

STATUTORY INSTRUMENTS

2017 No. 522

The Judicial Pensions (Fee-Paid Judges) Regulations 2017

PART 2

PRINCIPAL SCHEME MEMBERSHIP

Modifications etc. (not altering text)

- C1 Pts. 1-11 restricted (10.3.2022 for specified purposes, 1.4.2022 in so far as not already in force) by Public Service Pensions and Judicial Offices Act 2022 (c. 7), ss. 90, 131(1)(2)(f)

Members

8.—^[F1](1) A person who held judicial office on or after 7th April 2000 (“P”), is a member of the principal scheme if P held a fee-paid judicial office at any time before the first relevant date and—

- (a) P continued to hold judicial office on the second relevant date;
- (b) P ceased to hold judicial office before the second relevant date and condition A is met; or
- (c) P died before the second relevant date without having ceased to hold judicial office and condition B is met.]

(2) Condition A is that—

- (a) P presented a claim under the Part-time Worker (Prevention of Less Favourable Treatment) Regulations 2000 ^{F2} that P is entitled to a pension by virtue of holding that office (“a relevant claim”) to an employment tribunal or an industrial tribunal, and—
 - (i) the claim was presented before the end of the period of 3 months beginning with the date on which P ceased to hold that office; or
 - (ii) the tribunal has determined, or the appropriate Minister has accepted, that it is just and equitable to extend time for the presentation of the claim; or
- (b) the appropriate Minister has accepted that if P presented a relevant claim, that claim would be in time (taking into account any extension of time).

(3) Condition B is that—

- (a) P's personal representatives made a claim to an employment tribunal or an industrial tribunal before the end of the period of 3 months beginning with the date on which P died that benefits are payable in respect of P's death by virtue of P having held that office and that claim has not been rejected before the commencement day, or
- (b) an employment tribunal or an industrial tribunal has determined, or the appropriate Minister has accepted, that P's personal representatives are entitled to bring a claim that benefits are payable in respect of P's death by virtue of P having held that office.

(4) Where P ceased to hold a ^{F3}... judicial office before the [^{F4}second] relevant date and also died before the [^{F4}second] relevant date, but—

- (a) P had presented a relevant claim which would have satisfied paragraph (2)(a) before death, Condition A is to be treated as satisfied, or
- (b) P's personal representatives had made a claim before the end of the period of 3 months beginning with the date on which P ceased to hold [^{F5}the fee-paid judicial office] that benefits are payable in respect of P's death by virtue of P having held that office, Condition B is to be treated as satisfied.

^{F6}(5)

^{F7}(6)

[^{F8}(7) For the purposes of this regulation—

“the first relevant date” is—

- (a) 1st April 2022 where P—
 - (i) held a judicial office on 31st March 2012 and on 31st March 2015 and made an election under section 40 of the Public Service Pensions and Judicial Offices Act 2022, or
 - (ii) was excluded from being an active member of the scheme established by the Judicial Pensions Regulations 2015 because regulation 14(4)(a) of those Regulations (protected member of existing scheme) applied to P, or

(b) 1st April 2015 in any other case;

“the second relevant date” is—

- (a) 1st February 2013 where P only held a fee-paid judicial office—
 - (i) whose jurisdiction is exercised exclusively in relation to Northern Ireland, and
 - (ii) which is not one of the offices referred to in paragraph 11 of Schedule 2 to the Northern Ireland Act 1998, or

(b) 2nd December 2012 in all other cases.]

