

## SCHEDULE

Article 2

### Amendment of the Firefighters' Pension Scheme Order (Northern Ireland) 2007

1. In Part A (general provisions and retirement)—
  - (1) in article 2 (exclusive application to regular firefighters)—
    - (a) omit paragraph (3);
    - (b) for paragraph (5) substitute —

“(5) This Scheme applies to a person who took up employment with the Board on or before 5th April 2006 and remains in continuous pensionable service.”;
    - (c) omit paragraph (7).
  - (2) Omit articles 3 to 6, article 8, articles 10 and 11.
2. In Part B (personal awards)—
  - (1) In article 13 (ordinary pension), after paragraph (3) add—

“(4) Paragraph (2)(a) shall not apply to a chief fire officer appointed after the date of coming into operation of this Order.”.
  - (2) In article 14 (short service award) in paragraph (1)(a), for “retires on or after normal pension age” substitute “retires at or after normal pension age”.
  - (3) In article 15 (ill health awards)—
    - (a) in paragraph (1), for “who is required to retire under article 11 (compulsory retirement on grounds of disablement)” substitute “who retires by reason of permanent disablement<sup>(1)</sup>”;
    - (b) for paragraph (2), substitute—

“(2) A regular firefighter who is entitled—

      - (a) to reckon at least two years but less than five years pensionable service becomes entitled on retiring to a lower tier ill-health pension calculated in accordance with paragraph 2 of Part III of Schedule 2; or
      - (b) to reckon at least five years' pensionable service becomes entitled on retiring—
        - (i) where paragraph (3) applies, to a lower tier ill-health pension calculated in accordance with paragraph 2 of Part III of Schedule 2, or
        - (ii) where paragraph (4) applies, to the pensions referred to in paragraph (5) (b) (“the higher tier ill-health pension”).”;
    - (c) in paragraph (5)(a), omit “or 3 (as the case may be)”;
    - (d) in paragraph (7), for “the issue of his capacity for employment arises” substitute “the question of his disablement arises for decision”.
  - (4) In article 16 (deferred pension)—
    - (a) in paragraph (1)(d)(i), omit “and”;
    - (b) in paragraph (1)(d)(ii), after “article 58” insert “; and”;
    - (c) after paragraph (1)(d)(ii), insert—

“(iii) any period of absence from duty without pay, reckonable as pensionable service under article 46(3), and”;
    - (d) omit paragraph (5).

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(1) Within the meaning of Article 7 (disablement).

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- (5) In article 16A(2) (entitlement to two pensions)—
- (a) in paragraph (2), for “The amounts” substitute “Subject to paragraph (4A), the amounts”; and
- (b) after paragraph (4) insert—
- “(4A) Where a firefighter is entitled to—
- (a) a lower tier ill-health pension under article 15(2)(a) or (b)(i),
- (b) a higher tier ill-health pension under article 15(2)(b)(ii), or
- (c) a deferred pension under article 16,
- the amount of the first and second pension shall be calculated in accordance with Part III or Part V (as the case may be) of Schedule 2 with the formula in paragraph (4B).
- (4B) For the purpose of the calculation in paragraph (4A)—
- (a) the amount of the first pension is that found by applying the formula—
- $$\left(\frac{A}{E}\right) \times \left(\frac{B}{C}\right) \times G$$
- (b) the amount of the second pension is that found by applying the formula—
- $$\left(\frac{F}{C}\right) \times G$$
- (c) in sub-paragraphs (a) and (b) A, B, and C have the same meaning as in paragraph (3), E and F have the same meaning as in paragraph (4) and G is the amount of the single pension that the firefighter would otherwise have been awarded.”
- (6) In article 16B (additional pension benefit: long service increment)—
- (a) in paragraph (2), after the formula substitute—
- “Where—
- A is the number in years (counting part of a year as the appropriate fraction) by which the firefighter’s continuous pensionable service in the employment of the Board up to and including 30th June 2007, exceeds 15 but does not exceed 20; and
- B is the number in years (counting part of a year as the appropriate fraction) by which his continuous pensionable service in the employment of the Board up to and including 30th June 2007, exceeds 20 but does not exceed 30.”;
- (b) in paragraph (3), for “Where” substitute “Until 11th April 2011, where”;
- (c) after paragraph (3), insert—
- “(3A) On and after the 11th April 2011, the amount of additional pension benefit (as calculated in accordance with paragraph (2) and paragraph (3) and, if applicable, paragraph (3B) and this paragraph) shall be increased on the first Monday of the following relevant tax year by the same amount as any increase which would have applied if the additional pension benefit were a pension to which the Pensions (Increase) Act (Northern Ireland) 1971(3) applied and the beginning date for that pension were the 1<sup>st</sup> July of the tax year immediately before the relevant tax year; and

