
STATUTORY INSTRUMENTS

1995 No. 639

**The Judicial Pensions (Additional
Voluntary Contributions) Regulations 1995**

PART II

JUDICIAL ADDITIONAL VOLUNTARY CONTRIBUTIONS SCHEME

Interpretation and application

2.1.—(1) In this Part —

“aggregated retirement benefit” shall mean the total amount of all benefits, other than retained benefits, that may be paid to a retired member including the pension equivalent of any lump sum.

“final salary” means the amount of salary received in the twelve months prior to the date of leaving qualifying judicial office that has been assessed for tax under Schedule E under Part V of the 1988 Act.

“the scheme” means the Judicial Additional Voluntary Contributions Scheme constituted by this Part.

(2) The scheme shall be administered in accordance with the regulations set out in this Part.

(3) The administrators of the scheme shall be the administrators of the pension scheme constituted under Part I of the 1993 Act or the administrators of an existing scheme as appropriate.

(4) The pension equivalent of a lump sum shall be calculated by dividing the cash value of the lump sum by 12.

Membership

2.2.—(1) Membership of the scheme shall be open to —

(a) persons to whom Part I of the 1993 Act applies; and

(b) persons who hold qualifying judicial office on the appointed day, and who held such office at any time before that day but to whom Part I of the Act does not apply except —

(i) persons to whom Part I does not apply because the person has made an election under section 13 or under the corresponding provisions (as defined in section 13(9));

(ii) the Chief or any other Immigration Adjudicator under the Immigration Act 1971(1);

(iii) any of the officers from time to time specified in column 1 of Schedule 3 to the Judicature (Northern Ireland) Act 1978(2);

(1) 1971 c. 77.

(2) 1978 c. 23.

- (iv) any officer who belongs to a pension scheme constituted under the County Courts Act (Northern Ireland) 1959(3), the Resident Magistrates' Pensions Act (Northern Ireland) 1960(4) or the Judicial Pensions Act (Northern Ireland) 1951(5);
- (v) any officer who is a member of the PCSPS, including any person who has made an election under paragraph 3 of Schedule 1 to the Judicial Pensions Act 1981;
- (vi) A Commissioner for the special purposes of the Income and Corporation Taxes Acts appointed under section 4 of the Taxes Management Act 1970(6) appointed before 1st January 1985.

(2) Application for membership of the scheme shall be made in writing to the administrators.

(3) Members who fall within paragraph (1)(a) above shall notify the administrators in their application of their assumed retirement age.

Retained benefits

2.3.—(1) The administrators shall require any person who is, or who wishes to become a member of the scheme, to provide such information as the administrators may require, concerning any retained benefits (but not retained death benefits) that that person may have which are derived from the following —

- (a) a retirement benefits scheme which has been approved or for which approval is sought under Chapter I Part XIV of the 1988 Act;
- (b) a relevant statutory scheme as defined by section 611A of the 1988 Act;
- (c) a fund to which section 608 of the 1988 Act applies;
- (d) a retirement benefits scheme which has been accepted by the Inland Revenue as corresponding within the meaning of section 596(2)(b) of the 1988 Act;
- (e) (i) a retirement annuity or trust scheme approved under section 620 of the 1988 Act; or
(ii) a personal pension scheme (as defined by section 630 of the 1988 Act) approved under section 631 of the 1988 Act (other than an arrangement to which only minimum contributions are paid)

which related to relevant earnings from the current employment or previous employments;

- (f) transfer payments from an overseas scheme held in a type of arrangement defined in (a), (b) or (e) above,

including such benefits which have been transferred to another scheme, whether or not in the United Kingdom.

(2) Retained benefits may be disregarded where the total of—

- (a) the resulting annual pension; and
- (b) the pension equivalent of any lump sum payable;

is less than £260.

2.4.—(1) The administrators shall also require details of retained death benefits.

(2) Retained death benefits worth less than £2,500 may be disregarded.

