

SCHEDULE 3

Regulation 136

Modifying provisions and amendments

PART 1

Modification of early leaver and other provisions

Application of this Part

- 1.—(1) This Part applies where a person (P)—
- (a) is a member of an existing scheme listed in paragraphs 2 to 15 of Schedule 5 (existing pension schemes) to the Act, whether by virtue of pensionable service for that scheme or deemed transfer scheme service under paragraph 2 of Schedule 7 (final salary link) to the Act;
 - (b) is a member of this scheme by virtue of pensionable service under this scheme; and
 - (c) is a person to whom paragraph 1 or 2 of Schedule 7 to the Act applies by virtue of that person’s pensionable service for this scheme, and whose final salary falls for the purposes of the old scheme to be determined by reference to that paragraph.
- (2) This Part also applies where a person (P)—
- (a) is a member of the Fee-Paid Judges Scheme by virtue of pensionable service under that scheme;
 - (b) is a member of this scheme by virtue of pensionable service under this scheme; and
 - (c) P’s service in the Fee-Paid Judges Scheme and service in the new scheme are continuous.
- (3) In this Part “the old scheme” means a scheme referred to in sub-paragraph (1)(a) or (2)(a) of which P is a member.

Commencement Information

- II** Sch. 3 para. 1 in force at 1.4.2022, see [reg. 1\(4\)](#)

Preservation of benefit

- 2.—(1) Chapter 1 of Part 4 of the PSA 1993 (protection for early leavers: preservation of benefit) is modified as follows in relation to P.
- (2) In the application of that Chapter to the old scheme—
- (a) in section 70(1) (interpretation), in the definitions of “relevant employment” and “long service benefit” a reference to the scheme is to be taken as a reference to either the old scheme or this scheme, as appropriate in the relevant contexts;
 - (b) in section 71(1) (basic principle as to short service benefit)—
 - (i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or this scheme must make that provision;
 - (ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to this scheme;

(1) Section 70 was amended by [S.I. 2005/2053](#).

Changes to legislation: There are currently no known outstanding effects for the The Judicial Pensions Regulations 2022, SCHEDULE 3. (See end of Document for details)

- (iii) a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service under this scheme;
 - (iv) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under this scheme, and subsequent references in the Chapter to “short service benefit” are to be construed accordingly;
 - (c) in section 71(5), a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service under this scheme;
 - (d) in section 71(7)(a), the reference to P’s pensionable service under the scheme is to be taken as a reference to P’s pensionable service either under the old scheme or under the old scheme and this scheme taken together; and
 - (e) in sections 72(2) (no discrimination between short service and long service beneficiaries), 74(6) and (7) (computation of short service benefit), 75(3) and (4) (credits) and 76(1) and (3) (pension increases), a reference to termination of P’s pensionable service is to be taken as a reference to termination of P’s pensionable service under this scheme.
- (3) In the application of that Chapter to this scheme—
- (a) in section 70, in the definitions of “relevant employment” and “long service benefit” a reference to the scheme is to be taken as a reference to either the old scheme or this scheme;
 - (b) in section 71(1)—
 - (i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or this scheme must make that provision;
 - (ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to this scheme;
 - (iii) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under this scheme, and subsequent references in the Chapter to “short service benefit” are to be construed accordingly;
 - (c) in section 71(7)(a), the reference to P’s pensionable service under the scheme is to be taken as a reference to P’s pensionable service either under this scheme or under the old scheme and this scheme taken together; and
 - (d) in section 74(6), in relation to pensionable service which is terminated, the reference to the beginning of that service is to be taken as a reference to the beginning of pensionable service under the old scheme.

Commencement Information

I2 Sch. 3 para. 2 in force at 1.4.2022, see [reg. 1\(4\)](#)

Revaluation of preserved benefit

3.—(1) Chapter 2 of Part 4 of the PSA 1993 (protection for early leavers: revaluation of accrued benefits) is modified as follows.

(2) In the application of Chapter 2 for the purpose of revaluing benefit payable to or in respect of P under the old scheme—

- (a) in section 83(1)(a)(ii)(2) (scope of Chapter 2), the reference to the date on which P’s pensionable service ends is to be taken as a reference to the date on which P’s pensionable service ends under this scheme; and
- (b) subsequent references in that Chapter to “the termination date” and the “pre-pension period” are to be construed accordingly.