(2) Articles 16A to 16D were inserted by SR 2008 No. 382.

(3) 1971 c. 35 (N.I.)

- (3B) For the avoidance of doubt, the increase of additional pension benefit in the tax year 2010/2011 shall be increased by the same percentage as the percentage increase in the Consumer Prices Index in September 2010 with effect from Monday 11<sup>th</sup> April 2011.”; and
- (d) in paragraph (4), for “(3) substitute “(3) and (3A)” and—
- (e) in paragraph (5) before the expression “relevant tax year” insert—

““the beginning date” means the date on which the pension is treated as beginning for the purposes of section 8(2) of the Pensions (Increase) Act (Northern Ireland) 1971;

“following relevant tax year” means the tax year after the relevant tax year, in relation to which the member is not in receipt of a pension under this Scheme or entitled to a deferred pension under article 16;”.

- (7) For article 16C (additional pension benefit: continual professional development), substitute—

#### **“Additional pension benefit**

16C.—(1) Where the Board determines that the benefits listed in paragraph (5) are pensionable, and in any additional pension benefit year pays any such pensionable benefits to a regular firefighter, the Board shall credit the firefighter with an amount of additional pension benefit in respect of that year.

(2) Subject to paragraph (3), the amount of additional pension benefit in respect of that year shall be determined on 1st July immediately following the year in question in accordance with guidance and tables provided by the Scheme Actuary.

(3) The amount of additional pension benefit determined in accordance with paragraph (2) shall be increased on the first Monday of the following relevant tax year by the same amount as any increase which would have applied if that additional pension benefit were a pension to which the Pensions (Increase) Act (Northern Ireland) 1971 applied and the beginning date for that pension were the 1st July of the tax year immediately before the relevant tax year.

(4) For the avoidance of doubt, the increase of additional pension benefit in the tax year 2010/2011 shall be increased by the same percentage as the percentage increase in the Consumer Prices Index in September 2010 with effect from Monday 11th April 2011.

(5) The benefits referred to in paragraph (1) are—

- (a) any allowance or supplement to reward additional skills and responsibilities that are applied and maintained outside the requirements of the firefighter’s duties under the contract of employment but are within the wider functions of the job;
- (b) the amount (if any) paid in respect of a firefighter’s continual professional development;
- (c) the difference between the firefighter’s basic pay in their day to day role and any pay received whilst on temporary promotion or where he is temporarily required to undertake the duties of a higher role;
- (d) any performance related payment which is not consolidated into his standard pay.

(6) In this article—

“additional pension benefit year” means the period of 12 months beginning with 1<sup>st</sup> July in which a firefighter is in receipt of any of the benefits listed in paragraph (5);

“the beginning date” means the date on which the pension is treated as beginning for the purposes of section 8(2) of the Pensions (Increases) Act (Northern Ireland) 1971;

“following relevant tax year” means the tax year after the relevant tax year, in relation to which the member is not a pensioner member or entitled to a deferred pension under article 16;

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“relevant tax year” means a tax year in relation to which—

- (a) the amount of a firefighter’s pension benefits determined under this article for the purposes of this Scheme is taken into account for tax purposes, and
- (b) the firefighter is not in receipt of a pension under this Scheme or entitled to a deferred pension under article 16; and

“tax year” means the period of 12 months beginning with 6th April.”

(8) In article 16D (additional pension benefits: supplementary provisions)—

- (a) in paragraph (2) for “paragraphs (4) and (5)” substitute “paragraph (4)”; and
- (b) in paragraph (3) omit “(article 11)”.

