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DRAFT STATUTORY INSTRUMENTS

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**2021 No.**

**The Judicial Pensions (Fee-Paid Judges)  
(Amendment) Regulations 2021**

**PART 3**

**Application of FPJPS Regulations to new members  
in respect of service before 1st April 2021**

**Interpretation**

**3.—(1) In this Part—**

“fee period” means the period beginning with 1st April in any year and ending with the 31st March in the following year (except for the year 2000 when the fee period begins with 7th April);

“new member” means a member in one of the following judicial offices listed in Part 2 (addition of judicial offices)—

- (a) Appointed Person for design right appeals;
- (b) Appointed Person for trade mark appeals;
- (c) Chair Reinstatement Committee;
- (d) Deputy Chair Copyright Tribunal;
- (e) Deputy Chair National Security Certificate Appeals Tribunal (Northern Ireland);
- (f) Legal Chair Competition Appeal Tribunal;
- (g) Legal Chair Health Service Products (Pricing, Cost Control and Information) Appeals Tribunal;
- (h) Legal Chair Reserve Forces Appeal Tribunal;
- (i) Member (Chair only) First-tier Tribunal (Social Entitlement Chamber) Criminal Injuries Compensation;
- (j) President of the Adjudication Panel for Wales;
- (k) President of Welsh Tribunals;
- (l) Senior Legal Chair Health Service Products (Pricing, Cost Control and Information) Appeals Tribunal;
- (m) Temporary Additional Statutory Officer (Northern Ireland);

“the previous service contributions amount” has the meaning given by regulation 6(2) (liability to pay contributions in respect of service before 1st April 2021);

“the previous service dependants’ contributions amount” has the meaning given by regulation 8 (calculation of dependants’ contributions in respect of service before 1st April 2021);

“the previous service personal contributions amount” has the meaning given by regulation 7 (calculation of personal contributions in respect of service before 1st April 2021).

(2) Except where otherwise defined in this Part, expressions used in this Part and in the FPJPS Regulations have the same meaning in this Part as they have in those Regulations.

#### **Scope of this Part**

4. This Part applies—
- (a) to a new member, and
  - (b) in respect of qualifying fee-paid service before 1st April 2021.

#### **Application and modification of the FPJPS Regulations**

5.—(1) Subject to regulation 6(1), the FPJPS Regulations apply to a new member, as if they had always been a member in relation to a qualifying fee-paid day, with the following modifications.

- (2) The FPJPS Regulations are to be read as if the following were references to 1st April 2021—
- (a) the references in regulation 9 (opted-out members and active members) and regulation 10 (opting out) to the coming into force of the FPJPS Regulations;
  - (b) the reference in regulation 23 (ill-health certification condition) to the commencement day;
  - (c) the references in Part 6 (death benefits) to the commencement day;
  - (d) the references in Part 7 (benefits in respect of periods before commencement) to the commencement day;
  - (e) the references in Part 10 (repayment of dependants' benefits contributions) to the commencement day;
  - (f) the reference in regulation 72 (transfers out) to the commencement day;
  - (g) the references in Part 12 (the Fee-Paid Judicial Additional Voluntary Contribution Scheme) to the commencement day;
  - (h) the references in Part 13 (the Fee-Paid Judicial Added Years Scheme) to the commencement day;
  - (i) the references in Part 14 (the Fee-Paid Judicial Added Surviving Adult's Pension Scheme) to the commencement day.
- (3) References in Part 7 of the FPJPS Regulations to—
- (a) the pre-commencement contributions amount are to be read as if they were references to the previous service contributions amount;
  - (b) regulation 53(1) of the FPJPS Regulations are to be read as if they were references to regulation 6(2).
- (4) References in Part 10 (repayment of dependants' benefits contributions) of the FPJPS Regulations to—
- (a) the pre-commencement dependants' contributions amount are to be read as if they were references to the previous service dependants' contributions amount;
  - (b) Part 8 of the FPJPS Regulations are to be read as if they were references to this Part.

#### **Liability to pay contributions in respect of service before 1st April 2021**

6.—(1) Part 8 (contributions in respect of pre-commencement service) and Part 9 (contributions in respect of service on or after commencement day) of the FPJPS Regulations do not apply in respect of a new member before 1st April 2021, without prejudice to Part 9's continued application to a new member on and after 1st April 2021.

