

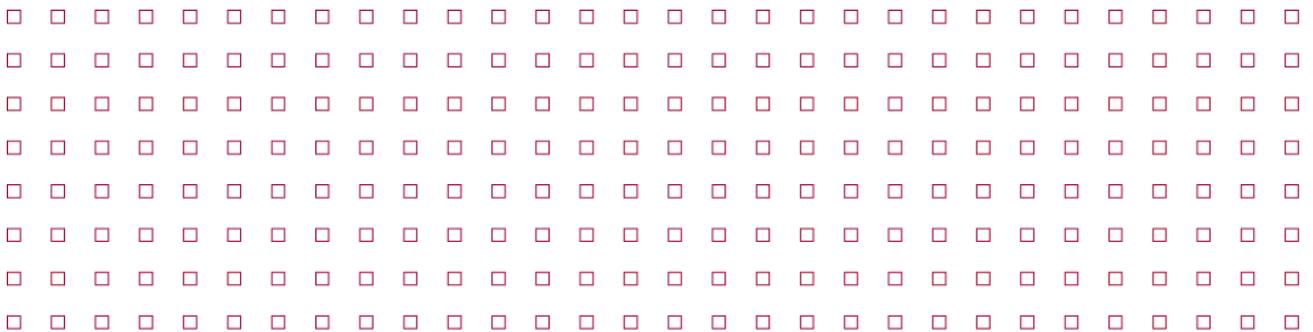


Ministry  
of Justice

# Fee-Paid Judicial Pension Scheme

## Scheme Guide

August 2017





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of Justice

# **Fee-Paid Judicial Pension Scheme**

## Scheme Guide

## Contents

Introduction	2
Eligibility for membership	2
Transitional provisions	2
Scheme Governance	3
Member Contributions	5
Scheme Features	8
Options for scheme members	13
Leaving the Scheme	16
Annex A – Ministerial Statement regarding Service Awards	20
Annex B – Death in Service Lump Sum Nominations: Explanatory Background Note	21
Annex C – Undertaking by the Ministry of Justice	25
Annex D – Note on Judicial Added Years Scheme	26
Annex E – Judicial Added Surviving Adult’s Pension Scheme	30

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## Introduction

This guide explains the features of the Fee-Paid Judicial Pension Scheme, which was established under the Judicial Pensions (Fee-Paid Judges) Regulations 2017 and the regulations made thereunder. This scheme is referred to as the 'FPJPS'. The document covers the basic design of the scheme, and other arrangements for members. Nothing in this guide can override the schemes' regulations. Every effort has been made to make this guide as accurate as possible, but in the event of any difference, the regulations will apply. This guide is based on the regulations current at the time of publication and there is no guarantee that any part of the regulations will not change in the future. It should be noted that there are two appeals currently in progress. *O'Brien/Miller v Ministry of Justice* may significantly affect the number of those entitled to membership of the scheme and entitlement to benefits for service before April 2000. *McCloud v Ministry of Justice* may significantly affect the current provisions for transitional relief,

## Eligibility for membership

Membership of the FPJPS is open to current and former fee-paid judicial office holders in England, Wales, Scotland and Northern Ireland who have been determined as eligible for pension rights that are no less favourable than those provided to salaried judges under the scheme established by the Judicial Pensions and Retirement Act 1993 (JUPRA). All those holding a fee paid office on 2<sup>nd</sup> December 2012 are automatically entitled to membership in respect of service in that office. Fee-paid office holders may also become members as a result of decisions of the Employment Tribunal (and subsequent appeals) or by consent.

The FPJPS is for eligible fee-paid judicial office holders with reckonable service from 7 April 2000 up to 31 March 2015. Transitional or tapering arrangements may apply in respect of service after 31 March 2015, where the fee-paid judicial office holder meets the relevant criteria for transitional protection in respect of their transfer to the Judicial Pension Scheme 2015 (JPS 2015), detailed in the section transitional provisions below. It is possible for eligible members to opt-out of the scheme and re-join at a future point in time providing they still meet the eligibility criteria.

## Transitional provisions

From 1 April 2015, reckonable fee-paid service will be pensioned under the JPS 2015, except where transitional provisions apply. As part of the reforms of public service pensions, scheme members who were holding office on 1 April 2012 and who were within 10 years or less of scheme retirement age (65) are fully protected and allowed to remain in their current pension arrangements. More limited tapering protection is available to those members who were within 13.5 years of scheme retirement age at 1 April 2012 and these arrangements apply to the FPJPS.

For service beyond 1 April 2015, the pension scheme under which a fee-paid judicial office holder will accrue benefits will depend upon their eligibility for transitional protection. The table below shows how the transitional arrangements apply.

<b>Time-period</b>	<b>Type of judicial office holder</b>	<b>Pension Scheme</b>
7 April 2000 – 31 March 2015	All judicial office holders	FPJPS
1 April 2015 – onwards	judicial office holders with transitional protection	FPJPS
1 April 2015 – onwards	judicial office holders with tapering protection	FPJPS (for a period) or JPS 2015
1 April 2015 – onwards	judicial office holders without transitional or tapering protection	JPS 2015

## **Scheme Governance**

The Lord Chancellor is the Scheme Manager for the FPJPS and as such the Ministry of Justice (MoJ) is responsible for managing and administering the scheme on his behalf. The day-to-day administration of the scheme is contracted out to Punter Southall Administration Ltd (PSAL) by the MoJ as part of a contract for administering all UK judicial pension schemes.

The Judicial Pension Board (JPB) is responsible for assisting the Scheme Manager:

- To secure compliance with the scheme regulations, any other legislation relating to the governance and administration of the scheme and any requirements imposed by the Pensions Regulator in relation to the scheme and
- In the performance of the Scheme Manager's functions under the scheme regulations.

The JPB consists of an independent chair appointed by the Lord Chancellor following consultation with the Lord Chief Justice of England and Wales, the Lord President in Scotland and the Lord Chief Justice of Northern Ireland. In addition, there are 2 independent members, 4 Employer representatives and 4 Member representatives.

Further information on the JPB can be found on the following webpage:  
<https://www.gov.uk/government/groups/judicial-pension-board>

The Judicial Pension Scheme Advisory Board is responsible for providing advice to the Lord Chancellor, at the Lord Chancellor's request, on the desirability of making changes to the scheme. The Scheme Advisory Board's membership is the same as that of the JPB.

## **Appeals**

If any person is aggrieved by any decision of the administrators in relation to the Judicial Pensions (Fee-Paid Judges) Regulations 2017 that person has a right to appeal to the appropriate Minister against that decision.

## Scheme Contacts

Punter Southall Administration Limited  
Albion  
Fishponds Road  
Wokingham  
Berkshire  
RG41 2QE

Tel: 0118 313 0917  
(9am – 5pm Monday to Friday)

Email: [MoJAdmin@puntersouthall.com](mailto:MoJAdmin@puntersouthall.com)

Ministry of Justice  
102 Petty France  
London  
SW1H 9AJ

Email: [judicialpensions@justice.gsi.gov.uk](mailto:judicialpensions@justice.gsi.gov.uk)

## Other Contacts

**The Pensions Advisory Service** is available at any time to assist members and beneficiaries with pension questions and issues they have been unable to resolve with the scheme administrator.

Tel: 0300 123 1047  
Post: The Pensions Advisory Service  
11 Belgrave Road  
London  
SW1V 1RB  
Web: <http://www.pensionsadvisoryservice.org.uk>

**The Pensions Ombudsman** may investigate and determine certain complaints or disputes about pensions that are referred to the Pensions Ombudsman in accordance with the 1993 Act. Individuals can ask the Pensions Ombudsman to look in to complaints about how pension schemes are run. In some situations, employers and scheme administrators can ask them to look in to a problem.

Tel: 020 7630 2200  
Post: Pensions Ombudsman Service  
11 Belgrave Road  
London  
SW1V 1RB

Web: <http://www.pensions-ombudsman.org.uk>  
E-mail: [enquiries@pensions-ombudsman.org.uk](mailto:enquiries@pensions-ombudsman.org.uk)

**The Pensions Regulator** may intervene in the running of schemes where employers or scheme administrators have failed in their duties.

Tel: 0345 600 0707  
Post: The Pensions Regulator  
Napier House, Trafalgar Place  
Brighton  
BN1 4DW  
Web: <http://www.thepensionsregulator.gov.uk>  
E-mail: [customersupport@tpr.gov.uk](mailto:customersupport@tpr.gov.uk)

## Member Contributions

Contributions are required in respect of historic and post commencement membership of the FPJPS.

### Historic contributions

Contributions relating to service before the commencement of the scheme in April 2017 will be recovered. This will be done by deducting the amount as a one-off payment from the member's automatic pension lump sum upon retirement. The amount of contribution due is the amount based on percentages of fees calculated using the tables below. No interest is applied.