(9) In article 18 (commutation-general provision)—

- (a) in paragraph (4), for “Government Actuary” substitute “Scheme Actuary”;
- (b) in paragraph (6), for “In the case of” substitute “Subject to paragraph (6A), in the case of”;
- (c) after paragraph (6), insert—

“(6A) Subject to paragraph (5) the Board may, having regard to—

- (a) the economical, effective and efficient management of its functions, and
- (b) the costs likely to be incurred in the particular case,

pay a lump sum in excess of two and a quarter times the full amount of the pension.”;

- (d) in paragraph (13), for “serviceman” substitute “reservist”.

(10) In article 19 (commutation-small pensions)—

- (a) in paragraph (2), for “Government Actuary” substitute “Scheme Actuary”; and
- (b) after paragraph (3), add—

“(4) On the day on which the pension is commuted under this article, all other entitlements to a pension under this Scheme are extinguished.”.

(11) In article 20 (allocation)—

- (a) in paragraph (6), for “the date on which he intends to retire” substitute “the day before the pension comes into payment”;
- (b) in paragraph (11), for “Government Actuary” substitute “Scheme Actuary”; and
- (c) in paragraph (12), after the words “Compensation Scheme” add “in an award to a reservist.”.

(12) In article 23 (pension debit members), in paragraph (a), for “Government Actuary” substitute “Scheme Actuary”.

3. In Part C (award on death-spouses or civil partners)—

(1) In article 25 (spouse’s or civil partner’s ordinary pension), for paragraph (2) substitute—

“(2) Where this article applies the surviving spouse or civil partner is entitled to an ordinary pension calculated in accordance with Part 1 of Schedule 3.”.

(2) In article 32 (pension debit members) for “Government Actuary” substitute “Scheme Actuary”.

4. In Part D (awards on death-children), for article 35 (child’s allowance or special gratuity-limitations), substitute—

**“Child’s allowance: limitations and duration**

35.—(1) Subject to paragraphs (2) and (3), a child is not eligible if he—

- (a) is 18 or older;
- (b) has ceased full-time education and is in paid employment; or
- (c) is married or has entered into a civil partnership.

(2) A child aged 18 but not more than 23 is eligible if he is in full-time education or attending a course of at least one year's duration.

(3) A child aged 18 or more is eligible if, when the deceased dies, he is dependent on the deceased by reason of permanent disablement.

(4) A child is not eligible if he is convicted of the murder of the deceased, but this is subject to paragraph (6).

(5) Subject to paragraph (7), where the child is convicted of the manslaughter of the deceased, the Board may as it thinks fit, withhold the child's allowance—

- (a) in whole or in part, and
- (b) permanently or temporarily.

(6) Where a conviction of the description mentioned in paragraph (4) is quashed on appeal—

- (a) a child's pension shall be payable from the day after that on which the deceased died, and
- (b) the Board shall, as soon as reasonably practicable after the conviction is quashed, pay the arrears of allowance accrued.

(7) Where—

- (a) a conviction of the description mentioned in paragraph (5) is quashed on appeal, and
- (b) the Board has withheld any part of the child's allowance,

the Board's decision under paragraph (5) shall be treated as revoked and it shall, as soon as reasonably practicable after the conviction is quashed, pay the arrears of allowance accrued from the day after that on which the deceased died.

(8) Nothing in paragraph (6) or (7) shall affect the application of paragraph (4) or (5) if the child whose conviction is quashed is subsequently convicted of the murder or manslaughter of the deceased.

(9) A child's allowance ceases to be payable—

- (a) unless paragraph (2) or (3) applies, on his 18th birthday or on the occurrence of the event referred to in paragraph (1)(b) or (c), whichever first occurs;
- (b) where paragraph (2) applies, on his 23rd birthday or the day on which his full-time education or course ceases, whichever first occurs;
- (c) Where paragraph (3) applies, when the Board is satisfied—
  - (i) that the child is no longer permanently disabled; or
  - (ii) that the child's allowance should not have been awarded.

(10) Unless paragraph (9)(c) applies, an allowance for which a child is eligible as mentioned in paragraph (3) is payable for life.”.

