
EXPLANATORY NOTE

(This note is not part of the Regulations)

The Public Service Pensions Act 2013 (c. 25) (“PSPA 2013”) makes provision, and confers powers to make further provision (in the form of “scheme regulations” as defined in section 1 of PSPA 2013), about the establishment of public service pension schemes. The Judicial Pensions Regulations 2015 (S.I. 2015/182) (“the 2015 Regulations”) are the scheme regulations establishing the successor judicial pension scheme (“the 2015 scheme”) to the judicial legacy schemes (as defined in section 70(3) of the Public Service Pensions and Judicial Offices Act 2022 (c. 7) (“PSPJOA 2022”). The 2015 Regulations provided for transitional protection for certain cohorts of judicial legacy scheme members. This transitional protection was subsequently found to unlawfully discriminate between judicial pension scheme members on the basis of age.

The PSPJOA 2022, at Chapter 2, makes provision, and confers powers for scheme regulations under PSPA 2013 to make further provision, in relation to specified service (“remediable service” as defined in section 39 of PSPJOA 2022) of members who benefitted from transitional protection, and of members who did not benefit from transitional protection only by reason of their age. Section 62 of PSPJOA 2022 requires certain powers to make scheme regulations to be exercised in accordance with Treasury directions.

These Regulations are scheme regulations under PSPA 2013 and in accordance with PSPJOA 2022 in relation to a member’s remediable service in the judicial legacy schemes and in the 2015 scheme. They are, to the extent required by section 62 of PSPJOA 2022, made in accordance with Treasury directions under that section (in the form of the Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022). These Regulations have retrospective effect, which is authorised by section 3(3)(b) of PSPA 2013.

Part 1 of these Regulations contains provision about, among other things, governance, including the delegation of functions, a requirement to establish a procedure for consideration of appeals, and the relationship between the scheme manager and the Judicial Pension Board when exercising a discretion.

Part 2 of these Regulations makes provision about special cases where a member has remediable service and an immediate detriment remedy (within the meaning of section 68 of PSPJOA 2022) has not been obtained in relation to that service—

- (a) Chapter 2 makes provision about cases where a member makes an election for legacy scheme benefits and they have previously exercised, in relation to their remediable service, options to purchase additional rights in the 2015 scheme, or to transfer rights out of the 2015 scheme;
- (b) Chapter 3 makes provision about cases where a member has previously exercised a partial retirement option under either the 2015 scheme or the judicial legacy fee-paid scheme (as defined in section 70(5) of PSPJOA 2022), and the member makes an election for benefits in the other scheme;
- (c) Chapter 4 makes provision about the payment by a judicial scheme of annual allowance charges.

Part 3 makes provision about cases where an immediate detriment remedy has been obtained in relation to a member’s remediable service—

- (a) Chapter 2 makes provision about the provision of information in relation to a member’s rights and liabilities under PSPJOA 2022 and these Regulations;

- (b) Chapter 3 makes provision about a requirement to transfer and surrender rights in relation to any remediable service that is PPA opted-out service (as defined in section 73(2) of PSPJOA 2022);
- (c) Chapter 4 makes provision about the benefits payable to a child survivor of a member who died before the immediate detriment remedy was obtained;
- (d) Chapter 5 makes provision about a partial retirement option exercised in respect of a fee-paid judicial office;
- (e) Chapters 6 and 7 make provision about the treatment, including the correction, of benefits and contributions previously paid or payable;
- (f) Chapter 8 makes provision about the payment of compensation for voluntary contributions paid to purchase additional pension rights;
- (g) Chapter 9 makes provision about the repayment of a transitional protection allowance (as defined in section 54(4) of PSPJOA 2022);
- (h) Chapter 10 makes provision about the payment of compensation;
- (i) Chapter 11 makes provision about unauthorised payments (within the meaning of section 63(5) of PSPJOA 2022).

Part 4 makes provision in relation to certain fee-paid judges which is similar to the provision made by Part 3 in relation to cases where an immediate detriment remedy has been obtained.

Part 5 makes provision about cases in which the value of pension rights secured by virtue of a member's remediable service are to be shared under a pension sharing order in accordance with section 29 of the Welfare Reform and Pensions Act 1999 (c. 30). It provides, in particular, for the calculation or, where appropriate, the re-calculation of the value of a pension debit and a pension credit in relation to the rights.

Part 6 makes provision about any amounts owed to or by a person as a result of PSPJOA 2022, these Regulations or an immediate detriment remedy—

- (a) Chapter 1 makes provision about the calculation of interest;
- (b) Chapter 2 makes provision about the reduction and waiver of an amount owed, in particular a requirement for the scheme manager to reduce some amounts by tax relief amounts and the discretion of the scheme manager to reduce or waive relevant amounts owed by a person to a scheme in certain circumstances;
- (c) Chapter 3 makes provision about netting off amounts owed to and by a person;
- (d) Chapter 4 makes provision about when and how relevant amounts must be paid.

Part 7, together with the Schedule, makes provision amending other legislation—

- (a) Part 1 of the Schedule amends various instruments by virtue of, and in consequence of, PSPJOA 2022 and in consequence of these Regulations;
- (b) Part 2—
 - (i) at paragraphs 5 and 6, amends the Judicial Pensions (Contributions) Regulations 1998 (S.I. 1998/1219) and the Judicial Pensions (Fee-Paid Judges) Regulations 2017 (S.I. 2017/522) to adjust the rate payable in relation to dependants contributions with effect from 1st April 2016;
 - (ii) at paragraph 7, amends the Judicial Pensions (Fee-Paid Judges) (Amendment) Regulations 2021 (S.I. 2021/444) to expand the window during which a previous service contributions amount owed under those Regulations may be paid by way of a lump sum;

Changes to legislation: There are currently no known outstanding effects for the The Judicial Pensions (Remediable Service etc.) Regulations 2023. (See end of Document for details)

- (iii) at paragraph 8, amends the Judicial Pensions Regulations 2022 (S.I. 2022/319) in relation to the calculation of the retirement adjustment index with effect from 1st April 2022.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen. An Explanatory Memorandum has been published alongside these Regulations on <http://www.legislation.gov.uk>.

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