As an alternative to deduction from lump sum upon retirement, a member can choose to pay the whole amount owing within 6 months of the commencement of the scheme, or to make payments in respect of historic contributions from each fee paid until the whole amount owing is recovered.

Those who have never had a spouse, civil partner or dependant child during their service would be entitled to have their dependants' pension contributions refunded on retirement. If at 31 March 2017 a member has already retired there will not be a requirement to make any payment for these historic contributions if no there are no dependants.

### Personal Pension Contributions

Personal Pension Contributions are compulsory for all members of the scheme in respect of service from April 2012. They are calculated on the member's gross pensionable fees during the period the member is an eligible member of FPJPS and ending at retirement, the completion of 20 years' reckonable pensionable service or the member's cessation of service in the scheme, whichever is the earliest. (Service otherwise reckonable in FPJPS before April 2012 counts towards the 20 year limit).

No Personal Pension Contributions are required in respect of any period in which service would have been enhanced on retirement on health grounds or in the event of death in service. Personal Pension Contributions will be deemed to have been made in respect of such periods of enhancement.

### Dependants' Pension Contributions

Dependant Pension Contributions, towards the cost of spouses', civil partners' and children's pensions, are compulsory for all members of the FPJPS in respect of service from 7 April 2000. They are calculated on 1.8% of the member's gross pensionable fees during the period the member is an eligible member of FPJPS, ending at retirement, the completion of 20 years' reckonable pensionable service, or the member's cessation of service in the scheme, whichever is the earliest. (Although during the period up to 5 April 2006 the actual rate of contributions in JUPRA was 3%, as tax relief was given the net contribution payable was 1.8%).

No Dependant Pension Contributions are required in respect of any period in which service would have been enhanced on retirement on health grounds or in the event of death in service. Dependant Pension Contributions will have been deemed to have been made in respect of such periods of enhancement.

If at retirement or in the event of death in service, an office-holder was married or had a civil partner, or had children eligible to receive benefits under the scheme, then he or she must cover the maximum scheme liability, i.e. the contributions equivalent to the length of service in judicial office to a maximum of 20 years.

### Historic contribution rates

The contribution rates used for the calculation of historic contributions until 31 March 2015 are:

Time Period	Personal Contributions	Dependant Contributions	Total Member Contributions
From 7 April 2000 – to 31 March 2012	0.00%	1.8%	1.8%
From 1 April 2012 – to 31 March 2013	1.28%	1.8%	3.08%
From 1 April 2013 – to 31 March 2014	2.56%	1.8%	4.36%
From 1 April 2014 – to 31 March 2015	3.2%	1.8%	5.00%

### Member contribution rates under the FPJPS (2015-2017) - applicable only to members with tapering or transitional protection in the relevant years

From 1 April 2015, the rates of member contributions for all judicial pension schemes were changed and are consistent across the schemes. To reflect the fact that the FPJPS is not registered for tax purposes, the contribution rates are less than those under the JPS 2015 scheme. The rates for the FPJPS are summarised in the tables below.

Annual Rate of Pensionable Earnings 2015/16	Personal Contributions	Dependant Contributions	Total Member Contributions
Up to and including £15,000	0.96%	1.80%	2.76%
£15,001 - £21,000	0.96%	1.80%	2.76%
£21,001 - £47,000	1.47%	1.80%	3.27%
£47,001 - £150,000	2.61%	1.80%	4.41%
£150,001 and above	4.43%	0%	4.43%

Annual Rate of Pensionable Earnings 2016/17	Personal Contributions	Dependant Contributions	Total Member Contributions
Up to and including £15,000	0.96%	1.80%	2.76%
£15,001 - £21,210	0.96%	1.80%	2.76%
£21,211 - £48,471	1.47%	1.80%	3.27%
£48,472 - £150,000	2.61%	1.80%	4.41%
£150,001 and above	4.43%	0%	4.43%

## Post commencement contributions - applicable only to members with tapering or transitional protection in the relevant years

Contributions are calculated under an actual earnings approach, contributions are assessed on the annual rate of pensionable earning in each pay period. These may fluctuate in any given scheme year dependant on the applicable member contribution rate for that pay period based on the fees received. For holders of more than one fee paid office contributions are calculated separately for each office based on the earnings for that office.

The contribution rates for 2017/18 and 2018/19 are outlined below:

<b>Annual Rate of Pensionable Earnings 2017/18</b>	<b>Personal Contributions</b>	<b>Dependant Contributions</b>	<b>Total Member Contributions</b>
Up to and including £15,000	0.96%	1.80%	2.76%
£15,001 - £21,422	0.96%	1.80%	2.76%
£21,423 - £51,005	1.47%	1.80%	3.27%
£51,006 - £150,000	2.61%	1.80%	4.41%
£150,001 and above	4.43%	0%	4.43%

<b>Annual Rate of Pensionable Earnings 2018/19</b>	<b>Personal Contributions</b>	<b>Dependant Contributions</b>	<b>Total Member Contributions</b>
Up to and including £15,000	0.96%	1.80%	2.76%
£15,001 - £21,636	0.96%	1.80%	2.76%
£21,637 - £51,515	1.47%	1.80%	3.27%
£51,516 - £150,000	2.61%	1.80%	4.41%
£150,001 and above	4.43%	0%	4.43%

Active members of the FPJPS should note that the member contribution rates may change after a subsequent actuarial valuation of the Judicial Pension Schemes that shows a substantial change in the overall cost of the scheme, either up or down. At this point member contributions, may be amended to reflect the changing cost of the scheme.

### Refund of member contributions

Dependant Pension Contributions made by a scheme member who at the time of retirement or death in service is / was unmarried, and who does / did not have a registered civil partner or children eligible to receive benefits under the scheme, and who at no time while holding judicial office has been married, or in a registered civil partnership or had eligible children, will be refunded.

Where a scheme member is / was unmarried at retirement, and does / did not at the time have a civil partner or children eligible to benefit under the scheme, but during some period of service has had a spouse, a registered civil partner or eligible children, Dependant Pension Contributions made from the date on which the scheme member last had a spouse, registered civil partner or eligible children will also be refunded.

Dependant Pension Contributions are refunded together with compound interest, the interest payable in these circumstances is liable for a deduction for tax. Tax will be deducted at source, i.e. before the refunded Dependant Pension Contributions and interest are paid out to the recipient.

## Scheme Features

This section details of the key features of the FPJPS and the method through which pension benefits are calculated. This section also covers the tax status of the scheme as well as provisions for pension sharing on divorce.

### Scheme design

The key elements of the FPJPS scheme are as follows:

- A pension scheme design based on 'final salary' model
- Scheme is not registered for tax purposes
- Automatic lump sum on retirement at a rate of 2.25 times annual pension
- 20-year restriction on the number of reckonable years of service
- An annual accrual rate of 1/40th of pensionable service
- Service enhancement for ill health retirement or death in service under age 65
- Revaluation of deferred and retired scheme members' benefits in line with inflation. This is set under the Pensions Increase Act 1971 (currently in line with Consumer Prices Index)
- Normal Pension Age of 65 years of age
- Pension for surviving spouses and surviving civil partners of 50% of member's pension and pensions for children

In addition:

- A Service award payment on retirement equal to the tax paid on the automatic lump sum payment will also be paid. This benefit is not provided for by FPJPS.

### Pension benefits

Pension benefits under the FPJPS are constituted of two components:

- An annual pension payment; and
- An automatic lump sum payment.

In addition, a service award payment equal to the tax paid (currently 45%) on the automatic lump sum payment is made in accordance with the Lord Chancellor's determination, a copy of the Lord Chancellor's Ministerial Statement relating to the payment of Service Awards is attached at Annex A.

Where the member's pension (or part thereof) is based on an appropriate annual salary for a salaried judicial office under regulation 7(3) (appropriate annual salary) the lump sum payable under regulation 25 (or the part of the lump sum related to the pension based on an appropriate annual salary for a salaried judicial office) shall be apportioned as follows:

(a) The amount of the lump sum attributable to earnings below the earnings cap equals

$$L \times P/S$$

where:

L is the lump sum payable under regulation 25 (or the part of the lump sum related to the pension based on an appropriate annual salary for a salaried judicial office);

P is so much of the appropriate annual salary as does not exceed the permitted maximum for the tax year at retirement;

S is the appropriate annual salary in accordance with regulation 7(3); and

(b) The amount of the lump sum attributable to earnings above the earnings cap equals

$$L - \text{the amount calculated in (a) above.}$$

The lump sums mentioned in paragraphs 2(a) and (b) above shall exclude the lump sum attributable to earnings above the earning cap.