- (2) A new member must pay to the appropriate Minister the previous service contributions amount, being the sum of—
- (a) the previous service personal contributions amount, and
  - (b) the previous service dependants' contributions amount.
- (3) Paragraph (2) is subject to paragraphs (4) and (5).
- (4) A new member is not required to pay the previous service contributions amount if they—
- (a) retired before 1st April 2021, and
  - (b) had on retirement less than two years' qualifying judicial service.
- (5) A new member is not required to pay so much of the previous service contributions amount as is represented by the amount mentioned in paragraph (2)(b) if they—
- (a) retired before 1st April 2021,
  - (b) were not married or in a civil partnership at any time during the period—
    - (i) beginning with the day on which the new member first held an eligible fee-paid judicial office, and
    - (ii) ending on the day on which they retired, and
  - (c) did not have a qualifying child at any time during that period.

#### **Calculation of personal contributions in respect of service before 1st April 2021**

7. Subject to regulation 9 (qualifying fee-paid days disregarded if they do not add to reckonable service), the previous service personal contributions amount in relation to a new member is determined as follows—

##### *Step 1*

For each fee period, find the total of the fees paid to the new member in respect of qualifying fee-paid days falling within the period.

##### *Step 2*

For each fee period from 7th April 2000 to 31st March 2015, multiply the total found under Step 1 for that fee period by the percentage specified in relation to that fee period in column 2 of the contributions table in paragraph 1 of the Schedule (contributions tables).

For each fee period from 1st April 2015 to 31st March 2021, multiply the total found under Step 1 for that fee period by the percentage specified in column 2 of the relevant contributions table in paragraphs 2 to 6 of the Schedule for that fee period, in the row corresponding to the new member's annualised fees for that fee period.

##### *Step 3*

Add together the amounts found under Step 2.

#### **Calculation of dependants' contributions in respect of service before 1st April 2021**

8. Subject to regulation 9, the previous service dependants' contributions amount in relation to a new member is determined as follows—

##### *Step 1*

For each fee period, find the total of the fees paid to the new member in respect of qualifying fee-paid days falling within the period.

##### *Step 2*

For each fee period from 7th April 2000 to 31st March 2015, multiply the total found under Step 1 for that fee period by the percentage specified in relation to that fee period in column 3 of the contributions table in paragraph 1 of the Schedule.

For each fee period from 1st April 2015 to 31st March 2021, multiply the total found under Step 1 for that fee period by the percentage specified in column 3 of the relevant contributions table in paragraphs 2 to 6 of the Schedule for that fee period, in the row corresponding to the new member's annualised fees for that fee period.

*Step 3*

Add together the amounts found under Step 2.

**Qualifying fee-paid days disregarded if they do not add to reckonable service**

9.—(1) A qualifying fee-paid day worked in an eligible fee-paid judicial office is disregarded for the purposes of regulations 7 and 8 if a new member's reckonable service in relation to that office would have been equal to or greater than the maximum amount in relation to that office, had they retired on the day before that day.

(2) The reference in paragraph (1) to the maximum amount in relation to an office is to that amount as determined in accordance with regulation 5(4) (maximum amount) of the FPJPS Regulations.

**Payment of contributions in respect of service before 1st April 2021**

10.—(1) The previous service contributions amount, or any part of it, may be paid—

- (a) by way of a lump sum at any time during the period of 6 months beginning with 1st April 2021;
- (b) by way of such deductions from fees paid to a new member in respect of fee-paid days as may be specified in an agreement between a new member and the appropriate Minister,

and for the purposes of sub-paragraph (b), a “fee-paid day” means a day in respect of which a new member receives a fee in their capacity as a holder of an eligible fee-paid judicial office.

(2) The deductions specified under paragraph (1)(b)—

- (a) must be of fixed monetary amounts, and
- (b) must be the same for each fee.

(3) A new agreement under paragraph (1)(b) may be entered into at any time after the end of the period of 12 months beginning with the day on which the previous agreement was entered into.

(4) Except to the extent that the previous service contributions amount has already been paid under paragraph (1), it is to be paid by way of a deduction from—

- (a) the lump sum payable to a new member under Part 3 (retirement benefits) of the FPJPS Regulations, or
- (b) where a new member dies before retiring, the lump sum payable in respect of a new member under Part 6 of the FPJPS Regulations.