 71(1) of the PSPJOA 2022 for the meaning of “judicial office”.

- (b) an immediate detriment remedy<sup>(7)</sup> has not been obtained in relation to that service..

## CHAPTER 2

### Member options

#### **Member options where a legacy scheme election is made**

7. Regulations [8] to [10] apply where a legacy scheme election<sup>(8)</sup> is made in respect of P.

#### **Compensation for special payments to buy out early payment reduction**

8.—(1) This regulation applies where P has, during the period of remediable service, made any special payments under regulation 74(3)(a) or (c) of the 2015 Regulations.

- (2) The rights that would otherwise have been secured by the special payments are extinguished.
- (3) The scheme manager must pay to the appropriate person an amount by way of compensation equal to—
- (a) the aggregate of the special payments paid by P; less
  - (b) an amount, determined in accordance with direction [23] of the PSP Directions 2022, in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which P was entitled in respect of those payments.
- (4) The following apply in relation to a determination under direction [23(2)]—
- (a) direction [23(4) (provision of explanation)];
  - (b) direction [23(5) and (6) (appeals)].

#### **Compensation for payments for added pension**

- 9.—(1) This regulation applies where—
- (a) P has, during the period of remediable service, made any added pension payments under Part 2 of Schedule 1 to the 2015 Regulations; and
  - (b) regulation 129(1)(b) of the 2015 Regulations does not apply in respect of those added pension payments.
- (2) Where the appropriate person makes a request for compensation in respect of the added pension payments—
- (a) the rights that would otherwise have been secured by the added pension payments are extinguished; and
  - (b) the scheme manager must pay to the appropriate person an amount by way of compensation equal to—
    - (i) the aggregate of the added pension payments paid by P; less
    - (ii) an amount, determined in accordance with direction [23] of the PSP Directions 2022, in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which P was entitled in respect of those payments.
- (3) The following apply in relation to a determination under direction [23(2)]—
- (a) direction [23(4) (provision of explanation)];
  - (b) direction [23(5) and (6) (appeals)].
- (4) A request under paragraph (2)—
- (a) must be—
    - (i) made by notice to the scheme manager;
    - (ii) in a form required by the scheme manager;

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<sup>(7)</sup> See section 68 of the PSPJOA 2022 for provision about whether an “immediate detriment remedy” has been obtained.

<sup>(8)</sup> See section 40(1) of the PSPOJO Act for the meaning of “legacy scheme election”.

- (iii) received by the scheme manager before the end of the election period<sup>(9)</sup>; and
- (b) is irrevocable.

### **Transfers out of the 2015 scheme**

**10.**—(1) This regulation applies where a transfer value payment has, during the period of remediable service, been made under regulation 133 of the 2015 Regulations in respect of P’s accrued rights (disregarding any provision of Chapter 2 of Part 1 of PSPJOA 2022) under the 2015 scheme.

(2) Nothing in sections 41 to 66 of PSPJOA 2022 applies in relation to P’s remediable service.

(3) The scheme manager must provide the appropriate person with a statement of the cash equivalent to which P would have been entitled, had—

- (a) sections 41 to 66 of PSPJOA 2022 applied in respect of P’s accrued rights on the guarantee date in relation to the period of remediable service; and
- (b) a legacy scheme election been made in respect of P.

(4) Where—

- (a) the value of the cash equivalent in respect of the sum specified in regulation 137(3)(a) of the 2015 Regulations; is less than
- (b) the value of the cash equivalent to which P would have been entitled under paragraph (3) in respect of that sum,

the scheme manager must pay to the appropriate person an amount equal to the value of the difference.

(5) The scheme manager is discharged from any further obligation to provide benefits in relation to the cash equivalent.

(6) In this regulation, the “guarantee date” is the date specified in the statement of entitlement that was provided under regulation 135(1) of the 2015 Regulations in respect of the transfer value payment.

## **CHAPTER 3**

### **Partial retirement**

#### **Partial retirement notice**

**11.**—(1) Paragraph (2) applies where—

- (a) P exercised a partial retirement option under regulation 60(2) of the 2015 Regulations in respect of any fee-paid judicial office<sup>(10)</sup>;
- (b) a legacy scheme election is made in respect of P; and
- (c) the conditions set out in regulation 27(1) of FPJR 2017 are met in respect of P.

(2) A notice in respect of P that complies with the requirement in regulation 27(3)(a) of FPJR 2017 is treated as having been given in accordance with sub-paragraph (3)(b) of that regulation if it is received by the appropriate Minister before the end of the election period.

(3) A notice under paragraph (2) has effect on the date referred to in regulation 61(1)(b) of the 2015 Regulations.

(4) Paragraph (5) applies where—

- (a) P gave notice to take partial retirement under regulation 27 of FPJR 2017;
- (b) a 2015 scheme election is made, or is treated as having been made, in respect of P; and
- (c) the conditions set out in regulation 60(1) of the 2015 Regulations are met in respect of P.

(5) A partial retirement option in respect of P is treated as having been exercised in accordance with regulation 61(1)(b) of the 2015 Regulations if a partial retirement option notice that complies with the requirements of

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<sup>(9)</sup> See section 69 of PSPJOA 2022 for the meaning of “the election period”.

<sup>(10)</sup> See section 71(3) of PSPJOA 2022 for the meaning of “fee-paid judicial office”.

regulation 61(1)(a) and (2) of those Regulations is received by the scheme manager before the end of the election period.

(6) An option under paragraph (5) has effect on the date referred to in regulation 27(4) of FPJR 2017.

### **Corrections for pension benefits and lump sum benefits on partial retirement**

**12.** Where paragraph (2) or (5) of regulation [11] applies, section 51 of PSPJOA 2022 applies in relation to P as if for subsection (1) there were substituted—

“(1) This section applies in relation to a member (“M”) of a judicial scheme who—

- (a) at the end of the election period has remediable service in a judicial office that is pensionable service under the scheme, and
- (b) during the period of remediable service has—
  - (i) exercised a partial retirement option under regulation 60(2) of the 2015 Regulations, or
  - (ii) given notice to take partial retirement under regulation 27(2) of FPJR 2017.”.

### **[Payment of annual allowance tax charges and provision of information**

**13.** Direction [24(2) to (7)] (payment by the scheme administrator of annual allowance tax charges and the provision of information) of the PSP Directions 2022 applies in relation to P.]

## **PART 3**

### **Provision where an immediate detriment remedy has been obtained**

#### **CHAPTER 1**

#### **Application and Interpretation**

#### **Application of Part**

**14.**—(1) This Part applies where—

- (a) a person (“P”) has remediable service in a judicial office; and
- (b) an immediate detriment remedy has been obtained in relation to that service.

(2) This Part does not apply in relation to any payment or transfer of assets and liabilities that would otherwise be payable or required to be made under this Part where a corresponding payment or a corresponding transfer of assets and liabilities has been made.

(3) In this regulation—

- (a) a “corresponding payment” is a payment that has been made in accordance with a determination under section 68(2), or an agreement under section 68(3), of PSPJOA 2022 that corresponds to a payment that is payable or required to be made under this Part; and
- (b) a “corresponding transfer of assets and liabilities” is a transfer of assets and liabilities that has been made in accordance with a determination under section 68(2) of PSPJOA 2022 that corresponds to a transfer of assets and liabilities that is required to be made under this Part.

#### **Interpretation of Part**

**15.**—(1) In this Part—

“adult survivor” means a surviving spouse or surviving civil partner who is entitled under the relevant judicial legacy scheme to a pension determined (to any extent) by reference to P’s remediable service;

“relevant judicial legacy scheme” means—

- (a) in the case of a determination under section 68(2), or an agreement under 68(3), of PSPJOA 2022 that P has rights under a judicial legacy salaried scheme<sup>(11)</sup>, that scheme; and
- (b) in the case of a determination under section 68(2), or an agreement under 68(3), of PSPJOA 2022 that P has rights under the judicial legacy fee-paid scheme<sup>(12)</sup>, that scheme.

(2) For the purposes of this Part the “notification period”, in relation to a person who has obtained an immediate detriment remedy, is (subject to paragraph (3)) the period of three months beginning with the date on which the statement mentioned in regulation [30] is sent.

(3) The relevant authority may extend the period mentioned in paragraph (2) in relation to P if the relevant authority considers it just and equitable to do so.

## CHAPTER 2

### Information statements

#### Information statements

**16.**—(1) The relevant authority must, as soon as reasonably practicable—

- (a) prepare a statement in relation to P; and
- (b) send it to P or, if P is deceased, P’s personal representatives.

(2) The statement must contain such information as the relevant authority considers relevant to P’s rights and liabilities under Chapter 2 of Part 1 of PSPJOA 2022 or these Regulations in respect of the immediate detriment remedy.

## CHAPTER 3

### Partnership pension account where an immediate detriment remedy has been obtained

#### Partnership pension account: requirement to transfer and surrender rights

**17.**—(1) Paragraph (2) applies where—

- (a) P has remediable service in a salaried judicial office<sup>(13)</sup>; and
- (b) any of the remediable service is PPA opted-out service<sup>(14)</sup>.

(2) The relevant person must, within three months beginning with the day after the end of the notification period, take the steps specified in section 41(3) of PSPJOA 2022.

(3) Paragraph (4) applies where—

- (a) P has remediable service in a fee-paid judicial office; and
- (b) any of the remediable service is PPA opted-out service.

(4) The relevant person must take the steps specified in section 41(6) of PSPJOA 2022.

(5) For the purposes of this regulation “relevant person” means “P” or, if P is deceased—

- (i) the adult survivor; or
- (ii) if there is no adult survivor, P’s personal representatives.

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<sup>(11)</sup>See section 70(4) of PSPJOA 2022 for the meaning of “judicial legacy salaried scheme”.

<sup>(12)</sup>See section 70(5) of PSPJOA 2022 for the meaning of “judicial legacy fee-paid scheme”.

<sup>(13)</sup>See section 71(2) of PSPJOA 2022 for the meaning of “salaried judicial office”.

<sup>(14)</sup>See section 73(2) of PSPJOA 2022 for the meaning of “PPA opted-out service”.

## CHAPTER 4

### Benefits for children where an immediate detriment remedy has been obtained

#### Benefits for children

**18.**—(1) This regulation applies where—

- (a) P died before the immediate detriment remedy was obtained;
- (b) the immediate detriment remedy was obtained by an adult survivor of P;
- (c) P is survived by a child who is not living in the same household as the adult survivor; and
- (d) the benefits payable under the relevant judicial legacy scheme in respect of the child are, in the opinion of the scheme manager of the scheme, less valuable (looked at in the round) than those that would have been payable in respect of the child if—
  - (i) an immediate detriment remedy had not been obtained in relation to P’s remediable service; and
  - (ii) a 2015 scheme election had been made in respect of P.