(3) For the purposes of calculating the retained death benefit there shall be ignored

- (a) any benefits representing a return of the member's own contributions plus interest; and

(3) 1959 c. 25 (N.I.).

(4) 1960 c. 2 (N.I.).

(5) 1951 c. 20 (N.I.).

(6) 1970 c. 9. Section 4 was substituted by the Finance Act 1984 (c. 43) section 127, schedule 22.

(b) benefits derived from a return of surplus funds under annuity contracts approved under section 620 of the 1988 Act or personal pension schemes approved under section 631 of the 1988 Act.

(4) In this regulation —

“retained death benefits” means any lump sum benefits payable on the member’s death derived from the sources set out in sub-paragraphs (a) to (f) of regulation 2.3.

2.5. The administrators may disclose any information obtained relating to retained benefits or retained death benefits to the bodies or persons mentioned in section 10(3)(c) of the Act.

Maximum benefits for members falling within regulation 2.2(1)(a)

2.6. Regulations 2.7, 2.8, 2.9 and 2.10 shall apply to members who fall within regulation 2.2(1)(a).

2.7.—(1) The aggregated retirement benefit shall not exceed the figure equal to the lesser of —

(a) the amount referred to in paragraph (2)(a), (b) or (c) as appropriate; and

(b) the greater of —

(i) 2/3rds of the member’s pensionable pay less retained benefits; and

(ii) 1/60th of the member’s pensionable pay for each year of service up to a maximum of 40 years.

(2) The amount referred to in paragraph (1)(a) shall be —

(a) where the member retires between the ages of 50 and 75 (except where he retires before the age of 65 on the ground of ill health), 1/30th of the member’s pensionable pay for each year of service up to a maximum of 20 years;

(b) where the member retires before the age of 65 on the ground of ill health, 1/30th of the member’s pensionable pay for each year of service that would have been completed had the member worked until the age of 65 up to a maximum of 20 years;

(c) where the member leaves the scheme before the age of 65 on any other grounds, an amount calculated in accordance with the formula

$$\frac{M \times N}{NS}$$

where —

(i) M is the maximum pension which would have been available to the member at age 65;

(ii) N is the number of years and days of service (expressed in years and fractions of years as appropriate) in the Part 1 scheme completed at the date the member leaves the scheme; and

(iii) NS is the number of years and days of service (expressed in years and fractions of years as appropriate) in the Part 1 scheme which the member would have completed had he remained in service until the age of 65.

2.8.—(1) The aggregated retirement benefit shall (subject to paragraph (2)) be determined by the administrators by aggregating—

(a) any benefits from the scheme constituted under Part I of the 1993 Act or an existing scheme, including benefits resulting from the purchase of added years or added benefits under that scheme; and

(b) any benefits from a voluntary contributions scheme.

(2) Any benefits that are attributable to the pension of a surviving spouse or child shall not be aggregated for the purpose of determining the aggregated retirement benefit.

2.9.—(1) This regulation applies where —

- (a) a lump sum is payable by virtue of the member having died in service before retirement; or
- (b) death occurs once the member has left pensionable service where his entitlement to a lump sum was preserved under an order made under section 141 of the Pension Schemes Act 1993(7) or section 137 of the Pension Schemes (Northern Ireland) Act 1993(8).

(2) Where this regulation applies, the maximum lump sum which may be paid shall be the greater of —

- (a) £5,000; or
- (b) 4 times the greater of the annual rate of the member's salary or of the member's pensionable pay at the date of death or, where paragraph (1)(b) applies, the date of leaving office, less the aggregation of the benefits set out in paragraph (3).

(3) The benefits to be aggregated for the purposes of paragraph (2)(b) are —

- (a) retained death benefits;
- (b) the death benefits provided by the scheme constituted under Part 1 of the 1993 Act or an existing scheme including benefits resulting from the purchase of added years or added benefits;
- (c) any death benefit provided by a voluntary contributions scheme.

