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STATUTORY INSTRUMENTS

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**1998 No. 1219**

**PENSIONS**

**The Judicial Pensions (Contributions) Regulations 1998**

<i>Made</i>	- - - -	<i>13th May 1998</i>
<i>Laid before Parliament</i>		<i>14th May 1998</i>
<i>Coming into force</i>	- -	<i>1st August 1998</i>

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 1998 and shall come into force on 1st August 1998.

**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 the liability for a surviving spouse’s or children’s pension;

“former scheme” and “last existing scheme” have the meanings given to them in the Transfer Regulations;

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

“normal pension age” means the earliest age at which an office holder would be able to retire with a pension immediately payable under section 2(1);

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(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 relation to Scotland, the Secretary of State of (b) subject to (a), the Lord Chancellor.

“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 Transfer Regulations;

“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;

“preservation order” means an order made, or treated as being made, under section 72 of the Pensions Act 1995(2) or article 72 of the Pensions (Northern Ireland) Order 1995(3) providing for a reduced pension and derivative benefits to be preserved and become payable in the case of a member of the Part I scheme who ceases to hold qualifying judicial office before normal pension age;

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

“the Transfer Regulations” means the Judicial Pensions (Transfer Between Judicial Pension Schemes) Regulations 1995(4).

(2) A reference to actual service in the Part I scheme includes, unless otherwise specified, periods of service for which an office holder is deemed to have made contributions under regulation 7.

(3) References in these Regulations to compound interest shall mean compound interest at the rate announced annually in relation to the Principal Civil Service Pension Scheme(5).

### **Scope of Regulations, and revocation**

3.—(1) In this regulation, “the 1995 Regulations” mean the Judicial Pensions (Contributions) Regulations 1995(6) and the Judicial Pensions (Contributions) (Amendment) Regulations 1995(7).

(2) Subject to regulation 4, these Regulations apply to all office holders who are members of the Part I scheme and who have not ceased to hold qualifying judicial office at the date of the coming into force of these Regulations.

(3) The 1995 Regulations are revoked but without prejudice to their continued application to any office holder—

- (a) by or in respect of whom an option is made under regulation 4 to have his contributions liability assessed under the 1995 Regulations; or
- (b) who ceases to hold qualifying judicial office before the coming into force of these Regulations.

### **Transitional provisions**

4.—(1) An office holder who is a member of the Part I scheme by virtue of section 1(1)(b), (c) or (d), and who transferred into the Part I scheme before the coming into force of these Regulations, may opt to have his contributions liability assessed as if the 1995 Regulations were still in force and these Regulations had never been made.

(2) If an office holder to whom paragraph (1) applies has died without having made an option, an option may be made by his personal representatives.

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(2) 1995 c. 26.

(3) S.I.1995/3213 (N.I. 22).

(4) S.I. 1995/636.

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

(6) S.I. 1995/638.

(7) S.I. 1995/2961.

(3) An option must be made in writing to the scheme administrators no later than 3 months after the date that the office holder ceased to hold qualifying judicial office.

(4) An option made under this regulation shall be irrevocable.

### **Scheme of Regulations**

5.—(1) While an office holder is a member of the Part I scheme he shall make periodical contributions in accordance with regulation 6.

(2) Where an office holder transfers into the Part I scheme from another judicial pension scheme (“a transferring member”) he shall be given a credit in respect of contributions he has made whilst a member of that, and any previous, judicial pension scheme. This is called a contributions credit and is expressed as a period of time and calculated in accordance with regulations 9 and 10.

(3) Where this period of time is less than the notional service of a transferring member, he may make additional contributions in accordance with regulation 11.

(4) Where a transferring member ceases to hold qualifying judicial office there shall be calculated—

- (a) the period for which he was liable to make contributions (“the contributions liability period”) in accordance with regulation 12; and
- (b) the period for which he has made or is deemed to have made contributions (“the contributions payment period”) in accordance with regulation 13(2).

(5) The contributions liability period shall then be compared, in accordance with regulation 13, with the contributions payment period and—

- (a) if the contributions liability period is the lesser period, or there is no contributions liability period, then a refund of contributions shall be made in accordance with regulation 13; and
- (b) if the contributions liability period is the greater period, the deficit of contributions shall be deducted from the lump sum payable to or in respect of the transferring member, in accordance with regulation 14, on his ceasing to hold qualifying judicial office.