(2) The benefits payable in respect of the child under the relevant judicial legacy scheme, so far as they are determined by reference to P’s remediable service, are such benefits as would have been payable in respect of the child, so far as they are determined by reference to P’s remediable service, if—

- (a) an immediate detriment remedy had not been obtained in relation to P’s remediable service; and
- (b) a 2015 scheme election had been made in respect of P.

(3) In this regulation, “child” means any individual who would have received benefits in respect of P under the 2015 scheme in their capacity as a child if—

- (a) an immediate detriment remedy had not been obtained in relation to P’s remediable service; and
- (b) a 2015 scheme election had been made, or treated as made, in respect of P.

(4) Paragraph (2) applies in relation to benefits that were payable in respect of the child before, as well as after, the immediate detriment remedy was obtained.

## CHAPTER 5

### Partial retirement where an immediate detriment remedy has been obtained

#### Partial retirement

**19.**—(1) Paragraph (2) applies where—

- (a) P exercised a partial retirement option under regulation 60(2) of the 2015 Regulations in respect of any fee-paid judicial office; and
- (b) the conditions set out in regulation 27(1) of FPJR 2017 are met in respect of P.

(2) A notice in respect of P that complies with the requirement in regulation 27(3)(a) of FPJR 2017 is treated as having been given in accordance with sub-paragraph (3)(b) of that regulation if it is received by the appropriate Minister before the end of the notification period.

(3) A notice under paragraph (2) has effect on the date referred to in regulation 61(1)(b) of the 2015 Regulations.

#### Corrections for pension benefits and lump sum benefits on partial retirement

**20.** Where regulation [19](2) applies, section 51 of PSPJOA 2022 applies in relation to P as if for subsection (1) there were substituted—

“(1) This section applies in relation to a member (“M”) of a judicial scheme where—

- (a) M has remediable service in a judicial office that is pensionable service under the scheme;
- (b) an immediate detriment remedy has been obtained in relation to the remediable service; and



- (c) during the period of remediable service, M exercised a partial retirement option under regulation 60(2) of the 2015 Regulations.”.

## CHAPTER 6

### Benefits and contributions previously paid or payable

#### **Effect of immediate detriment remedy on benefits previously paid or payable**

**21.**—(1) Paragraph (2) applies in relation to any benefits (“the paid benefits”) that the 2015 scheme has at any time paid to a person so far as—

- (a) they are calculated by reference to P’s remediable service in a salaried judicial office; and
- (b) they are benefits that, as a result of any immediate detriment remedy that has been obtained in relation to that service, a person was not entitled to receive from the 2015 scheme.

(2) The paid benefits are to be treated for all purposes—

- (a) as not having been paid to the person by the 2015 scheme; but
- (b) as having been paid to the person instead by the judicial legacy salaried scheme.

(3) Paragraph (4) applies in relation to any benefits (“the paid benefits”) that the 2015 scheme has at any time paid to a person so far as—

- (a) they are calculated by reference to P’s remediable service in a fee-paid judicial office, and
- (b) they are benefits that, as a result of any immediate detriment remedy that has been obtained in relation to that service, a person was not entitled to receive from the 2015 scheme.

(4) The paid benefits are to be treated for all purposes—

- (a) as not having been paid to the person by the 2015 scheme; but
- (b) as having been paid to the person instead by the judicial legacy fee-paid scheme.

(5) Paragraph (6) applies where, as a result of any immediate detriment remedy that has been obtained (and after taking into account the effect of paragraphs (2) and (4))—

- (a) a judicial legacy scheme owes a person an amount in respect of benefits which are calculated by reference to P’s remediable service; or
- (b) a person owes a judicial legacy scheme an amount in respect of such benefits.

(6) The liability is to be discharged only in accordance with regulation [23] (corrections for pension benefits and lump sum benefits).

#### **Effect of immediate detriment remedy on pension contributions previously paid or payable**

**22.**—(1) Paragraph (2) applies where P has paid any pension contributions (“the paid pension contributions”) under the 2015 scheme which—

- (a) are calculated by reference to P’s remediable service in a salaried judicial office; and
- (b) as a result of any immediate detriment remedy that has been obtained in relation to that service, P was not required to pay to the 2015 scheme.

(2) The paid contributions are to be treated for all purposes—

- (a) as not having been paid by P to the 2015 scheme; but
- (b) as having been paid by P instead to the judicial legacy salaried scheme.

(3) Paragraph (4) applies where P has paid any pension contributions (“the paid pension contributions”) under the 2015 scheme which—

- (a) are calculated by reference to P’s remediable service in a fee-paid judicial office; and

- (b) as a result of any immediate detriment remedy that has been obtained in relation to that service, P was not required to pay to the 2015 scheme.
- (4) The paid contributions are to be treated for all purposes—
  - (a) as not having been paid by P to the 2015 scheme; but
  - (b) as having been paid by P instead to the judicial legacy fee-paid scheme.
- (5) Paragraph (6) applies where, as a result of any immediate detriment remedy that has been obtained (and after taking into account the effect of paragraphs (2) and (4))—
  - (a) a judicial legacy scheme owes a person an amount in respect of pension contributions which are calculated by reference to P’s remediable service; or
  - (b) a person owes a judicial legacy scheme an amount in respect of such contributions.
- (6) The liability is to be discharged only in accordance with regulation [24] (corrections for pension contributions).

## CHAPTER 7

### Corrections for benefits and contributions where an immediate detriment remedy has been obtained

#### **Pension benefits and lump sum benefits**

**23.**—(1) This regulation applies where P—

- (a) P is a pensioner member in relation to the judicial office; or
- (b) P is deceased.

(2) Where—

- (a) the aggregate of the pension benefits, if any, that (after taking into account the effect, if any, of regulation [21](2) or (4)) have been paid under a judicial legacy scheme to any person (“the beneficiary”) in respect of P’s remediable service; exceeds
  - (b) the aggregate of the pension benefits to which (after taking into account the effect, if any, of any immediate detriment remedy that has been obtained in relation to P’s remediable service) the beneficiary was entitled under the scheme in respect of the service;
- the beneficiary must pay the difference to the scheme.

(3) Where—

- (a) the amount mentioned in sub-paragraph (2)(a); is less than
  - (b) the amount mentioned in sub-paragraph (2)(b);
- the scheme manager must pay the difference to the beneficiary.

(4) Where—

- (a) the aggregate of the lump sum benefits, if any, that (after taking into account the effect, if any, of regulation [21](2) or (4)) have been paid under a judicial legacy scheme to any person (“the beneficiary”) in respect of P’s remediable service; exceeds
  - (b) the aggregate of the lump sum benefits to which (after taking into account the effect, if any, of any immediate detriment remedy that has been obtained in relation to P’s remediable service) the beneficiary was entitled under the scheme in respect of the service;
- the beneficiary must pay the difference to the scheme.

(5) Where—

- (a) the amount mentioned in sub-paragraph (4)(a); is less than
  - (b) the amount mentioned in sub-paragraph (4)(b);
- the scheme manager must pay the difference to the beneficiary.

### **Pension contributions**

**24.**—(1) This regulation applies in relation to P after taking into account the effect, if any, of any immediate detriment remedy that has been obtained in respect of P’s remediable service.

(2) Where—

- (a) the paid contributions amount for an in-scope year in respect of P’s remediable service, exceeds
- (b) the payable contributions amount for that tax year in respect of that service,  
the scheme manager must (directly or indirectly) pay an amount in respect of the difference to the appropriate person.

(3) Where—

- (a) the paid contributions amount for an out-of-scope tax year in respect of P’s remediable service, exceeds
- (b) the payable contributions amount for that tax year in respect of that service,  
no amount is to be paid by the scheme manager in respect of the difference to the appropriate person.

(4) Where—

- (a) the paid contributions amount for an in-scope or out-of-scope tax year in respect of P’s remediable service, is less than
- (b) the payable contributions amount for that tax year in respect of that service,  
the appropriate person must pay pension contributions in respect of the difference to the scheme.

(5) A reference in this regulation to “the paid contributions amount” for a tax year in respect of P’s remediable service in a judicial office is a reference to the sum of—

- (a) the aggregate of the pension contributions that (after taking into account the effect, if any, of regulation [22](2) and (4), have been paid under the scheme by P in the tax year in respect of so much of the service as was not PPA opted-out service; and
- (b) where any of the remediable service was PPA opted-out service—
  - (i) the aggregate of the pension contributions and any voluntary contributions that have been paid by P under the partnership pension account in the tax year in respect of the PPA opted-out service; or
  - (ii) if lower, the aggregate of the pension contributions that were payable under the scheme by P for that tax year in respect of the PPA opted-out service.

(6) A reference in this regulation to “the payable contributions amount” for a tax year in respect of P’s remediable service means the aggregate of the pension contributions that were payable under the scheme by P for that tax year in respect of the service.

(7) For the purposes of this regulation—

- (a) a tax year is “in-scope” in relation to P if any necessary adjustment to the amount of income tax paid by P in respect of PAYE income for the tax year is capable of being enforced by HMRC under PAYE regulations; and
- (b) a tax year is “out-of-scope” in relation to P if it is not in-scope in relation to P.

(8) A reference in this regulation to pension contributions or voluntary contributions paid by a person under a partnership pension account is a reference to the amount of the contributions paid, net of any tax relief under section 188 of FA 2004 (relief for contributions) to which the person was entitled in respect of them.

## **CHAPTER 8**

Compensation for voluntary payments where an immediate detriment remedy has been obtained

### **Compensation for special payments to buy out early payment reduction**

**25.**—(1) This regulation applies where P has, during the period of remediable service, made any special payments under regulation 74(3)(a) or (c) of the 2015 Regulations.

(2) The rights that would otherwise have been secured by the special payments are extinguished.

- (3) The scheme manager must pay to the appropriate person an amount by way of compensation equal to—
  - (a) the aggregate of the special payments paid by P; less
  - (b) an amount, determined in accordance with direction [23] of the PSP Directions 2022, in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which P was entitled in respect of those payments.
- (4) The following apply in relation to a determination under direction [23(2)]—
  - (a) direction [23(4) (provision of explanation)];
  - (b) direction [23(5) and (6) (appeals)].

