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STATUTORY INSTRUMENTS

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**2006 No. 747**

**PENSIONS**

**The Judicial Pensions (Additional Voluntary Contributions) (Amendment) Regulations 2006**

<i>Made</i>	- - - -	<i>13th March 2006</i>
<i>Laid before Parliament</i>		<i>16th March 2006</i>
<i>Coming into force</i>	- -	<i>6th April 2006</i>

The Lord Chancellor and, in relation to any judicial office whose jurisdiction is exercised exclusively in Scotland, the Secretary of State, in exercise of the powers conferred upon them by section 33A of the Judicial Pensions Act 1981(1) and sections 10 and 29(3) and (4) of the Judicial Pensions and Retirement Act 1993(2) and with the concurrence of the Treasury, make the following Regulations—

**Citation and commencement**

1. These Regulations may be cited as the Judicial Pensions (Additional Voluntary Contributions) (Amendment) Regulations 2006 and shall come into force on 6th April 2006.

**Interpretation**

2. In these Regulations “the 1995 Regulations” means the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995(3).

**Amendments to the 1995 Regulations**

3. The 1995 Regulations are amended as follows.

4.—(1) Regulation 1.2 (Interpretation) is amended as follows.

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- (1) 1981 c. 20; section 33A was inserted by section 82 of the Courts and Legal Services Act 1990 (c. 41), and amended by section 24 of, and Schedule 3 to, the Judicial Pensions and Retirement Act 1993 (c. 8). The power to make regulations under section 33A is that of the Lord Chancellor or, in relation to pensions for service in offices existing only in Scotland, the Secretary of State. For these purposes the latter are coterminous with offices whose jurisdiction is exercised exclusively in relation to Scotland.
- (2) 1993 c. 8. The power to make regulations under section 10 is that of “the appropriate minister”, 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, or (b) subject to (a) the Lord Chancellor.
- (3) S.I.1995/639; amended by the Judicial Pensions (Additional Voluntary Contributions) (Amendment) Regulations 1996 (S.I. 1996/52), the Judicial Pensions (Additional Voluntary Contributions) (Amendment) Regulations 2000 (S.I. 2000/342) and the Civil Partnerships (Judicial Pensions and Church Pensions, etc.) Order 2005 (S.I. 2005/3325).

- (2) In the definition of “AVC scheme” delete “other than a FSAVC scheme”.
  - (3) The definition of “approved scheme” is revoked.
  - (4) After the definition of “authorised provider” insert ““benefit crystallisation event” has the meaning given to it in section 216 of the 2004 Act;”.
  - (5) The definition of “death benefit” is revoked.
  - (6) In the definition of “existing scheme” for “a” substitute “an additional”.
  - (7) The definition of “FSAVC scheme” is revoked.
  - (8) The definitions of “leading scheme” and “main scheme” are revoked and in their place insert ““lifetime allowance charge” has the meaning given to it in section 214 of the 2004 Act;”.
  - (9) The definition of “retirement benefits scheme” is revoked.
  - (10) The definition of “the 1988 Act” is revoked.
  - (11) After the definition of “the 1993 Act” insert ““the 2004 Act” means the Finance Act 2004(4);”.
  - (12) The definition of “the 1993 Regulations” is revoked.
  - (13) After the definition of “qualifying judicial office” insert ““registered scheme” means a pension scheme that is a registered pension scheme under Part 4 of the 2004 Act;”.
  - (14) The definition of “retained death benefits” is revoked.
  - (15) After the definition of “registered scheme” insert ““tax year” has the meaning given in section 279(1) of the 2004 Act.”.
  - (16) The definition of “voluntary contributions scheme” is revoked.
5. After regulation 1.2 insert—

**“Effect of exercise of an option under the 2004 Act**

**1.3.** The additional voluntary contributions schemes constituted under these Regulations are separate from any judicial pension scheme constituted under any other enactment and accordingly, where an option under paragraph 2 of Schedule 36 to the 2004 Act has been exercised by the administrators of the judicial pension schemes, that option does not apply to the schemes contained in these Regulations unless the administrators, in exercising that option, had indicated that that option should apply to the schemes contained in these Regulations, or any of them.”.

- 6.—(1) Regulation 2.1 (Interpretation and application) is amended as follows.
- (2) The definition of “aggregated retirement benefit” is revoked.
  - (3) The definition of “final salary” is revoked.
- 7.—(1) For regulation 2.3 (Retained benefits) substitute—

**“Information requirements**

**2.3.** The administrators shall require any person who is, or wishes to become, a member of the scheme, to provide such information as the administrators may require about any benefits which that person may have which are derived from a registered scheme, including any such benefits which have been transferred to another scheme, whether or not in the United Kingdom,

but they may require such information only about benefits accrued during some previous employment.”.