(6) Regulation 15 deals with circumstances in which contributions will be refunded to members who are not transferring members, and regulation 16 makes provision for a former holder of the office of Lord Chancellor.

### **Rate of contributions under section 9**

6.—(1) Contributions under section 9 shall be made at a rate of 3% of the office holder’s pension-capped salary for the time being as it becomes due throughout his service in qualifying judicial office while a member of the Part I scheme, until—

- (a) the office holder ceases to hold qualifying judicial office; or
- (b) the office holder has made contributions for a period of 20 years;

whichever occurs first.

(2) The responsible authority shall deduct contributions from the salary of the office holder.

(3) Where an office holder has a contributions credit, as referred to in regulation 9(3), then for the purpose of paragraph (1)(b) above, he shall be taken to have made contributions for the total length of the contributions credit.

### **Periods for which contributions are deemed to have been made to the Part I scheme**

7.—(1) An office holder shall be deemed to have made contributions in respect of any period by which his service is increased in accordance with the provisions of section 2(7)(c).

(2) Where an office holder acquires an additional period of service in the Part I scheme by virtue of any additional voluntary contributions made by him while a member of that scheme he shall be deemed to have made contributions to the Part I scheme for the length of the additional period of service which he has acquired.

(3) Where, under these regulations, an office holder is entitled to a refund of contributions, he shall not be entitled to a refund of any contributions which he is deemed to have made under this regulation.

### **Provisions relating to contributions of members who transfer into the Part I scheme**

8. Regulations 9 to 14 shall apply to office holders to whom Part I applies by virtue of section 1(1) (b), (c) or (d).

### **Contributions credit**

9.—(1) A contributions credit shall be calculated in respect of an office holder in relation to each of—

- (a) his last existing scheme; and
- (b) any former scheme.

(2) The contributions credits shall be calculated at the date of entry of the office holder into the Part I scheme.

(3) The total length of an office holder's contributions credit shall be the sum of his contributions credits from his last existing scheme and any former schemes calculated in accordance with regulation 10.

### **Calculation of contributions credit**

10.—(1) A contributions credit shall be calculated in accordance with this regulation.

(2) There shall be ascertained—

- (a) in respect of each former scheme of which the office holder was a member; and
- (b) in respect of the last existing scheme;

the length of each period of service during which the office holder paid contributions (excluding additional voluntary contributions) by way of periodical deductions from salary at a particular percentage rate of salary.

(3) The length of each such period of service shall be expressed in years and fractions of a year.

(4) Each such period of service shall then be multiplied by  $A/3$ , to give the credit for that period of service, where A is the percentage rate of salary at which contributions were paid during that period.

(5) Where an office holder has a period of notional service in respect of a former scheme or his last existing scheme which is attributable to the payment by him of additional voluntary contributions while a member of that scheme he shall be given a credit equal to that period of notional service.

### **Additional contributions**

11.—(1) If the total length of an office holder's contributions credit on transfer into the Part I scheme is less than the length of his notional service he may, within 6 months of the date of his transfer, elect to make additional contributions.

(2) An election shall be made in writing to the responsible authority and may be revoked or varied at any time by the office holder by notice in writing to that authority.

(3) An office holder may not exceed the maximum contributions limit of 15% of pension-capped salary and for this purpose there shall be taken into account, in addition to contributions made in accordance with regulation 6, any contributions being made in respect of any schemes constituted by the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995<sup>(8)</sup>.

(4) Subject to paragraph (3), an office holder may make additional contributions at a rate not exceeding 12% of his pension-capped salary.

(5) An election 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 by which the length of his notional service exceeds the total length of his contributions credit.

(6) An office holder making additional contributions at a rate of 3% shall be treated as making additional contributions for one year for every year that contributions are made at that rate.

(7) An office holder making additional contributions at a rate other than 3% shall be treated as making additional contributions, for every year that contributions are made at that rate, for a period which bears the same proportion to one year as the rate at which he is making additional contributions bears to 3%.

(8) Where an office holder makes additional contributions for a part of a year, the period of years for which he is treated as making additional contributions is reduced proportionately.