5. In Part E (awards on death-additional provisions)—

(1) In article 37 (lump sum death grant)—

- (a) in paragraph (2), for “or gratuity” substitute “, gratuity or lump sum”; and
- (b) after paragraph (5), add—

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“(6) The grant is to be paid before the end of the period of two years beginning with the earlier of the day on which the Scheme administrator knew of the member’s death and the day on which the Scheme administrator could first reasonably be expected to have known of it.”.

(2) In article 38 (dependent relative’s gratuity) in paragraph (2)(b), after “Scheme” add “in respect of the same firefighter”.

(3) In article 39 (payment of balance of contributions to estate)—

(a) in paragraph (2)(f), for “Government Actuary” substitute “Scheme Actuary”; and

(b) for paragraph (4), substitute—

“(4) The Board shall pay a post retirement death grant to the deceased’s personal representatives.

(5) In this article a “post retirement death grant” is an amount representing the difference between the aggregate of the relevant amounts and the deceased’s aggregate pension contributions.”.

(4) In article 40 (lump sum in lieu of surviving spouse’s or civil partner’s pension)—

(a) in paragraph (1)—

(i) for “Part 1 of Schedule 29 (lump sum rule)”, substitute “Part 2 of Schedule 29 (lump sum death benefit rule)”; and

(ii) omit “whole or any part of the”;

(b) in paragraph (2)(a), for “article 25” substitute “Part C (awards on death-spouses or civil partners);

(c) in paragraph (5), for “Government Actuary” substitute “Scheme Actuary”; and

(d) after paragraph (5), add—

“(6) On the day on which the whole of a pension is commuted under this article, all other entitlements under the Scheme of the person entitled to the pension are extinguished to the extent that they derive from the deceased member.”.

(5) In article 41 (lump sum in lieu of child’s allowance)—

(a) in paragraph (1), omit “whole or part of the”;

(b) in paragraph (3) for “commutation of the whole or part of an allowance” substitute “commutation of the allowance”; and

(c) after paragraph (4), add—

“(5) On the day on which a pension is commuted under this article, all other entitlements under the Scheme of the person entitled to the pension are extinguished to the extent that they derive from the deceased member.”.

(6) In article 42 (limitation on discretion to commute pension or allowance for gratuity)—

(a) in paragraph (2), after “commute” omit “whole or part of a”;

(b) in paragraph (2)(b), for “Part 1 of Schedule 29”, substitute “Part 2 of Schedule 29”; and

(c) in paragraph (4), for “Government Actuary” substitute “Scheme Actuary”;

(d) in paragraph (5) for “serviceman” substitute “reservist”.

(7) For article 43 (increase of pensions and allowances during first 13 weeks), substitute—

**“Bereavement pension: survivors**

43.—(1) Subject to paragraph (2), a person entitled to a pension under article 25 (spouse’s or civil partner’s ordinary pension) is also entitled in respect of each of the 13 weeks following the deceased’s death, to a bereavement pension of an amount equal to the difference between the weekly rate at which the survivor’s pension is paid and—

- (a) if the deceased was a firefighter member when he died, the weekly rate of his pensionable pay when he died;
- (b) in any other case, the weekly rate of his pension or pensions (including any increase under the Pensions (Increase) Act (Northern Ireland) 1971) when he died.

(2) No entitlement arises under paragraph (1) where—

- (a) an election not to pay pension contributions under article 59 has effect at the date of the deceased’s death, or
- (b) the deceased was entitled to a deferred pension that had not come into payment.”.

(8) after article 43, insert—

**“Bereavement pension: children**

43A.—(1) This article applies to a child’s ordinary or accrued allowance under this Scheme where the deceased died—

- (a) while serving as a regular firefighter, or
- (b) while in receipt of a pension, and—
  - (i) there is no surviving spouse or civil partner, or
  - (ii) a surviving spouse or civil partner did not become entitled to a pension which was payable for a continuous period of 13 weeks.