Textual Amendments	
F1	Reg. 8(1) substituted (1.4.2023) by The Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023 (S.I. 2023/403), regs. 1(1), 9(a)
F2	S.I. 2001/1107.
F3	Word in reg. 8(4) omitted (1.4.2023) by virtue of The Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023 (S.I. 2023/403), regs. 1(1), 9(b)(i)(aa)
F4	Word in reg. 8(4) inserted (1.4.2023) by The Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023 (S.I. 2023/403), regs. 1(1), 9(b)(i)(bb)
F5	Words in reg. 8(4)(b) substituted (1.4.2023) by The Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023 (S.I. 2023/403), regs. 1(1), 9(b)(ii)
F6	Reg. 8(5) omitted (1.4.2023) by virtue of The Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023 (S.I. 2023/403), regs. 1(1), 9(c)
F7	Reg. 8(6) omitted (1.4.2023) by virtue of The Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023 (S.I. 2023/403), regs. 1(1), 9(c)
F8	Reg. 8(7) substituted (1.4.2023) by The Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2023 (S.I. 2023/403), regs. 1(1), 9(d)

Opted-out members and active members

- 9.—(1) A member (“P”) is an “opted-out member” of the principal scheme on any day if P—
- (a) has, on or before that day, opted out of the principal scheme under regulation 10; and

(b) has not opted back in under regulation 11.

(2) If P retired before these Regulations came into force and opts out under regulation 10(1)(b), P is treated as always having been an opted-out member.

[^{F9}(2A) If P became a member as a consequence of amendments made to these Regulations coming into effect on 1st April 2023 and opts out on or before 31st October 2023, P is treated as always having been an opted-out member.]

(3) P is an “active member” of the principal scheme on any day if—

- (a) P is not an opted-out member;
- (b) P holds an eligible fee-paid judicial office on that day; and
- (c) if P had received a fee in P's capacity as a holder of that office in respect of that day, the day would have been a qualifying fee-paid day [^{F10}or a service credit day].

Textual Amendments

F9 Reg. 9(2A) inserted (1.4.2023) by [The Judicial Pensions \(Fee-Paid Judges\) \(Amendment\) Regulations 2023 \(S.I. 2023/403\)](#), regs. 1(1), **10(a)**

F10 Words in reg. 9(3)(c) inserted (1.4.2023) by [The Judicial Pensions \(Fee-Paid Judges\) \(Amendment\) Regulations 2023 \(S.I. 2023/403\)](#), regs. 1(1), **10(b)**

Opting out

10.—(1) A member who—

- (a) has not retired, or
- (b) retired before these Regulations came into force,

may opt out by sending a notice to the appropriate Minister.

[^{F11}(1A) A person with any liability to pay contributions for any period before 7th April 2000 as a consequence of amendments made to these Regulations coming into effect on 1st April 2023, may opt out in relation to all or part of that period by sending a notice to the appropriate Minister on or before 31st October 2023.]

(2) The notice—

- (a) must be in the form determined by the appropriate Minister, and
- (b) must (unless regulation 9(2) applies) specify the date on which the member wishes to opt out.

(3) Subject to regulation 9(2), the member opts out on the date specified under paragraph (2) or, if earlier, 3 months after the date on which the appropriate Minister receives the notice.

Textual Amendments

F11 Reg. 10(1A) inserted (1.4.2023) by [The Judicial Pensions \(Fee-Paid Judges\) \(Amendment\) Regulations 2023 \(S.I. 2023/403\)](#), regs. 1(1), **11**

Opting back in

11.—(1) A member (“P”) who has opted out and who has not retired may apply to the appropriate Minister, in the form determined by the appropriate Minister, to opt back in.

(2) The application must be accompanied by such evidence relating to P's health as the appropriate Minister may require.

(3) P must submit to any medical examination as the appropriate Minister may require in connection with the application.

(4) If the appropriate Minister is satisfied that P is in good health, the appropriate Minister must allow the application.

(5) The appropriate Minister must, within the period of 3 months beginning with the date on which the application is received, send a notice to P specifying—

- (a) whether the appropriate Minister has allowed the application; and
- (b) the date on which the decision was made.

(6) If the appropriate Minister has allowed the application, the member opts back in on the date specified under paragraph (5)(b), or (if earlier), the date three months after the date on which the application was received.

Changes to legislation:

There are currently no known outstanding effects for the The Judicial Pensions (Fee-Paid Judges) Regulations 2017, PART 2.