STATUTORY INSTRUMENTS

2017 No. 522

The Judicial Pensions (Fee-Paid Judges) Regulations 2017

PART 11

TRANSFERS

CHAPTER 2

TRANSFERS OUT

Transfers out

72.—(1) Where the conditions set out in paragraph (2) are met, regulations 73 to 82 apply to P—

(a) to or in respect of whom benefits are payable under one or more of the relevant schemes; and

(b) the last day which counts towards P's reckonable service ("last day of reckonable service") or the last day on which P held an eligible fee-paid judicial office is on or after the commencement day.

(2) The conditions are that—

(a) P has not retired;

(b) on P's last day of reckonable service—

(i) P has accrued rights to benefits under the principal scheme; or

(ii) P would have such rights if P's qualifying judicial service had also ended on that date, and

(c) either—

(i) P's age on 6th February 2013 was more than one year under normal pension age, and P exercises the option within twelve months of **[**[F1]the amendment day (in which case the restriction in regulation 79 does not apply to P)**]**; or

(ii) P's age on the date P exercises the option is at least one year under normal pension age.

Textual Amendments

F1 Words in reg. 72(2)(c)(i) substituted (1.4.2023) by The Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023 (S.I. 2023/403), regs. 1(1), **44**

Qualifying member's right to a transfer payment

73.—(1) On P's last day of reckonable service, P acquires a right to the cash equivalent at the relevant date of any benefits which have accrued to, or in respect of P, under the relevant schemes.

(2) In this Chapter "the relevant date" means the date of any application which P has made under regulation 80 and which has not been cancelled.

Method of taking cash benefit

74.—(1) P may only exercise the right in regulation 73(1) by exercising the option conferred by this paragraph ("the option").

(2) The option is that of requiring the Treasury to use the cash equivalent in whichever of the following ways P chooses—

(a) for acquiring transfer credits allowed under the rules of another occupational pension scheme—

(i) whose trustees or managers are able and willing to accept the transfer; and

(ii) which satisfies the requirements in regulation 75;

(b) for acquiring rights allowed under the rules of a personal pension scheme—

(i) whose trustees or managers are able and willing to accept the transfer; and

(ii) which satisfies the requirements in regulation 75;

(c) for purchasing one or more annuities satisfying the requirements in regulation 75 from one or more authorised insurers—

(i) chosen by P, and

(ii) willing to accept payment on P's account from the Treasury;

(d) for subscribing to other pension arrangements which satisfy the requirements in regulation 75.

(3) P may exercise the option in different ways in relation to different portions of P's cash equivalent.

(4) If P exercises the option P must do so in relation to the whole of P's cash equivalent.

(5) In this regulation, "transfer credits" has the meaning given by section 181(1) of the Pension Schemes Act 1993, or in relation to Northern Ireland, section 176(1) of the Pension Schemes (Northern Ireland) Act 1993 [F2].

Textual Amendments

F2 Sections 181(1) of the Pension Schemes Act 1993 and 176(1) of the Pension Schemes (Northern Ireland) Act 1993 have been amended, but the amendments are not relevant to these Regulations.

Requirements to be satisfied by schemes

75. The requirements to be satisfied by an occupational pension scheme, personal pension scheme, annuity or other pension arrangement referred to in regulation 74(2) are that the scheme, annuity or arrangement is—

(a) a registered pension scheme, or

(b) a pension arrangement that is a qualifying recognised overseas pensions scheme for the purposes of Part 4 (pension schemes etc) of the Finance Act 2004.

Calculation of cash equivalents

76.—(1) The cash equivalent of accrued benefits is to be calculated in accordance with the formula—

(a)

$$MLA \times (p \times PF + I \times L + w \times SF - (2 \times g78 + g88) \times GMP)$$

(b)

$$MLA \times (p \times PF + I \times L + (g78 + 2 \times g88) \times SF - (2 \times g78 + g88) \times GMP)$$

(c)

$$MLA \times (p \times PF + I \times L + g88 \times SF - (2 \times g78 + g88) \times GMP)$$

(2) For the purpose of the calculations in paragraph (1)—

(a) MLA is the market level adjustment;

(b) p is the accrued annual pension to which P would be entitled under these Regulations, together with pensions increases under the Pensions (Increase) Acts 1971 [F3] and 1974 [F4] and the Pensions (Increase) Act (Northern Ireland) 1971 [F5] between the date of leaving the relevant schemes and the relevant date;

(c) PF is the pension factor set out in Table 3 applicable to P's age last birthday as at the relevant date;

(d) I is the accrued lump sum under the relevant schemes of P (less any deductions in respect of unpaid contributions payable under Part 9 of these Regulations, or any other sum payable under these Regulations), together with pensions increases under the Pensions (Increase) Acts 1971 and 1974 and the Pensions (Increase) Act (Northern Ireland) 1971 between the date of leaving the relevant schemes and the relevant date;

(e) L is the lump sum factor set out in Table 3 applicable to P's age last birthday as at the relevant date;

(f) w is the accrued annual surviving adult's pension which would apply under the relevant schemes if P were dead, together with pensions increases under the Pensions (Increase) Acts 1971 and 1974 and the Pensions (Increase) Act (Northern Ireland) 1971 between the date of leaving the relevant schemes and the relevant date;