Where a fee-paid judicial officer holder has become a salaried judicial office holder the following formula will be applied when calculating a Service Award:

### **Annual pension**

The FPJPS is a final salary scheme, whereby the annual pension payment is calculated according to the reckonable service of the member at retirement, the divisor for the office held and the appropriate annual salary of the salaried comparator.

### **Reckonable pensionable service**

Reckonable pensionable service is calculated by taking the total number of days of qualifying service and dividing by the appropriate divisor for that office. The resulting figure is the amount of reckonable pensionable service expressed in years and fractions of a year to four decimal places. As with JUPRA, reckonable pensionable service for the FPJPS is capped at 20 years. A member is permitted to accrue the maximum of 20 years' of pensionable service over a period of more than 20 calendar years.

The cap of 20 years includes any service accrued whilst a member of the JUPRA scheme. Therefore, a member who has already accrued 20 years of service in JUPRA would not be able to accrue any further benefits in the FPJPS.

The calculation of the benefits is explained in the example overleaf:

**Judicial office holder A** was appointed as a Deputy District Judge on 5 April 2007 and retires on 31 March 2019. This office holder has full transitional protection and therefore is eligible to remain in the FPJPS until retirement. During that time Judge A sat 435 pensionable days (M). The divisor for a DDJ is 215 days (N).

Reckonable Service is used in relation to a fee-paid judicial office held by a member, expressed in terms of years and a fraction of a year in accordance with the following formula:

$$M \div N = R$$

where

M = qualifying fee-paid service in the relevant office

N = the applicable annual divisor for that office, and

R = the reckonable service in the relevant office

The calculation for Judge A is therefore  $435 \div 215 = 2.0233$  years

The annual rate of pension is determined by the formula:  $R \div 40$  (scheme accrual rate)  $\times$  S

where

S = the appropriate annual salary of the judicial office held immediately before retirement as calculated by  $F \times N$

F = the highest daily fee within a period of three years up to retirement (in this example assumed to be £498)

N = the applicable annual divisor for that office

Judge A's pension is therefore  $2.0233 \text{ years} \div 40 \times (498 \times 215) = \text{£5,415.87 per annum}$

### ***Automatic pension lump sum***

The automatic pension lump sum is calculated as two and a quarter times the annual pension.

However, Judge A has elected to pay the deficit in his pension contributions for the period of service up to 1<sup>st</sup> April 2015 out of his lump sum. The total deficit is say £3923.50

Judge A's automatic initial lump sum is  $\text{£5,415.87} \times 2.25 = \text{£12,185.70 Gross}$

**Less Contributions deficit £3923.50**, = £8262.20 taxable lump sum

Less 45% (higher rate of income tax)  $\text{£8262.20} \times 45\% = \text{£3717.99 (tax)}$

**The net lump sum is £8262.20 - £3717.99 = £4544.21**

### ***Service award***

The service award payment is equal to 45% tax due on the lump sum after deduction of the contributions deficit

Judge A's service award lump sum = **£3717.99**

**The benefits at retirement are therefore**

- Annual pension payment of **£5,416.00 gross (rounded) – per annum**
- Lump sum pension payment **£4,545.00 net (rounded) – single payment**
- Service award lump sum **£3717.99 net (not rounded) – single payment**

## **Age at which pension is payable**

The age at which full pension benefits under the FPJPS will become payable is 65 years of age and is not linked to the member's State Pension Age (SPA).

The age at which pension benefits under the FPJPS will become payable is also not linked to the statutory retirement age for the judiciary (usually 70 years of age, although those fee-paid office holders appointed on or before 30 March 1995 may have a different statutory retirement age).

It is not possible for a pension to be drawn before retirement. It is also not possible for a pension to be drawn before the age of 60. If a member leaves their judicial office before age 60 the pension award would be 'preserved' until retirement age - see "Leaving before the age of 60 ('deferral')" below.

IA member can elect to take early retirement between the ages of 60 and 65, and the pension award would then be payable at the point of retirement, but subject to an actuarial reduction. For further information please see the section "Leaving the Scheme".

## **State retirement benefits**

Although the scheme was established on 1 April 2017 the MoJ will apply for it to be retrospectively contracted out from April 2000. As the FPJPS would have been a Contracted-Out salary-related pension scheme for the purposes of the Pension Schemes Act 1993 a scheme member would have paid reduced National Insurance (NI) contributions, but would not accrue additional state benefits beyond basic state pension entitlements. Contracting-Out ceased from April 2016 and the payment of the reduced rate of National Insurance therefore ceased from this date. If the application for contracting out is successful, then members will have overpaid employees NI contributions on earnings up to April 2016 and will be entitled to have these refunded but will lose their entitlement to the Second State Pension.

Contracting-out does not affect entitlement to the basic (flat-rate) state retirement pension and provided their record of national insurance contributions is sufficient to meet the relevant conditions, holders of judicial office will be entitled to receive the basic state retirement pension from state retirement age.

## **Tax considerations**

The FPJPS is for tax purposes a non-registered scheme. This means that none of the income tax advantages conferred by the legislation governing registered pension schemes apply, i.e. tax relief on pension contributions, but nor do the Lifetime and Annual Allowances provisions under the Finance Act 2004.

In other words, neither the contributions paid to, nor the benefits accrued under the FPJPS count towards either the Annual Allowance or the Lifetime Allowance under the Finance Act 2004.

## **Multiple fee-paid offices and combinations of fee-paid and salaried service**

The FPJPS makes provision for pension entitlement in relation to multiple fee-paid offices, to both consecutive and concurrent appointments to multiple fee-paid offices.

Where an office holder holds multiple fee-paid offices at the time of retirement, pension benefits for each office will be calculated separately.

If a judicial office holder has consecutive fee-paid and salaried service, and the final post held before retirement is a salaried post, there will be a link to that salary at retirement. This means that all service will be based on the highest salary in the last three years before retirement from salaried office. The final salary link will also apply to a fee-paid office holder who is subsequently appointed to a fee-paid office at a higher or lower rate of remuneration. The appropriate annual salary used to determine the pension rate will be the highest salary paid to the holder of a comparable office in the last three years before retirement.

To apply a final salary link where the consecutive offices are fee-paid, office holders will be given an option in respect of each office – to bank reckonable service so that it will qualify for the final salary link on retirement **or** receive the pension, depending on their age **or** preserve it. Please see the section below on Partial Retirement for further information.

### **Pension sharing on divorce or dissolution**

Where a Pension Sharing on Divorce or Dissolution Order is made, the former spouse or civil partner becomes a member of the FPJPS in his or her own right. The value of the member's accrued judicial pension rights to be shared will be determined as at the date of the Decree Absolute or Final Order.

The pension benefits, at the level determined by the Pension Sharing on Divorce Order, will consist of a personal annual pension and a lump sum both payable to the former spouse or civil partner from his or her 65th birthday. The lump sum will be subject to income tax, currently at a rate of 45%.

At the time the benefits come into payment they will be re-valued in line with inflation.

The Pension Debit will require a reduction in the Judge's annual pension and lump sum and a consequent reduction in any pension payable to the surviving spouse or civil partner of any subsequent marriage or civil partnership.

The Pension Debit amounts will also be re-valued at the time of the judicial office holder's retirement to take account of inflation.

Any judicial office-holder involved in divorce proceedings where a pension sharing order is being considered should contact Punter Southall for detailed information on how pension sharing will affect his or her judicial pension position.

## Options for scheme members

Scheme members of the FPJPS are able to supplement their pension benefits under the scheme through the following methods:

- Judicial Additional Voluntary Contribution Scheme (JAVCS);
- Judicial Added Years Scheme (JAYS);
- Judicial Additional Surviving Adult's Pension Scheme (JASAPS); and
- Transfers of accrued pension rights.

### **Judicial Additional Voluntary Contributions Scheme (if eligible)**

The FPJPS includes arrangements for Judicial Additional Voluntary Contributions Scheme (JAVCS). This reflects the fact that members of JUPRA are able to top-up their benefits through JAVCS. This is a registered scheme for tax purposes and contributions to this scheme will attract tax relief. Only active members (that is members who still hold a fee paid judicial office and who qualify for transitional protection) may be members of JAVCS.

The MoJ provided an undertaking to the employment tribunal which confirmed the MoJ's approach to claims that a fee-paid judge has been subjected to less favourable treatment. This undertaking (which makes mention of the Judicial Added Voluntary Contribution Scheme) was recorded in the employment tribunal's judgment dated 13th December 2015 and is available at Annex C.

Contributions made to the scheme will be invested with an authorised independent pension provider, currently Prudential. They will invest the contributions as requested by the member according to a range of investment choices. When taking benefits, there are various options available.

