STATUTORY INSTRUMENTS

1995 No. 638

PENSIONS

The Judicial Pensions (Contributions) Regulations 1995

Made - - - -		*7th March 1995*
Laid before Parliament		*9th March 1995*
Coming into force - -		*31st March 1995*

The Lord Chancellor, and in relation to judicial offices whose jurisdiction is exercised exclusively in relation to Scotland, the Secretary of State, in exercise of the powers conferred on them by section 9 of the Judicial Pensions and Retirement Act 1993(**1**) and with the concurrence of the Treasury, hereby make the following Regulations: —

Title and Commencement

1. These Regulations may be cited as the Judicial Pensions (Contributions) Regulations 1995 and shall come into force on 31st March 1995.

Interpretation

2.—(1) In these Regulations —

"the 1993 Act" means the Judicial Pensions and Retirement Act 1993 and any reference to a Part or section by number alone shall be construed as a reference to the Part or section so numbered in that Act;

"contribution" means a contribution towards the cost of a surviving spouse's or children's pension;

"former scheme" and "last existing scheme" have the meanings given to them in the Judicial Pensions (Transfer Between Judicial Pension Schemes) Regulations 1995(**2**).

"lump sum" means the lump sum payable under section 4 on the retirement or death of an office holder;

"office-holder" means a person serving in an office in respect of which a surviving spouse's or children's pension may be granted under Part I;

"Part I scheme" means the pension scheme constituted under Part I;

(**1**) 1993 c. 8; by virtue of section 9(5), the power to make these regulations is vested in "the appropriate Minister" which expression is defined in section 30(1) as (a) in relation to any judicial office whose jurisdiction is exercised exclusively in Scotland, the Secretary of State, or (b) subject to (a), the Lord Chancellor.
(**2**) S.I. 1995/636.

"responsible authority" means in relation to an office-holder, the person or body responsible for paying his salary;

"notional service" means the period of service credited to an office holder who transfers into the Part I scheme from another judicial pension scheme, on the date of his transfer into that scheme, calculated in accordance with the Judicial Pensions (Transfer Between Judicial Pension Schemes) Regulations 1995.

(2) References in these regulations to compound interest shall mean compound interest at a rate announced annually by the Treasury in relation to the Principal Civil Service Pension Scheme(**3**) and which is based on average building society interest rates.

Rate of contributions

3.—(1) Contributions shall be made by way of periodical deductions at the rate of 3% of the office-holder's pension-capped salary for the time being as it becomes due throughout service in qualifying judicial office until the office-holder retires or has completed 20 years service in qualifying judicial office whichever occurs first.

(2) Deductions shall be made by the responsible authority.

(3) No contributions shall be required in respect of any period by which service is increased in accordance with the provisions of section 2(7)(c) and contributions shall be deemed to have been made during any such period.

(4) Where an office holder is granted a contributions credit in accordance with regulation 4, he shall make contributions for such period of time (if any) which, when added to his contributions credit, equals 20 years.

Contributions credit

4.—(1) This regulation applies to any office-holder to whom Part I applies by virtue of section 1(1)(b), (c) or (d).

(2) In this Regulation a person's "pension-capped salary" for any period of 12 months is so much of his aggregate salary in that period as, within the meaning of section 590C(1) of the Income and Corporation Taxes Act 1988(**4**)(earnings cap) does not exceed the permitted maximum for the relevant year of assessment, except that for any period before the year of assessment $1988-1989$ the earnings cap shall be determined by reference to the table set out in the Schedule to these Regulations.

(3) Where an office-holder has only a last existing scheme he shall be credited with a contributions credit calculated in accordance with the formula

$$(A/B) \times C$$

where —

a	A is the amount of contributions actually made into the last existing scheme;
b	subject to paragraph (5)(c), B is the amount of contributions that the office-holder would have made throughout the length of the notional service (ending on the last day of service while a member of the last existing scheme) at the rate of 3% of the pension-capped salary of the office-holder during his period of service while a member of the last existing scheme;
c	C is the notional service.