### **Compensation for payments for added pension**

- 26.**—(1) This regulation applies where—
- (a) P has, during the period of remediable service, made any added pension payments under Part 2 of Schedule 1 to the 2015 Regulations; and
  - (b) regulation 129(1)(b) of the 2015 Regulations does not apply in respect of those payments.
- (2) Where the appropriate person makes a request for compensation in respect of the added pension payments—
- (a) the rights that would otherwise have been secured by the added pension payments are extinguished; and
  - (b) the scheme manager must pay to the appropriate person an amount by way of compensation equal to—
    - (i) the aggregate of the added pension payments paid by P; less
    - (ii) an amount, determined in accordance with direction [23] of the PSP Directions 2022, in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which P was entitled in respect of those payments.
- (3) The following apply in relation to a determination under direction [23(2)]—
- (a) direction [23(4) (provision of explanation)];
  - (b) direction [23(5) and (6) (appeals)].
- (4) A request under paragraph (2)—
- (a) must be—
    - (i) made by notice to the scheme manager;
    - (ii) in a form required by the scheme manager;
    - (iii) received by the scheme manager before the end of the notification period; and
  - (b) is irrevocable.

### **Compensation for effective pension age payments**

- 27.**—(1) This regulation applies where P has, during the period of remediable service, made any effective pension age payments under Part 3 of Schedule 1 to the 2015 Regulations.
- (2) The rights that would otherwise have been secured by the effective pension age payments are extinguished.
- (3) The scheme manager must pay to the appropriate person an amount by way of compensation equal to—
- (a) the aggregate of the effective pension age payments paid by P, less
  - (b) an amount, determined in accordance with direction [23] of the PSP Directions 2022, in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which P was entitled in respect of those payments.
- (4) The following apply in relation to a determination under direction [23(2)]—
- (a) direction [23(4) (provision of explanation)];
  - (b) direction [23(5) and (6) (appeals)].

## CHAPTER 9

Transitional protection allowance where an immediate detriment remedy has been obtained

### **Transitional protection allowance**

**28.**—(1) This regulation applies where P’s employer<sup>(15)</sup> has paid P a transitional protection allowance<sup>(16)</sup>.

(2) The appropriate person must pay to P’s employer an amount equal to—

- (a) the amount of the transitional protection allowance, less
- (b) an amount in respect of the income tax suffered by P that is attributable to the transitional protection allowance.

## CHAPTER 10

Compensation for compensatable losses where an immediate detriment remedy has been obtained

### **Power to pay compensation in respect of compensatable losses**

**29.**—(1) The scheme manager for a judicial scheme may pay amounts by way of compensation in respect of compensatable losses incurred by the appropriate person.

(2) For the purposes of this regulation a loss incurred by the appropriate person is “compensatable” if and to the extent that—

- (a) either of the conditions in paragraphs (3) and (4) are met; and
- (b) the loss is of a description that corresponds to a description that is specified in Treasury directions made under section 62(2)(e) of PSPJOA 2022 in respect of compensatable losses under section 59(3) of that Act.

(3) The first condition is that the loss is attributable to, or is reasonably regarded as attributable to, a relevant breach of a non-discrimination rule.

(4) The second condition is that the loss is attributable to the application of any provision of this Part.

(5) For the purpose of this regulation a breach of a non-discrimination rule is “relevant” if section 59(10) of PSPJOA 2022 applies to it.

(6) Paragraph (1) does not confer power to pay amounts by way of compensation in respect of compensatable losses so far as—

- (a) the appropriate person has already received amounts by way of compensation in respect of them; or
- (b) amounts that any person has paid to the scheme have been reduced by amounts in respect of them, whether pursuant to an order of the court or otherwise.

## CHAPTER 11

Unauthorised payments where an immediate detriment remedy has been obtained

### **Scheme rules that prohibit unauthorised payments**

**30.**—(1) This regulation applies where—

- (a) a payment from a judicial scheme is permitted or required to be made under this Part;
- (b) the payment, if made, would be an unauthorised payment<sup>(17)</sup>; and
- (c) a rule of the scheme prohibits the scheme from making unauthorised payments.

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<sup>(15)</sup>See section 110 of PSPJOA 2022 for the meaning of “employer”.

<sup>(16)</sup>See section 54(4) of PSPJOA 2022 for the meaning of “transitional protection allowance”.

<sup>(17)</sup>See section 63(5) of PSPJOA 2022 for the meaning of “unauthorised payment”.

(2) The payment may be made only if it falls within a description of payments that correspond to a description of payments specified for the purposes of section 63 of PSPJOA 2022 in Treasury directions.

(3) Paragraph (4) applies where—

- (a) in the course of taking the steps mentioned in regulation [17] (requirement to transfer assets held in a partnership pension account) a payment is made from a partnership pension account;
  - (b) the payment, if made, would be an unauthorised payment; and
  - (c) a rule of the scheme prohibits the scheme from making unauthorised payments.
- (4) The payment may be made notwithstanding the rule mentioned in paragraph (3)(c).

## PART 4

### Provision in relation to certain fee-paid judges

#### CHAPTER 1

##### Application and Interpretation

#### Application of Part

**31.**—(1) This Part applies where a relevant fee-paid judge<sup>(18)</sup> (“R”) has relevant service in a judicial office.

(2) “Relevant service” is any continuous period of service that meets the following conditions.

(3) The first condition is that the service in question took place in the period beginning with 1st April 2015 and ending with 31st March 2022.

(4) The second condition is that the service is pensionable service under a judicial legacy scheme.

(5) The third condition is that there is no disqualifying gap in service<sup>(19)</sup> falling within the period—

- (a) beginning with the day after the most recent day in relation to which section 103(3)(c) PSPJOA 2022 applies in relation to R; and
- (b) ending with the day before the first day of the relevant service.

(6) This Part does not apply in relation to any payment or transfer of assets and liabilities that would otherwise be payable or required to be made under this Part where a corresponding payment or a corresponding transfer of assets and liabilities has been made.

(7) In this regulation—

a “corresponding payment” is a payment that has been made in relation to R’s relevant service that corresponds to a payment that is payable or required to be made under this Part;

a “corresponding transfer of assets and liabilities” is a transfer of assets and liabilities that has been made in relation to R’s relevant service that corresponds to a transfer of assets and liabilities that is required to be made under this Part.

#### Interpretation of Part

**32.**—(1) In this Part, “adult survivor” means a surviving spouse or surviving civil partner who is entitled under a judicial legacy scheme to a pension determined (to any extent) by reference to R’s relevant service.

(2) For the purposes of this Part—

- (a) R’s relevant service is “PPA opted-out relevant service” if and to the extent that R made contributions to a partnership pension account in respect of it;

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<sup>(18)</sup>See section 103(3) of PSPJOA 2022 for the meaning of “relevant fee-paid judge”.

<sup>(19)</sup>See section 39(9) of PSPJOA 2022 for the meaning of “disqualifying gap in service”.

- (b) the “notification period”, in relation to R, is (subject to sub-paragraph (c)) the period of three months beginning with the date on which the statement mentioned in regulation [33] is sent;
- (c) the relevant authority may extend the period mentioned in sub-paragraph (b) in relation to R if the relevant authority considers it just and equitable to do so.

## CHAPTER 2

### Information statements

#### **Information statements**

**33.**—(1) The relevant authority must, as soon as reasonably practicable—

- (a) prepare a statement in relation to R; and
- (b) send it to R or, if R is deceased, R’s personal representatives.

(2) The statement must contain such information as the relevant authority considers relevant to R’s rights and liabilities under these Regulations.

#### **Partnership pension account: requirement to transfer and surrender rights.**

**34.**—(1) Paragraph (2) applies where—

- (a) R has relevant service in a salaried judicial office; and
- (b) any of the relevant service is PPA opted-out relevant service.

(2) The PPA beneficiary must, within three months beginning with the day after the end of the notification period, take the steps specified in section 41(3) of PSPJOA 2022.

(3) Paragraph (4) applies where—

- (a) R has relevant service in a fee-paid judicial office; and
- (b) any of the relevant service is PPA opted-out relevant service.

(4) The relevant person must take the steps specified in section 41(6) of PSPJOA 2022.

(5) In this regulation “relevant person” means “R” or, if R is deceased—

- (a) the adult survivor; or
- (b) if there is no adult survivor, R’s personal representatives.

## CHAPTER 3

### Benefits for children

#### **Benefits for children**

**35.**—(1) This regulation applies where—

- (a) R is deceased;
- (b) R is survived by a child who is not living in the same household as an adult survivor of P; and
- (c) the benefits payable under [any] judicial legacy scheme in respect of the child are, in the opinion of the scheme manager of the scheme, less valuable (looked at in the round) than those that would have been payable in respect of the child under the 2015 scheme.

(2) The benefits payable in respect of the child under [any] judicial legacy fee-paid scheme, so far as they are determined by reference to R’s relevant service, are such benefits as would have been payable in respect of the child, so far as they are determined by reference to R’s relevant service, if R had been a member of the 2015 scheme.

(3) In this regulation “child” means any individual who is entitled to benefits in respect of R under a judicial legacy scheme in their capacity as a child.

## CHAPTER 4

### Partial retirement

#### Partial retirement notice

**36.**—(1) Paragraph (2) applies where—

- (a) R exercised a partial retirement option under regulation 60(2) of the 2015 Regulations in respect of any fee-paid judicial office; and
- (b) the conditions set out in regulation 27(1) of FPJR 2017 are met in respect of R.

(2) A notice in respect of R that complies with the requirement in regulation 27(3)(a) of FPJR 2017 is treated as having been given in accordance with sub-paragraph (3)(b) of that regulation if it is received by the appropriate Minister before the end of the notification period.

(3) A notice under paragraph (2) has effect on the date referred to in regulation 61(1)(b) of the 2015 Regulations.

#### Corrections for pension benefits and lump sums on partial retirement

**37.** Where regulation [50](2) applies, section 51 of PSPJOA 2022 applies in relation to R as if for subsection (1) there were substituted—

“(1) This section applies in relation to a member (“M”) of a judicial scheme where—

- (a) M has relevant service in a judicial office;
- (b) the relevant service is pensionable service under the scheme, and
- (c) during the period of relevant service, M exercised a partial retirement option under regulation 60(2) of the 2015 Regulations.”.

## CHAPTER 5

### Benefits and contributions

#### Benefits previously paid or payable

**38.**—(1) Paragraph (2) applies in relation to any benefits (“the paid benefits”) that the 2015 scheme has at any time paid to a person so far as—

- (a) they are calculated by reference to R’s relevant service in a salaried judicial office; and
- (b) they are benefits that a person was not entitled to receive from the 2015 scheme.

(2) The paid benefits are to be treated for all purposes—

- (a) as not having been paid to the person by the 2015 scheme; but
- (b) as having been paid to the person instead by the judicial legacy salaried scheme.

(3) Paragraph (4) applies in relation to any benefits (“the paid benefits”) that the 2015 scheme has at any time paid to a person so far as—

- (a) they are calculated by reference to R’s relevant service in a fee-paid judicial office, and
- (b) they are benefits that a person was not entitled to receive from the 2015 scheme.