2.10.—(1) Any surviving spouse's or children's pension payable to the surviving spouse or child in respect of a deceased member, shall not exceed 2/3rds of the member's maximum aggregated retirement benefit as determined in regulation 2.7 on the basis that —

- (a) the member had no retained benefits; and
- (b) that, at the date of death he had retired on the ground of ill-health rather than died.

(2) Where pensions are payable to more than one person, the total amount of those pensions shall not exceed the member's maximum aggregated retirement benefit determined on the same basis as in paragraph (1).

Maximum benefits for members falling within regulation 2.2(1)(b)

2.11. Regulations 2.8, 2.10, 2.12 and 2.13 shall apply to members who fall within regulation 2.2(1)(b).

2.12.—(1) The aggregated retirement benefit shall not exceed the figure equal to the lesser of —

- (a) the amount referred to in paragraph (2)(a), (b) or (c) as appropriate; and
- (b) the greater of —
 - (i) 2/3rds of the member's final salary less retained benefits; and
 - (ii) 1/60th of the member's final salary for each year of service up to a maximum of 40 years.

(2) The amount referred to in paragraph (1)(a) shall be —

(7) 1993 c. 48.

(8) 1993 c. 49.

- (a) where the member retires at his normal pension age the amount calculated by applying the appropriate fraction (ascertained in accordance with the following table, into which fractions of a year shall be interpolated in accordance with paragraph (3) below) to his final salary —

<i>Years of service</i>	<i>Appropriate fraction</i>
Year 1 to 5	1/60 for each year
Year 6	8/60
Year 7	16/60
Year 8	24/60
Year 9	32/60
Year 10 or more	40/60 for each year;

- (b) where the member retires before his normal pension age on the ground of ill-health the amount determined in accordance with paragraph 3(a) which the member could have received had he remained in service until his normal pension age;
- (c) where the member leaves the scheme before his normal pension age on any other ground, an amount calculated in accordance with the formula set out in regulation 2.7(2)(c) but as if references in that formula to —
- (i) the age of 65 were replaced by references to the member’s normal pension age; and
 - (ii) the Part 1 scheme were replaced by references to the member’s existing scheme.
- (3) Where the number of years of service at retirement is less than ten and is not an exact number of years, the interpolation referred to in paragraph (2)(a) shall be effected as follows—
- (a) where the number of complete years of service is less than five, 1/365 of a sixtieth for each additional day shall be added to the appropriate fraction;
 - (b) where the number of complete years of service is five, 3/365 of a sixtieth for each additional day shall be added to the appropriate fraction;
 - (c) where the number of complete years of service is greater than five, 8/365 of a sixtieth for each additional day shall be added to the appropriate fraction.
- 2.13.** Regulation 2.9 shall apply as if for sub paragraph (2)(b) there were substituted —
- “(b) 4 times the annual rate of the member’s final salary..”

Increase to pensions in payment

2.14. The maximum amount of pension benefit ascertained under regulations 2.7 to 2.13 may be increased by up to 3% for each complete year, or in proportion to the increase in the Index which has occurred since payment of the pension commenced, if greater.

Maximum contributions

- 2.15.—**(1) The member shall instruct the administrators in writing as to the level of contributions that he wishes to make.
- (2) A member’s contributions to the scheme in any tax year shall not exceed whichever is the smaller of (a) and (b) as set out in paragraph (3).
- (3) The amounts referred to in paragraph (2) are —