(4) Where an office-holder has both a last existing scheme and one or more former schemes, he shall be credited with a contributions credit calculated in accordance with the formula

$$(A/B) \times C$$

(**3**)   The Principal Civil Service Pension Scheme was established under section 1 of the Superannuation Act 1972 (c. 11).
(**4**)   1988 c. 1.

where —

a   A is the total amount of the contributions made into the last existing scheme and any former scheme;

b   subject to paragraph (5)(c), B is the total amount of the contributions calculated in accordance with paragraph (3)(b) in respect of the last existing scheme and the contributions that the office-holder would have paid throughout the length of the notional service that relates to any former scheme (ending on the day immediately prior to the first day of service while a member of the last existing scheme) at the rate of 3% of the pension-capped salary of the office-holder during his period of service while a member of any former scheme;

c   C is the combined periods of notional service that relate to the existing scheme and any former scheme.

(5) For the purposes of the calculations in paragraphs (3) and (4) —

(a) the number of days in C shall be expressed in decimal form to four decimal places by dividing them by 365;

(b) the decimal part of the product

$$(A / B) \times C$$

shall be converted back into days by multiplying it by 365;

(c) where, in paragraphs (3)(b) and (4)(b), the length of notional service exceeds the length of service of the office-holder such that the office held had not yet been created, then, in respect of the excess period during which the office did not exist, the office-holder shall be deemed to have held the office which he held at the date his service commenced at the salary attributable to that office at that date.

(6) The contributions credit arrived at by applying the formula shall be rounded up to the next full day.

Additional contributions

5.—(1) Subject to paragraph (3), where the contributions credit of an office-holder, calculated in accordance with regulation 4, is less than his notional service, he may, within 6 months of the date of transfer into the Part I scheme, elect by notice in writing to the responsible authority, to make additional contributions of 3%, 6%, 9% or 12% of his pension-capped salary in respect of that period of service for which contributions have not been credited.

(2) Any election so made may be revoked or varied at any time by the office-holder by notice in writing to the responsible authority.

(3) An election made under this regulation shall, if it has not been previously revoked, cease to have effect when the office-holder has made additional contributions for a period equal in length to the period of service for which contributions have not been credited and for this purpose, for any period for which he has made additional contributions at a rate higher than 3%, he shall be treated as having made such payments for a correspondingly longer period as shown in the table below —

Additional annual contributions	*No. of years credit*
3%	1
6%	2
9%	3
12%	4

(4) Any election is subject to a maximum contributions limit of 15% of pension-capped salary and for this purpose there shall be taken into account any contributions being made in respect of any schemes constituted by the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995(**5**).

Contributions out of lump sum

6.—(1) In this regulation and in regulation 8, "notional date", in relation to an office-holder, means the date at which the office-holder is assumed to have last ceased to have either a spouse or eligible children, being the date, counting back from the date of retirement, ascertained in accordance with the formula

$$D - (D \times E / F)$$

where —

a   D is the total of the notional service and the service of the office-holder in qualifying judicial office while a member of the scheme;

b   E is the actual period of time served by the office-holder while he had either a spouse or eligible children; and

c   F is the total period of service completed by the office-holder whilst a member of a judicial pension scheme.

(2) Subject to paragraph (8), where an office-holder to whom Part I applies by virtue of section 1(1)(d) elects to transfer into the Part I scheme on retirement, any outstanding contributions calculated in accordance with paragraphs (4) or (5) as appropriate, shall be made out of his lump sum.

(3) Subject to paragraph (8), where an office-holder to whom Part I applies by virtue of section 1(1)(b) or (d) dies in office or retires before discharging his contributions liability in respect of his relevant service or 20 years whichever is the less, the outstanding contribution, calculated in accordance with paragraphs (4) or (5) as appropriate, shall be made out of his lump sum.

(4) Subject to paragraph (8), where an office-holder is unmarried at the date of retirement but during some period or periods of his service has had either a spouse or eligible children, the amount of the deduction from his lump sum shall be calculated in accordance with the formula

$$((G - H) \times P) \times 3\%$$

where —

a   G is the length of service in years and days (expressed in years and fractions of a year) during which contributions would have been paid had the office-holder been a member of the Part I scheme throughout his service to the notional date;

b   H is the total of his contributions credit, and the contributions made into the Part I scheme, in years and days (expressed in years and fractions of a year); and

c   P is his pension-capped salary payable at the date of retirement.

(5) Subject to paragraph (8), in any case where paragraphs (2) or (3) apply, other than that referred to in paragraph (4), the amount of the deduction from his lump sum shall be calculated in accordance with the formula

$$((G - H) \times P) \times 3\%$$

where—

a   G is the total of the notional service and the actual length of service while a member of the Part I scheme;

b   H and P have the meanings given in paragraph (4).

(**5**)   S.I. 1995 .