(4) The paid benefits are to be treated for all purposes—

- (a) as not having been paid to the person by the 2015 scheme; but
- (b) as having been paid to the person instead by the judicial legacy fee-paid scheme.

(5) Paragraph (6) applies where, after taking into account the effect of paragraphs (2) and (4) —

- (a) a judicial legacy scheme owes a person an amount in respect of benefits which are calculated by reference to R’s relevant service in a judicial office; or



(b) a person owes a judicial legacy scheme an amount in respect of such benefits.

(6) The liability is to be discharged only in accordance with regulation [40] (corrections for pension benefits and lump sum benefits).

### **Pension contributions previously paid or payable**

**39.**—(1) Paragraph (2) applies where R has paid any pension contributions (“the paid pension contributions”) under the 2015 scheme which—

- (a) are calculated by reference to R’s relevant service in a salaried judicial office; and
- (b) had R been recognised as a full protection member<sup>(20)</sup> of a judicial legacy scheme in relation to that service, R would not have been required to pay to the 2015 scheme.

(2) The paid contributions are to be treated for all purposes—

- (a) as not having been paid by R to the 2015 scheme; but
- (b) as having been paid by R instead to the judicial legacy salaried scheme.

(3) Paragraph (4) applies where R has paid any pension contributions (“the paid pension contributions”) under the 2015 scheme which—

- (a) are calculated by reference to R’s relevant service in a fee-paid judicial office; and
- (b) had R been recognised as a full protection member of a judicial legacy scheme in relation to that service, R would not have been required to pay to the 2015 scheme.

(4) The paid contributions are to be treated for all purposes—

- (a) as not having been paid by R to the 2015 scheme; but
- (b) as having been paid by R instead to the judicial legacy fee-paid scheme.

(5) Paragraph (6) applies where, after taking into account the effect of paragraphs (2) and (4)—

- (a) a judicial legacy scheme owes a person an amount in respect of pension contributions which are calculated by reference to R’s relevant service; or
- (b) a person owes a judicial legacy scheme an amount in respect of such contributions.

(6) The liability is to be discharged only in accordance with regulation [41] (corrections for pension contributions).

## **CHAPTER 6**

### **Corrections for pension benefits and contributions**

#### **Pension benefits and lump sum benefits**

**40.**—(1) This regulation applies where—

- (a) R is a pensioner member in relation to a judicial office; or
- (b) R is deceased.

(2) Where—

- (a) the aggregate of the pension benefits, if any, that (after taking into account the effect, if any, of regulation [38](2) or (4)) have been paid under a judicial legacy scheme to any person (“the beneficiary”) in respect of R’s relevant service in a judicial office; exceeds
- (b) the aggregate of the pension benefits to which the beneficiary was entitled under the scheme in respect of the service,

the beneficiary must pay the difference to the scheme.

(3) Where—

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<sup>(20)</sup>See section 103(4) of PSPJOA 2022 for the meaning of “full protection member”.

- (a) the amount mentioned in sub-paragraph (2)(a); is less than
- (b) the amount mentioned in sub-paragraph (2)(b),

the scheme manager must pay the difference to the beneficiary.

(4) Where—

- (a) the aggregate of the lump sum benefits, if any, that (after taking into account the effect, if any, of regulation [38](2) or (4)) have been paid under a judicial legacy scheme to any person (“the beneficiary”) in respect of R’s relevant service in a judicial office; exceeds
- (b) the aggregate of the lump sum benefits to which the beneficiary was entitled under the scheme in respect of the service,

the beneficiary must pay the difference to the scheme.

(5) Where—

- (a) the amount mentioned in sub-paragraph (4)(a); is less than
- (b) the amount mentioned in sub-paragraph (4)(b),

the scheme manager must pay the difference to the beneficiary.

### **Pension contributions**

**41.**—(1) Where—

- (a) the paid contributions amount for an in-scope year in respect of R’s relevant service in a judicial office, exceeds
- (b) the payable contributions amount for that tax year in respect of that service,

the scheme manager must (directly or indirectly) pay an amount in respect of the difference to the appropriate person.

(2) Where—

- (a) the paid contributions amount for an out-of-scope tax year in respect of R’s relevant service in a judicial office, exceeds
- (b) the payable contributions amount for that tax year in respect of that service,

no amount is to be paid by the scheme manager in respect of the difference to the appropriate person.

(3) Where—

- (a) the paid contributions amount for an in-scope or out-of-scope tax year in respect of R’s relevant service in the judicial office, is less than
- (b) the payable contributions amount for that tax year in respect of that service,

the appropriate person must pay pension contributions to the scheme in respect of the difference.

(4) A reference in this regulation to “the paid contributions amount” for a tax year in respect of R’s relevant service in a judicial office is a reference to the sum of—

- (a) the aggregate of the pension contributions that (after taking into account the effect, if any, of regulation [39](2) and (4)), have been paid under the scheme by R in the tax year in respect of so much of the service as was not PPA opted-out service; and
- (b) where any of the relevant service was PPA opted-out service—
  - (i) the aggregate of the pension contributions and any voluntary contributions that have been paid by R under the partnership pension account in the tax year in respect of the PPA opted-out service; or
  - (ii) if lower, the aggregate of the pension contributions that were payable under the scheme by R for that tax year in respect of the PPA opted-out service.

(5) A reference in this regulation to “the payable contributions amount” for a tax year in respect of R’s relevant service in a judicial office means the aggregate of the pension contributions that were payable under the relevant judicial legacy scheme by R for that tax year in respect of the service.

(6) For the purposes of this regulation—

- (a) a tax year is “in-scope” in relation to R if any necessary adjustment to the amount of income tax paid by R in respect of PAYE income for the tax year is capable of being enforced by HMRC under PAYE regulations; and
- (b) a tax year is “out-of-scope” in relation to R if it is not in-scope in relation to R.

(7) A reference in this regulation to pension contributions or voluntary contributions paid by a person under a partnership pension account is a reference to the amount of the contributions paid, net of any tax relief under section 188 of FA 2004 (relief for contributions) to which the person was entitled in respect of them.

## CHAPTER 7

### Compensation for voluntary payments

#### **Compensation for special payments to buy out early payment reduction**

**42.**—(1) This regulation applies where R has, during the period of relevant service, made any special payments under regulation 74(3)(a) or (c) of the 2015 Regulations.

(2) The rights that would otherwise have been secured by the special payments are extinguished.

(3) The scheme manager must pay to the appropriate person an amount by way of compensation equal to—

- (a) the aggregate of the special payments paid by R; less
- (b) an amount, determined in accordance with direction [23] of the PSP Directions 2022, in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which P was entitled in respect of those payments.

(4) The following apply in relation to a determination under direction [23(2)]—

- (a) direction [23(4) (provision of explanation)];
- (b) direction [23(5) and (6) (appeals)].

#### **Compensation for payments for added pension**

**43.**—(1) This regulation applies where—

- (a) R has, during the period of relevant service, made any added pension payments under Part 2 of Schedule 1 to the 2015 Regulations; and
- (b) regulation 129(1)(b) of the 2015 Regulations does not apply in respect of those payments.

(2) Where the appropriate person makes a request for compensation in respect of the added pension payments—

- (a) the rights that would otherwise have been secured by the added pension payments are extinguished; and
- (b) the scheme manager must pay to the appropriate person an amount by way of compensation equal to—
  - (i) the aggregate of the added pension payments paid by R; less
  - (ii) an amount, determined in accordance with direction [23] of the PSP Directions 2022, in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which P was entitled in respect of those payments.

(3) The following apply in relation to a determination under direction [23(2)]—

- (a) direction [23(4) (provision of explanation)];
- (b) direction [23(5) and (6) (appeals)].

(4) A request under paragraph (2)—

- (a) must be—
  - (i) made by notice to the scheme manager,
  - (ii) in a form required by the scheme manager,

- (iii) received by the scheme manager before the end of the notification period, and
- (b) is irrevocable.

### **Compensation for effective pension age payments**

**44.**—(1) This regulation applies where R has, during the period of relevant service, made any effective pension age payments under Part 3 of Schedule 1 to the 2015 Regulations.

- (2) The rights that would otherwise have been secured by the effective pension age payments are extinguished.
- (3) The scheme manager must pay to the appropriate person an amount by way of compensation equal to—
  - (a) the aggregate of the effective pension age payments paid by R; less
  - (b) an amount, determined in accordance with direction [23] of the PSP Directions 2022, in respect of the value of the tax relief under section 188 of FA 2004 (member contributions) to which P was entitled in respect of those payments.
- (4) The following apply in relation to a determination under direction [23(2)]—
  - (a) direction [23(4) (provision of explanation)];
  - (b) direction [23(5) and (6) (appeals)].

### **Transfers out of the 2015 scheme**

**45.**—(1) This regulation applies where a transfer value payment has, during the period of relevant service, been made under regulation 133 of the 2015 Regulations in respect of R’s accrued rights under the 2015 scheme.

(2) The scheme manager must provide the appropriate person with a statement of the cash equivalent to which R was entitled, under a judicial legacy scheme, in respect of R’s accrued rights on the guarantee date in relation to the period of relevant service.

- (3) Where—
  - (a) the value of the cash equivalent in respect of the sum specified in regulation 137(3)(a) of the 2015 Regulations, is less than
  - (b) the value of the cash equivalent to which R was entitled under paragraph (2) in respect of that sum,

the scheme manager must pay to the appropriate person an amount equal to the value of the difference.

(4) The scheme manager is discharged from any further obligation to provide benefits to which the cash equivalent related.

(5) In this regulation the “guarantee date” is the date specified in the statement of entitlement that was provided under regulation 135(1) of the 2015 Regulations in respect of the transfer value payment.

## **CHAPTER 8**

### **Transitional protection allowance**

#### **Transitional protection allowance**

- 46.**—(1) This regulation applies where R’s employer has paid R a transitional protection allowance.
- (2) The appropriate person must pay to R’s employer an amount equal to—
  - (a) the amount of the transitional protection allowance, less
  - (b) an amount in respect of the income tax suffered by R that is attributable to the transitional protection allowance.

## CHAPTER 9

### Compensation for compensatable losses

#### **Power to pay compensation in respect of compensatable losses**

**47.**—(1) The scheme manager for a judicial scheme may pay amounts by way of compensation in respect of compensatable losses incurred by the appropriate person.

(2) For the purposes of this regulation a loss incurred by the appropriate person is “compensatable” if and to the extent that—

- (a) either of the conditions in paragraphs (3) and (4) are met; and
- (b) the loss is of a description that corresponds to a description specified in Treasury directions made under section 62(2)(e) of PSPJOA 2022 in respect of compensatable losses under section 59(3) of that Act.

