



Ministry
of Justice

Baroness Drake CBE
Chair of the Constitution Committee
House of Lords
London
SW1A 0PW

The Right Honourable
Alex Chalk KC MP
Lord Chancellor & Secretary
of State for Justice

MoJ ref: 110370

14 November 2023

Dear Baroness Drake,

THE JUDICIAL PENSIONS (REMEDIABLE SERVICE ETC.) (AMENDMENT) REGULATIONS 2023

I am writing to introduce secondary legislation that I laid in Parliament yesterday. The regulations make amendments to The Judicial Pensions (Remediable Service etc.) Regulations 2023 which were made in July 2023 and the Judicial Pensions Regulations 2015. These regulations enacted the technical aspects of Chapter 2 of the Public Service Pensions and Judicial Offices Act 2022 (PSPJOA), regarding judicial pensions.

In 2018, the Court of Appeal handed down judgment in the case of *McCloud v MoJ*, concluding that the transitional protections provided to older judges as part of the 2015 pension reforms constituted unlawful direct age discrimination, and indirect race and sex discrimination. These transitional protections meant younger judges were moved to the 2015 scheme from their legacy scheme, while older judges remained in their legacy scheme.

For certain groups of judges, including litigants, it has been agreed that they are now considered never to have been a part of the 2015 scheme. Whilst these judges were unlawfully being treated as members of the 2015 scheme, they were able to make additional payments such as a transfer in from a private pension scheme or additional contributions such as added pension (AP). The amendment regulations make technical amendments to recognise that these payments were not received by the 2015 scheme, which is necessary in order to ensure we can fully implement their remedies. This was the policy intention of the Judicial Pensions (Remediable Service etc.) Regulations 2023 which came into force in July, but it has been identified that the current wording of those regulations may not fully implement the remedy for these judges and therefore these new regulations make technical amendments to address this.

These regulations are designed to ensure that we are able to fully remedy all aspects of the discrimination.

I am placing a copy of this letter in the library of both houses.

Yours sincerely,

RT HON ALEX CHALK KC MP

LORD CHANCELLOR AND SECRETARY OF STATE FOR JUSTICE