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(6) Subject to paragraph (8), where an office-holder ceases to hold qualifying judicial office before the age at which his pension would normally become payable and is entitled to a preserved pension under an order made under section 141 of the Pension Schemes Act 1993(**6**) or section 137 of the Pension Schemes (Northern Ireland) Act 1993(**7**), then, where J exceeds K, the amount of deduction from his lump sum shall be calculated in accordance with the formula

$$(L\,/\,M \times 20) - (H \times P) \times 3\%$$

where—

a	J has the meaning given in paragraph (7);
b	K is the total of contributions actually paid into the last existing scheme, any former scheme and the Part I scheme, together with compound interest;
c	H and P have the meanings given in paragraph (4);
d	L is the preserved pension of the office-holder calculated in accordance with the Judicial Pensions (Preservation of Benefits) Order 1995(**8**); and
e	M is the maximum amount of pension to which the office-holder would have been entitled, being that payable in respect of 20 years service, based on the pension-capped salary by reference to which the preserved award has been calculated.

(7) In paragraph (6), J is the amount of contributions the office-holder would have made, together with compound interest, at a rate of 3% of his pension capped salary from time to time during the period ascertained in accordance with the formula

$$N + ((L\,/\,M) \times 20)$$

where —

a	L and M have the meanings given in paragraph (6); and
b	N is the date his notional service began on the basis that such service ends on the day he leaves his last existing scheme.

(8) An office-holder who has never had either a spouse or eligible children shall not be liable to make any contributions out of his lump sum.

Refund of contributions: office-holders to whom Part I applies by virtue of section 1(1)(a)

7.—(1) This regulation applies to office-holders to whom Part I applies by virtue of section 1(1)(a).

(2) In this regulation, where periodical payments are to be refunded, they shall be refunded by the responsible authority to the office-holder, or, if he has died —

(a) the person nominated by him for the purpose of section 4(3); or

(b) in the default of nomination, to his personal representatives.

(3) Periodical contributions made by an office-holder who is unmarried at the date of retirement and who at no time during his service has had a spouse or eligible children shall be refunded (subject to paragraph (6)) together with compound interest.

(4) Where an office-holder is unmarried at the date of retirement, but during some period or periods of his service has had either a spouse or eligible children, periodical contributions shall, from the date on which he last ceased to have either a spouse or eligible children, (and subject to paragraph (6)) be refunded together with compound interest.

(5) Where an office-holder ceases to hold qualifying judicial office in the circumstances mentioned in regulation 6(6) the excess contributions relating to the difference between the actual

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(**6**)   1993 c. 48.
(**7**)   1993 c. 49.
(**8**)   1995/634.

length of service in qualifying judicial office during which contributions have been paid and the reduced length of service by reference to which his pension is calculated in years and days (expressed in years and fractions of a year) shall be refunded (subject to paragraph (6)) together with compound interest.

(6) The responsible authority shall, in making any refund in pursuance of this regulation, deduct the appropriate amount in respect of tax charged under section 598 of the Income and Corporation Taxes Act 1988(**9**).

Refund of contributions: officers to whom Part I applies by virtue of section 1(1)(b), (c) or (d)

8.—(1) This regulation applies to office-holders to whom Part I applies by virtue of section 1(1) (b), (c) or (d).

(2) Regulation 8(2) and (3) shall apply.

(3) For the purposes of the formulae in paragraphs (4) to (9) of this regulation —

    (a) B is the contributions that would have been payable had the office-holder been a member of the Part I scheme, throughout the length of his notional service calculated in accordance with regulation 4(3)(b) or (4)(b) as appropriate together with compound interest;

    (b) J and K have the meanings given in regulation 6(6);

    (c) Q is the total of contributions that would have been paid had the office-holder been a member of the Part I scheme throughout his service until the notional date;

    (d) R is the total of contributions actually paid into the last existing scheme and any former scheme together with compound interest;

    (e) S is the contributions actually paid into the Part I scheme together with compound interest; and

    (f) T is the notional service.

(4) Where an office-holder is unmarried at the date of retirement but —

    (a) during some period or periods of his service has had either a spouse or eligible children; and

    (b) the total of his contributions credit and actual contributions made into the Part I scheme exceeds the total of his notional service and actual period served while a member of the Part I scheme,

periodical contributions made since the notional date shall be refunded (subject to paragraph (10)) in accordance with the formula $J - Q$.