(g) SF is the spouse's or civil partner's factor applicable to P's age last birthday as at the relevant date set out under the heading—

(i) WM in Table 3 where P is married or a civil partner at the date of leaving the relevant schemes;

(ii) GSM in Table 3 where P is male and neither married nor a civil partner at the date of leaving the relevant schemes;

(iii) GSF in Table 3 where P is female and neither married nor a civil partner at the date of leaving the relevant schemes;

(h) g78 is the guaranteed minimum pension per annum accrued prior to 6th April 1988, together with any increases under section 148 of the Social Security Administration Act 1992 [F6] or, in relation to Northern Ireland, section 130 of the Social Security Administration (Northern Ireland) Act 1992 [F7] in the period between leaving the relevant scheme and the relevant date;

(i) g88 is the guaranteed minimum pension per annum accrued on or after 6th April 1988, together with any increases under section 148 of the Social Security Administration Act 1992 or, in relation to Northern Ireland, section 130 of the Social Security Administration (Northern Ireland) Act 1992 in the period between leaving the relevant scheme and the relevant date;

(j) GMP is the guaranteed minimum pension factor applicable to P's age last birthday as at the relevant date set out in the column under the heading—

(i) GM in Table 5 where P is male; and

(ii) GF in Table 5 where P is female.

Textual Amendments

F3 1971 c.56.

F4 1974 c.9.

F5 1971 c.35 (N.I.).

F6 1992 c.5. Section 148 was amended by paragraph 27 of Schedule 8 to the Pension Schemes Act 1993 (c.48) and section 37 of the Child Support, Pensions and Social Security Act 2000 (c.19).

F7 1992 c.8. Section 130 was amended by S.I. 1995/3213 (N.I.22).

Delayed payments

77. When the transfer payment is, without good reason, not made within 6 months of the relevant date, the transfer payment is the greater of—

(a) the value of the cash equivalent as at the relevant date increased with interest on a daily basis over the period from the relevant date to the date of payment at the rate set out in regulation 10(2) of the Occupational Pension Schemes (Transfer Values) Regulations 1996 [F8] or, in relation to Northern Ireland, regulation 10(2) of the Occupational Pension Schemes (Transfer Values) Regulations (Northern Ireland) 1996 [F9], as amended from time to time; and

(b) the value of the cash equivalent recalculated as if the date of payment had been the relevant date.

Textual Amendments

F8 S.I. 1996/1847.

F9 S.I. 1996/619.

Calculation of market level adjustment

78.—(1) For the purposes of regulations 76 and 88 the market level adjustment is the figure calculated in accordance with the formula—

$$A \times B + (1 - A) \times C$$

rounded up to four decimal places, where—

a A is the decimal part of the yield on index-linked stocks;

b B is the adjustment factor set out in Table 1 in the row relating to P's age last birthday as at the relevant date and in the column headed by the full percentage figure immediately above the percentage figure for the yield on index-linked stocks; and

c C is the adjustment factor set out in Table 1 which is in the row relating to P's age last birthday as at the relevant date and which appears in the column headed by the full percentage figure which is equal to or immediately below the percentage figure for the yield on index linked stocks.

(2) In this regulation "the yield on index-linked stocks" means the real yield to redemption on the Financial Times-Actuaries Index of index-linked Government securities with 5 or more years to redemption assuming 5% inflation, in respect of the first working day of the month in which the relevant date falls as published in the Financial Times.

Time within which option must be exercised

79.—(1) P may only exercise the option on or before the last option date.

(2) The last option date is the later of—

(a) the date which falls one year before the date on which P reaches normal pension age;

(b) the last day of the period of 6 months beginning with the day after P's last day of reckonable service.

(3) P loses the right to any cash equivalent under this Chapter if—

(a) P's pension under these Regulations becomes payable before P reaches normal pension age; or

(b) P fails to exercise the option on or before the last option date.

Option to be exercised in writing

80.—(1) P may only exercise the option by making an application in writing to the administrators for submission to the Treasury.

(2) If the Treasury receive an application under this regulation, the Treasury must do what is needed to comply with the choice made by P in exercising the option—

(a) within 12 months of the date on which it receives P's application, or

(b) no later than the date on which P attains normal pension age,

whichever is earlier.

Options: discharge of responsibility

81. In any case where—

(a) P has exercised the option, and

(b) the Treasury have done what is needed to comply with the choice made by P in exercising the option,

the Treasury are discharged from any obligation to provide benefits to which the cash equivalent related.

Cancellation of exercise of option

82.—(1) P may cancel the exercise of the option by giving the Treasury notice in writing that P no longer wishes it to be exercised.

(2) A notice given under paragraph (1) does not have effect if it is given to the Treasury at a time when, in order to comply with the choice made by P in exercising the option, the Treasury have entered into an agreement with a third party to use the whole or part of P's cash equivalent in a way specified in regulation 74(2).

(3) The cancellation of the exercise of an option by P under paragraph (1) does not affect P's right to make another application under regulation 80.

Changes to legislation:
There are currently no known outstanding effects for the The Judicial Pensions (Fee-Paid Judges) Regulations 2017, CHAPTER 2.