8. Regulation 2.4 (which is about retained death benefits) is revoked.

9. For regulation 2.5 (which is about the disclosure of information about retained benefits) substitute—

**“Disclosure of information**

2.5. The administrators may disclose any information which they have obtained about benefits in a registered scheme to the bodies or persons mentioned in section 10(3)(c) of the Act.”.

10. Regulations 2.6 to 2.14 (which are about maximum benefits) are revoked.

11.—(1) Regulation 2.15 (Maximum contributions) is amended as follows.

(2) In paragraph (2) for the first “is” substitute “in”.

(3) In paragraph (3)—

(a) for sub-paragraph (a) substitute—

“(a) that amount which, when aggregated with all contributions to any other registered scheme in the same tax year, brings the member’s total contributions for that tax year up to the maximum amount of relief as calculated under section 190 of the 2004 Act;”, and

(b) in sub-paragraph (b) for “tax under Schedule E under Part V of the 1988 Act”, in both places, substitute “income tax”.

12. In regulation 2.18 (Manner of making contributions) for “financial year” substitute “tax year”.

13. For regulation 2.22 (Transfer values in) substitute—

**“Transfers in**

2.22. A payment representing the cash equivalent of the member’s accrued rights in any other registered scheme (“the transferring scheme”) may be accepted by the scheme only if the administrator of the transferring scheme certifies that the payment will comprise a recognised transfer as defined in section 169 of the 2004 Act.”.

14.—(1) Regulation 2.24 (Benefits which may be provided) is amended as follows.

(2) In paragraph (1) delete from “Subject” to “2.13,”.

(3) For paragraph (2) substitute—

“(2) The only benefits permitted in respect of the contributions paid by the member are those benefits which—

(a) in relation to a money purchase arrangement as defined in section 152(2) of the 2004 Act, or

(b) in relation to a lump sum death benefit as defined in paragraph 13 or paragraph 14 of Schedule 29 to the 2004 Act,

would constitute authorised member payments under section 164 of the 2004 Act.”.

(4) Paragraph (3) is revoked.

(5) For paragraph (4) substitute—

“(4) Benefits may be paid at or after a member’s normal minimum pension age.

(5) At or after his normal minimum pension age the member may choose which type of benefit falling within paragraph (2) shall be payable and shall give the administrators notice of this choice in writing.

(6) In this regulation “normal minimum pension age” has the meaning given in section 279(1) of the 2004 Act”.

**15.** Regulation 2.25 and 2.26 (which relate to the payment of benefits) are revoked.

**16.—**(1) Regulation 2.27 (which is about nominations) is amended as follows.

(2) For paragraph (1) substitute—

“(1) Where a member dies while holding qualifying judicial office any lump sum may be paid to the person (if any) nominated by him for the purposes of this paragraph by notice in writing to the administrators of the JAVCS.”.

(3) In paragraph (2) for “shall” substitute “may”.

**17.—**(1) Regulation 2.28 (Leaving the scheme) is amended as follows.

(2) In paragraph (2)—

(a) for sub-paragraph (a) substitute—

“(a) to transfer the value of the member’s accrued benefits to a registered pension scheme;”, and

(b) sub-paragraph (d) is revoked.

(3) Paragraph (3) is revoked.

**18.** For the side-note before regulation 2.29 substitute “Tax”.

**19.** Regulation 2.29 (Surplus funds) is revoked.

**20.** In regulation 2.30 (which is about payment of tax) after “such person” insert “and, in particular, where there is a liability for the whole or any part of the lifetime allowance charge arising on a benefit crystallisation event in relation to the JAVCS, they shall reduce the fund of the member to whom that liability relates by an amount that is equal in total to the amount of that liability”.

**21.** Part 3 (Free standing Additional Voluntary Contributions Schemes) is revoked.

**22.** In regulation 4.1 (Interpretation) the definition of “pension capped salary” is revoked.

**23.—**(1) Regulation 4.2 (Membership) is amended as follows.

(2) For paragraph (1) substitute—

“(1) Membership of the JABS, JAYS or JASSPS is limited to persons who were members of the JABS, JAYS or JASSPS immediately before 6th April 2006 and their membership is limited to the particular scheme or schemes of which they were members immediately before 6th April 2006.”.

(3) For paragraph (2) substitute—

“(2) A member of the JAYS shall, subject to the provisions of these Regulations, have a right to purchase added years of pension credit as though he were increasing his length of service in qualifying judicial office.”.

(4) Paragraph (4) is revoked.

(5) In paragraph (5), after the word “benefit” insert “as though he were increasing the benefits”.

24. For regulation 4.3 (Limits on the added years that may be purchased under the JAYS) substitute—

**“Limits on the added years that may be purchased under the JAYS**

4.3. The maximum number of added years that a member may purchase under JAYS is the difference between his period of service (in years and days) under the Part 1 scheme, including any period of service credited to him on transfer into the Part 1 scheme in accordance with the Judicial Pensions (Transfer Between Judicial Pension Schemes) Regulations 1995(5), up to his assumed retirement age, and 20 years.”.

