

FEE-PAID JUDICIAL PENSION CASES MORATORIUM - CLARIFICATION

1. This statement is intended to clarify the position of the Ministry of Justice (MoJ) in respect of the moratorium announced on 5th April 2013. That document explained why a moratorium on claims appears to be advantageous to everybody concerned.

2. The moratorium applies to all present or former fee-paid part-time judicial office-holders, (including legal and non-legal tribunal members and salaried judicial office holders who have previous fee-paid service), who may be considering issuing a claim against the Ministry of Justice for a pension-related claim under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000, but who had not done so as at **1st March 2013**. This moratorium applies to all such fee-paid judicial office-holders in England and Wales, Scotland and Northern Ireland insofar as their potential claim is against the Ministry of Justice.

3. If you are a potential claimant, the Ministry of Justice will treat you as if you had issued a pension-related claim as at 1st March 2013 and that the claim had been stayed.

4. If your claim would have been in time for the purposes of regulation 8(2) of the 2000 Regulations as at 1st March 2013, the Ministry of Justice will not take any time point against you in the future if you subsequently choose to issue a pension-related claim. In such a case, the Ministry of Justice will not seek to argue that the tribunal has no jurisdiction to hear the claim because it was presented out of time, or that it would not be just and equitable to allow the claim to be heard out of time.

5. If your claim would potentially have been out of time as at 1st March 2013, the Ministry of Justice reserves the right to argue (a) that you were out of time for the purposes of regulation 8(2) and (b) that it is not just and equitable that your claim should be heard for the purposes of regulation 8(3), or both. However, in making any arguments under (b), the MoJ will approach your claim as if you had issued on 1st March 2013 and will not take time points against you in respect of any actual delay in issuing your claim after that date.

6. It is for the Employment Tribunal, not the Ministry of Justice, to determine whether a claim is in time. However, the Ministry of Justice believes that, in light of this statement, it is as certain as it can be that the Employment Tribunal will accept the approach proposed here. A potential claimant should, therefore, suffer no disadvantage from any delay in claiming after 1st March 2013.

7. The same applies to any new fee-paid judicial office-holders whose term of office commences after 1st March 2013. The Ministry of Justice undertakes that it will not take any time point against them in relation to a pension-related claim under the 2000 Regulations.

8. No action need be taken to benefit from the moratorium. It is not necessary for potential claimants to register their intention to bring a claim with the Ministry of Justice.

9. It is important to note the following:

(1) This moratorium applies only to pension-related claims: that is, claims that a fee-paid judicial office-holder has suffered less favourable treatment as compared to a comparable full-time judicial office-holder in that the fee-paid judicial office-holder is not currently entitled to a pension in relation to his or her fee-paid judicial work. The moratorium does not apply to any other type of claim and so does not apply, in particular, to any other claim of less favourable treatment in relation to the terms and working conditions applicable to fee-paid judicial office-holders;

(2) The moratorium applies to the time limit in regulation 8(2) of the 2000 Regulations. It is made without prejudice to arguments that the Ministry of Justice may advance as to how far back the remedy must go in respect of past service (for example, whether a successful Claimant is entitled to a remedy in respect of service prior to the coming into force of the 2000 Regulations).