
STATUTORY INSTRUMENTS

2017 No. 522

The Judicial Pensions (Fee-Paid Judges) Regulations 2017

PART 14

THE FEE-PAID JUDICIAL ADDED SURVIVING ADULT'S PENSION SCHEME

CHAPTER 1

INTRODUCTION

Interpretation

116. In this Part—

“active JASAPS member” means a JASAPS member who is an active member of the principal scheme;

“added surviving adult’s pension” has the meaning given in regulation 117(3);

“assumed contribution commencement date” has the meaning given in regulation 118(1);

“assumed retirement age” has the meaning given in regulation 118(3);

“assumed retirement date” means the date on which an active JASAPS member reaches the assumed retirement age;

“JASAPS” means the scheme constituted by this Part of the Regulations;

“JASAPS member” means a member of the JASAPS;

“periodic contributions start date” has the meaning given in regulation 123(3);

“retired JASAPS member” means a JASAPS member who has retired from fee-paying judicial office before the commencement day;

“Table 2” means the table in Schedule 2 to the 1995 Regulations(1).

Membership

117.—(1) Membership of the JASAPS is open to active and retired members of the principal scheme (but not to opted-out members) who held an eligible fee-paid judicial office before 6th April 2006 and who have a spouse or civil partner to whom benefits could be paid under this Part.

(2) A person to whom membership of the JASAPS is open may become a JASAPS member by giving notice in writing to the administrators within 12 months of the commencement day (or by such later date as the administrators may agree).

(3) A JASAPS member has the right to purchase added units of surviving adult’s pension (“added surviving adult’s pension”) in accordance with the provisions of this Part.

(1) [S.I. 1995/637](#). The tables in Schedule 2 were substituted by [S.I. 1996/52](#).

Assumed dates etc

118.—(1) For the purposes of this Part, a JASAPS member must nominate a date (“the assumed contribution commencement date”) from which contributions are assumed to have been payable in relation to added surviving adult’s pension.

(2) The date nominated under paragraph (1) must be no earlier than the date on which the JASAPS member first held an eligible fee-paid judicial office and in any event must be between 7th April 2000 and 5th April 2006.

(3) For the purposes of this Part, an active JASAPS member must nominate an age between the age of 60 and the member’s compulsory retirement age at which that member intends to retire (“the assumed retirement age”).

CHAPTER 2

RETIRED JASAPS MEMBERS

Notice to purchase added surviving adult’s pension by retired JASAPS members

119.—(1) A notice given under regulation 117(2) by a retired JASAPS member (“R”) must specify—

- (a) R’s assumed contribution commencement date;
- (b) the date on which R retired; and
- (c) the number of units of added surviving adult’s pension which R would like to purchase.

(2) The maximum number of units of added surviving adult’s pension R may purchase is the number determined by the administrators which, after added years under Part 13 are taken into account, would provide a pension under these Regulations equal to a sum calculated in accordance with the formula—

$$\frac{A \times Y}{45}$$

where—

- (a) A is—
 - (i) where P held a single judicial office immediately before retirement, the appropriate annual salary of that judicial office;
 - (ii) where P held more than one judicial office immediately before retirement, the highest appropriate annual salary of those offices, and
- (b) Y is R’s reckonable service on the date R retired.

Cost of added surviving adult’s pension for retired JASAPS members

120.—(1) If the date on which a retired JASAPS member (“R”) retired fell on R’s birthday, the contribution payable by R for each unit of £1,000 of added surviving adult’s pension is to be determined in accordance with the formula $A \times 12$ where A is determined by taking the following steps—

Step 1

In Table 2 treat—

- (ii) the reference to the assumed retirement age as a reference to R’s age on the date R retired.

Step 2

Use Table 2 to work out A by reference to R's age last birthday at the assumed contribution commencement date and R's age on the date R retired.

(2) If R's retirement date did not fall on R's birthday, A is determined in accordance with the formula—

$$X + Z \left(\frac{Y - X}{12} \right)$$

where—

(a) X is determined by taking the following steps—

Step 1

In Table 2 treat the reference to age last birthday at the date of commencement of contributions as a reference to R's age last birthday at the assumed contribution commencement date.

Step 2

In Table 2 treat the reference to the assumed retirement age as a reference to R's age on R's last birthday before R retired.

Step 3

Use Table 2 to work out X by reference to R's age last birthday at the assumed contributions commencement date and R's age last birthday before R retired; and

(b) Y is determined as follows—

Step 1

In Table 2 treat the reference to age last birthday at the date of commencement of contributions as a reference to R's age last birthday at the assumed contribution commencement date.

Step 2

In Table 2 treat the reference to the assumed retirement age as a reference to R's age on R's next birthday after R's actual retirement date.

Step 3

Use Table 2 to work out Y by reference to R's age last birthday at the assumed contribution commencement date and R's age on R's next birthday after R's actual retirement date; and

(c) Z is the number of complete months between R's last birthday before R retired and the date on which R retired.

