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THE SUPERANNUATION ACT 1984

The Judicial Pensions (Miscellaneous) Regulations 1995

Coming into force

1 November 2004

In exercise of the powers conferred on the Civil Service Commission by section 1 of the Superannuation Act 1984¹, and of all other enabling powers, the following Scheme is hereby made:—

PART I

Preliminary

Title and commencement

1. These Regulations may be cited as the Judicial Pensions (Miscellaneous) Regulations 1995 and shall come into force on 1 November 2004.

Interpretation

2. In these Regulations—

“the 1993 Act” means the Judicial Pensions and Miscellaneous Retirement Act 1993, and any reference to a Part or section by number alone shall be construed as a reference to the Part or section so numbered in that Act;

PART II

Election for new pension arrangements

Interpretation

3. In this Part—

“election” means an election under section 1(2) of the 1993 Act by or in respect of an office-holder; and

¹ 1984 c.8

“office-holder” means a person to whom section 1(2) of the 1993 Act applies.

Method of making election

4.—(1) An office-holder shall make an election by notifying the Civil Service Commission in writing of his wish that Part I should apply to him and of the date on which he wishes the election to take effect.

(2) A personal representative shall make an election by notifying the Civil Service Commission in writing of his wish that Part I should apply to the deceased office-holder.

(3) A notice given under paragraph (1) shall be signed and dated by the office-holder and shall contain his full name and either—

- (a) his current qualifying judicial office; or
- (b) where he has ceased to hold qualifying judicial office, his last qualifying judicial office.

(4) A notice given under paragraph (2) shall be signed and dated by the personal representative, and shall give the full name of the deceased office-holder and his qualifying judicial office at the date of death or at the date he ceased to hold qualifying judicial office.

(5) A personal representative shall supply with the notice of election evidence of his entitlement to act as personal representative.

Circumstances in which an office-holder may make an election

4A. Subject to the time limit specified in regulation 5(1), an office-holder to whom section 1(2) of the Act applies may make an election if no payment of pension or other benefit has been made under a judicial pension scheme in respect of service in his last qualifying judicial office.

Circumstances in which a personal representative may make an election

4B.—(1) Subject to the time limit specified in regulation 5(3), a personal representative may make an election in accordance with this regulation if the office-holder had not made an election under section 1(2) of the Act before his death.

(2) Where the office-holder died in service, a personal representative may make an election only if—

- (a) no payment of surviving spouse’s pension has been made under a judicial pension scheme in respect of the service in the last qualifying judicial office held by the deceased office-holder, or
- (b) the amount of surviving spouse’s pension which is being paid under such a scheme does not exceed the amount of pension to which the surviving spouse would have been entitled if Part I had applied to the deceased office-holder from the date of

death or, where this is not the case, the condition referred to in paragraph (3) is satisfied.

(3) The condition referred to in paragraph (2)(b) is that the surviving spouse had agreed, in respect of the period prior to the making of an election, to accept an amount on account of the pension which he is eligible to receive under an existing scheme which does not exceed the amount of pension to which he would be entitled if Part I had applied to the deceased office-holder from the date of death.

(4) Where the office-holder died after ceasing to hold qualifying judicial office, a personal representative may make an election only if—

- (a) the office-holder died within six months of ceasing to hold qualifying judicial office; and
- (b) the office-holder had not received any payment of pension or other benefit under a judicial pension scheme in respect of the service in the last qualifying judicial office held by the office-holder.”.

Time limit for making election

5.—(1) An office-holder may not make an election later than six months after the date on which he ceases to hold qualifying judicial office.

(2) Omitted.

(3) A personal representative may not make an election later than

- (a) six months after the date on which the deceased office-holder ceased to hold qualifying judicial office; or, if later,
- (b) three months after the date of grant of probate or letters of administration.

(4) Omitted.

(5) Omitted.

(6) The date on which a person makes an election is the date on which the Civil Service Commission receives his notification given in accordance with regulation 4.

Date of taking effect of the election

6.—(1) An election made by an office-holder while he holds qualifying judicial office shall take effect:

- (a) no earlier than the date on which the office-holder makes the election; and
- (b) no later than the date on which he ceases to hold qualifying judicial office.

(2) Subject to paragraph (1), an election made by an office-holder while he holds qualifying judicial office shall take effect on the date that the office-holder makes the election or, if later,

the date the office-holder specifies in accordance with regulation 4(1) as the date he wishes the election to take effect.

(3) An election made by an office-holder after he has ceased to hold qualifying judicial office shall take effect as from his ceasing to hold such office.

(4) Where a personal representative makes an election in respect of an office-holder who died whilst holding qualifying judicial office or after having retired from such office with a pension immediately payable, then, for the purposes of the 1993 Act, Part I shall be treated as applying to the deceased office-holder—

(a) where he died before ceasing to hold qualifying judicial office, as from the date of death; or

(b) where he died after retirement, as from his retirement from qualifying judicial office.

(5) Where a personal representative makes an election in respect of a person who died after ceasing to hold qualifying judicial office and who left such office without a pension becoming immediately payable, the provisions of the Judicial Pensions (Preservation of Benefits) Order 1995(3) shall be treated as applying to the deceased office-holder as from his ceasing to hold such office.”