(5) Where the circumstances mentioned in paragraph (4)(a) apply but the total of the office-holder's contributions credit and actual contributions made into the Part I scheme is less than the total of his service credit and actual period served in the Part I scheme then, where Q is less than the total of the office-holder's contributions credit and actual contributions into the Part I scheme, the amount to be refunded (subject to paragraph (10)) shall be calculated in accordance with the formula $J - Q$.

(6) Where an office-holder ceases to hold qualifying judicial office in the circumstances mentioned in regulation 6(6) and J exceeds K the excess contributions referred to shall be refunded (subject to paragraph (10)) in accordance with the formula $J - K$.

(7) Where Part I applies to an office-holder by virtue of section 1(1)(d) whose election to transfer into the scheme constituted under Part I takes effect on death or retirement and whose contribution credit exceeds his notional service, there shall be refunded (subject to paragraph (10)) the value of the excess to be calculated in accordance with the formula $R - B$.

(8) Where Part I applies to an office-holder by virtue of section 1(1)(b), the total of whose contributions credit and actual contributions made into the Part I scheme exceeds, on death or retirement, the total of his notional service and actual service completed while a member of the Part I scheme, there shall be refunded (subject to paragraph (10)) the value of the excess to be calculated in accordance with the formula $J - (B + S)$.

(9) Where the contributions credit exceeds 20 years in any case, other than that referred to in paragraphs (7) and (8) and, on death or retirement, a pension is awarded under Part 1, there shall (subject to paragraph (10)) be refunded the value of the excess to be calculated in accordance with the formula

$$J - Q$$

(10) The responsible authority shall, in making any refund in pursuance of this regulation, deduct the appropriate amount in respect of tax charged under section 598 of the Income and Corporation Taxes Act 1988.

Lord Chancellor

9.—(1) This regulation applies to any office-holder who is appointed to qualifying judicial office on or after the appointed day who previously held the office of Lord Chancellor.

(2) Where an office-holder elects, at the date of retirement, to take the pension awarded to him on ceasing to hold the office of Lord Chancellor under the Lord Chancellor's Pension Act 1832(**10**) he shall have any contributions made while in qualifying judicial office refunded together with compound interest.

(3) Where an office-holder is appointed to qualifying judicial office for the first time after holding the office of Lord Chancellor, the contributions credit shall be calculated in accordance with regulation 4(3) except that —

(a) the notional service shall be the actual period or periods of service as Lord Chancellor in years and days (expressed in years and fractions of years as appropriate); and

(b) for the purposes of B the length of notional service shall end on the day immediately prior to the date on which the scheme constituted under Part I begins to apply to the office-holder.

(4) Where an office-holder had service in qualifying judicial office prior to his appointment as Lord Chancellor and is subsequently re-appointed to a qualifying judicial office under Part I, the service credit in respect of the previous office or offices shall be calculated in accordance with the Judicial Pensions (Transfer Between Judicial Pension Schemes) Regulations 1995 and the contributions credit shall be calculated in accordance with regulation 4(4).

(5) Where the contributions credit exceeds 20 years, and, on retirement, a pension is awarded under Part I, there shall be refunded (subject to regulation 8(10)) the value of the excess, calculated in accordance with the formula

$$J - Q$$

where —

a U is the contributions actually made into the last existing scheme and any former scheme and those made while holding the office of Lord Chancellor together with compound interest;

b B has the meaning given in regulation 8(3) as amended by paragraph (3)(b) above; and

c   V is the notional service ascertained on the same basis as in paragraphs (3)(a) or (4) as appropriate.

Dated 6th March 1995   *Mackay of Clashfern,* C.

Dated 7th March 1995

Ian Lang
One of Her Majesty's Principal Secretaries of
State

We concur

Dated 7th March 1995

Andrew Mitchell
Timothy Wood
Two of the Lords Commissioners of Her
Majesty's Treasury

SCHEDULE   Regulation 4

Year of Assessment	Earnings Cap (£)
1973–74	10,800
1974–75	12,000
1975–76	14,400
1976–77	18,600
1977–78	21,600
1978–79	24,600
1979–80	27,000
1980–81	31,800
1981–82	37,200
1982–83	42,000
1983–84	44,400
1984–85	46,800
1985–86	49,200
1986–87	52,200
1987–88	54,600
1988–89	60,000

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply for the purposes of prescribing the contributions to be made towards surviving spouses' and childrens' pensions payable under the Judicial Pensions and Retirement Act 1993.