STATUTORY INSTRUMENTS

2017 No. 208

PENSIONS

The Judicial Pensions (Additional Voluntary Contributions) Regulations 1995 (Amendment) Regulations 2017

Made - - - -	*23rd February 2017*
Laid before Parliament	*27th February 2017*
Coming into force - -	*1st April 2017*

The Lord Chancellor, and, in relation to judicial offices whose jurisdiction is exercised exclusively in relation to Scotland, the Secretary of State, in exercise of the powers conferred by section 33A of the Judicial Pensions Act 1981(**a**) and section 10 of the Judicial Pensions and Retirement Act 1993(**b**) and with the consent and concurrence of the Treasury, make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995 (Amendment) Regulations 2017 and come into force on 1st April 2017.

Amendments to the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995

2. The Judicial Pensions (Additional Voluntary Contributions) Regulations 1995(**c**) are amended as follows.

Amendment to regulation 1.2 (Interpretation)

3. In regulation 1.2—

(a) before the definition of "additional voluntary contributions" insert ""accrued benefits" means the total value of A minus B, where—

(**a**) 1981 c. 20; section 33A was inserted by section 82 of the Courts and Legal Services Act 1990 (c. 41) and was amended by section 24 of, and Schedule 3 to, the Judicial Pensions and Retirement Act 1993 (c. 8); section 190 of, and paragraph 13 of Schedule 8 to, the Pension Schemes Act 1993 (c. 48); section 114(1) of, and paragraph 42 of Part 2 of Schedule 18 to, the Financial Services Act 2012 (c. 21); and S.I. 2001/3649, 2006/497, 2007/126 and 2013/3115. The power of the Secretary of State to make regulations under section 33A is expressed to be in relation to pensions for service in offices existing only in Scotland. These are coterminous with offices whose jurisdiction is exercised exclusively in relation to Scotland.

(**b**) 1993 c. 8; section 10 has been amended by section 190 of, and paragraph 46(1) of Schedule 8 to, the Pension Schemes Act 1993; section 184 of, and paragraph 43(1) of Schedule 7 to, the Pension Schemes (Northern Ireland) Act 1993 (c. 49); section 114(1) of, and paragraph 75(2) of Part 2 of Schedule 18 to, the Financial Services Act 2012; and S.I. 2001/3649, 2006/497, 2007/126 and 2013/3115. By virtue of section 10(7), the power to make these regulations is vested in "the appropriate Minister", which is defined in section 30(1) as (a) in relation to any judicial office whose jurisdiction is exercised exclusively in Scotland, the Secretary of State, or (b) in any other case, the Lord Chancellor.

(**c**) S.I. 1995/639; amended by S.I. 1996/52, 2000/342, 2005/3325, 2006/747 and 2012/516; there are other amendments which are not relevant to these Regulations.

"A is the sum of the realisable value of the investments made by the administrators with the contributions paid by the member, plus any transfer payment accepted in relation to the member under regulation 2.22; and

B is the sum of—

(i) any amount deducted in respect of tax under regulation 2.30;

(ii) the fees or charges of an authorised provider in relation to the investments made by the administrator defrayed in accordance with regulation 2.31; and

(iii) any amount that has already been transferred out of the scheme under regulation 2.28;"

(b) after the definition of "qualifying judicial office" insert ""qualifying recognised overseas pension scheme" has the meaning given in section 169(2) of the 2004 Act(**a**);".

Substitution of regulation 2.15 (Maximum contributions)

4. For regulation 2.15 and the heading before it substitute—

"**Contributions**

2.15.—(1) The member must from time to time, as required by the administrators, instruct the administrators by notice in writing as to the level and form of contributions that the member wishes to make.

(2) A member may contribute to the scheme by way of—

(a) lump sum payments made from time to time of the same or a different amount;

(b) regular payments of the same amount; or

(c) a combination of lump sum and regular payments,

and in any case payment must be made by way of deduction from the member's salary.

(3) A notice under paragraph (1) must specify—

(a) in the case of a regular payment, the amount of each regular payment or, if expressed as a percentage of salary, that percentage;

(b) in the case of a lump sum, the amount of the contribution.

