

SALARIED JUDGE OF THE UPPER TRIBUNAL

OUTLINE CONDITIONS OF APPOINTMENT AND TERMS OF SERVICE

INTRODUCTION

1. The following is a summary of the basic terms of service. Fuller details, including the conditions of appointment, will be supplied to candidates who are offered appointment

PROHIBITION ON PRACTICE

2. A Judge of the Upper Tribunal 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.

TENURE

3. Under the provisions of the Judicial Pensions and Retirement Act 1993, a Judge of the Upper Tribunal 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 Judge of the Upper Tribunal on the grounds of inability or misbehaviour. Any such removal requires the concurrence of the relevant Chief Justice. A Judge of the Upper Tribunal may resign his or her office at any time by notice in writing to the Lord Chancellor.

INCOME TAX AND NATIONAL INSURANCE

4. Income Tax, which is payable under Schedule E, is deducted at source in accordance with PAYE arrangements. A Judge of the Upper Tribunal 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.

PENSION TERMS

5. 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 judicial officer 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 5 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.
6. 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 all salaried Judges of the Upper Tribunal 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 a judicial office holder who has formed a civil partnership in accordance with the Civil Partnership Act 2004.

7. 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.
8. Lord Hutton's Independent Public Service Pensions Commission published their interim report in October 2010. The report recommended that most members of public service pension schemes should pay higher contributions towards the cost of their pension. The Government have accepted this recommendation and, as a consequence, the Ministry are currently legislating to take personal contributions from members of the Judicial Pension Scheme.
9. It is anticipated that the personal contributions will commence in April 2012. The level of contribution will be subject to consultation with the judiciary.
10. Lord Hutton submitted his final report in March 2011, and the Government will consider and respond to the recommendations in due course. This may lead to further changes to the judicial pension scheme. Those changes would also be subject to consultation with the judiciary.

SITTING REQUIREMENTS

11. A Judge of the Upper Tribunal is entitled to 30 days annual holiday a year, together with public and privilege holidays.

SICK LEAVE

12. A Judge of the Upper Tribunal is required to notify the Chamber President of any absence through sickness, so that all the necessary arrangements can be made for their absence. They should also keep the Chamber 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 Judge of the Upper Tribunal 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.

RESIDENCE

13. A Judge of the Upper Tribunal must live within reasonable travelling distance of the venues at which he or she sits.

TRAVELLING ETC ALLOWANCES

14. Travelling expenses and in certain circumstances night subsistence allowances may be payable in connection with sittings, attendance at training courses, meetings, 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.

COST OF TAKING UP APPOINTMENT

15. No assistance is available from public funds towards any costs incurred (e.g. through a move of house) on appointment as a Judge of the Upper Tribunal. Exceptionally, however, a serving salaried judicial office-holder is entitled to relocation expenses if, as a result of that appointment, removal of home becomes necessary.

OUTSIDE ACTIVITIES AND INTERESTS

16. A Judge of the Upper Tribunal 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 company directorship is expected to relinquish this on appointment to salaried judicial office. A Judge of the Upper Tribunal is also expected to submit his or her resignation to the Lord Chancellor in the event of a nomination or adoption as a prospective candidate for election to Parliament, or to the Scottish Parliament, the Welsh Assembly, the Northern Ireland Assembly or the European Parliament.

MATERNITY, PATERNITY AND ADOPTION LEAVE

17. 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.