

STATUTORY INSTRUMENTS

**2017 No. 522**

**The Judicial Pensions (Fee-Paid Judges) Regulations 2017**

**PART 13**

**THE FEE-PAID JUDICIAL ADDED YEARS SCHEME**

**CHAPTER 3**

**[<sup>F1</sup>unretired] FPJAYS MEMBERS**

**Textual Amendments**

**F1** Word in Pt. 13 Ch. 3 heading substituted (1.4.2023) by [The Judicial Pensions \(Fee-Paid Judges\) \(Amendment\) Regulations 2023 \(S.I. 2023/403\)](#), regs. 1(1), **52(1)**

**Purchase of added years by [<sup>F2</sup>unretired] FPJAYS members**

**110.**—(1) A notice given by an [<sup>F3</sup>unretired] FPJAYS member (“M”) under regulation 104(2) must specify—

- (a) M's assumed contribution commencement date;
- (b) M's assumed retirement age;
- (c) the number of qualifying fee-paid days which M proposes to work each year [<sup>F4</sup>in any office in relation to which benefits are to be calculated under the post-1995 provisions] to the period ending with the date on which M reaches M's assumed retirement age; and
- (d) the number of added years M intends to purchase.

(2) The date on which M is to start payment of periodic contributions (“the periodic contributions start date”) must—

- (a) be within 12 months of the date on which M gives the notice, and
- (b) be agreed between M and the administrators.

(3) The maximum number of added years that M may purchase under the FPJAYS is to be determined in accordance with the formula

- (a) A is the aggregate length of reckonable service in eligible fee-paid judicial offices that M would have at M's assumed retirement date [<sup>F5</sup>and for this purpose regulation 103(1A) and (1B) does not apply], assuming that M works the number of qualifying fee-paid days notified under paragraph (1)(c);
- (b) B is the aggregate length of service in qualifying judicial office (within the meaning of Part 1 of the Judicial Pensions and Retirement Act 1993) that M would have at M's assumed retirement date; and
- (c) C is the equivalent value of any retained benefits to which M was entitled at the assumed contribution commencement date.

(4) Where the maximum number of added years would (apart from this paragraph) be negative, it is instead nil.

#### Textual Amendments

- F2** Word in reg. 110 heading substituted (1.4.2023) by The Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023 (S.I. 2023/403), regs. 1(1), **52(2)**
- F3** Word in reg. 110(1) substituted (1.4.2023) by The Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023 (S.I. 2023/403), regs. 1(1), **52(3)(a)**
- F4** Words in reg. 110(1)(c) inserted (1.4.2023) by The Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023 (S.I. 2023/403), regs. 1(1), **52(3)(b)**
- F5** Words in reg. 110(3)(a) inserted (1.4.2023) by The Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023 (S.I. 2023/403), regs. 1(1), **52(3)(c)**

#### Contributions by [<sup>F6</sup>unretired] FPJAYS members

**111.**—(1) The cost for an [<sup>F7</sup>unretired] FPJAYS member (“M”) of purchasing each added year is to be determined in accordance with the formula—

$$\frac{A}{100} \times B$$

where—

- a A is the relevant benefits figure (see paragraph (2));
- b B is the salary which would have been M's appropriate annual salary on the assumed contribution commencement date if M had retired on that date.

(2) The relevant benefits figure is calculated by taking the following steps—

##### Step 1

Use the salary that would have been M's appropriate annual salary on the assumed contribution commencement date, if M had retired on that date, to determine which is the applicable salary group for M specified in Table 1;

##### Step 2

In the part of Table 1 for M's salary group, determine which entry in column 1 describes the period expressed in years and any fraction of a year beginning with the assumed contribution commencement date and ending with M's assumed retirement date (ignoring the heading of that column);

##### Step 3

Add together the personal benefits and family benefits percentage figures which correspond to the entry in column 1 referred to in Step 2.

(3) M may make contributions to purchase added years by way of—

- (a) up to three lump sum payments, made within three years beginning with the date on which M gave notice under regulation 104(2) (but no more than one lump sum payment may be made in each calendar year), in respect of any contributions relating to the period beginning with the assumed contribution commencement date and ending with the day before the periodic contributions start date; and