(4) A member's contributions in any tax year must not exceed the amount which, when aggregated with all contributions to any other registered scheme in the same tax year, brings the member's total contributions for that tax year up to the maximum amount of relief as calculated under section 190 of the 2004 Act(**b**).".

Revocation of regulation 2.18 (Manner of making contributions)

5. Omit regulation 2.18.

Amendment to regulation 2.19 (Investment of contributions)

6. In regulation 2.19, for "2.18" substitute "2.15".

Amendment to regulation 2.20 (Selection of type of investments)

7. In regulation 2.20, for "may" substitute "must".

(**a**) "The 2004 Act" is defined in regulation 1.2 of the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995 as the Finance Act 2004 (c. 12). Section 169(2) has been amended by section 53(3) of the Finance Act 2013 (c. 29).

(**b**) Amended by Section 52(4) of the Finance Act 2013.

Substitution of regulation 2.22 (Transfers in)

8. For regulation 2.22(**a**) substitute—

"**2.22.** The following types of transfers in to the scheme may be accepted by the scheme—

(a) a payment representing the cash equivalent of the member's accrued rights in any other registered scheme, if the administrator of that other registered scheme certifies that the payment will comprise a recognised transfer as defined in section 169 of the 2004 Act;

(b) a payment representing the cash equivalent of the member's accrued rights in a qualifying recognised overseas pension scheme."

Substitution of regulation 2.24 (Benefits which may be provided)

9. For regulation 2.24 substitute—

"**2.24.**—(1) A member is entitled to the benefits attributable to the accrued benefits.

(2) The administrators must provide only benefits authorised by or under Chapter 3 of Part 4 of the 2004 Act.

(3) Where the member wishes, from time to time, to take benefits under this scheme the member must give notice in writing to the administrators.

(4) A notice under paragraph (3) must specify—

(a) the proportion of the member's benefits referred to in paragraph (1) to which the notice relates;

(b) the member's preference as to the benefits to be provided under paragraph (2) in relation to that proportion; and

(c) if the member wishes a combination of benefits is to be provided, what proportion of the member's accrued benefits the member wishes to be allocated to each type of benefit."

Substitution of regulation 2.28 (Leaving the scheme)

10. For regulation 2.28 substitute—

"**2.28.**—(1) A member may cease to be a member of the scheme in relation to all or part of the accrued benefits at any time before those benefits are paid under regulation 2.24 by requesting the administrators to (in such a manner as may, subject to Chapters 1 and 2 of Part 4ZA of the Pension Schemes Act 1993(**b**) or to Chapters 1 and 2 of Part 4ZA of the Pension Schemes (Northern Ireland) Act 1993(**c**), be specified by the administrators) take one of the actions in paragraphs 2(a) to (d).

(2) The actions referred to in paragraph (1) are—

(a) to transfer all or part of the value of the member's accrued benefits to any other registered scheme or a qualifying recognised overseas pension scheme in which

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(**a**) This regulation was substituted by S.I. 2006/747.

(**b**) 1993 c. 48; part 4, Chapters 4 and 5 were renumbered as Part 4ZA Chapters 1 and 2 by Part 1 of Schedule 4 to the Pension Schemes Act 2015 (c. 8); and were amended by regulation 14 of S.I. 2005/2381; section 36 of part 6 of, and paragraph 39 of Schedule 13(1) to the Pensions Act 2014 (c. 19); paragraph 11 of Schedule 3(2) to 2015/182; section 50 of Chapter 2 of Part 4 of, section 60 of Chapter 3 of Part 4 of, sections 68, 69 of Chapter 4 of Part 4 of, and paragraph 9, 10, 11, 13, 14 of Schedule 4(1) to, the Pension Schemes Act 2015.