(3) The first condition is that the loss is attributable to, or is reasonably regarded as attributable to, the fact that R was not recognised as a full protection member of a judicial legacy scheme.

(4) The second condition is that the loss is attributable to the application of any provision of this Part.

(5) In this regulation, “loss” has the meaning given in section 59(6) to (8) of PSPJOA 2022.

(6) Paragraph (1) does not confer power to pay amounts by way of compensation in respect of compensatable losses so far as—

- (a) the appropriate person has already received amounts by way of compensation in respect of them; or
- (b) amounts that any person has paid to the scheme have been reduced by amounts in respect of them;

whether pursuant to an order of the court or otherwise.

## CHAPTER 10

### Unauthorised payments

#### **Scheme rules that prohibit unauthorised payments**

**48.**—(1) Paragraph (2) applies where—

- (a) a payment from a judicial scheme is permitted or required to be made under this Part;
- (b) the payment, if made, would be an unauthorised payment; and
- (c) a rule of the scheme prohibits the scheme from making unauthorised payments.

(2) The payment may be made only if it falls within a description of payments that correspond to a description of payments specified for the purposes of section 63 of PSPJOA 2022 in Treasury directions.

(3) Paragraph (4) applies where—

- (a) in the course of taking the steps mentioned in regulation [34] (requirement to transfer assets held in a partnership pension account) a payment is made from a partnership pension account;
- (b) the payment, if made, would be an unauthorised payment; and
- (c) a rule of the scheme prohibits the scheme from making unauthorised payments.

(4) The payment may be made notwithstanding the rule mentioned in paragraph (3)(c).

**PART 5**  
**Pension Credit Members**  
**CHAPTER 1**  
**Preliminary**

**Application of Part**

**49.**—(1) This Part applies where—

- (a) a person (“P”) has remediable service in a judicial office;
- (b) a pension sharing order is made in respect of P; and
- (c) the transfer day of the pension sharing order is in the period beginning with 1st April 2015 and ending with the day before the day on which—
  - (i) the legacy scheme election or 2015 scheme election takes effect in respect of P; or
  - (ii) either of the conditions under section 68(2) or (3) of PSPJOA are satisfied in relation to P’s remediable service.

(2) This Part also applies where—

- (a) a person (“P”) has relevant service in a judicial office;
- (b) a pension sharing order is made in respect of P; and
- (c) the transfer day of the pension sharing order is in the period beginning with 1 April 2015 and ending on the day before the day on which Part [4] takes effect in respect of P.

**Interpretation of Part**

**50.**—(1) In this Part—

“amount of credited pension” has the meaning given in regulation 2 of the 2015 Regulations;

“appropriate amount” means the amount calculated under section 29(2) and (3) of WRPA 1999<sup>(21)</sup> in respect of a pension sharing order;

“cash equivalent” means a value calculated by virtue of section 30 of WRPA 1999;

“corresponding pension debit member”, in relation to a relevant pension credit member, means the person mentioned in paragraph (b) of the definition of that term;

“pension sharing order” means an order or provision by virtue of which section 29 of WRPA 1999 applies to a relevant pension credit member and corresponding pension debit member;

“relevant benefits” means—

- (a) where P was in pensionable service on the transfer day, the benefits or future benefits to which P was entitled under a judicial scheme by virtue of P’s shareable rights in the scheme in respect of P’s service beginning on 1st April 2015 and ending on the day before the transfer day; and
- (b) otherwise, the benefits or future benefits to which P was entitled under a judicial scheme by virtue of P’s shareable rights in the scheme in respect of P’s service beginning on 1st April 2015 and ending on the last day of P’s service;

“relevant pension credit member”, in relation to a judicial scheme, means a person who has rights under the scheme—

- (a) which are attributable (directly or indirectly) to a pension credit; and

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<sup>(21)</sup>In accordance with section 110(1) of the PSPJOA 2022, “WRPA 1999” means the Welfare Reform and Pensions Act 1999 (c. 30).

- (b) the value of which was determined (to any extent) by reference to the value of benefits payable in respect of the remediable service or relevant service in a judicial office of another person;

“relevant period” means—

- (a) where P has remediable service and an immediate detriment remedy has not been obtained in relation to that service, the election period in relation to P; and
- (b) otherwise, the notification period in relation to P;

“shareable rights” has the meaning given in section 27(2) of WRPA 1999;

“transfer day”, in relation to a pension sharing order, means the day on which the pension sharing order takes effect;

“valuation day” has the meaning given in section 29(7) of WRPA 1999 in respect of a pension credit member and corresponding debit member.

(2) For the purposes of this Part, the “notification period”, in relation to P, has the meaning given—

- (a) where P has remediable service and an immediate detriment remedy has been obtained in relation to that service, in Part [3];
- (b) where P has relevant service, in Part [4].

## CHAPTER 2

### Provision where all remediable service was in the 2015 scheme

#### Application of Chapter

**51.** This Chapter applies where—

- (a) a relevant pension credit member (“C”) has rights in respect of a pension credit under the 2015 scheme;
- (b) the corresponding pension debit member in relation to C (“P”) is subject to a pension debit in the 2015 scheme; and
- (c) where—
  - (i) this Part applies by virtue of regulation [49](1), none of P’s remediable service is pensionable service in a judicial legacy scheme<sup>(22)</sup> (disregarding any legacy scheme election made, or any immediate detriment remedy obtained, in relation to P’s remediable service);
  - (ii) this Part applies by virtue of regulation [49](2).

#### Adjustments for pension credit members

**52.**—(1) The scheme manager must, after consultation with the scheme actuary, provide C with a statement of C’s remediable pension amount and remediable pension credit before the beginning of the relevant period.

(2) Where—

- (a) C’s remediable pension amount exceeds the appropriate amount in respect of the pension sharing order in the 2015 scheme; and
- (b) C requests that C’s remediable pension credit is added to C’s rights under—
  - (i) the 2015 scheme; or
  - (ii) a judicial legacy scheme (if any);

at the end of the relevant period, C becomes entitled to a remediable pension credit in accordance with the request, such credit to take effect as if it had been added to C’s rights with effect from the transfer day.

(3) A request under paragraph (2)(a)—

- (a) must be—

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<sup>(22)</sup>See section 70(3) of the PSPJOA 2022 for the meaning of “a judicial legacy scheme”.

- (i) made by notice to the scheme manager;
- (ii) in a form required by the scheme manager; and
- (iii) received by the scheme manager before the end of the relevant period; and

(b) is irrevocable.

(4) Where no request is made in accordance with paragraph (3), at the end of the relevant period C becomes entitled to a remediable pension credit in the 2015 scheme, such credit to take effect as if it had been added to C's rights with effect from the transfer day.

(5) In this regulation—

“remediable pension amount” means—

- (a) where the pension sharing order specified a percentage value to be transferred from the 2015 scheme, the specified percentage of the cash equivalent of P's relevant benefits on the valuation day calculated as if the relevant benefits were in P's judicial legacy scheme;
- (b) where the pension sharing order specified an amount to be transferred from the 2015 scheme, the percentage which this amount represented of the cash equivalent of P's relevant benefits in the 2015 scheme on the valuation day disregarding any—
  - (i) legacy scheme election made in respect of P;
  - (ii) immediate detriment remedy obtained in relation to P's remediable service; or
  - (iii) where this Part applies in respect of P by virtue of the application of paragraph (b) of regulation [49], the effect of Part 2 of Schedule 2 to the 2015 Regulations in relation to P,calculated instead as if P's relevant benefits were in P's judicial legacy scheme;

“remediable pension credit” means the greater of—

- (a) zero; and
- (b) the remediable pension amount minus the appropriate amount.

### **Adjustments for pension debit members where a legacy scheme election is made**

**53.**—(1) This regulation applies where—

- (a) a legacy scheme election is made in respect of P;
- (b) an immediate detriment remedy is obtained in relation to P's remediable service; or
- (c) this Part applies by virtue of regulation [49(2)].

(2) At the end of the relevant period, the scheme manager must adjust the value of P's shareable rights in P's judicial legacy scheme as the scheme manager, after consultation with the scheme actuary, considers appropriate having regard to—

- (a) the cash equivalent of P's shareable rights in P's judicial legacy scheme in respect of P's remediable service or relevant service from 1st April 2015 to the day before the transfer day;
- (b) the percentage value or the amount to be transferred specified in the pension sharing order in respect of the 2015 scheme; and
- (c) the provisions of sections 29 (creation of pension credits and debits) and 31 (reduction of benefit) of WRPA 1999.

(3) The adjustment made under paragraph (2) has effect from the transfer day.

## **CHAPTER 3**

### **Provision where all remediable service was in a judicial legacy scheme**

#### **Application of Chapter**

**54.** This Chapter applies where—



- (a) a relevant pension credit member (“C”) has rights in respect of a pension credit in a judicial legacy scheme;
- (b) the corresponding debit member in relation to C (“P”) is subject to a pension debit in a judicial legacy scheme; and
- (c) all of P’s remediable service beginning on 1st April 2015 and ending on the day before the transfer day is, disregarding any legacy scheme election or 2015 scheme election made or treated as made<sup>(23)</sup> in respect of P, pensionable service in a judicial legacy scheme.

### **Adjustments for pension credit members**

**55.**—(1) The scheme manager must, after consultation with the scheme actuary and before the beginning of the relevant period, provide C with a statement of—

- (a) C’s 2015 scheme remediable pension amount; and
- (b) C’s legacy scheme remediable pension amount; and
- (c) C’s remediable pension credit.

(2) Where the value of C’s 2015 scheme remediable pension amount exceeds the value of C’s legacy scheme remediable pension amount, both calculated on the valuation day at the end of the relevant period, C becomes entitled to a remediable pension credit, such credit to take effect as if it had been added to C’s rights in C’s judicial legacy scheme on the transfer day.

(3) In this regulation—

“2015 scheme remediable pension amount” means—

- (a) where the pension sharing order specified a percentage value to be transferred from P’s judicial legacy scheme, the specified percentage of the cash equivalent of P’s relevant benefits on the valuation day calculated as if the relevant benefits were in the 2015 scheme;
- (b) where the pension sharing order specified an amount to be transferred from P’s judicial legacy scheme, the percentage which this amount represented of the cash equivalent of P’s relevant benefits in P’s judicial legacy scheme on the valuation day (disregarding any 2015 scheme election), calculated instead as if P’s relevant benefits were in the 2015 scheme;

“legacy scheme remediable pension amount” means—

- (c) where the pension sharing order specified a percentage value to be transferred from P’s judicial legacy scheme, the specified percentage of the cash equivalent of P’s relevant benefits on the valuation day calculated as if the relevant benefits were in P’s judicial legacy scheme;
- (d) where the pension sharing order specified an amount to be transferred from P’s judicial legacy scheme, the percentage which this amount represented of the cash equivalent of P’s relevant benefits in P’s judicial legacy scheme on the valuation day (disregarding any 2015 scheme election);

“remediable pension credit” means the greater of—

- (e) zero; and
- (f) the 2015 scheme remediable pension amount minus the legacy scheme remediable pension amount.

