

SALARIED JUDGE OF THE FIRST TIER TRIBUNAL

OUTLINE OF TERMS AND CONDITIONS OF SERVICE

1. **General.** The following is a summary of the basic terms and conditions of service. The terms and conditions are correct as at the date given at the end of this memorandum, but may in some circumstances be subject to change.
2. **Prohibition on practice.** A judicial office holder shall not practise as a barrister or solicitor or be indirectly concerned in any such practice (s.75 Courts and Legal Services Act 1990). The Lord Chancellor also regards a judicial office as a lifetime appointment. Any offer of appointment is therefore made on the understanding that appointees will not return to practice.
3. **Salary, Income Tax and National Insurance.** Salaries for the new tribunal structure are being considered by the Senior Salaries Review Board and it is expected that salary levels will be announced in the autumn. The salary will be at least £101,400 (with London weighting of £4000 when appropriate). The review will take account of the full range of responsibilities of these posts. Income Tax, which is payable under Schedule E, is deducted at source in accordance with PAYE arrangements. A judicial office holder is classed as an “employed earner” for National Insurance purposes and is liable for class 1 contributions, which are deducted from salary together with income tax. Since the judicial pension scheme has been contracted-out of the State Earnings-Related Pension Scheme, contributions are payable at the lower, contracted-out, rate. Liability for National Insurance contributions ceases at state retirement age even if service continues thereafter.
4. **Pension terms.** The post is pensionable. Provision of pension benefits is determined under the provisions of the Judicial Pensions and Retirement Act 1993. Although membership of the judicial pension scheme is automatic on appointment, it is not compulsory and a holder of judicial office may opt out. Under the Judicial Pensions and Retirement Act 1993, an immediate pension is payable at age 65, provided the office-holder has completed at least 5¹ years’ service. The annual rate of the pension will be 1/40th of an office-holder’s pensionable pay multiplied by the aggregate length of service in qualifying judicial office (expressed in years and fractions of a year) subject to a maximum pension equal to one-half of pensionable pay after 20 or more years’ service. An actuarially reduced pension is payable immediately where an office-holder retires, having completed at least 5 years’ service, after attaining the age of 60 but before age 65. Where an office-holder is obliged to retire on health grounds before attaining age 65, his or her service will be enhanced by a period equal to one-half of the service he or she would otherwise have served from the day following retirement to his or her 65th birthday.
5. In addition to the pension, a lump sum equal to 2.25 times the annual rate of that pension is payable. There is a spouse’s pension at the rate of one-half of the personal pension accruing or in payment at the time of death and provision for a children’s pension. In the event of death in office, there is provision for a death benefit equal to twice the amount of an office-holder’s pensionable pay. Contributions towards spouses’ and children’s pensions are compulsory for judicial office holder’s and take the form of monthly payments of 1.8% of pension-capped salary. Pensions already in payment are subject to increases under the Pensions (Increase) Act 1971. Surviving civil partnership benefits are payable on the death of

¹ In order to comply with the requirements of the Pensions Act 1993, accrued benefits will be paid to office-holders who have reached the compulsory retirement age of 70 not having completed five years of service but having completed more than two years of service.

a judicial office holder who has formed a civil partnership in accordance with the Civil Partnership Act 2004.