(3) The contribution payable by R for each part unit of added surviving adult's pension is to be the amount calculated in accordance with the preceding paragraphs multiplied by the appropriate decimal fraction.

Contributions by retired JASAPS members

121.—(1) The maximum contribution that may be made to the JASAPS by a retired JASAPS member ("R") is the smaller of—

(a) the amount determined in accordance with the formula—

$$N \times C$$

where—

- (i) N is the maximum number of units which R is entitled to purchase under regulation 119(2), and
 - (ii) C is the contribution payable by R for each unit of £1,000 of added surviving adult's pension under regulation 120(1) or 120(2).
- (b) 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 on which R retired in accordance with the following formula—

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

where—

- (i) FI is R's annual fee income for the tax year in question 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 R to any other judicial pension scheme (including voluntary contributions schemes) in that tax year, excluding any contributions made by the member in accordance with regulation 3 of the Judicial Pensions (Contributions) Regulations 2012(2).
- (2) For the purposes of paragraph (1)(b)(i), R's "annual fee income" is the total of the fees paid to R in respect of qualifying fee-paid days in the tax year concerned.
- (3) Contributions to the JASAPS by R must be made by lump sum payment made by R to the administrators within 12 months from the date on which R served notice under regulation 117(2).

Valuation of benefits for retired JASAPS members

122.—(1) When a retired JASAPS member ("R") who has purchased added surviving adult's pension dies, R's surviving spouse or surviving civil partner is entitled to receive additional pension under the JASAPS.

(2) Such additional pension is payable at the same time and intervals and in the same manner as the surviving adult's pension under the principal scheme.

(3) The annual amount of additional pension per unit is £1,000.

(4) Part units of added surviving adult's pension purchased by R are to be valued on a pro-rata basis.

CHAPTER 3

ACTIVE JASAPS MEMBERS

Purchase of added surviving adult's pension by active JASAPS members

123.—(1) A notice given under regulation 117(2) by an active JASAPS member ("M") 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 to the period ending with the date on which M reaches M's assumed retirement age; and
- (d) the number of units of added surviving adult's pension which M intends to purchase.

(2) [S.I. 2012/516](#). Regulation 3 was substituted by [S.I. 2016/30](#).

(2) The maximum number of units which an active member may purchase in the JASAPS is the amount which the administrators determine would produce a pension equal to a sum calculated in accordance with the formula—

$$\frac{A \times (Y + Z)}{45}$$

where—

- (a) A is—
- (i) where M held a single judicial office on the assumed contribution date, the salary which would have been M's appropriate annual salary if M had retired on that date;
 - (ii) where M held more than one judicial office on the assumed contribution date, the salary which would have the highest appropriate salary of these offices if M had retired on that date; and
- (b) Y is M's reckonable service between the date on which M first held eligible fee-paid judicial office (or 7th April 2000 if later) and date on which M reaches M's assumed retirement age (assuming that M works the number of qualifying fee-paid days notified under paragraph (1) (c)) expressed in years and fractions of a year to four decimal places;
- (c) Z is—
- (i) if M is purchasing added years, the number of added years which M would have purchased by the date on which M reaches M's assumed retirement age, or
 - (ii) if M is not purchasing added years, nil.
- (3) 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.

Cost of added surviving adult's pension by active JASAPS members

124.—(1) The contribution payable by an active JASAPS member ("M") for each unit of £1,000 of added surviving adult's pension is to be determined in accordance with the formula $A \times 12$.

(2) If M's assumed retirement date falls on M's birthday, A is determined as follows—

Step 1

In Table 2, treat the reference to the age last birthday at the date of commencement of contributions as a reference to M's age last birthday on the assumed contribution commencement date.

Step 2

Use Table 2 to work out A by reference to M's age last birthday at the assumed contribution commencement date and M's assumed retirement age.

(3) If M's assumed retirement date does not fall on M's birthday, A is determined in accordance with the formula—

$$X + Z \left(\frac{Y - X}{12} \right)$$

where—

- (a) X is determined as follows—

Step 1

In Table 2 treat the reference to the age last birthday at the date of commencement of contributions as a reference to M's age last birthday at the assumed contribution commencement date,

Step 2

In Table 2 treat the reference to the assumed retirement age as a reference to M's age last birthday before M's assumed retirement date,

Step 3

Use Table 2 to work out X by reference to M's age last birthday at the assumed contribution commencement date and M's age last birthday before M's assumed retirement date.

(b) Y is determined as follows—

Step 1

In Table 2 treat the reference to the age last birthday at the date of commencement of contributions as a reference to the age last birthday at the assumed contribution commencement date,

Step 2

In Table 2 treat the reference to the assumed retirement age as a reference to M's age next birthday after M's assumed retirement date,

Step 3

Use Table 2 to work out Y by reference to M's age last birthday at the assumed contribution commencement date and M's age next birthday after the assumed retirement date.