### **Adjustments for pension debit members where a 2015 scheme election is made**

**56.**—(1) This regulation applies where a 2015 scheme election is made, or is treated as made, in respect of P.

(2) At the end of the relevant period, the scheme manager must adjust the value of P’s shareable rights in P’s judicial legacy scheme and 2015 scheme as the scheme manager, after consultation with the scheme actuary, considers appropriate having regard to—

- (a) the cash equivalent of P’s shareable rights in P’s judicial legacy scheme in respect of P’s service up to and including 31 March 2015;

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<sup>(23)</sup>See section 47 of the PSPJOA 2022 for cases in which a 2015 scheme election is treated as made.

- (b) the cash equivalent of P's shareable rights in the 2015 scheme in respect of P's remediable service from 1 April 2015 to the day before the transfer day;
  - (c) the percentage value or the amount to be transferred specified in the pension sharing order in respect of the judicial legacy scheme; and
  - (d) the provisions of sections 29 (creation of pension credits and debits) and 31 (reduction of benefit) of WRPA 1999.
- (3) The adjustment made under paragraph (2) has effect from the transfer day.

## CHAPTER 4

### Provision where there is mixed service

#### Application of Chapter

**57.** This Chapter applies where—

- (a) a relevant pension credit member (“C”) has rights in the 2015 scheme and a judicial legacy scheme; and
- (b) the corresponding debit member (“P”) has remediable service which is mixed service.

#### Interpretation of Chapter

**58.** In this Chapter—

“mixed service” means remediable service of P in a judicial office where, disregarding any legacy scheme election or 2015 scheme election made in respect of P or immediate detriment remedy obtained in relation to the service—

- (a) some of the service on or before transfer day is pensionable service under a judicial legacy scheme; and
- (b) some of the service on or before transfer day is pensionable service under the 2015 scheme;

“relevant legacy scheme order or provision” means the order or provision by virtue of which section 29 of WRPA 1999 applied to the relevant pension credit member and corresponding debit member in respect of a judicial legacy scheme;

“relevant 2015 scheme order or provision” means the order or provision by virtue of which section 29 of WRPA 1999 applied to the relevant pension credit member and corresponding debit member in respect of the 2015 scheme.

#### Adjustments for pension credit members where there is mixed service

**59.**—(1) The scheme manager must, after consultation with the scheme actuary, calculate the value of C's—

- (a) legacy scheme remediable pension amount; and
- (b) 2015 scheme remediable pension amount.

(2) The scheme manager must, before the beginning of the relevant period, provide C with a statement of C's—

- (a) amount of credited pension in the 2015 scheme;
- (b) rights in respect of a pension credit in any judicial legacy scheme;
- (c) higher remediable pension amount; and
- (d) remediable pension credit and remediable pension reduction.

(3) Paragraphs (4) to (6) apply where C has a remediable pension credit that is greater than zero.

(4) Where C requests that the remediable pension credit is added to C's rights in the 2015 scheme or a judicial legacy scheme, at the end of the relevant period, C becomes entitled to a remediable pension credit in accordance with the request, such credit to take effect as if it had been added to C's rights in the judicial scheme with effect from the transfer day.

(5) A request under paragraph (4)—

- (a) must be—
  - (i) made by notice to the scheme manager;
  - (ii) in a form required by the scheme manager; and
  - (iii) received by the scheme manager before the end of the relevant period; and
- (b) is irrevocable.

(6) Where no request is made in accordance with paragraph (5), at the end of the election period C becomes entitled to a remediable pension credit in the 2015 scheme, such credit to take effect as if it had been added to C's rights in the 2015 scheme on the transfer day.

(7) Paragraphs (8) to (10) apply where C is subject to a remediable pension reduction that is less than zero.

(8) Where C requests that the remediable pension reduction is deducted from C's rights in the 2015 scheme or judicial legacy scheme, at the end of the relevant period C becomes subject to a remediable pension reduction in accordance with the request, such reduction to take effect as if it had reduced C's rights in the judicial scheme on the transfer day.

(9) A request under paragraph (8)—

- (a) must be—
  - (i) made by notice to the scheme manager;
  - (ii) in a form required by the scheme manager; and
  - (iii) received by the scheme manager before the end of the election period; and
- (b) is irrevocable.

(10) Where no request is made in accordance with paragraph (9), at the end of the relevant period C becomes subject to a remediable pension reduction from the 2015 scheme, such reduction to take effect as if it had reduced C's rights in the judicial scheme on the transfer day.

(11) In this regulation—

“2015 scheme remediable pension amount” means—

- (a) where the relevant orders or provisions specified a percentage value to be transferred, the sum of—
  - (i) the specified percentage in the relevant legacy scheme order or provision of the cash equivalent of P's pre-taper date relevant benefits on the valuation day calculated as if the pre-taper date relevant benefits were in the 2015 scheme; and
  - (ii) the specified percentage in the relevant 2015 scheme order or provision of the cash equivalent of P's post-taper date relevant benefits on the valuation day, calculated as if the post-taper date relevant benefits were in the 2015 scheme;
- (b) where the pension sharing order specified an amount to be transferred, the sum of—
  - (i) the percentage which the amount in the relevant legacy scheme order or provision represented of the cash equivalent of P's pre-taper date relevant benefits in P's judicial legacy scheme on the valuation day (disregarding any 2015 scheme election), calculated instead as if P's pre-taper date relevant benefits were in the 2015 scheme; and
  - (ii) the percentage which the amount in the relevant 2015 scheme order or provision represented of the cash equivalent of P's post-taper date relevant benefits in the 2015 scheme on the valuation day (disregarding any 2015 scheme election);

“higher remediable pension amount” means the greater of—

- (a) the legacy scheme remediable pension amount; and
- (b) the 2015 scheme remediable pension amount;

“legacy scheme remediable pension amount” means—

- (a) where the relevant orders or provisions specified a percentage value to be transferred, the sum of—

- (i) the specified percentage in the relevant legacy scheme order or provision of the cash equivalent of P's pre-taper date relevant benefits on the valuation day calculated as if the pre-taper date relevant benefits were in P's judicial legacy scheme; and
  - (ii) the specified percentage in the relevant 2015 scheme order or provision of the cash equivalent of P's post-taper date relevant benefits on the valuation day, calculated as if the post-taper date relevant benefits were in P's judicial legacy scheme;
- (b) where the pension sharing order specified an amount to be transferred, the sum of—
- (i) the percentage which the amount in the relevant legacy scheme order or provision represented of the cash equivalent of P's pre-taper date relevant benefits in P's judicial legacy scheme on the valuation day (disregarding any 2015 scheme election made in respect of P or immediate detriment remedy obtained in relation to P's remediable service); and
  - (ii) the percentage which the amount in the relevant 2015 scheme order or provision represented of the cash equivalent of P's post-taper date relevant benefits in the 2015 scheme on the valuation day (disregarding any legacy scheme election made in respect of P or immediate detriment remedy obtained in relation to P's remediable service), calculated instead as if P's post-taper date relevant benefits were in P's judicial legacy scheme;

“pre-taper date relevant benefits” means the benefits or future benefits to which P was entitled under a judicial scheme by virtue of P's shareable rights in the scheme in respect of P's service beginning on 1 April 2015 and ending on the day before P's taper date;

“post-taper date relevant benefits” means—

- (a) where P was in pensionable service on the transfer day, the benefits or future benefits to which P was entitled under a judicial scheme by virtue of P's shareable rights in the scheme in respect of P's service beginning on P's taper date and ending on the day before the transfer day;
  - (b) otherwise, the benefits or future benefits to which P was entitled under a judicial scheme by virtue of P's shareable rights in the scheme in respect of P's service beginning on P's taper date and ending on the last day of P's service;
- (c) where the relevant order or provision specified an amount to be transferred, the sum of—
- (i) the percentage which the amount in the relevant legacy scheme order or provision represented of the cash equivalent of P's pre-taper date relevant benefits in P's judicial legacy scheme on the valuation day (disregarding any 2015 scheme election made in respect of P or immediate detriment remedy obtained in relation to P's remediable service), calculated instead as if P's pre-taper date relevant benefits were in the 2015 scheme; and
  - (ii) the percentage which the amount in the relevant 2015 scheme order or provision represented of the cash equivalent of P's post-taper date relevant benefits in the 2015 scheme on the valuation day (disregarding any 2015 scheme election made in respect of P or immediate detriment remedy obtained in relation to P's remediable service);

“remediable pension credit” means the greater of—

- (a) zero; and
- (b) the higher remediable pension amount minus the remediable service appropriate amount;

“remediable pension reduction” means the lesser of—

- (a) zero, and
- (b) the higher remediable pension amount minus the remediable service appropriate amount;

“remediable service appropriate amount” means the pension credit, calculated in accordance with section 29(2) and (3) of WRPA 1999, for the period of remediable service;

“taper date” means (disregarding any legacy scheme election or 2015 scheme election made in respect of P or immediate detriment remedy obtained in relation to P's remediable service) the day after the taper protection closing date for P;

“taper protection closing date” has the meaning given in paragraph 3 of Schedule 2 to the 2015 Regulations.

### **Adjustments for pension debit members**

**60.**—(1) Paragraph (2) applies where a legacy scheme election is made in respect of P.

(2) At the end of the relevant period, the scheme manager must adjust the value of P's shareable rights in P's judicial legacy scheme as the scheme manager, after consultation with the scheme actuary, considers appropriate having regard to—

- (a) the cash equivalent of P's shareable rights in P's judicial legacy scheme in respect of P's remediable service from 1 April 2015 to the day before the transfer day;
- (b) the percentage value to be transferred or the amount to be transferred specified in the relevant legacy scheme order or provision and the relevant 2015 scheme order or provision; and
- (c) the provisions of sections 29 (creation of pension credits and debits) and 31 (reduction of benefit) of WRPA 1999.

(3) Paragraph (4) applies where a 2015 scheme election is made in respect of P.

(4) At the end of the relevant period, the scheme manager must adjust the value of P's shareable rights in P's judicial legacy scheme and 2015 scheme as the scheme manager, after consultation with the scheme actuary, considers appropriate having regard to—

- (a) the cash equivalent of P's shareable rights in P's judicial legacy scheme in respect of P's service up to and including 31 March 2015;
- (b) the cash equivalent of P's shareable rights in the 2015 scheme in respect of P's remediable service from 1 April 2015 to the day before the transfer day;
- (c) the percentage value to be transferred or the amount to be transferred specified in the relevant legacy scheme order or provision and the relevant 2015 scheme order or provision; and
- (d) the provisions of sections 29 (creation of pension credits and debits) and 31 (reduction of benefit) of WRPA 1999.