25. Regulation 4.4 (Limits on the added benefits that may be purchased under JASSPS) is revoked.

26. For regulation 4.5 (Limits on the added benefits that may be purchased under JABS) substitute—

**“Limit on children’s pensions benefits**

4.5. Any benefits that are paid under the JABS or JAYS in the form of a children’s pension shall, notwithstanding any provision to the contrary, cease to be paid on the date that the child in receipt of those benefits attains the age of 23.”.

27.—(1) Regulation 4.6 (Manner of making contributions into the JAYS) is amended as follows.

(2) In paragraph (1) after “purchase” insert “pension credits in the form of”.

(3) In paragraph (2) after “purchase” insert “pension credits in the form of”.

(4) In paragraph (4) for the words from “subject” to “4.9(1)” substitute “subject to the limit on the level of contributions in regulation 4.9”.

28. In regulation 4.7 (Manner of making contributions into the JASSPS), in paragraph (2), for the words from “subject” to “4.9(2)” substitute “subject to the limit on the level of contributions in regulation 4.9”.

29. In regulation 4.8 (Manner of making contributions into the JABS), in paragraph (2), for the words from “subject” to “4.9(3)” substitute “subject to the limit on the level of contributions in regulation 4.9”.

30. For regulation 4.9 (Maximum contributions) substitute—

**“Maximum contributions**

4.9.—(1) A member may not make contributions at a rate that is higher than the rate at which he was contributing immediately before 6th April 2006 (“the former rate”), or at a rate which would result in a level of benefits that would be higher than the level of benefits that he would have accrued at the former rate.

(2) Members may cease to contribute to the JABS, JAYS or JASSPS and may subsequently start contributing at a different rate to the particular scheme or schemes to which they ceased contributing, subject to the limitation in paragraph (1).”.

31.—(1) Regulation 4.10 (Valuation of benefits under the JAYS) is amended as follows.

(2) For paragraph (1) substitute—

“(1) If a member leaves qualifying judicial service or makes an election under section 13 of the 1993 Act on or after reaching the assumed retirement age, any pension credits in the form of added years that he has purchased shall count as if they were years of service for the purpose of determining the length of his service in qualifying judicial office under Part 1 of the 1993 Act.

(1A) If the addition of the years of service mentioned in paragraph (1) would, were they to be years of service accrued other than by the purchase of pension credits, lead to the payment of additional payments under Part 1 of the 1993 Act, then benefits of an equivalent nature to those payable under Part 1 of the 1993 Act shall be paid under the JAYS.

(1B) Any benefit paid under paragraph (1A) shall be paid at the time or times when the benefits payable under Part 1 of the 1993 Act would have been payable.”.

(3) In paragraph (2)—

(a) the words “under section 3 of the 1993 Act” are deleted, and

(b) after “credited with” insert “pension credits equivalent to”.

(4) In paragraph (3) after “credited with” insert “pension credits equivalent to”.

**32.** In regulation 4.11 (Valuation of benefits under the JASSPS), in paragraph (1), delete “under the scheme constituted by Part 1 of the 1993 Act”.

**33.** In regulation 4.12 (Valuation of benefits under the JABS), in paragraph (1), delete “under his existing scheme”.

**34.** In regulation 4.13 (Refund of contributions) delete paragraph (6)(b).

**35.** After regulation 4.14 (Monies) insert—

**“Reduction of benefits**

**4.15.—**(1) This regulation applies where the scheme administrator of any of the schemes contained in Part 4 of these Regulations pays the whole or any part of the lifetime allowance charge arising on a benefit crystallisation event relating to any of those schemes in relation to a person to whom these Regulations apply.

(2) The pensions or other benefits payable under these Regulations to or in respect of the person may (notwithstanding any other provision of these Regulations) be reduced by such amount as, in accordance with normal actuarial practice, reflects the amount of the payment made.”.

Date 1st March 2006

*Falconer of Thoroton C*

Date 3rd March 2006

*Alistair Darling*  
Secretary of State

Date 13th March 2006

*Dave Watts*  
*Vernon Caoker*  
Two of the Lords Commissioners of Her  
Majesty’s Treasury

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## EXPLANATORY NOTE

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

These Regulations amend the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995 (“the 1995 Regulations”). They provide for—

- (a) the amendment of the Additional Voluntary Contributions schemes set out in Part 2 and Part 4 of the 1995 Regulations to ensure that they are compliant with the new tax regime set out in the Finance Act 2004, which applies from 6th April 2006,
- (b) the amendment of the schemes in Part 2 to extend the range of benefits that are payable by reference to what is permissible under the Finance Act 2004,
- (c) the repeal of Part 3 of the 1995 Regulations. Part 3 made provision for free standing additional voluntary contributions schemes which is no longer necessary, and
- (d) the closure of the three additional voluntary contributions schemes set out in Part 4 of the 1995 Regulations with provision to enable existing members to continue to contribute.

The opportunity is taken to correct some errors in the 1995 Regulations.