There is no limit to the amount of benefit that may be accrued under the JAVCS but any benefits will count toward the Lifetime Allowance under the provisions of the Finance Act 2004. The contributions paid to JAVCS will count towards the Annual Allowance.

### **Fee-Paid Judicial Added Years Scheme (if eligible)**

The Judicial Added Years Scheme (JAYS) allows judicial office holders to purchase added years (or part years) of reckonable service in judicial office. The benefits from JAYS are paid as part of the judicial pension. JAYS provide an additional lump sum and a pension for a surviving spouse/ civil partner and children.

The scheme closed to new applicants on 6 April 2006 when the JUPRA became a non-registered scheme.

For equality of treatment, the FPJPS will offer eligible fee-paid judicial office holders who were in service on or before 5 April 2006 (and from 7 April 2000) the same opportunity. They may only do this if they are still an active scheme member upon purchase **or** in the first year of the scheme's operation for those that have already retired. The following conditions also apply:

- The maximum number of added years that a scheme member may purchase is determined by their assumed retirement age. The maximum cannot exceed 20 years' reckonable service at that assumed retirement age, which includes the value of retained benefits.

- If a member has been contributing to any other pension scheme before or during holding eligible office they may be precluded from purchasing JAYS as there are limits on the amount of additional service that can be purchased.

Further information on JAYS is available in Annex D.

The MoJ provided an undertaking to the employment tribunal which confirmed the MoJ's approach to claims that a fee-paid judge has been subjected to less favourable treatment. This undertaking (which makes mention of the Judicial Added Years Scheme) was recorded in the employment tribunal's judgment dated 13th December 2015 and is available at Annex C.

### **Judicial Added Surviving Adults Pension Scheme (if eligible)**

A member of the FPJPS is also able to purchase additional pension for their spouse or civil partner through the Judicial Added Surviving Adults Pension Scheme (JASAPS). This can be done in units of £1,000. The maximum number of added units which may be purchased is the amount necessary to give the surviving partner a pension equal to 20/45ths of the appropriate annual salary applying to the judicial office held by the member on the date he or she retires.

Purchasing JASAPS is subject to the same eligibility criteria as JAYS. It has been closed to salaried judicial office holders since 6 April 2006 (when the Finance Act 2006 came into force). Further information on JASAPS is available in Annex D.

The MoJ provided an undertaking to the Employment Tribunal which confirmed the MoJ's approach to claims that a fee-paid judge has been subjected to less favourable treatment. This undertaking was recorded in the Employment Tribunals judgment dated 13th December 2015 and is available at Annex C.

### **Tax considerations for Added / Additional Contribution Schemes**

The additional voluntary contributions facility through the Judicial Additional Voluntary Contributions Scheme (JAVCS) and Judicial Added Years Scheme (JAYS), are registered schemes for tax purposes and contributions therefore attract tax relief, but the Annual and Lifetime Allowances apply.

Although JASAPS is a registered arrangement, the benefits accrued are not for the benefit of the member and therefore the Annual Allowance and Lifetime Allowance do not apply.

### **Transfers of accrued pension rights**

Members of the scheme may elect to transfer non-judicial pension rights into the scheme or to elect to take a transfer of their judicial pension rights out of the scheme, subject to certain qualifying conditions. Where a transfer out is paid all rights to benefits under the judicial scheme will be extinguished.

Only pension rights that are accrued in a registered pension scheme before commencing judicial office can be transferred into the judicial scheme. It will be for the other scheme to determine whether it permits a transfer to the judicial scheme.

Where such a transfer is made a tax charge on the member will arise. Separately, the administrators of the pension fund from which the money is being transferred may have to pay a further charge.

The pension and lump sum created in the judicial pension scheme will be based on the net amount received by the judicial scheme and the benefits awarded will not increase in value during the time between when the transfer payment is received into the scheme and retirement.

Any individual considering a transfer into or out of the judicial pension scheme is strongly advised to seek independent financial advice, including consideration of the tax implications of doing so.

The MoJ provided an undertaking to the employment tribunal which confirmed the MoJ's approach to claims that a fee-paid judge has been subjected to less favourable treatment. This undertaking was recorded in the employment tribunal's judgment dated 13th December 2015 and is available at Annex C.

## Leaving the Scheme

### Leaving before the age of 60 ('deferment')

A scheme member who has served for at least 2 years and who resigns without qualifying for an immediate pension will receive a 'preserved' pension and lump sum. A preserved scheme member (also often called a 'deferred' member) is one who has ceased to accumulate further pension benefit in the scheme (for future service) but has pension benefit which remains in the scheme.

The benefits would be calculated at the date of leaving office but would not become payable until the scheme member reached the scheme's normal pension age (i.e. age 65). The amounts calculated at retirement would be inflation-proofed throughout the period of preservation in accordance with the Pension Increase Act 1971.

Preserved benefits and preserved derivative benefits (spouses', civil partners' and children's pensions, and the personal lump sum) are taken as accruing proportionately to the benefits to which the scheme member would have been entitled had he or she served to normal pension age.

Where a scheme member has retired with prospective entitlement to a preserved pension but dies before reaching the age when the pension is due to come into payment, the surviving spouse or civil partner is entitled immediately to a pension of one-half of the preserved judicial pension, and a lump-sum payable to the estate.

### Leaving between the ages of 60 and 65 (Actuarially Reduced)

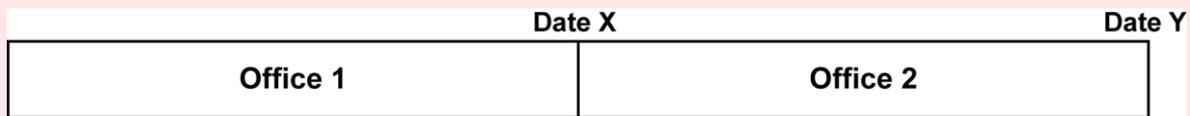
A scheme member who retires on or after his or her 60th birthday but before his or her 65th birthday and who has completed at least 5 years' service has the option of taking a pension and lump sum immediately payable, but actuarially reduced.

The pension and lump sum are calculated as for a normal retirement, but actuarially reduced in accordance with a factor related to the scheme member's age at the date of retirement.

### Partial retirement

Pensions are only payable on retirement from all judicial offices. However, under the FPJPS where a fee-paid judicial office holder holds different offices it is possible to elect to take benefits when leaving the original office. The examples below show the main principles of how partial retirement works and the options open. However, any officer who holds more than appointment and wishes to know how partial retirement may apply to his or her own circumstances should seek information from the scheme administrator.

**Example 1 – two consecutive eligible Offices**



**Options**

*Option 1:* partial retirement from Office 1 at date X and then immediate appointment to Office 2

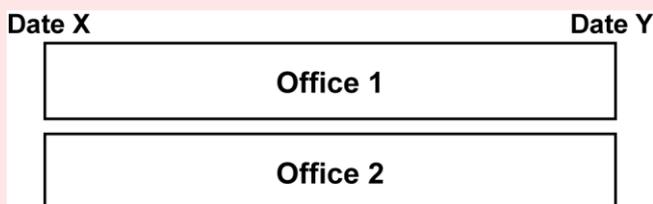
- At date of leaving / retirement from Office 1, pension in respect of Office 1 is calculated by reference to the reckonable service accrued during service in Office 1 at X and the appropriate annual salary for Office 1 at point X
- Separate pension entitlement is calculated for Office 2 using reckonable service for Office 2 and the appropriate annual salary for Office 2 at point Y

*Option 2:*

- Judge does not partially retire at point X

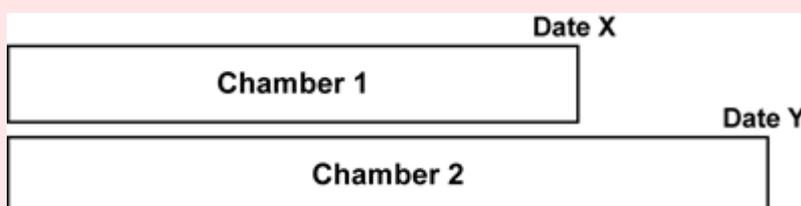
Pension calculated by reference to the combined reckonable service in Offices 1 and 2 (aggregated service) and the appropriate annual salary of Office 2 at point Y

**Example 2 – two simultaneous eligible Offices**



- Two separate pensions. One pension is calculated by reference to the reckonable service in Office 1 and the appropriate annual salary of Office 1 at point Y. A separate pension is calculated by reference to reckonable service in Office 2 and the appropriate annual salary of Office 2 at point Y.