- (b) periodic deductions from fees [<sup>F8</sup>or salary], which commence on the periodic contributions start date, in relation to contributions relating to the period beginning with the periodic contributions start date and ending with M's assumed retirement date.
- (4) The aggregate amount of the lump sum payments M may make under paragraph (3)(a) is the smaller of—
- (a) the amount equal to the sum of the amounts determined for each tax year during the period beginning with the assumed contribution commencement date and ending with the day before the periodic contributions start date in accordance with the following formula—

$$\left( \frac{15 \times FI}{100} \right) - C$$

where—

- i FI is M's annual fee income for the tax year in question [<sup>F9</sup>for any office in relation to which benefits are to be calculated under the post-1995 provisions] which is subject to income tax, or if lower, the permitted maximum for that tax year, and
- ii C is the sum of any contributions made by M to any other judicial pension scheme in that tax year, excluding any contributions made by the member in accordance with regulation 3 of the Judicial Pensions (Contributions) Regulations 2012; and
- (b) the amount determined in accordance with the formula—

$$\left( \frac{C \times D}{E} \right) \times F$$

where—

- i C is the cost of one added year, determined in accordance with paragraph (1),
- ii D is the number of added years which M has notified to the administrators under regulation 110(1)(c) that M intends to purchase,
- iii E is the period beginning with the assumed contribution commencement date and ending with M's assumed retirement date, expressed in years and any fraction of a year,
- iv F is the period beginning with the assumed contribution commencement date and ending with the day before the periodic contributions start date, expressed in years and any fraction of a year.
- (5) M's "annual fee income" for the purposes of paragraph (4)(a)(i), is the total of the fees paid to M in respect of qualifying fee-paid days [<sup>F10</sup>in any office in relation to which benefits are to be calculated under the post-1995 provisions] in the tax year concerned.

- (6) The maximum aggregate amount of periodic contributions M may make under paragraph (3)(b) is calculated in accordance with the formula—

$$20 - (A + B + C)$$

where—

- a C is the cost of one added year, determined in accordance with paragraph (1);
- b D is the number of added years which M has specified M intends to purchase;

- c E is the period beginning with the assumed contribution commencement date and ending with M's assumed retirement date, expressed in years and any fraction of a year;
  - d F is the period beginning with the periodic contributions start date and ending with M's assumed retirement date, expressed in years and any fraction of a year;
  - e X is the difference between the maximum amount which M could have contributed under paragraph (3)(a) and the amount M actually contributed under that provision.
- (7) The requirement to make periodic contributions to the FPJAYS continues until M—
- (a) reaches the assumed retirement age;
  - (b) retires;
  - (c) notifies the administrators that M wishes the contributions to cease; or
  - (d) dies.

#### Textual Amendments

- F6** Word in reg. 111 heading substituted (1.4.2023) by [The Judicial Pensions \(Fee-Paid Judges\) \(Amendment\) Regulations 2023 \(S.I. 2023/403\)](#), regs. 1(1), **53(a)**
- F7** Word in reg. 111(1) substituted (1.4.2023) by [The Judicial Pensions \(Fee-Paid Judges\) \(Amendment\) Regulations 2023 \(S.I. 2023/403\)](#), regs. 1(1), **53(a)**
- F8** Words in reg. 111(3)(b) inserted (1.4.2023) by [The Judicial Pensions \(Fee-Paid Judges\) \(Amendment\) Regulations 2023 \(S.I. 2023/403\)](#), regs. 1(1), **53(b)**
- F9** Words in reg. 111(4)(a)(i) inserted (1.4.2023) by [The Judicial Pensions \(Fee-Paid Judges\) \(Amendment\) Regulations 2023 \(S.I. 2023/403\)](#), regs. 1(1), **53(c)**
- F10** Words in reg. 111(5) inserted (1.4.2023) by [The Judicial Pensions \(Fee-Paid Judges\) \(Amendment\) Regulations 2023 \(S.I. 2023/403\)](#), regs. 1(1), **53(d)**

#### Valuation of benefits for <sup>F11</sup>unretired] FPJAYS members

**112.—**(1) If an <sup>F12</sup>unretired] FPJAYS member (“M”) retires or otherwise leaves the principal scheme on or after reaching the assumed retirement age the administrators must—

- (a) calculate the amount of added years that M has purchased, by dividing the total contributions made by M under regulation 111(3) by the cost of an added year as determined under regulation 111(1); and
- (b) notify M of that amount.

(2) Any pension credits in the form of added years that have been purchased by or credited to M are to be treated for the purposes of paragraph (3) as if they were years of reckonable service.

(3) If the addition of the years of reckonable service mentioned in paragraph (2) would, were they to be years of reckonable service accrued other than by the purchase or credit of pension credits, lead to the payment of additional payments under the principal scheme, then benefits of an equivalent nature to those that would have been so payable under that scheme are to be paid under the FPJAYS instead.

(4) If M retires on the ground of ill-health or dies before the assumed retirement age, M must, for the purposes of calculating the benefits payable under paragraph (3), be credited with pension credits equivalent to the number of added years that M intended to purchase notified to the administrators by M under regulation 110(1)(c).

(5) Paragraph (4) does not apply during any period where M has ceased making periodic contributions.

(6) If M ceases to make periodic contributions M may apply to the administrators to resume making periodic contributions but any such application—

- (a) must not be accepted if M has reached the assumed retirement age;
- (b) must not result in M making contributions at a rate that is higher than the rate at which M was contributing before M ceased to pay periodic contributions; and
- (c) must be accompanied by a declaration signed by M stating that M has no reason to believe that health may prevent continuation of service until the assumed retirement age.