Commencement Information

I3 Sch. 3 para. 3 in force at 1.4.2022, see [reg. 1\(4\)](#)

PART 2

Amendments

Amendments to the Judicial Pensions Regulations 2015

- 4.—(1) The 2015 Regulations are amended as follows.
 - (2) In regulation 9(2) (scheme advisory board: establishment), after “making changes to this scheme” insert “and the scheme established by the Judicial Pensions Regulations 2022”.
 - (3) For regulation 41(2) (closure of active member’s account) substitute—
 - “(2) The scheme manager must re-establish an active member’s account under this Chapter when the scheme manager closes a deferred member’s account under regulation 46.”
 - (4) Omit regulation 49 (closure of full retirement account).
 - (5) In regulation 56(1)(b) (entitlement to full retirement pension) for “pensionable service under this scheme” substitute “qualifying judicial office”.
 - (6) After regulation 56(6) insert—
 - “(7) Where P resumes service in qualifying judicial office, this will not affect any entitlement under this regulation.”
 - (7) Omit regulation 59 (full retirement pension ceases to be payable).
 - (8) In regulation 60 (exercise of partial retirement option)—
 - (a) in paragraph (1)(c), for “annual rate” substitute “amount”,
 - (b) in paragraph (2), after “part only of P’s accrued pensions” insert—
 - “in respect of a particular office”, and
 - (c) after paragraph (3), insert—
 - “(4) Where P holds more than one judicial office—
 - (a) P may exercise a partial retirement option separately in relation to each office held; and
 - (b) P may only access the pension accrued in relation to the particular office or offices in respect of which P is exercising the partial retirement option.

(2) Section 83 was amended by section 84(1) of, and paragraphs 28 and 31 of Schedule 12 to, the Welfare Reform and Pensions Act 1999 (c. 30). It was amended further in relation to the definition of “normal pension age” by section 27 of, and paragraphs 18 and 20 of Schedule 8 to, the Public Service Pensions Act 2013 (c. 25).

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(5) For the purposes of calculating P’s annual pensionable earnings in relation to paragraph (1)(c) where P is a fee-paid office holder, the amount of pensionable earnings that P receives in respect of a particular office is calculated as follows—

Z per annum, where:

$$Z = \frac{J}{K}$$

where—

J means the total fee-paid income in respect of that office over the preceding three years, or, if less than three years, over the period since P was first appointed to that office;

K means the lesser of—

- (a) 3; or
- (b) the period in years (and a fraction of a year, determined by complete months) from the first sitting day in that particular office until the date of partial retirement,

“complete month” includes an incomplete month that consists of at least 16 days; and

Z means the annualised total of fees from that particular office.

(6) Where P holds multiple assignments within the First-tier Tribunal or the Upper Tribunal—

- (a) the reduction in earnings in paragraph (1)(c) refers to service in each chamber of the relevant tribunal; and
- (b) in paragraph (5) references to an office are to be taken as references to an assignment to a tribunal chamber.”

(9) In regulation 61 (partial retirement option notice)—

- (a) in paragraph (2)(a)(i) after “pensions” insert—
“to which the office relates”, and
- (b) in paragraph (2)(a)(ii) after “pensions” insert—
“to which the office relates”, and
- (c) at the end of paragraph (2)(b) insert—
“, and

(d) if P holds more than one office, the office or offices in respect of which P is exercising the partial retirement option.”

(10) In regulation 64 (annual rate of partial retirement pension) at the end of paragraph (1) insert “in the office from which P is taking partial retirement.”.

(11) In regulation 65 (annual rate of full retirement pension) at the end of paragraph (1) insert “in the office from which P is taking partial retirement.”.

(12) Omit regulation 144 (appointment of scheme actuary and actuarial valuations)(3).

(13) After regulation 167 insert—

“Financial provision

(3) Since valuation provisions are included in these scheme regulations, section 11(1A) of the Act mean that the 2015 Regulations are not required to include valuation provisions.

168.—(1) Except as otherwise provided in this regulation, any pension or lump sum payable under this scheme to or in respect of a person who has held an office specified in Part 1 of Schedule 1 to the Judicial Pensions and Retirement Act 1993 is to be charged on, and paid out of, the Consolidated Fund.

(2) Paragraph (1) does not apply in relation to any pension or other benefits payable in respect of—

- (a) payments for added pension or effective pension age;
- (b) special payments to buy out the early payment reduction;
- (c) a transferred pension;
- (d) a partnership pension account.

(3) This regulation is treated as having come into force on 1st April 2015.”

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Commencement Information

I4 Sch. 3 para. 4(1)-(12) in force at 1.4.2022, see [reg. 1\(4\)](#)

I5 Sch. 3 para. 4(13) in force at 18.3.2022, see [reg. 1\(2\)](#)

Amendments to the Judicial Pensions (Additional Voluntary Contributions) Regulations 2017

5.—(1) The Judicial Pensions (Additional Voluntary Contributions) Regulations 2017(4) are amended as follows.

(2) In regulation 2 (interpretation)—

(a) in the appropriate places, insert—

““the 2022 Regulations” means the Judicial Pensions Regulations 2022;”;

““the 2022 Scheme” means the Judicial pension scheme created by the 2022 Regulations;” and

(b) in the definition of “active member”, insert at the end “or the 2022 scheme”.

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Commencement Information

I6 Sch. 3 para. 5 in force at 1.4.2022, see [reg. 1\(4\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Judicial Pensions Regulations 2022, SCHEDULE 3.