### **Contributions liability period**

**12.**—(1) When an office holder ceases to hold qualifying judicial office, his contributions liability period shall be assessed in accordance with this regulation.

(2) For the purposes of this regulation, where an office holder has had both a last existing scheme and one or more former schemes, the date of commencement of notional service shall be calculated on the basis that—

- (a) that part of his notional service which relates to the former scheme of which he was a member immediately before entering the last existing scheme ends on the day immediately before the first day of notional service attributable to the last existing scheme; and
- (b) each part of his notional service which relates to a previous former scheme ends on the day immediately before the first day of notional service attributable to the former scheme of which he was next a member;

with the result that no periods of notional service overlap and his total period of notional service is continuous.

(3) An office holder shall have no contributions liability period if—

- (a) he is unmarried at the date that he ceases to hold qualifying judicial office; and
- (b) he has never had either a spouse or eligible children during his period of actual service in such office.

(4) The contributions liability period of an office holder who—

- (a) at the date he ceases to hold qualifying judicial office, is unmarried and has no eligible children; but
- (b) during some period or periods of his service in such office has had either a spouse or eligible children;

shall be calculated in accordance with paragraphs (5) to (7) subject, in each case, to a maximum of 20 years.

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<sup>(8)</sup> S.I. 1995/639.

(5) The contributions liability period of an office holder to whom paragraph (4) applies and who last ceased to have either a spouse or eligible children while a member of a former scheme shall be calculated by—

- (a) ascertaining his period of actual service in each former scheme up to the date he last ceased to have either a spouse or eligible children;
- (b) multiplying each such period of service by the factor, determined in accordance with regulations 4 and 6 of the Transfer Regulations, used to convert actual service in the former scheme in question into a period of notional service in the Part I scheme; and
- (c) adding together the resulting figures for each former scheme.

(6) The contributions liability period of an office holder to whom paragraph (4) applies and who last ceased to have either a spouse or eligible children while a member of a last existing scheme shall be calculated by—

- (a) ascertaining his period of actual service in each former scheme and multiplying each period of service by the factor, determined in accordance with regulations 4 and 6 of the Transfer Regulations, used to convert actual service in the former scheme in question into a period of notional service in that Part I scheme;
- (b) ascertaining his period of actual service in the last existing scheme up to the date he last ceased to have either a spouse or eligible children and multiplying it by the factor, determined in accordance with regulations 4 and 5 of the Transfer Regulations, used to convert actual service in the last existing scheme into a period of notional service in the Part I scheme; and
- (c) adding together the resulting figures for each former scheme and the last existing scheme.

(7) The contributions liability period of an office holder to whom paragraph (4) applies and who last ceased to have either a spouse or eligible children while a member of the Part I scheme shall be the total period of notional service and actual service in the Part I scheme up to the date he last ceased to have either a spouse or eligible children.

(8) The contributions liability period of an office holder who is married at the date of his retirement or death in service shall be the total period of his notional service and actual service in the Part I scheme, subject to a maximum of 20 years beginning with the date of commencement of his notional service.

(9) The contributions liability period of an office holder who—

- (a) is married at the date he ceases to hold qualifying judicial office;
- (b) ceases to hold such office before attaining his normal pension age; and
- (c) is eligible for preserved pension benefits under a preservation order;

shall be the total period of his notional service and actual service in the Part I scheme subject to a maximum of 20 years beginning with the date of commencement of his notional service, but subject to paragraph (10) below.

(10) In respect of an office holder to whom paragraph (9) applies, where the period between the commencement of notional service and his normal pension age exceeds 20 years, the contributions liability period shall be the period that is determined in accordance with paragraph (9) multiplied by  $20/X$  where  $X$  is the period (expressed in years and fractions of a year) between the commencement of notional service and his normal pension age.

### **Contributions adjustment**

**13.—**(1) When an office holder ceases to hold qualifying judicial office there shall be calculated a contributions payment period except where the office holder has no contributions liability period.

(2) The contributions payment period of an office holder shall be the sum of—

- (a) the total length of his contributions credit;
- (b) the total period or periods during which he made actual contributions as a member of the Part I scheme; and
- (c) the period or periods (if any) for which he is treated as making contributions by virtue of regulation 11.