6. The judicial pension scheme is a “non-registered” scheme for the purpose of the Finance Act 2004. This means that benefits under the scheme will not count towards the lifetime allowance for pension benefits under that Act, but that benefits and contributions under it do not attract income tax relief; lump sum benefits are accordingly subject to income tax at the office holder’s marginal rate. This liability will be offset, in whole or in part, by the payment of a separate service award on the office holder’s retirement. Fuller details are available on request.
7. **Appraisal and Training.** A judicial office holder must make themselves available to attend such training courses **and appraisal** as shall from time to time be arranged or specified by the President.
8. **Sitting requirements.** The Lord Chancellor considers it essential, in particular because of the burden of work on the tribunals, for a judicial office holder to devote at least 220 days in each year to the business of the Tribunal. In addition to eight public holidays each calendar year, leave entitlement for a judicial office holder comprises the afternoon of Maundy Thursday, a day for the Queen’s birthday (usually the Tuesday following the Spring Bank Holiday), and for one day in addition to the public holidays at Christmas. Account will be taken of any extraordinary duties which take place at weekends or public holidays and of reading-days arranged for the preparation of lengthy and difficult cases.
9. **Sick leave.** A judicial office holder is required to notify the President of any absence through sickness, so that all the necessary arrangements can be made for their sittings, by the appointment of deputies or otherwise. They should also keep the President informed of the likely length of a sick absence. Although there is nothing specifically laid down in regard to sick leave, the practice is to apply the same conditions as for civil servants. Broadly speaking, these provide that a judicial office holder may receive 6 months’ sick leave on full pay during any period of 12 months, and thereafter sick leave on half pay, subject to a maximum of 12 months sick leave in any period of 4 years or less; provided there is a reasonable prospect of an eventual return to duty.
10. **Tenure.** Under the provisions of the Judicial Pensions and Retirement Act 1993, a judicial office holder will normally be required to vacate his or her office on his or her 70th birthday (s.26 of the 1993 Act). A salaried judicial office holder who was appointed prior to the commencement of the Judicial Pensions and Retirement Act 1993 (31 March 1995) will retain the compulsory retirement date applicable to him or to her in the former office. The Lord Chancellor may remove a judicial office holder on the grounds of inability or misbehaviour. Any such removal requires the concurrence of the Lord Chief Justice. A judicial office holder may resign his or her office at any time by notice in writing to the Lord Chancellor.
11. **Residence.** A judicial office holder must live within reasonable travelling distance of the venues at which he or she will sit.
12. **Travelling etc allowances.** Travelling expenses and in certain circumstances night subsistence may be payable in connection with sittings, attendance at training courses, etc. Details of the rules governing the payment of these allowances will be supplied by the staff of the Tribunal. The rules governing and rate of these allowances may change from time to time, and any such changes will be notified. HM Revenue and Customs tax rules governing the tax treatment, and rates, of these allowances may also change and any such changes will be notified to office holders.

13. **Costs of taking up appointment.** No assistance is available from public funds towards any costs incurred (e.g. through a move of house) on appointment as a judicial office holder.
14. **Outside activities and interests.** A judicial office holder should not in any capacity engage in any activity which might undermine, or be reasonably thought to undermine, his or her judicial independence or impartiality. He or she must expect to forgo any kind of political activity and be on their guard against circumstances arising in which their involvement in any outside activity might be seen to cast doubt on their judicial impartiality or conflict with their judicial office. A person holding a commercial directorship is expected to relinquish this on appointment to salaried judicial office. A judicial office holder is also expected to submit his or her resignation to the Lord Chancellor in the event of nomination or adoption as a prospective candidate for election to Parliament, or to the Scottish Parliament, the Welsh Assembly, the Northern Ireland Assembly or to the European Parliament.
15. **Freemasonry.** Following the Government's response to the Report of the House of Commons Select Committee on Freemasonry in the Police and the Judiciary, anyone being appointed for the first time to a salaried judicial office is asked as a condition of appointment whether they belong to the Freemasons and, if not, that they notify the Lord Chancellor in the event that they subsequently join them. Judicial post holders must expect that this information may be included in a public register.
16. **Maternity, Paternity and Adoption leave.** Judicial office holders are entitled to maternity, paternity and adoption leave. Details of the operation of these entitlements will be provided to office holders as appropriate.
17. **Salaried part time working.** It may be possible for the appointment to be salaried part-time, subject to the judicial needs of the Tribunal. Such appointments are permanent and are subject to the same terms and conditions of service as for full-time appointments, which are set out in this document. This includes the requirement that appointees will not continue to practise.
18. Salary, annual leave, sick pay and pension benefits will be calculated on a pro-rata basis, based upon the full-time requirement of 220 judicial days per year. A salaried part-time judicial office holder will be expected to sit for the full duration in longer cases.
19. **Advice.** Judicial office holders are welcome to consult the Ministry of Justice or the Judicial Office for England & Wales (as appropriate) on any matters relating to judicial office. Judicial media enquiries should be directed to the Lord Chief Justice's Judicial Communications Office on 020 7947 6438. Contact details for members of this team are available at <http://www.financeandtaxtribunals.gov.uk/taxAppealsModernisation.htm>.