**Example 3 – two eligible Offices in the First-tier Tribunal (whether or not separate assignments)**



- Both are First-tier Tribunal offices and therefore benefits are calculated only when leaving final First-tier Tribunal Office (point Y). It is not possible for the judge to partially retire from Chamber 1. The same rule applies if both appointments are to the Upper Tribunal.
- Benefits are calculated by reference to the aggregated reckonable service in Chambers 1 and 2 and the appropriate annual salary for Chamber 2 at point Y.

## **Medical retirement**

A scheme member who retires at any time after appointment for reasons of ill health is entitled to the immediate payment of a pension and lump sum based on his or her actual service and calculated in accordance with the pension benefits section above.

If the scheme member has not reached his or her 65th birthday before the date of retirement, the length of service upon which the pension is calculated will be enhanced by a period equal in length to one-half of the time remaining between the day after the date of retirement and the 65th birthday.

## **Death in service**

When a scheme member dies whilst still holding office, a lump sum death benefit is payable. It is payable either to the personal representatives or if a nomination has been made to the person or persons so nominated.

Death in service lump sums payable under the judicial pension schemes will count as income for tax purposes. Tax must be deducted by the Department, but a supplementary payment called a bereavement award equal to the amount of tax deducted will be made which will ensure that the beneficiary receives the full amount of the lump sum. A copy of the Lord Chancellor's Ministerial Statement relating to the payment of Service Awards is attached at Annex A, and an explanatory background note on the tax implications of lump sum benefits can be found at Annex B.

In addition to the lump sum, a pension is payable to the surviving spouse, or civil partner. Where there is an eligible child or children, a pension will also be paid (see Surviving adult's and children's pensions below).

## **Nomination of beneficiaries**

It is possible for scheme members to nominate individuals and trusts to receive death in service benefits. Further details on the nomination of beneficiaries to receive a pension, and copies of the necessary forms can be obtained from the pension scheme administrator.

## **Death in retirement**

In the event that a member dies soon after retirement when the pension has only been in payment for a short time, it may be that the scheme member's personal representatives are entitled to a lump sum payment.

A lump sum payment will be payable if the aggregate of the sums paid, or payable, on account of the pension together with the lump sum paid, or payable, falls short of an amount equal to five times the annual rate of the pension payable immediately before the date of death.

As any lump sum is payable to the personal representatives, any tax liability is chargeable to the relevant Department. The liability will not be recovered from the personal representatives.

## **Surviving adult's pensions**

A pension will be payable to a surviving adult (spouse or civil partner) upon the death of a judicial office holder either during service, or after retirement if the judicial office holder had been in receipt of pension.

The pension will be paid until the death of the surviving adult or until they re-marry or enter in to a new civil partnership. The amount of pension will be one-half of the pension the judge would have been entitled if he or she had retired on grounds of ill-health at the date of death or if already retired the pension in payment.

### **Children's pensions**

In addition, a pension may also be payable in respect of a child or children under the age of 16, or over that age and in full-time education, at the time of the member's death.

The amount of pension payable is determined by the number of dependent children, the table below shows the amounts to be paid.

Where there is a surviving spouse, or a surviving civil partner, the pension is

- 1/4 of the judicial pension if there is one eligible child; or
- 1/2 of that pension if there is more than one eligible child.

In the event, there is no surviving spouse, or surviving civil partner, the pension is

- 1/3 of the judicial pension if there is one eligible child and
- 2/3 of the pension if there is more than one eligible child;

The "judicial pension" in this context refers to either the pension in payment at the time of death, or, in the case of death whilst holding office, the pension to which there would have been entitled if the judicial office holder had retired on health grounds at time of death.

## Annex A – Ministerial Statement regarding Service Awards

### Lord Chancellor’s Determination for Payment of a Judicial Service Award for Eligible Fee-Paid Judicial Office Holders Judicial Service Award

1. In exercise of the Lord Chancellor’s powers to remunerate those holders of fee-paid judicial offices listed in Schedule 1 to the Judicial Pensions (Fee-Paid Judges) Regulations 2017 whose remuneration is determined by the Lord Chancellor (“relevant offices”) and who is a person entitled to a pension under those Regulations the following determination is made (“eligible office holder”).
2. There shall be paid to each eligible holder when service ends in relation to a relevant office or offices (other than where the service ends by death in service) , as a non-pensionable service award, a final fee payment of an amount which, when it has been subject to income tax and employees’ national insurance contributions (if any), provides a sum equal to the difference between –
  - a) the net lump sum<sup>1</sup> which is receivable by the office holder in respect of ceasing to hold that office or offices, in accordance with the provisions of Parts 1 to 11 of the Judicial Pensions (Fee-Paid Judges) Regulations 2017 (“the fee-paid pension scheme”), and
  - b) the lump sum which the office holder would have received had the fee-paid pension scheme been a registered pension scheme for the purposes of the Finance Act 2004 (on the assumption that no lifetime allowance charge had arisen in respect of it).
3. No entitlement to the service award shall arise or accrue prior to the time specified for its payment in the determination.
4. Where an eligible fee-paid office holder retired from a relevant office or offices before the fee-paid pension scheme commenced the service award in relation to retirement from each relevant office will be paid as soon after the scheme commences as is practicable.
5. This determination applies to an eligible fee-paid judicial office holder with an entitlement under regulation 17 of the Judicial Pensions (Fee-Paid Judges) Regulations 2017 to preserved judicial pension benefits which are due to come into payment at the office holder’s normal pension age, (irrespective of the date of cessation of service), on the basis that the payment of the service award will be deferred until normal pension age.
6. In the event of the death in service of an eligible fee-paid judicial office holder there shall instead of the service award be payable as a bereavement allowance a non-pensionable amount which, when it has been subject to income tax (and any other deductions), provides a sum equal to the difference (if any) between the net<sup>2</sup> death in service benefit receivable in respect of the office holder by each beneficiary who is an individual<sup>3</sup>, in accordance with the provisions of the fee-paid pension scheme, and the amount which that beneficiary would have had received had the pension scheme been a registered pension scheme for the purposes of the Finance Act 2004.

<sup>1</sup> After tax at the marginal rate (in normal circumstances the higher tax rate) and any contributions liability have been determined and applied.

<sup>2</sup> After tax at the marginal rate (in normal circumstances the higher tax rate) and contributions liability (if any) have been determined and applied.

<sup>3</sup> Within the meaning of s394(1) of the Income Tax (Earnings and Pensions) Act 2003.

## **Annex B – Death in Service Lump Sum Nominations: Explanatory Background Note**

1. The Inland Revenue have ruled that the lump sum benefit payable on the death in service of a member of the fee-paid judicial pension scheme under Regulation 45 of the Judicial Pensions (Fee-Paid Judges) Regulations 2017 is in principle liable to inheritance tax. The benefits payable under the 2017 Regulations are described as an entitlement and the Inland Revenue have ruled that this brings such benefits in principle within the ambit of inheritance tax.
2. Under Regulation 45(12) of the 2017 Regulations, the death in service benefit is payable to the legal personal representatives (i.e. into the estate) of the deceased judge or, where a nomination has been made, to a person (or persons) nominated by him or her) as the beneficiary for the receipt of the payment (i.e. not into the estate). Where such nominations are made in a particular form, and are in force in the event of death in service, they will generally serve to have the effect that liability for inheritance tax will not arise. A note is attached setting out the background to this matter and containing guidance for members of the judiciary on the forms of nomination that will serve to displace any inheritance tax liability that would otherwise arise on a death in service benefit under the fee-paid Scheme. The Inland Revenue has signified that they agree with it.
3. There are two nomination forms (one for outright nomination and one for a trust nomination). If you wish to make a nomination, the relevant completed nomination form should be sent to [Punter Southall].
4. As administrators of the judicial pension schemes, it is not possible for us give professional or financial advice to members of the judiciary. Judges who are members of the fee-paid Scheme may consider it prudent to seek their own professional advice in the light of the guidance note, and the Department cannot accept responsibility for the consequences of any action taken by a member of the judiciary in the light of the note. Factual information may however be obtained by writing to Punter Southall.