(c) Z is the number of complete months between M's last birthday before M's assumed retirement date and M's assumed retirement date.

(4) The contribution payable for a part unit of added surviving adult's pension is to be the amount determined in accordance with the preceding paragraphs multiplied by the appropriate decimal fraction.

Contributions by active JASAPS members

125.—(1) An active JASAPS member ("M") may purchase added surviving adult pension 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 117(2) (but no more than one lump sum payment may be made in one calendar year), in respect of 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, beginning on the periodic contributions start date, in relation to contributions relating to the period beginning with that date and ending with M's assumed retirement date.

(2) The aggregate amount of lump sum payments which M may make under paragraph (1)(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 formula—

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

where—

- (i) FI is M's annual fee income for the tax year in question 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 (including voluntary contributions schemes) 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 calculated in accordance with the formula—

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

where—

- (i) C is the cost of one unit of added surviving adult's pension (an "added unit"), determined in accordance with regulation 124(1);
 - (ii) D is the number of added units which M has notified to the administrators under regulation 123(1)(c);
 - (iii) E is the period between the assumed contribution commencement date and 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
- (3) For the purposes of paragraph (2)(a)(i), M's "annual fee income" is the total of the fees paid to M in respect of qualifying fee-paid days in the tax year concerned

- (4) The maximum aggregate amount of periodic contributions M may make under paragraph (1) (b) is calculated in accordance with the formula—

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

where—

- (a) C is the cost of one added unit, determined in accordance with regulation 124(1);
- (b) D is the number of added units which M has notified to the administrators under regulation 123(1)(c);
- (c) E is the period between the assumed contribution commencement date and 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 fraction of a year;
- (e) X is the difference between the maximum amount which M could have contributed under paragraph (2) and the amount M actually contributed under that paragraph.

- (5) M may only make periodic contributions to the JASAPS during any period when M has a spouse or civil partner to whom benefits could be paid under the JASAPS.

Valuation of benefits for active JASAPS members

126.—(1) When an active JASAPS member (“M”) who has purchased units of added surviving adult’s pension dies, M’s surviving spouse or surviving civil partner is entitled to receive additional pension under the JASAPS.

(2) When M dies, the administrators must calculate the number of units of added surviving adult’s pension M has purchased by dividing the total contributions made by M under regulation 125(1) by the cost of a unit of added surviving adult’s pension determined under regulation 124(1), and notify the surviving spouse or civil partner of that amount.

(3) The annual amount of additional pension per unit is £1,000.

(4) Added surviving adult’s pension is payable at the same times and intervals and in the same manner as the surviving adult’s pension under the principal scheme.

(5) If M retires on the ground of ill-health or dies before the assumed retirement age, M is to be credited with the number of units of added surviving adult’s pension notified to the administrators by M under regulation 123(1)(c).

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

(7) If M ceases to make periodic contributions M may apply to the administrators to make periodic contributions again but any application to start to make periodic contributions again—

- (a) may not be accepted if M has reached the assumed retirement age;
- (b) may not result in M purchasing more added units than were being purchased 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.

(8) If M’s application under paragraph (7) is accepted by the administrators, this Chapter applies separately to those contributions and the value of the surviving adult’s pension purchased with them.

(9) If an application by M under paragraph (7) 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 of starting to make periodic contributions again, or
- (b) dies or retires on the ground of ill-health because of an incapacity which M became subject to within 12 months of that date,

paragraph (5) does not apply unless the administrators are satisfied that the declaration given in accordance with paragraph (7)(c) was made in good faith.

(10) 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) then the administrators must—
 - (i) calculate the amount of units of added surviving adult’s pension (“added units”) that M has purchased by the date of cessation, by dividing the total contributions made by M under regulation 125(1) up to the date of cessation by the cost of an added unit as determined under regulation 124(1);
 - (ii) notify M of that amount, and
- (b) at the date of cessation M must be credited with the number of added units of benefit calculated under sub-paragraph (a).

(11) For the purposes of this regulation, part units of added surviving adult’s pension purchased by a member must be valued on a pro-rata basis.

Refund of contributions

127. If M's total contributions exceed the amount necessary to purchase the smaller of—

- (a) the amount of added surviving adult's pension notified to the administrators by M under regulation 123(1)(c), or
- (b) the maximum amount of added surviving adult's pension permissible under regulation 123(2),

the administrators must refund the excess contributions to M's estate.

CHAPTER 4

GENERAL

Reduction of benefits

128.—(1) This regulation applies where the administrators pay the whole or any part of the lifetime allowance charge arising on a benefit crystallisation event relating to the JASAPS in relation to a JASAPS member.

(2) The pensions or other benefits payable under this Part to or in respect of the JASAPS member 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 payments made.