(5) The adjustments made in paragraphs (2) and (4) have effect from the transfer day.

## **CHAPTER 4**

### **Correction of pension benefits and lump sum benefits**

#### **Correction of pension benefits and lump sum benefits where underpayment**

**61.**—(1) This regulation applies in relation to a relevant pension credit member (“C”) who, at the end of the relevant period—

- (a) has a remediable pension credit in a judicial scheme by virtue of this Part; and
- (b) is a pensioner member<sup>(24)</sup> of that scheme.

(2) The scheme manager must pay to C the aggregate of the pension benefits and lump sum benefits (if any) to which C was entitled by virtue of their remediable pension credit.

#### **Correction of pension benefits and lump sum benefits where overpayment**

**62.**—(1) This regulation applies in relation to a pension credit member (“C”) who, at the end of the relevant period—

- (a) is subject to a remediable pension reduction from a judicial scheme by virtue of this Part; and
- (b) is a pensioner member of that scheme.

(2) C must pay to the scheme manager the difference between—

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<sup>(24)</sup>See section 109(3) of the PSPJOA 2022 for the meaning of “pensioner member”.

- (a) the aggregate of the pension benefits and lump sum benefits, if any, that have been paid under any judicial scheme to C; and
- (b) the aggregate of the pension benefits and lump sum benefits to which (after taking into account the remediable pension reduction) C was entitled under any judicial scheme.

## PART 6

### Liabilities and amounts owed

#### CHAPTER 1

##### Interest

##### **Interest**

**63.**—(1) This regulation applies to a relevant amount<sup>(25)</sup>.

(2) Interest must be calculated [and paid] on the relevant amount in accordance with directions [28 to 30] of the PSP Directions 2022.

(3) Where the scheme manager makes a determination under direction [30(1)] (interest: other), the following apply in relation to that determination—

- (a) direction 30(2) (provision of explanation);
- (b) direction 30(3) and (4) (appeals).

#### CHAPTER 2

##### Reduction or waiver of liabilities owed to a judicial scheme

##### **Application of Chapter**

**64.** This Chapter applies after taking into account the effect of regulation [63] (interest) in respect of an amount.

##### **Reduction of liability to pay pension contributions by tax relief amounts**

**65.**—(1) This regulation applies where the appropriate person has a liability to pay pension contributions to the 2015 scheme under section 52(4) of PSPJOA 2022 (corrections for pension contributions in relation to a person with remediable service).

(2) The scheme manager must reduce the liability for the appropriate person to pay the pension contributions by tax relief amounts<sup>(26)</sup> in accordance with direction [22(4) to (6)] of the PSP Directions 2022.

(3) The following apply in relation to a determination by the scheme manager under direction 22(5)—

- (a) direction 22(7) (provision of explanation);
- (b) direction 22(8) and (9) (appeals).

##### **Reduction or waiver of liability to repay overpaid pension benefits**

**66.**—(1) This regulation applies where a person (“Y”) owes a liability to a judicial scheme under—

- (a) regulation [12] (corrections for pension benefits and lump sum benefits on partial retirement);
- (b) regulation [23] (corrections for pension benefits and lump sums where an immediate detriment remedy has been obtained);

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<sup>(25)</sup>See section 61(3) for the meaning of “relevant amount”.

<sup>(26)</sup>See section 56(4) of PSPJOA 2022.

- (c) regulation [40] (corrections for pension benefits and lump sum benefits in relation to relevant fee-paid judges); or
  - (d) regulation [62] (corrections for pension benefits and lump sum benefits where overpayment to a pension credit member).
  - (e) section 51(2) or (4) of PSPJOA 2022 (corrections for pension benefits and lump sum benefits in relation to persons with remediable service).
- (2) The scheme manager may reduce or waive the liability where—
- (a) Y makes an application under paragraph (3); and
  - (b) the scheme manager is satisfied that, taking account of direction [x] of the PSP Directions 2022, it would not be suitable to require the payment of the liability in part or in full by any of the methods provided for in regulation [68].
- (3) An application must be—
- (a) in writing;
  - (b) in a form required by the scheme manager;
  - (c) accompanied by such information and documents as the scheme manager may require as evidence of Y’s circumstances; and
  - (d) received by the scheme manager before the end of the period of six months beginning with the date on which Y is notified of the liability.
- (4) The scheme manager may extend the period mentioned in paragraph (3)(d) in relation to Y if the scheme manager considers it just and equitable to do so.

## CHAPTER 3

### Netting off

#### **Netting off**

**67.**—(1) Direction [31(2) to (7) (netting off process and provision of explanation)] of the PSP Directions 2022 applies in relation to any relevant amounts owed—

- (a) to a person by the scheme manager, and
- (b) by that person to the scheme manager.

(2) Direction [31(8) and (9) (appeals)] of the PSP Directions 2022 applies in relation to a determination by the scheme manager under direction [31(2)].

## CHAPTER 3

### Amounts owed to a judicial scheme or employer or to a person

#### **Application**

**68.** This Chapter applies after taking into account the effect, if any, of regulations [63 to 67].

#### **Amounts owed to a judicial scheme**

**69.**—(1) This regulation applies where a person (“Y”) owes a relevant amount to the scheme manager.

(2) Except where paragraph (3) applies, Y must pay the amount to the scheme before the end of the period of six months beginning with the day after the day on which Y is notified that the amount must be paid.

(3) Where the scheme manager considers it reasonable in the circumstances the amount may be paid in part or in full by way of such—

- (a) instalments as may be specified in an agreement between Y and the scheme manager; or
- (b) deductions from—

- (i) where Y is in judicial office, any salary or fees payable in respect of Y's judicial office as may be specified in an agreement between Y and the employer;
- (ii) any lump sum payable in accordance with section 4 of JUPRA 1993 or regulation 25 of FPJR 2017 as may be specified in an agreement between Y and the scheme manager;
- (iii) the pension entitlements mentioned in paragraph (4) as may be specified in an agreement between Y and the scheme manager

which fully reflect the amount that Y is not required to pay under paragraph (2).

(4) The pension entitlements are—

- (a) where Y is a member of a judicial scheme, any pension to which Y is entitled under section 2 of JUPRA 1993, Part 6 of the 2015 Regulations or Parts 3 (with the exception of regulation 25) and 4 of FPJR 2017; or
- (b) where the member in relation to whose service the amount is owed is deceased, any pension to which Y is entitled under sections 5 or 6 of JUPRA 1993, Part 8 of the 2015 Regulations or Part 6 of FPJR 2017.

(5) The deductions from the payments specified in paragraph (3)(b)(i)—

- (a) may be of fixed monetary amounts; or
- (b) may be calculated as a percentage of the salary or fees payable.

(6) Where—

- (a) an agreement between Y and the employer specifies deductions from payments specified in paragraph (3)(b)(i); and
- (b) Y leaves judicial office before all of the specified deductions have been made;

Y must pay the outstanding amount to the scheme within a period of six months beginning with the day after the day on which Y left judicial office.

(7) The scheme manager may extend the period mentioned in paragraph (6) if the scheme manager considers it just and equitable to do so.

(8) For the purpose of paragraph (6) the “outstanding amount” is—

- (a) an amount equal to the amount of the specified deductions that have not been made on the date on which Y left judicial office; plus
- (b) any interest which has accrued on that amount under regulation [63].

### **Amounts owed to a person's employer**

**70.**—(1) Paragraph (2) applies where a person (“Y”) owes an amount to a person's employer under section 54 of PSPJOA 2022 or regulation [28] or [46] (transitional protection allowance).

(2) Paragraphs (2) to (11) of regulation [69] apply in respect of the amount as if the reference to the “scheme” or the “scheme manager” in the following paragraphs of that regulation were to Y's employer—

- (a) paragraph (2);
- (b) sub-paragraph (3)(a)(iv);
- (c) paragraph (7) (except sub-paragraphs (b)(ii) and (iii)); and
- (d) paragraph (10).

### **Amounts owed to a person**

**71.**—(1) This regulation applies where an amount is payable by a judicial scheme to a person (“Y”) under Chapter 2 of PSPJOA 2022 or these Regulations.

(2) The scheme manager may require Y to make an application for payment of the amount.

(3) Where the scheme manager requires Y to make an application the scheme manager may pay the amount on receipt of an application that meets the requirements of paragraph (4).



- (4) An application must be—
- (a) in writing;
  - (b) in a form required by the scheme manager;
  - (c) accompanied by such information and documents as the scheme manager may require; and
  - (d) received by the scheme manager before the end of the period of three months starting with the day after the day on which Y receives notification that an application for payment of the amount must be made.

## PART 7

### Miscellaneous amendments

#### Miscellaneous amendments

- 72.**—(1) Part 1 of the Schedule contains miscellaneous amendments in consequence of PSPJOA 2022.  
(2) Part 2 of the Schedule contains unrelated amendments.

Date

*Name*  
[Lord Chancellor]  
Ministry of Justice

*We consent to the making of these Regulations*

Date

*Name*  
*Name*  
Two of the Lord Commissioners of His Majesty's Treasury

## SCHEDULE

Regulation 71

### Miscellaneous amendments

#### PART 1

##### Amendments in consequence of PSPJOA 2022

#### Amendment of JUPRA 1993

- 1.**—(1) JUPRA 1993 is amended as follows.
- (2) After section 9A(2) (contributions towards costs of judicial pension etc) insert—
- “(2A) Contributions that must be paid under section 52(4) of the Public Service Pensions and Judicial Offices Act 2022 or regulations [24(4)] or [41(3)] of the 2023 Regulations are to be paid in accordance with regulation [68] of those Regulations.”.
- (3) In section 30(1) (interpretation), after the definition of “the 1981 Act” insert—
- ““the 2023 Regulations” means the [Judicial Pensions (Remediable Service etc.) Regulations] 2023;”.
- (4) In Schedule 2A (pension credits), after paragraph 1(1) insert—

“(1A) In any case where the transferee becomes entitled to a remediable pension credit in this scheme under Part [5] of the 2023 Regulations, the transferee shall become entitled to rights under this paragraph in respect of that remediable pension credit.

(1B) In any case where the transferee becomes subject to a remediable pension reduction from this scheme under Part [5] of the 2023 Regulations, the transferee’s rights under this paragraph shall be reduced in respect of that remediable pension reduction.”.

### **Amendment of the Judicial Pensions Regulations 2015**

2.—(1) The 2015 Regulations are amended as follows.