- (a) (i) in the case of a single contribution by the member into the scheme, the amount determined by the scheme administrators which, if the member were to leave service immediately after making the payment, is likely to provide benefits equal to the limits set out in regulations 2.7 to 2.10 or 2.12 and 2.13 as appropriate; or
- (ii) in the case of an annual contribution, the amount determined by the scheme administrators which, if maintained at that level
 - (1) in respect of members falling within regulation 2.2(1)(a) until the assumed retirement age, and
 - (2) in respect of members falling within regulation 2.2(1)(b) until the member's normal pension age,
 is likely to provide benefits equal to the limits set out in regulations 2.7 to 2.10 or 2.12 and 2.13 as appropriate;
- (b) (i) in respect of members falling within regulation 2.2(1)(a), that percentage of the member's pensionable pay that is subject to tax under Schedule E under Part V of the 1988 Act which, together with any contributions made by the member to any other judicial pension scheme (including voluntary contributions schemes) will bring the total contributions to 15% of the pensionable pay; or
- (ii) in respect of members falling within regulation 2.2(1)(b), that percentage of the member's total salary that is subject to tax under Schedule E under Part V of the 1988 Act which, together with any contributions made by the member to any other judicial pension scheme (including voluntary contributions schemes) will bring the total contributions to 15% of that salary.

Authorised provider

2.16. A member's contributions and any transfer payment accepted under regulation 2.22 shall be invested with an authorised provider for the purpose of providing benefits.

2.17. The administrators may require an authorised provider to surrender the whole or part of the value of such contributions and transfer payment, in which case the administrators shall reinvest such contributions in accordance with regulation 2.16.

Manner of making contributions

2.18. A member may make contributions into the scheme to the limits set out in regulation 2.15, by either —

- (a) single payments to the limit of two in any one financial year; or
- (b) regular payments,

and in either case payment must be made by way of deduction from the member's salary.

Investment of contributions

2.19. The administrators shall invest any contributions made under regulation 2.18 and any transfer payment accepted under regulation 2.22 as soon as reasonably practicable, with the authorised provider.

2.20. Where the authorised provider offers more than one type of investment the member may elect that his contributions be paid into particular types of investments.

2.21. The investments made in respect of a member with the authorised provider may be realised and reinvested with the authorised provider at the request of the member, in such amounts, at

such times and in such manner as may be specified by the administrators with the approval of the authorised provider.

Transfer values in

2.22. A payment representing the cash equivalent of a member's accrued rights in any other qualifying scheme (as defined by paragraph 11(3) of schedule 2 to the 1993 Act) shall only be accepted by the scheme if it is from another voluntary contributions scheme and it is certified by the administrator of that scheme to derive from only the member's own contributions to that scheme, and any transfer payment into that scheme, with any interest that may be payable.

2.23. Where a member wishes to make such a payment from a non-judicial occupational pension scheme, he shall declare to the administrators the contributions already made and the salary received in the 12 months prior to the date of transfer into the scheme.

Benefits which may be provided

2.24.—(1) Subject to the limits referred to in regulations 2.7 to 2.13, a member shall be entitled to the benefits attributable to the contributions paid by the member, and by any payment accepted under regulation 2.22.

(2) The benefits permitted are —

- (a) subject to regulation 2.26, a pension payable to the member from the member's retirement during his lifetime, under which:
 - (i) payments may be guaranteed to be payable for up to 10 years after retirement in any event; or
 - (ii) payments may be guaranteed to be payable for up to 5 years after retirement with any balance in respect of any period between death and the expiry of that period of 5 years being paid in one lump sum on death;
- (b) a lump sum payable on the death of the member;
- (c) where the member dies before retirement, or in the circumstances referred to in regulation 2.28(2)(c), the total realisable value of the investments made by the administrators with the contributions paid by the member and any transfer payment accepted under regulation 2.22;
- (d) subject to regulation 2.26, a pension payable on the death of the member after retirement to one or more of —
 - (i) his spouse during the remainder of her lifetime; and
 - (ii) his children until the child reaches the age of 18 or, if later, ceases to receive full time education or vocational training.

(3) Pensions may be level in payment, increase at a fixed rate not exceeding 3 per cent per annum compound or vary in line with the Index.

(4) In the case of benefits payable at or after a member's retirement, the member may choose which of the above types of benefit shall be payable and shall give notice in writing to the administrators at retirement of his choice.