**JUDICIAL PENSIONS (FEE-PAID JUDGES) REGULATIONS 2017:  
INHERITANCE TAX AND LUMP SUM DEATH IN SERVICE BENEFIT**

**NOTE TO JUDGES**

Abbreviations

'2017 Regulations' – The Judicial Pensions (Fee-Paid Judges) Regulations 2107  
'IHT' : inheritance tax

Overview

1. Judicial pension schemes, in common with public service pension schemes generally, have consistently provided that, if the judge dies in service, a lump sum benefit is payable. If the judge is a member of the scheme set up under the 2017 Regulations, the death in service benefit will be payable in one of two ways: (1) it may be payable to a person nominated by the judge in his or her lifetime; (2) if there has been no nomination, it is paid to the judge's personal representatives. If the judge has made a nomination under (1), so that the lump sum is paid to his or her nominee, there is no IHT on the payment. However, it has recently been drawn to the attention of Ministry of Justice that, if there has been no nomination so that the lump sum is paid to the personal representatives, the payment is in principle liable to IHT.
2. This is a side effect of the 2017 Regulations following the provisions of the Judicial Pensions and Retirement Act 1993. The 1993 Act's predecessor enactment, the Judicial Pensions Act 1981 provided for a lump sum death in service benefit, but because of different statutory wording the benefit was not in any circumstances liable to IHT. The same applies to death in service benefits under other public service pension schemes. It was not part of the purpose of the 1993 Act that, by changing the terms in which provision was made for this particular benefit, the benefit should be brought within the scope of IHT. However, in the absence of a nomination made by the judge in his or her lifetime, the 1993 Act and the 2017 Regulations have brought about that result.
3. This note gives further information about the possible IHT liability in the case of death in service benefits under the 2017 Regulations and it offers some guidance about the nomination procedure, in the case of which no IHT liability arises.

Regulation 45 of the 2017 Regulations

4. This is the Regulation which provides for the lump sum death in service benefit. The way in which the amount of the lump sum is calculated is set out in the Regulations. By Regulation 45(12)(a) the judge can in his or her lifetime nominate a person to receive it. If he or she does not do that, then by Regulation 45(12)(b) the benefit is paid to his or her personal representatives.

#### IHT on the Regulation 45(12)(b) lump sum

5. This is where the IHT liability arises. Any amount which is payable to the personal representatives under Regulation 45(12)(b) (because the judge did not nominate a recipient in his or her lifetime) is part of the judge's estate for IHT purposes<sup>1</sup>, so that, depending on the judge's will and the size of the rest of his or her estate, it may be liable to IHT. If the judge has left his or her estate to the widow, widower or registered civil partner, the lump sum death in service benefit is not liable to IHT on the judge's death (like any property left to a surviving spouse or civil partner), but it will of course become part of the survivor's estate and could increase the IHT payable on the second death. If the judge's estate is not left to a widow, widower or registered civil partner, whether the lump sum will be liable to IHT on the judge's death depends on the size of the estate. If the rest of the estate is large enough to use up the 'nil rate band' (as in many cases it will be), the lump sum will suffer IHT at 40%.

#### No IHT where there is a Regulation 45(12)(a) nomination

6. However, if the judge in his or her lifetime nominates a person to receive the lump sum in the event of death in service, there is no IHT liability, either at the time of the nomination or on the judge's death. There are two points to be made here. (1) The act of nominating a beneficiary is not usually considered by the Revenue to attract IHT, whether or not the judge dies within seven years. (The Revenue might wish to reconsider this point if the judge was seriously ill at the time of the nomination, but otherwise it can be assumed that no argument will be advanced that the nomination of itself gives rise to IHT.) (2) If a judge who has made a nomination dies while still in service, the lump sum is paid by the pensions payroll administrators directly to the nominee. It is not part of the judge's estate and no IHT is payable on it. There are two types of nomination which might be made. The simplest is an outright nomination of a named person, as to which see paras 7 and 8 below. A more complicated but more flexible alternative would be a nomination in favour of a recipient who would hold the sum on a discretionary trust to pay it on to one or more beneficiaries within two years of the judge's death. As to this alternative, see paras 9 and 10 below. It is perhaps worth adding that there is another consequence of a nomination. The lump sum is paid to the nominee as soon as it has been formally approved, whereas if there has been no nomination, payment to the personal representatives is not made until a grant of probate or of letters of administration has been obtained and a copy supplied to [Punter Southall].

#### An outright nomination

7. Form A attached to this note is a simple form of outright nomination of a named person or persons, but with provision for the judge to substitute a replacement nominee if he or she wishes. If the judge makes a nomination and then dies while still in service, the pension payroll administrators will pay the lump sum direct to the nominee. There is no IHT or other tax. There is some loss of flexibility in this procedure, but not much. If the nominee, dies it is possible to nominate someone else. Further, Form A reserves to the judge power to change the nominee.
8. Many judges may wish to nominate their wife, husband or registered civil partner, which is wholly permissible. A nomination of the judge's wife, husband or civil partner does not offer any savings of IHT compared with the alternative of not making a nomination but instead

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<sup>1</sup> IHTA 1984 s 171.

making a will which leaves the estate (which would include the death in service benefit) to the judge's widow, widower or surviving civil partner. A nomination only achieves IHT savings if it is made in favour of someone other than a surviving spouse or civil partner, like the judge's children or grandchildren. However, there is no disadvantage in the judge nominating his or her wife or husband or registered civil partner, and, if the judge dies in service, it could be quicker and simpler for the benefit to be paid directly to the widow, widower or surviving civil partner rather than to pass through the hands of the personal representatives. (As to this, see the last sentence of para 6 above.)

#### A trust nomination

9. Form B attached provides for the lump sum payable on death in service to be paid to a nominee, but further provides that the nominee is to hold it on trust to distribute it within two years to one or more members of a discretionary class. The judge should exercise his or her own judgement as to the choice of nominee. In many cases an adult son or daughter would be a sensible choice. The form provides for a substitute nominee if the first-named one dies before the judge. The discretionary class should consist of such persons as the judge desires, and will normally include the members of his or her family, including his or her wife or husband or registered civil partner. There are default provisions which take effect if the nominee fails to perform the trust within two years.
10. A trust nomination like this is a little more complicated than an outright nomination (as in Form A), but it provides maximum flexibility. Further, as with an outright nomination, there is no IHT liability. There is no IHT when, on the judge's death in service, the pension payroll administrators pay the lump sum to the nominee. Further, under Inland Revenue practice relating to pension funds, there is no IHT payable on the distribution by the nominee to one or more beneficiaries provided that it happens within two years of the judge's death. The default provisions ensure that this condition is met.

#### Other lump sum benefits under the 2017 Regulations

11. This note is concerned only with the death in service lump sum benefit under Regulation 45 of the 2017 Regulations. There are two other kinds of lump sum benefits which may arise under the regulations, but they are not affected by the note, and neither Form A nor Form B is suitable for them. They are: (1) the lump sum payable to the judge on retirement under Regulation 25. That is simply paid to the judge in his or her lifetime. (2) The lump sum payable under Regulation 47 on the death of a retired judge who dies within a few years (unlikely to be more than five) of his or her retirement. That sum must be paid to the personal representatives; there is no provision for it to be paid to a nominee instead. It will be included in the judge's estate for IHT.
12. The Inland Revenue have read this note and agree with the statements in it about IHT.

## **Annex C – Undertaking by the Ministry of Justice**

(1) Salaried judges had the option of exercising rights relating to the Judicial Added Voluntary Contribution Scheme, the Judicial Added Years Scheme and/or pension fund transfers (provided that they met the eligibility requirements for each scheme during the period that it was available under JUPRA).

(2) The fee-paid judiciary did not have these rights at the material time because they did not have any pension entitlement.

(3) The proposals for a fee-paid judicial pension scheme (FPJPS) include provisions that are intended to mirror those rights. Individuals who would have exercised these rights (if they had been members of JUPRA) will have a period in which to do so after FPJPS commences. It is proposed that the pension scheme manager will have a discretion to permit individuals who elect to exercise these rights to do so over a longer period than the normal period for doing so under FPJPS. Only those individuals with transitional or tapering protection will have rights under the schemes going forward (for as long as each scheme continued or continues under JUPRA).

(4) The Respondent acknowledges that some individuals who would have exercised these rights at the material time may be treated less favourably than their salaried comparator on ground of part-time status. In particular, HMRC will treat the rights as having been exercised for tax purposes on the date when the individual's payments or transfers take place, whereas the salaried judges would have been taxed at the material time. Depending on the individual's financial situation at each point in time, this may or may not disadvantage them.

(5) The Respondent is not currently aware of any individual who will be treated less favourably on ground of part-time status as a result of the tax treatment of the Judicial Added Voluntary Contribution Scheme, the Judicial Added Years Scheme and/or pension fund transfers under FPJPS. However, the Respondent confirms that it will compensate any individual who is in that position by undertaking to make good any difference in tax treatment on the basis of part-time status and to publish said undertaking in the literature which goes to all scheme members.