(2) Subject to paragraphs (3) and (4), a person entitled to an allowance is also entitled in respect of each of the 13 weeks following the deceased’s death, to a bereavement pension of an amount equal to the difference between the weekly rate at which the allowance is paid, and—

- (a) if the deceased was a firefighter member when he died, the weekly rate of his pensionable pay when he died;
- (b) in any other case, the weekly rate of his pension or pensions (including any increase under the Pensions (Increase) Act (Northern Ireland) Act 1971) when he died; and

(3) Where there is more than one eligible child, the amount paid in respect of each bereavement pension shall not be less than the amounts payable under paragraph (2)(a) or (b) divided by the number of allowances.

(4) No entitlement arises under paragraph (1) where—

- (a) an election not to pay pension contributions under article 59 has effect at the date of the deceased’s death; or
- (b) the deceased was entitled to a deferred pension that had not come into payment.”.

6. In Part F (pensionable service and transfer values)—

(1) In article 45 (reckoning of and certificates as to pensionable service)—

- (a) in paragraphs (1) and (7), for “serviceman” substitute “reservist”;
- (b) in paragraph (6), in both places where it occurs, for “or gratuity” substitute “, lump sum, or gratuity”.

(2) After article 45, insert—

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### **“Reckoning of service for purposes of awards**

45A.—(1) Subject to paragraph (3), for the purpose of calculating an award payable to or in respect of an employee of the Board by reference to any period in years (including a period of pensionable or other service) the period shall be reckoned as—

$$A + \frac{B}{365} \text{ years}$$

Where—

- (a) A is the number of completed years in the period, and
- (b) B is the number of completed years in any remaining part of a year,

and accordingly a part of a year which includes 29th February in a leap year and comprises 366 days shall be treated as a whole year.

(2) Where, for the purpose of calculating an award payable to or in respect of a regular firefighter—

- (a) it is necessary to determine his pensionable service reckonable by reason of service or employment before or after a particular date (“the material date”), and
- (b) by virtue of the receipt by the Board of a transfer value, he is entitled to reckon a period of pensionable service (“the credited period”) by reason of service or employment for a period (“the previous employment period”) which includes the material date,

the credited period counts as pensionable service reckonable by reason of service or employment before and after the material date in the same proportion as that between the parts of the previous employment period falling before and after the material date.

(3) Subject to article 24 and Part IV of Schedule 2, any period of service as a part-time employee of the Board shall be treated as service as a whole-time employee of the Board when calculating a person’s pensionable service.”

(3) In article 46 (current service) in paragraph (4)(a), omit “(including any such additional or further contributions as are mentioned in article 60)”.

(4) In article 49 (previous service reckonable on payment), omit paragraphs (1), (2) and (4) to (8).

(5) In article 51 (previous service reckonable following actionable loss)—

- (a) in each paragraph where it occurs, for “reckonable service” substitute “pensionable service”;
- (b) in paragraph (1)(b), omit “section 62 of the Financial Services Act 1986 (actions for damages in respect of contraventions of rules etc. made under the act), or”.

(6) In article 52 (calculation of amount of restitution payment), in paragraphs (2)(b)(i) and (3), for “Government Actuary” substitute “Scheme Actuary”.

(7) For article 54 (Transfer payments between fire authorities) substitute—

### **“Transfer payments to English, Scottish and Welsh fire and rescue authorities**

54.—(1) Where, on or after 1<sup>st</sup> April 2006, a person who retired from employment with the Board “(the first employment)”—

- (a) takes up employment as a regular firefighter with an English, Scottish or Welsh fire and rescue authority; and
- (b) becomes entitled under article 49 (previous service reckonable on payment) to reckon as pensionable service the period he was entitled to reckon when he retired,

the Board shall, subject to paragraph (2), pay to the English, Scottish and Welsh fire and rescue authority (as the case may be) a sum calculated in accordance with Part III of Schedule 6.

(2) No sum may be paid in respect of any pension credit rights.”

(8) In article 55 (payment of transfer values)—

(a) in paragraphs (1)(b), for “an approved scheme” substitute “a registered scheme or a qualifying recognised overseas pension scheme within the meaning of section 169 (recognised transfers) of the 2004 Act” (“an overseas pension scheme”); and

(b) in paragraph (7)(b), for “an approved scheme” substitute “a registered scheme or an overseas pension scheme”.