PART III

Actuarial reduction of appropriate annual rate

Annual rate of pension

7. The annual rate of pension payable to a person to whom section 2(2) or (4) applies shall be calculated, as at the date of retirement, in accordance with the formula

$[A + (B/365 \times (C - A))] \times \text{the appropriate annual rate attributable to the person}$
the appropriate annual rate attributable to the person where—

- a A is the actuarial reduction factor set out in the Table in the Schedule to these Regulations (“the Table”) appropriate to the age of the member at his last birthday;
- b B is the number of days between the exact age of the member and his age last birthday; and
- c C is the actuarial reduction factor set out in the Table appropriate to the member at his age next birthday.

PART IV

Service for notional period

Calculation of pensionable pay and pension-capped salary: failure to serve for period of 12 consecutive months

8.—(1) For the purposes of calculating a person's pensionable pay and pension-capped salary where the circumstances mentioned in section 3(4) apply, he shall be treated as if he had served in his qualifying judicial office (whether full-time or part-time) for a period of twelve consecutive months ending with the day on which he ceased to participate in the scheme constituted by Part I ("the notional period").

(2) For the purposes of paragraph (1) above, a person's qualifying judicial office shall be taken to be that which he was holding on the day his participation in the scheme ceased.

(3) Subject to paragraph (4), a person's salary in respect of service in any qualifying judicial office referred to in paragraph (2) shall be taken to be a salary of an amount determined by reference to the annual rate of salary payable in his case in respect of service in that office during the notional period.

(4) In any case where that qualifying judicial office comes into being on a date after the first day of the notional period—

(a) that office shall be treated as if it had existed throughout the notional period; and

(b) for the purposes of the calculation in paragraph (3) above—

(i) the rate of the person's salary for the part of the notional period before the date on which that office came into being shall be taken to be the rate that was in force on that date; and

(ii) the rate of the person's salary for the remainder of the notional period shall be the rate actually payable in respect of service in that office.

PART V

Part-time service

Interpretation

9. In this Part "part-time service" means continuous service consisting of at least one day's service a week in qualifying judicial office on a salaried basis within the meaning of section 1(7).

Application

10. This Part shall apply for the purpose of determining a person's pensionable pay in any case where the service in qualifying judicial office of a person to whom Part I applies is, or has at some time included, part-time service.

Calculation of pensionable pay

11.—(1) Pensionable pay shall be calculated in accordance with the formula

$$\frac{P \times ((A \times 1/5) + (B \times 3/10) + (C \times 2/5) + (D \times 1/2) + (E \times 3/5) + (F \times 7/10) + (G \times 4/5) + (H \times 9/10) + (I \times 1))}{T}$$

where—

- a P is the pensionable pay that the person would have received had he held his qualifying judicial office on a full-time basis, calculated either—
 - (i) in accordance with section 3(3), or
 - (ii) where the circumstances mentioned in section 3(4) apply, in accordance with regulation 8;
- b A is the period of part-time service of 1 day a week;
- c B is the period of part-time service of 1 1/2 days a week;
- d C is the period of part-time service of 2 days a week;
- e D is the period of part-time service of 2 1/2 days a week;
- f E is the period of part-time service of 3 days a week;
- g F is the period of part-time service of 3 1/2 days a week;
- h G is the period of part-time service of 4 days a week;
- I H is the period of part-time service of 4 1/2 days a week;
- J I is the period of full-time service; and
- K T is the aggregate length of service of 1 day a week or more.

(2) For the purposes of the calculation, all periods of service shall be expressed in years or fractions of a year as appropriate.

Regulation 7

SCHEDULE TABLE

Age	Actuarial Reduction Factor
30	0.232
31	0.241
32	0.249

Age	Actuarial Reduction Factor
33	0.257
34	0.265
35	0.273
36	0.282
37	0.291
38	0.300
39	0.309
40	0.318
41	0.328
42	0.339
43	0.350
44	0.361
45	0.374
46	0.387
47	0.400
48	0.415
49	0.431
50	0.448
51	0.467
52	0.487
53	0.510
54	0.534
55	0.562
56	0.592
57	0.624

Age	Actuarial Reduction Factor
58	0.659
59	0.697
60	0.737
61	0.781
62	0.829
63	0.881
64	0.937
65	1.000

EXPLANATORY NOTE
(This note is not part of the Regulations)

These Regulations make provision for certain matters in relation to the Judicial Pensions and Retirement Act 1993 as follows.

Part II of the Regulation sets out the circumstances in which, and the conditions, subject to which, a person holding qualifying judicial office under Part I of the 1993 Act may elect for Part I to apply to him. There is provision for an election to be made by the personal representatives of a deceased judicial officer.

Part III prescribes the formula for determining the annual rate of a judicial pension under Part I of the 1993 Act where the appropriate annual rate is to be actuarially reduced in certain cases; the cases are where a person has completed 5 years' service, but retires between the ages of 60 and 65; and where the person may or may not have completed 5 years' service, but has not attained the age of 60 and is removed from office, and his accrued rights are to be given immediate effect.

Part IV makes provision for cases in which a member of the judicial pension scheme constituted by Part I of the 1993 Act is appointed to qualifying judicial office but fails to work for a period of 12 consecutive months before ceasing to participate in the scheme.

Part V applies for the purposes of calculating the pensionable pay of a person who is a member of the judicial pension scheme constituted by Part I of the 1993 Act but who works, or has worked on a part-time basis only.