(6) For the avoidance of doubt, the Respondent considers that any such individual would have to establish the following elements (which would establish that they were treated less favourably than their salaried comparator on ground of part-time status and that this caused financial loss) in relation to any claim that they would have exercised their rights relating to the Judicial Added Voluntary Contribution Scheme, the Judicial Added Years Scheme and/or pension fund transfers on a particular date or dates from 7 April 2000:

(i) that the individual is entitled to be a member of FPJPS in respect of their service on the particular date or dates (from 7 April 2000) on which they claim that they would have exercised their rights relating to the Judicial Added Voluntary Contribution Scheme, the Judicial Added Years Scheme and/or pension fund transfers:

(ii) that the individual would have been eligible to exercise the right in question at the material time (taking into account the period when each scheme was in existence and the applicable criteria at the material time);

(iii) if so eligible, that the individual was likely to have chosen to exercise their rights (as claimed) at the material time, taking into account all of the circumstances;

(iv) if so, that the tax implications of exercising those rights under the FPJPS are less favourable than the tax implications that would have applied to them if they had exercised those rights at the material time; and

(v) if so, that they have mitigated their loss (for example, by timing any payments under the FPJPS in the most tax efficient manner).

## **Annex D – Note on Judicial Added Years Scheme**

### **Introduction**

This note provides a summary of the benefits which may be obtained from the Fee-Paid Judicial Added Years Scheme (FPJAYS) and the conditions which are placed on their purchase.

FPJAYS provides active and retired members of the Fee-Paid Judicial Pension Scheme (FPJPS) with the opportunity to purchase added years (or part-years) of qualifying service in judicial office. The rules governing FPJAYS are contained in Part 13 of the Judicial Pensions (Fee-Paid Judges) Regulations 2017.

### **Application**

To make an application for FPJAYS please contact Punter Southall Administration Ltd (PSAL) who will provide more information.

### **Eligibility**

FPJAYS is open to members of the FPJPS who held an eligible fee-paid judicial office before 6<sup>th</sup> April 2006.

## ***Active members***

### **How to become a member of FPJAYS**

A judge who wishes to become a member of FPJAYS is asked to give notice in writing to the administrators of the scheme (Punter Southall Administration Ltd. (PSAL)) within one year of the commencement of the FPJPS of 1<sup>st</sup> April 2017. The notice must include: a date from which contributions are assumed to have been payable (this must be before 6<sup>th</sup> April 2006); an assumed retirement age, which may be any date between his or her 60th birthday and his or her compulsory retirement age; the number of qualifying fee-paid days he or she proposes to work each year ending at the assumed retirement date; and the number of years he or she would like to purchase.

The assumed retirement date should be the age at which the member intends to retire, so far as this is possible to predict.<sup>2</sup> The maximum number of added years which a FPJAYS member may purchase will be determined by reference to the assumed retirement age. The purchase of those added years will be made by deductions from fees between the date of joining FPJAYS and the assumed date of retirement. For the contributions, attributable to the period from the assumed contributions start date and when contributions are deducted from fees, these may be paid by up to three lump sum payments. One lump sum payment may be made each calendar year for three years beginning with the date on which the notice to purchase FPJAYS was given.

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<sup>2</sup> Nominating an assumed retirement age will not in any way preclude the office-holder from retiring at any other time in accordance with the retirement provisions of the 1993 Act (for the effect of retirement before the assumed retirement age, see paragraphs 8-9).

### **Benefits provided by FPJAYS on retirement at or after assumed retirement age**

By making contributions under FPJAYS, a member will secure additional retirement benefits of a personal pension, a lump sum, and contingent surviving spouses'/civil partner' and children's pensions payable<sup>3</sup>.

### **Benefits provided by FPJAYS on retirement before assumed retirement age**

If a member retires before his or her assumed retirement age, other than on ill-health grounds, he or she will be granted added years on a pro-rata basis. The number of years or part-years with which the office-holder will be granted will be determined by reference to the length of time during which he or she has made additional contributions as a proportion of the time he or she would have made such contributions had service continued until the assumed retirement age<sup>4</sup>.

### **Benefits provided by FPJAYS on ill-health retirement**

If retirement before the assumed retirement age occurs on the grounds of ill-health, then the member will be credited with the full number of added years he or she would have purchased had service continued until the assumed retirement age.

### **Benefits provided by FPJAYS following death in service**

If a member of FPJAYS should die in service before the assumed retirement age then, for the purposes of determining any surviving spouse's/civil partner's or children's benefits, the length of the member's qualifying judicial service will be increased by the full number of added years which would have been purchased had service continued until the assumed retirement age.

### **Voluntary withdrawal from FPJAYS**

A member of FPJAYS may cease to make additional contributions at any time before the assumed retirement age. In such cases added years will be granted on a pro-rata basis in the same manner as for early retirement. If the member subsequently wishes to re-join FPJAYS then the application must be accompanied by a declaration signed by the member that he or she has no reason to believe that health may prevent continuation of service until the assumed retirement age. If the member does have to retire on the grounds of ill-health or dies within 12 months of the date when contributions are restarted, then he or she will not be credited with the added years or part years that would have been purchased between the date of retirement or death and the assumed retirement age. The exception to this is where the administrators are satisfied that the declaration of health was given in good faith.

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<sup>3</sup> The death in service lump sum will not be increased by the purchase of added years under FPJAYS.

<sup>4</sup> If a member of FPJAYS leaves judicial service before the assumed retirement age with a preserved pension award from the FPJPS (i.e. without having qualified for an immediate pension) FPJAYS will be calculated on a pro-rata basis.

## **Limits on the number of added years that may be purchased**

As with all tax-registered pension schemes, HM Revenue & Customs (HMRC) imposed limits on the amount of added benefit that may be purchased:

### **Maximum benefits limit**

The maximum number of years of reckonable service under the FPJPS is 20. The maximum number of added years purchased may not take a scheme member's total years of reckonable service at the assumed retirement age over 20.

The maximum number of years or part-years which may be purchased (subject to the maximum contributions limit set below) will be calculated by deducting from the maximum reckonable service figure of 20 years, the sum total of the following:

- (a) the length of potential service in the FPJPS from the date of joining until the assumed retirement age using the number of qualifying days the member has said they propose to work; and,
- (b) any service in another judicial pension scheme.

### **Refunds of contributions**

A FPJAYS member who has no spouse/civil partner and has no eligible children at the time of retirement will receive a refund of that part of the additional contributions he or she made to FPJAYS which have gone towards the cost of providing additional dependant's benefits during the period since he or she last had such dependants. The refund is calculated as the appropriate proportion of the contributions the scheme member has made since he or she last had a spouse/civil partner or eligible children (if ever). The refund will attract compound interest, but will be subject to a deduction for tax.

## ***Retired members***

### **How to become a member of FPJAYS**

A judge who wishes to purchase FPJAYS is asked to give notice in writing to the administrators of the scheme (Punter Southall Administration Ltd (PSAL)) within one year of the commencement of the FPJPS of 1<sup>st</sup> April 2017. The notice must include: a date from which contributions are assumed to have been payable (this must be before 6<sup>th</sup> April 2006); the actual date of retirement from judicial office; and the number of years he or she would like to purchase. The maximum number of added years which a FPJAYS member may purchase will be determined by the retirement date. The contributions to pay for the added year(s) purchased must be made by a lump payment within 12 months of the date when the notice to purchase FPJAYS was given.

### **Benefits provided by FPJAYS on retirement**

By making contributions under FPJAYS, a member will secure additional retirement benefits of a personal pension, a lump sum, and, where appropriate, when the member dies surviving spouses'/civil partners' and children's pensions.

## **Limits on the number of added years that may be purchased**

As with all tax-registered pension schemes, HM Revenue & Customs (HMRC) imposed limits on the amount of added benefit that may be purchased:

### **Maximum benefits limit**

The maximum number of years of reckonable service under the FPJPS is 20. The maximum number of added years purchased may not take a scheme member's total years of reckonable service at the date of retirement over 20 years.

The maximum number of years or part-years which may be purchased (subject to the maximum contributions limit set below) will be calculated by deducting from the maximum reckonable service figure of 20 years, the sum total of the following:

- (a) the length of service in the FPJPS from the date of joining until retirement age; and
- (b) any service in another judicial pension scheme.

## **Annex E - Judicial Added Surviving Adult's Pension Scheme**

### **Introduction**

This note provides a summary of the benefits which may be obtained from the Fee-Paid Judicial Added Surviving Adult's Pension Scheme (JASAPS), and the conditions which are placed on their purchase.

JASAPS provides active and retired members of the Fee-Paid Judicial Pension Scheme (FPJPS) with the opportunity to purchase added units of surviving adult's pension benefits. A surviving adult is defined as a spouse or civil partner. The rules governing JASAPS are contained in Part 14 of the Judicial Pensions (Fee-Paid Judges) Regulations 2017.

### **Eligibility**

FPJAYS is open to members of the FPJPS who held an eligible fee-paid judicial office before 6<sup>th</sup> April 2006.

Scheme members may only make contributions to JASAPS during periods of service in qualifying judicial office during which they have a spouse or a civil partner.