(**c**) 1993 c. 49; Part 4, Chapters 4 and 5 were renumbered as Part 4ZA chapters 1 and 2 by paragraph 50 of Part 2 of Schedule 4 to the Pension Schemes Act 2015 (c. 8); and were amended by section 66 of Chapter 3 of Part 4, sections 71, 72 of Chapter 4 of Part 4, and paragraphs 53, 55, 56, 57, 58, 59 and 60 of Schedule 4(2) to the Pension Schemes Act 2015 (c. 8); section 35 of Part 6 of, paragraph 19 of Schedule 17(3) and paragraph 9(4) and 19(3) of Schedule 18 to the Pensions Act (Northern Ireland) 2015 (c. 5).

the member is participating (provided that the other pension scheme is willing and able to accept such a transfer value);

(b) to use all or part of the member's accrued benefits to purchase one or more insurance policies of the type described in section 95(2)(c) of the Pension Schemes Act 1993(**a**) or section 91(2)(c) of the Pension Schemes (Northern Ireland) Act 1993(**b**);

(c) if the member's service, together with any service whilst a member of a previous employer's pension scheme from which a transfer value has been paid to this scheme, totals less than two years, to pay the member the value of the member's accrued benefits;

(d) to use all or part of the member's accrued benefits in any other way which is not an unauthorised payment within the meaning of section 160(5) of the 2004 Act(**c**).

(3) Without prejudice to the effect of section 95(1) and (9) and section 99 of the Pension Schemes Act 1993(**d**) and section 91(1) and (9) and section 95 of the Pension Schemes (Northern Ireland) Act 1993(**e**), where all or part of the value of a member's accrued benefits is paid out from the scheme the administrators will be discharged from any obligation to provide any benefits under the scheme in relation to the value paid out, but the member may cease to be a member in relation to all or part of the remaining value in accordance with this regulation.".

Amendment to regulation 2.31 (Administrative expenses)

11. In regulation 2.31(**f**), for the words "sums received by way of voluntary contributions" substitute "the realisable value of the investments made by the administrators with the contributions paid by the member".

Elizabeth Truss
Lord Chancellor

23rd February 2017

David Mundell
Secretary of State for Scotland

22nd February 2017

We consent and concur

Stephen Barclay
Guto Bebb
Two of the Lords Commissioners of Her Majesty's Treasury

23rd February 2017

(**a**) 1993 c. 8; Part 4 Chapters 4 and 5 were renumbered as Part 4ZA Chapters 1 and 2 by the Pension Schemes Act 2015 (c. 8).
(**b**) 1993 c. 49; Part 4 Chapters 4 and 5 were renumbered as Part 4ZA Chapters 1 and 2 by the Pension Schemes Act 2015 (c. 8).
(**c**) Definitions in section 160 relevant to this definition were amended by Paragraph 3 of Schedule 23 to the Finance Act 2006 (c. 25) and Paragraph 5 of Schedule 20 to the Finance Act 2007 (c. 11).
(**d**) Sections 160(2) and (4) relevant to this definition were amended by the Finance Act 2006 (c. 25) and the Finance Act 2007 (c. 11).
(**e**) Sections 91(1) and (1A) were substituted by paragraph 55(2) of Schedule 4(2) to the Pension Schemes Act 2015 (c. 8).
(**f**) Regulation 2.31 was inserted by S.I. 1996/52.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Additional Voluntary Contribution scheme in Part 2 of the Judicial Pensions (Additional Voluntary Contributions) Regulations 1995 (S.I. 1995/639) to–

- insert a definition of accrued benefits (regulation 3(a));
- increase the ways in which members may contribute to the scheme (regulations 4, 5 and 6);
- remove certain limits on the level of members' contributions (regulation 4);
- make it compulsory that the member elects that his or her contributions be paid into particular types of investments (regulation 7);
- allow transfers in to the scheme from a qualifying recognised overseas pension scheme (regulation 8 and a definition of "qualifying recognised overseas pension scheme" is inserted by regulation 3(b));
- extend the range of benefits that are payable by reference to that which is permissible under the Finance Act 2004 (c.12) (regulation 9);
- remove the restriction that benefits may only be paid at or after a member's normal minimum pension age (regulation 9);
- ensure that administrative expenses are deducted from the realisable value of the investments made by the administrators with the contributions made by the member (regulation 11).

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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