(3) Where the contributions payment period is less than the office holder's contributions liability period, the deficit of contributions, calculated in accordance with regulation 14, shall be deducted from the lump sum otherwise payable to or in respect of the office holder.

(4) Where the contributions payment period exceeds the office holder's contributions liability period, any periodical contributions made by him for the period—

- (a) which is equal to the excess period; and
- (b) which ends on the date he last made contributions;

shall be refunded together with compound interest.

(5) Where an office holder has no contributions liability period any periodical contributions made by him shall be refunded together with compound interest.

(6) The scheme administrators shall pay any refunds due under this regulation to the office holder or, if he has died, to—

- (a) the person nominated by him for the purpose of section 4(3); or
- (b) in default of nomination, his personal representatives.

(7) The scheme administrators shall, in making any refunds 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).

### **Contributions out of lump sum**

**14.** Where regulation 13(3) applies, the deficit of contributions to be deducted from the lump sum otherwise payable to or in respect of the office holder shall be calculated in accordance with the formula  $(F \times P) \times 3\%$  where—

- (a) F is the difference (in years and fractions of a year) between his contributions liability period and his contributions payment period; and
- (b) P is his pensionable pay at the time he ceases to hold qualifying judicial office.

### **Refund of contributions—section 1(1)(a) office holders**

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

(2) Contributions made by an office holder who—

- (a) is unmarried at the date that he ceases to hold qualifying judicial office; and
- (b) never had either a spouse or eligible children during his service in such office;

shall be refunded together with compound interest.

(3) Where, at the date he ceases to hold qualifying judicial office, an office holder—

- (a) is unmarried; and
- (b) has no eligible children,

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(9) 1988 c. 1.

but during some period or periods of his service in such office has had either a spouse or eligible children, there shall be refunded, together with compound interest, contributions made from the date on which he last ceased to have either a spouse or eligible children.

(4) Where an office holder—

- (a) is married at the date he ceases to hold qualifying judicial office;
- (b) ceases to hold such office before his normal pension age; and
- (c) is eligible for preserved pension benefits under a preservation order;

there shall be refunded, together with compound interest, the contributions that are attributable to the period of service being the period (if any) by which Y exceeds

$$((Y/Z) \times 20)$$

where—

- (i) Y is the length of actual service of the office holder while a member of the Part I scheme;
- (ii) Z is the length of service which the office holder would have served as a member of the Part I scheme if that service had continued until his normal pension age; and
- (iii) the periods Y and (Y/Z) begin on the first day of service while a member of the Part I scheme.

(5) In calculating Y and Z in paragraph (4), there shall be excluded any periods of service for which an office holder is deemed to have made contributions under regulation 7.

(6) Regulations 13(6) and 13(7) shall apply to any refunds made in pursuance of this regulation as they apply to refunds made in pursuance of regulation 13.

### **Lord Chancellor**

**16.—**(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) For the purposes of these Regulations—

- (a) the service by the office holder as Lord Chancellor shall be treated as if it were service by him in a last existing scheme; and
- (b) the period of notional service of the office holder in respect of the office of Lord Chancellor shall be his actual period or periods of service in that office.

(3) 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—

- (a) the service credit in respect of the previous office or offices shall be calculated in accordance with the Transfer Regulations; and
- (b) for the purpose of calculating his contributions credit, service in such office or offices shall be treated as if it were service in a last existing scheme.

Dated 7th May 1998

*Irvine of Lairg, C.*

*Donald C. Dewar*

One of Her Majesty's Principal Secretaries of State

Dated 6th May 1998

State



We concur

Dated 13th May 1998

*Bob Ainsworth*  
*John McFall*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations replace the Judicial Pensions (Contributions) Regulations 1995. They apply for the purposes of prescribing the contributions to be made towards surviving spouse's and children's pensions payable by virtue of the judicial pension scheme set up under Part I of the Judicial Pensions and Retirement Act 1993. Regulation 5 provides for members of the scheme to make periodical contributions by way of a deduction from salary. Members who transfer into the Part I scheme from another judicial pension scheme are given a credit for contributions made into the previous schemes and may make additional contributions to cover any shortfall. On ceasing to hold qualifying judicial office, contributions made are compared with contributions due and any necessary adjustment made by way of deduction from the lump sum payable on death or retirement, or by way of refund of contributions, as appropriate.