(2) In regulation 2 (interpretation)—

(a) after the opening words insert—

““2023 Regulations” means the Judicial Pensions (Remediable Service etc.) Regulations 2023”;

(b) for the definition of “active member” substitute

““active member”, in relation to this scheme, means a person who is—

(i) in pensionable service under this scheme; or

(ii) deemed to have been an active member of this scheme by virtue of regulations 38A(2) or 38B(2) or paragraphs 23A(2) or 23B(2) of Schedule 1;”;

(c) in the definition of “amount of credited pension”, for “pension credit” substitute “the sum of the pension credit and the remediable pension credit or remediable pension reduction (if any)”;

(d) after the definition of “PA 1995” insert—

““PSPJOA 2022” means the Public Service Pensions and Judicial Offices Act 2022;”;

(e) after the definition of “registered” insert—

““relevant fee-paid judge” has the meaning given in section 103 of the PSPJOA 2022;”;

(f) after the definition of “relevant scheme” insert—

““relevant service” has the meaning given in regulation [31(2)] of the 2023 Regulations;”.

(3) After regulation 38 (receipt of transfer value payment) insert—

#### **“Accrued earned pension attributable to a transfer value payment where a legacy scheme election is made**

**38A.**—(1) Paragraph (2) applies where—

(a) a person “P” has remediable service in a judicial office;

(b) a transfer value payment has been received by this scheme in relation to P during the period of remediable service; and

(c) either—

(i) a legacy scheme election under section of 40 PSPJOA 2022 is made in respect of P; or

(ii) an immediate detriment remedy has been obtained in relation to the period of remediable service.

(2) P is deemed to have been an active member of this scheme for all purposes in connection with the transfer value payment.

#### **Accrued earned pension attributable to a transfer value payment in respect of relevant fee-paid judges**

**38B.**—(1) Paragraph (2) applies where—

(a) a relevant fee-paid judge “R” has relevant service in a judicial office; and

- (b) a transfer value payment has been received by this scheme in relation to R during the period of relevant service.
- (2) R is deemed to have been an active member of this scheme for all purposes in connection with the transfer value payment.”.
- (4) In regulation 52(5) (establishment of pension credit member’s account)—
  - (a) omit the “and” immediately after sub-paragraph (a);
  - (b) at the end of (b) insert—
    - “; and
  - (c) any adjustment required by Part [5] of the 2023 Regulations other than a remediable pension credit to which the pension credit member has become entitled under that Part”.
- (5) After regulation 126(1) (payment of member contributions) insert—
  - “(1A) Member contributions that must be paid under section 52(4) of PSPJOA 2022 are to be paid in accordance with regulation [68] of the 2023 Regulations.”.
- (6) In Schedule 1, after paragraph 23 insert—

## “CHAPTER 5

### Deemed membership for added pension payments

#### **Added pension where a legacy scheme election is made**

**23A.**—(1) This paragraph applies where—

- (a) a person “P” has remediable service in a judicial office;
- (b) P has, during the period of remediable service, made any added pension payments under this Part;
- (c) either—
  - (i) a legacy scheme election is made in respect of P under section 40 of PSPJOA 2022; or
  - (ii) an immediate detriment remedy has been obtained in relation to the period of remediable service; and
- (d) a request has not been made in respect of P under regulations [9] or [26] of the 2023 Regulations (request for compensation in respect of added pension payments).

(2) P is deemed to have been an active member of this scheme for all purposes in connection with the added pension payments.

#### **Added pension in respect of relevant fee-paid judges**

**23B.**—(1) This paragraph applies where—

- (a) a relevant fee-paid judge “R” has relevant service in a judicial office;
- (b) R has, during the period of relevant service, made any added pension payments under this Part; and
- (c) a request has not been made in respect of R under regulation [43] of the 2023 Regulations 2023 (request for compensation in respect of added pension payments).

(2) R is deemed to have been an active member of this scheme for all purposes in connection with the added pension payments.”.

#### **Amendment of the Judicial Pensions (Additional Voluntary Contributions) Regulations 2017**

**3.**—(1) The Judicial Pensions (Additional Voluntary Contributions) Regulations 2017<sup>(27)</sup> are amended as follows.

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<sup>(27)</sup>S.I. 2017/512.

- (2) In regulation 2<sup>(28)</sup> (interpretation)—
- (a) the existing text is numbered as paragraph (1);
  - (b) in paragraph (1) (as mentioned in paragraph (a), above), for the definition of “active member” substitute—  
““active member” has the meaning given in paragraph (2);”;
  - (c) after paragraph (1) (as mentioned in paragraph (a), above) insert—  
“(2) In these Regulations, “active member” means a person who—
    - (a) is in pensionable service under the 2015 Scheme or the 2022 Scheme;
    - (b) would have been in pensionable service under the 2015 Scheme in the period beginning with 1st April 2015 and ending with 31st March 2022 if—
      - (i) a legacy scheme election had not been made in respect of the person under section 40 of the Public Service Pensions and Judicial Offices Act 2022 (“PSPJOA 2022”); or
      - (ii) an immediate detriment remedy had not been obtained in relation to the person’s remediable service in a judicial office; or
    - (c) is a relevant fee-paid judge with relevant service.
- (3) A person who satisfies—
- (a) paragraph (2)(b) is an “active member” for the period of their remediable service;
  - (b) paragraph (2)(c) is an “active member” for the period of their relevant service.
- (4) For the purpose of paragraph (2)(b), an “immediate detriment remedy” has been obtained in relation to a person’s remediable service if either of the conditions in section 68(2) or (3) of PSPJOA 2022 is met.
- (5) In paragraph (2)—
- “relevant fee-paid judge” has the meaning given in section 103 of PSPJOA 2022;
  - “relevant service” has the meaning given in regulation [31(2)] of the Judicial Pensions (Remediable Service etc.) Regulations 2023;
  - “remediable service” has the meaning given in section 39 of PSPJOA 2022.”.

#### **Amendment of the Judicial Pensions (Fee-Paid) Judges Regulations 2017**

4.—(1) The FPJR 2017 are amended as follows.

- (2) In regulation 2 (interpretation)—
- (a) after the opening words insert—  
““the PSPJOA 2022” means the Public Service Pensions and Judicial Offices Act 2022;”;
  - (b) after the definition of “the 1995 Regulations” insert—  
““the 2023 Regulations” means the Judicial Pensions (Remediable Service etc.) Regulations 2023;”.
- (3) In the closing words of regulation 31(2) (annual rate of pension under regulation 30), for “amount of the pension credit” substitute “sum of the amount of the pension credit and the amount of any remediable pension credit or remediable pension reduction under Part [3] of the 2023 Regulations”.
- (4) In regulation 64 (payment of contribution)—
- (a) the existing text is numbered as paragraph (1);
  - (b) after paragraph (1) (as mentioned in sub-paragraph (a), above) insert—  
“(2) A contribution payable under section 52(4) of the PSPJOA 2022 is to be paid in accordance with regulation [67] of the 2023 Regulations”.
- (5) After regulation 104 (membership) insert—

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<sup>(28)</sup>Regulation 2 has been amended by S.I. 2022/319.

**“Deemed FPJAYS membership where a 2015 scheme election is made**

**104A.**—(1) This regulation applies where—

- (a) person (“P”) has remediable service in an eligible fee-paid judicial office;
- (b) P has, during the period of remediable service, paid contributions to purchase added years under this Part; and
- (c) a 2015 scheme election is—
  - (i) made under section 44 of the PSPJOA 2022; or
  - (ii) treated as made under section 47 of the PSPJOA 2022, in respect of P.

(2) P is deemed to have been an active FPJAYS member in respect of the contributions.”.

(6) After regulation 117 (membership) insert—

**“Deemed JASAPS membership where a 2015 scheme election is made**

**117A.**—(1) This regulation applies where—

- (a) a person (“P”) has remediable service in an eligible fee-paid judicial office;
- (b) P has, during the period of remediable service, paid contributions to purchase added surviving adult’s pension under this Part; and
- (c) a 2015 scheme election is—
  - (i) made under section 44 of the PSPJOA 2022; or
  - (ii) treated as having been made under section 47 of the PSPJOA 2022, in respect of P.

(2) P is deemed to have been an active JASAPS member in respect of the contributions.”.

**Amendment of the Judicial Pensions Regulations 2022**

**5.** In Schedule 1 to the Judicial Pensions Regulations 2022<sup>(29)</sup>, for paragraph 14(1) substitute—

“(1) This paragraph applies to a transition member with continuity of service (T) who—

- (a) is a member of the 2015 scheme by virtue of T’s pensionable service under that scheme before the transition date; or
- (b) is deemed to have been an active member of the 2015 scheme by virtue of regulations 38A(2) or 38B(2) of, or paragraphs 23A(2) or 23B(2) of Schedule 1 to, the 2015 Regulations.”.

**PART 2**

**Amendments for other purposes**

**Amendment of the Judicial Pensions (Contributions) Regulations 1998**

**6.**—(1) In regulation 6(1) of the Judicial Pensions (Contributions) Regulations 1998<sup>(30)</sup>, for “office holder’s pension-capped” substitute “first £150,000 of the office holder’s”.

(2) The amendment made by sub-paragraph (1) is to be treated as having effect on and after 1st April 2016.

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<sup>(29)</sup>S.I. 2022/319.

<sup>(30)</sup>S.I. 1998/1219. Regulation 6(1) has been amended by S.I. 2006/749.

### **Amendment of the Judicial Pensions Regulations 2022**

7.—(1) The Judicial Pensions Regulations 2022 are amended as follows with effect from 1st April 2022.

(2) In regulation 21 (calculation of “retirement index adjustment”)—

(a) for paragraph (1) substitute—

“(1) The retirement adjustment index for an amount of accrued pension is—

amount of accrued pension × retirement percentage index

where—

“amount of accrued pension” means an amount of any description of accrued pension;

“retirement index percentage” means the retirement index percentage calculated under paragraph (2).”;

(b) in paragraph (2), in the definition of “A”, for “index adjustment” substitute “in-service revaluation index”;

(c) after paragraph (2) insert—

“(3) In paragraph (2), “in-service revaluation index”, in relation to a pension scheme, means the percentage increase or decrease by which the pensionable earnings of a person, or a proportion of those earnings accrued as a pension, are revalued whilst the person is in pensionable service in that pension scheme.”.

(3) In regulation 24(2)(a) (calculation of amount of accrued standard earned pension), omit “retirement”.

(4) In regulation 39(2) (amount of full retirement pension)—

(a) omit the “and” immediately after sub-paragraph (a);

(b) at the end of sub-paragraph (b) insert—

“; and

(c) the retirement index adjustment for the accrued amount”.

### **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*





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