### **Active members**

#### **How to become a member of JASAPS**

A judge who wishes to become a member of JASAPS is asked to give notice in writing to the administrators of the scheme (Punter Southall Administration Ltd (PSAL)) within one year of the commencement of the FPJPS on 1 April 2017. The notice must include: a date from which contributions are assumed to have been payable (this must be before 6<sup>th</sup> April 2006); an assumed retirement age, which may be any date between his or her 60<sup>th</sup> birthday and his or her compulsory retirement age; the number of qualifying fee-paid days he or she proposes to work each year ending at the assumed retirement date; and the number of units he or she would like to purchase. The assumed retirement date should be the age at which the member intends to retire, so far as this is possible to predict.

The maximum number of units of additional surviving adult's pension which a JASAPS member may purchase will be determined by reference to the assumed retirement age and the purchase of those units of additional surviving adult's benefits will be made by deductions from fees between the date of joining JASAPS and the assumed retirement date<sup>5</sup>. For the contributions attributable to the period from the assumed contributions start date and when contributions are deducted from fees, these may be paid by up to 3 lump sum payments. One lump sum payment may be made each calendar year for three years beginning with the date on which the notice to purchase JASAPS was made.

#### **Benefits provided by JASAPS on death at or after assumed retirement age**

By making additional contributions under JASAPS, a member may secure additional units of surviving adult's pension benefit<sup>6</sup>. Each complete additional unit of benefit purchased will provide

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<sup>5</sup> Nominating an assumed retirement age will not in any way preclude the office-holder from retiring at any other time in accordance with the retirement provisions of the 1993 Act (for the effect of retirement before the assumed retirement age, see paragraphs 10-14).

<sup>6</sup> The death-in-service lump sum will **not** be increased by the purchase of JASAPS.

£1,000 per annum additional pension for the surviving adult of a scheme member following his or her death on or after the assumed retirement age<sup>7</sup>. There is no need to purchase only complete units of benefit; part-units of benefit (i.e. fractions of units providing amounts of additional surviving adult's pension between £1 and £999 per annum) may also be purchased (within the HM Revenue & Customs (HMRC) limits referred to elsewhere in this note), as the scheme member requires.

The additional surviving spouse's pension will come into payment at the same time as the surviving adult's pension payable under the FPJPS. Additional surviving adult's pension benefits are index-linked from the assumed retirement age.

### **Benefits provided by JASAPS following death in service before assumed retirement age**

If a member of JASAPS should die in service before the assumed retirement age, then the surviving adult will receive the full amount of additional surviving adult's pension benefit which the scheme member would have purchased had he or she served until the assumed retirement age. The additional surviving adult's benefits will be index-linked from the date of the scheme member's death.

### **Benefits provided by JASAPS on death following retirement before the assumed retirement age**

If a member retires before his or her assumed retirement age, other than on ill-health grounds, he or she will be credited with units of additional surviving adult's retirement benefit on a pro-rata basis. The number of units or part-units with which the office-holder will be credited will be determined by reference to the length of time during which he or she has actually made additional contributions as a proportion of the time he or she would have made such contributions had service continued until the assumed retirement age. The additional surviving adult's retirement benefits will come into payment at the same time as the surviving adult's pension payable under the FPJPS.

### **Benefits provided by JASAPS on death following ill-health retirement**

If retirement before the assumed retirement age occurs on grounds of ill-health, then the office-holder will be credited with the full number of units or part-units of additional surviving adult's pension benefit he or she would have purchased had he or she served until the assumed retirement age.

### **Voluntary withdrawal from JASAPS**

A member of JASAPS may cease to make additional contributions at any time before the assumed retirement age. In such cases scheme members, will be credited with units or part-units of additional surviving adult's pension benefit on a pro-rata basis in the same manner as for early retirement. If the member subsequently wishes to re-join JASAPS then the application must be accompanied by a declaration signed by the member that he or she has no reason to believe that health may prevent continuation of service until the assumed retirement age. If the member does have to retire on the grounds of ill health or dies within 12 months of the date when contributions are restarted, then he or she will not be credited with the units that would have purchased between the date of retirement or death and the assumed retirement age. The exception to this is where the administrators are satisfied that the declaration of health was given in good faith.

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<sup>7</sup>Where an immediate pension actuarially reduced is payable under the FPJPS (e.g. to a member who retires, other than on grounds of ill-health, between the ages of 60 and 65 and with at least 5 years' service in qualifying judicial office), then any additional surviving spouse's benefit purchased under JASAPS will **not** be liable to actuarial reduction.

## **Limits on the number of units of additional surviving adult's pension benefit that may be purchased**

As with all tax-approved pension schemes, HMRC imposes limits on the amount of added benefit that may be purchased:

### **Maximum benefits limit**

The maximum number of units and part-units of additional surviving adult's retirement benefit which may be purchased (subject to the maximum contributions limit set below) is that number which would bring the aggregated total of pension payable to the scheme member's surviving spouse/civil partner (from FPJPS, JASAPS and any other voluntary contributions schemes) to 2/3rds of the scheme member's maximum personal pension entitlement at the assumed retirement age<sup>8</sup>.

'Retained benefits' (the term commonly used to describe any benefits to which a member is entitled from personal pension schemes or previous employers' pension schemes) do **not** have to be declared or taken into account for the purposes of determining whether and to what extent there is any 'headroom' to purchase units of additional surviving adult's pension benefit.

### **Refunds of contributions**

Contributions to JASAPS are costed on the basis of the potential liability of the scheme in the light of actuarial assumptions about mortality rates. Should a scheme member cease to have a spouse/civil partner by virtue of the death of the spouse/civil partner or divorce/dissolution, then no refund of contributions will be payable.

## ***Retired members***

### **How to become a member of JASAPS**

A judge who wishes to become a member of JASAPS is asked to give notice in writing to the administrators of the scheme (Punter Southall Administration Ltd (PSAL)) within one year of the commencement of the FPJPS on 1 April 2017. The notice must include: a date from which contributions are assumed to have been payable (this must be before 6<sup>th</sup> April 2006); the actual retirement date from judicial office; and the number of units he or she would like to purchase. The maximum number of units of additional surviving adult's pension which a JASAPS member may purchase will be determined by reference to the retirement date. The contributions to pay for the unit(s) purchased must be paid by a lump sum payment within 12 months of the date on which the notice to purchase JASAPS was made.

### **Benefits provided by JASAPS on death after retirement**

By making additional contributions under JASAPS, a member will secure additional units of surviving adult's pension benefit. Each complete additional unit of benefit purchased will provide £1,000 per annum additional pension for the surviving adult of a scheme member following his or her death after retirement. There is no need to purchase only complete units of benefit; part-units of benefit (i.e. fractions of units providing amounts of additional surviving adult's pension between

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<sup>8</sup> Broadly speaking, HMRC permitted scheme members to receive an annual pension of no more than 2/3rds of their pensionable pay at retirement (including the pension equivalent of any lump sum). Lower limits on the number of units of additional surviving adult's pension benefit apply where an office-holder has less than 10 years' potential service remaining until the assumed retirement age.

£1 and £999 per annum) may also be purchased (within the HM Revenue & Customs (HMRC) limits referred to elsewhere in this note), as the scheme member requires.

The additional surviving adult's pension will come into payment at the same time as the surviving spouse's pension payable under the FPJPS. Additional surviving adult's pension benefits are index-linked.

### **Limits on the number of units of additional surviving adult's pension benefit that may be purchased**

As with all tax-approved pension schemes, HMRC imposes limits on the amount of added benefit that may be purchased:

#### **Maximum benefits limit**

The maximum number of units and part-units of additional surviving adult's pension benefit which may be purchased (subject to the maximum contributions limit set below) is that number which would bring the aggregated total of pension payable to the scheme member's surviving spouse/civil partner (from the FPJPS, JASAPS and any other voluntary contributions schemes) to 2/3rds of the scheme member's maximum personal pension entitlement at the retirement age<sup>9</sup>.

'Retained benefits' (the term commonly used to describe any pension benefits to which a member is entitled from personal pension schemes or previous employers' pension schemes) do **not** have to be declared or taken into account for the purposes of determining whether and to what extent there is any 'headroom' to purchase units of additional surviving adult's pension benefit.

#### **Refunds of contributions**

Contributions to JASAPS are costed on the basis of the potential liability of the scheme in the light of actuarial assumptions about mortality rates. Should a scheme member cease to have a spouse/civil partner by virtue of the death of the spouse/civil partner or divorce/dissolution, then no refund of contributions will be payable.

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<sup>9</sup> Broadly speaking, HMRC permitted scheme members to receive an annual pension of no more than 2/3rds of their pensionable pay at retirement (including the pension equivalent of any lump sum). Lower limits on the number of units of additional surviving spouse's pension benefit apply where an office-holder has less than 10 years' potential service remaining until the assumed retirement age.