2.25. Benefits under this scheme shall be paid by the administrators in accordance with these regulations and shall only be payable —

- (a) at the date that the member's pension under Part I of the 1993 Act or under an existing scheme comes into payment; or
- (b) in relation to a surviving spouse's or children's pension, the date at which those benefits become payable under Part I of the 1993 Act or under an existing scheme.

2.26. Benefits at retirement may normally only be taken in pension form but the whole of the member's pension may be commuted for a lump sum, from which any tax payable by the administrators shall be deducted, where —

- (a) the pension equivalent of the member's pension benefits from all sources does not exceed £260 per annum;
- (b) the pension is payable under regulation 2.24(2)(d) and does not exceed £260 per annum; or
- (c) the administrators are satisfied on medical evidence that the member is fatally ill.

2.27.—(1) A member may nominate a person to receive any lump sum payable on his death by giving notice in writing to the administrators;

(2) If no such nomination is made, the administrators shall pay the lump sum to the personal representatives of the member.

Leaving the scheme

2.28.—(1) A member may cease to be a member of the scheme at any time before benefits provided under regulation 2.24 are paid.

(2) Subject to Part IV, Chapter IV of the Pension Schemes Act 1993⁽⁹⁾ or Part IV, Chapter IV of the Pensions Schemes (Northern Ireland) Act 1993⁽¹⁰⁾, the member shall, on leaving the scheme, request the administrators to do one or more of the following as appropriate —

- (a) to transfer the value of the member's accrued benefits to an approved scheme of a subsequent employer, or to a personal pension scheme subject, in each case, to the receiving scheme—
 - (i) being willing to accept the transfer value; and
 - (ii) meeting the prescribed requirements referred to in section 95(2)(a) of the Pension Schemes Act 1993 or section 91(2)(a) of the Pension Schemes (Northern Ireland) Act 1993,

and the administrators shall certify to the receiving scheme that the whole of the transfer value derives from the member's contributions and any transfer payment accepted under regulation 2.22 and that all of it must be used to secure a non-commutable pension;

- (b) to use the value of the member's accrued benefits to purchase one or more insurance policies of the type described in section 95(2)(c) of the Pension Schemes Act 1993 or section 91(2)(c) of the Pension Schemes (Northern Ireland) Act 1993;
- (c) if the member's service, together with any service whilst a member of a previous employer's pension scheme from which a transfer value has been paid to this scheme, totals less than two years, to pay the member the value of his accrued benefits after deduction of any tax payable by the administrators;
- (d) to purchase an annuity contract approved under section 431(4)(d) and (e) and section 591(2)(g) of the 1988 Act from an authorised insurance company as defined by the 1993 Act.

(3) Where a member ceases to make contributions to the scheme (except where he ceases to make contributions to an existing scheme by reason of transferring to the scheme constituted under Part 1 of the 1993 Act) he may, if he wishes, leave his accrued benefits in the scheme until such time as his benefits under the scheme constituted by Part 1 of the 1993 Act or his existing scheme as appropriate become payable.

⁽⁹⁾ 1993 c. 48.

⁽¹⁰⁾ 1993 c. 49.

(4) For the purpose of this regulation, the value of a member's accrued benefits shall be the total realisable value of the investments made by the administrators with the contributions paid by the member and any transfer payment accepted under regulation 2.22.

(5) Without prejudice to the effect of section 95(1) and (9) and section 99 of the Pensions Schemes Act 1993 and section 91(1) and (9) and section 95 of the Pension Schemes (Northern Ireland) Act 1993, where a transfer value is paid out from the scheme the administrators will be discharged from any obligation to provide any benefits in respect of the scheme.

Surplus funds

2.29. The administrators of the scheme shall comply with the requirements of regulation 5 (Restriction on discretion to approve — other schemes) of the 1993 Regulations and where the scheme is the leading scheme in relation to a member, with the requirements of regulation 6 (Calculation of surplus funds) of those Regulations so far as they concern main schemes.

2.30. Whenever the administrators are liable for any tax in respect of any payment made to any person under this Part, they shall deduct sums equal in total to such tax from any payments made to such person.