(7) If M's application under paragraph (6) is accepted by the administrators, this regulation and regulations 111 and 113 apply separately to those contributions and the value of benefits purchased with them.

(8) If an application by M under paragraph (6) to resume making contributions has been accepted and M subsequently—

- (a) retires on the ground of ill-health or dies within 12 months of the date on which M started to pay periodic contributions again; or
- (b) dies or retires on the ground of ill-health because of an incapacity to which M became subject within 12 months of that date,

paragraph (4) does not apply unless the administrators are satisfied that the declaration given in accordance with paragraph (6)(c) was made in good faith.

(9) If M ceases making periodic contributions before reaching assumed retirement age for reasons other than death or retirement on the ground of ill-health—

- (a) the administrators must—
  - (i) calculate the amount of added years that M has purchased by the date of cessation, by dividing the total contributions made by M under regulation 111(3) up to the date of cessation by the cost of an added year as determined under regulation 111(1), and
  - (ii) notify M of that amount; and
- (b) at the date of cessation M must be credited by the administrators with pension credits equivalent to the number of added years M has purchased, as calculated under sub-paragraph (a).

(10) For the purposes of this regulation, parts of added years purchased by M must be valued on a pro-rata basis.

#### **Textual Amendments**

**F11** Word in reg. 112 heading substituted (1.4.2023) by [The Judicial Pensions \(Fee-Paid Judges\) \(Amendment\) Regulations 2023 \(S.I. 2023/403\)](#), regs. 1(1), **54**

**F12** Word in reg. 112(1) substituted (1.4.2023) by [The Judicial Pensions \(Fee-Paid Judges\) \(Amendment\) Regulations 2023 \(S.I. 2023/403\)](#), regs. 1(1), **54**

#### **Refund of contributions**

**113.**—(1) If an <sup>F13</sup>unretired] FPJAYS member (“M”) who is paying periodic contributions under the FPJAYS is neither married nor a civil partner and has no qualifying children at the time M retires, dies or otherwise leaves the principal scheme, M, or M's estate, is entitled to a refund in accordance with this regulation.

(2) The amount to be refunded must be determined in accordance with the formula

- (a) A is the relevant family benefits percentage (see paragraph (3));

- (b) S is the salary that would have been M's appropriate annual salary on the assumed contribution commencement date if M had retired on that date ("the relevant salary");
  - (c) B is the period beginning with the day after the date M last ceased to have a spouse or a civil partner or qualifying child and ending with the date M ceased to make contributions, expressed in years and any fraction of a year;
  - (d) C is the period beginning with the assumed contribution date and ending with the date M ceased to make contributions, expressed in years and any fraction of a year;
  - (e) D is the number of added years M has purchased, calculated in accordance with regulation 112(1).
- (3) The relevant family benefits percentage is determined as follows—

*Step 1*

Use the relevant salary to determine which is the applicable salary group for M specified in Table 1.

*Step 2*

In the part of Table 1 for M's salary group, determine which entry in column 1 describes the period mentioned in paragraph (2)(d) (ignoring the heading of that column).

*Step 3*

Use the family benefits percentage figure which corresponds to the entry in column 1 referred to in step 2.

- (4) If M's total contributions to the FPJAYS exceed the smaller of—
- (a) the amount necessary to purchase the number of added years notified to the administrators by the member under regulation 110(1)(c); and
  - (b) the amount necessary to purchase the maximum number of added years permissible under regulation 110(3) (calculated on the basis that the assumed retirement date referred to in that paragraph is M's actual retirement date),

M is entitled to a refund of the excess contributions.

[<sup>F14</sup>(4A) If a retired member purchases a number of added years ("AY") after making an election under regulation 11C, the member is entitled to a refund of the difference between—

- (a) the contribution payable for AY under regulation 107; and
- (b) the total contribution that would have been payable if, before making the election, the member had—
  - (i) purchased enough added units of benefit under Part 14A for them to be converted into AY, or,
  - (ii) if that number of added units of benefit would have exceeded the limit set out in regulation 128F, purchased the maximum number of added units of benefit that would have been available to the member under regulation 128F together with enough added years under regulation 107 to make up AY.]

(5) Where a refund is payable under this regulation, it must be paid together with compound interest at the rate announced annually in relation to the Principal Civil Service Pension Scheme.

**Textual Amendments**

**F13** Word in reg. 113(1) substituted (1.4.2023) by [The Judicial Pensions \(Fee-Paid Judges\) \(Amendment\) Regulations 2023 \(S.I. 2023/403\)](#), regs. 1(1), **55(a)**

**F14** Reg. 113(4A) inserted (1.4.2023) by The Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023 (S.I. 2023/403), regs. 1(1), **55(b)**

**Changes to legislation:**

There are currently no known outstanding effects for the The Judicial Pensions (Fee-Paid Judges) Regulations 2017, CHAPTER 3.