7. In part G (pensionable pay and contributions)—

(1) In article 56 (pensionable pay and average pensionable pay)—

(a) for paragraph (1)—

(i) for “subject to paragraph (2)” substitute “Subject to paragraphs (2) and (12);

(ii) in sub-paragraph (a) for “part-time employee)” substitute “part-time employee) other than those amounts payable to him in respect of the benefits within article 16C(5)”; and

(iii) for sub-paragraph (b) substitute—

“(b) the amount (if any) of any benefits which are pensionable under article 16C(1).”

(b) in paragraph (8C), omit “:continual professional development”;

(c) for paragraph (9)—

(i) in sub-paragraph (a), after “payable)” insert “and the Compensation Scheme”; and

(ii) in sub-paragraph (b)—

(aa) for “his” substitute “the person’s”; and

(bb) omit “pension” and “(1)”; and

(d) after paragraph (11), add—

“(12) Where before the date of coming into operation of this Order and after that date, any allowance or supplement is being paid to a firefighter which the Board treats as pensionable, but is not—

(a) pensionable pay within the meaning of paragraph (1)(a);

(b) additional pension benefit under article 16B (long service increment); or

(c) a payment in respect of a firefighter’s continual professional development under article 16C,

that allowance or supplement shall continue to be treated as pensionable for so long as the firefighter receives it without any break in payment.”

(2) In article 57 (pension contributions) after paragraph (5), insert—

“(5A) The Department shall consult with the Scheme Actuary before making a notification under paragraph (5).”

(3) In article 58 (optional pension contributions during maternity and adoption leave), after paragraph (2), insert—

“(2A) But in calculating the pay on which the contributions are made, any amount the firefighter receives on account of a day’s work carried out under regulation 12A of the

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Maternity and Parental Leave etc. Regulations (Northern Ireland) 1999<sup>(4)</sup> or regulation 21A of the Paternity and Adoption Leave Regulations (Northern Ireland) 2002<sup>(5)</sup> that exceeds any maternity, paternity or parental leave pay due for that day, shall be disregarded.”.

(4) After article 58 insert—

**“Aggregate pension contributions for the purposes of awards**

58A.—(1) A regular firefighter’s aggregate pension contributions comprise—

- (a) all payments made by him to the Board that fall within paragraph (2),
- (b) all payments made by him in accordance with a notice under article 46 (current service),
- (c) all payments made by him in accordance with an election under article 58,
- (d) all payments made by him in accordance with an election under article 62, and
- (e) if paragraph (3) applies, the amount of the notional award described in paragraph (4).

(2) The payments that fall within this paragraph are payments under this Scheme or a previous Scheme that relates to a period of service which the regular firefighter is, or was immediately before electing under article 59 not to pay pension contributions, entitled to reckon as pensionable service and have not been refunded to him, including payments made—

- (a) by way of rateable deductions from pay,
- (b) by way of such additional and further payments as were mentioned in articles 51 to 53 of the 1973 Scheme, or
- (c) in accordance with such an undertaking as is mentioned in Part I of Schedule 6.

(3) This paragraph applies where the regular firefighter is, or was immediately before electing under article 59 not to pay pension contributions, entitled to reckon pensionable service by reason of a period of service or employment otherwise than as a regular firefighter (“the previous employment period”).

(4) The notional award mentioned in paragraph (1)(e) is the award by way of return of contributions or analogous payment that would have been paid to him if, at the end of the previous employment period, he had voluntarily retired in circumstances entitling him to such an award under the applicable superannuation arrangements.”.

(5) In article 59 (election not to pay pension contributions)—

- (a) in paragraph (1), for “Subject to paragraphs (1A) and (11)” substitute “Subject to paragraph (1A)”;
- (b) in paragraph (1A), omit “continual professional development”;
- (c) in paragraph (2), for “Subject to paragraphs (3) and (4), an election” substitute “An election”; and
- (d) omit paragraphs (3) to (11).

(6) Omit article 60 (continued payment of additional and further contributions).

(7) In article 62 (election to purchase increased benefits)—

- (a) for paragraph (4) substitute—

“(4) An election to pay periodical contributions must be made at least 2 years before the person’s normal pension age, but no such election may be made if the Board so resolves,

<sup>(4)</sup> S.R. 1999 No. 471; regulation 12A was inserted by S.R. 2006 No. 372, regulation 10

<sup>(5)</sup> S.R. 2002 No. 377; regulation 21A was inserted by S.R. 2006 No. 373, regulation 6

unless the person has at their own expense undergone a medical examination and satisfied the Board as to their good health.”.

(b) for paragraph (5) substitute—

“(5) An election under this article—

(a) takes effect, subject to paragraph (3)(b) on the day on which written notice is received by the Board; and

(b) is irrevocable.”.

8. In Part H (determination of questions and appeals)—

(1) In article 65 (determination by the Board)—

(a) in paragraph (2)(d), for “has become incapable” substitute “is capable”;

(b) in paragraph (2) substitute “at least one qualified” with “an independent qualified”; and

(c) in paragraph (3) omit “or practitioners”.

(2) After article 65 (determination by the Board) insert—

**“Review of medical opinion**

65A.—(1) Where—

(a) new evidence on an issue wholly or partly of a medical nature is presented to the Board by a person in respect of whom a decision has been made under article 65,

(b) the Board receives that evidence—

(i) where a copy of an opinion was supplied in accordance with paragraph (2) of article 66, within 28 days beginning with the day on which that person received that copy, and

(ii) in any other case, within 28 days beginning with the day on which that person received notice of the Board’s decision, and

(c) the Board and the person concerned agree that the independent qualified medical practitioner should be given the opportunity of reviewing his opinion in the light of the new evidence,

the Board shall send a copy of the new evidence to the independent qualified medical practitioner and invite him to reconsider his opinion.

(2) An independent qualified medical practitioner’s response to an invitation under paragraph (1) shall be in writing (“article 65A response”).

(3) An independent qualified medical practitioner’s response under this article shall be binding on the Board unless it is superseded by the outcome of an appeal under article 66.

(4) As soon as reasonably practicable after receiving an article 65A response, the Board shall reconsider its decision.

(5) Within 14 days beginning with the date of that reconsideration, the Board shall—

(a) give written notice to the person concerned that it has confirmed its decision or revised its decision (as the case may be), and

(b) if it has revised its decision, supply the person concerned with written notice of the revised decision, and

supply the person concerned with a copy of the article 65A response.”.

(3) In article 66 (appeal against opinion on a medical issue), for paragraph (1) substitute —

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“66.—(1) A person who wishes to appeal against the Board’s decision on an issue of a medical nature may appeal to an independent medical referee in accordance with paragraph (1) of Part 1 of Schedule 8 (appeal to independent medical referee).

(2) Subject to paragraph (3), where a decision—

(a) is made with regard to an opinion obtained pursuant to article 65(2) or medical evidence relied on as mentioned in article 65(3), or

(b) is reconsidered under article 65A(4) with regard to an article 65A response,

the Board shall within 14 days beginning with the day of making, confirming or revising the decision (as the case may be), send to the person concerned the documents mentioned in paragraph (4).

(3) Nothing in paragraph (2) requires the supply of documents that have already been supplied under article 65A(5).

(4) The documents are—

(a) a copy of the opinion, response or evidence (as the case may be);

(b) an explanation of the procedure for appeals under this article, and

(c) a statement that, if the person wishes to appeal against an Board’s decision on an issue of a medical nature, the person must give written notice to the Board, stating his name and address and the grounds of his appeal, not later than 28 days after the person receives the last of the documents required to be supplied to him under this paragraph, or within such longer period as the Board may allow.

(5) The Board shall be bound by any decision duly given on an appeal under this article.

(6) Further provisions as to appeals under this article are contained in Part 1 of Schedule 8.”.

(4) For article 67 (appeal against decision of the Board), substitute—

#### **“Appeals on other issues**

67. Where —

(a) a person disagrees with the Board’s determination under article 65, and

(b) the person’s disagreement does not involve an issue of a medical nature,

he may, by written notice given to the Board within 28 days beginning with the day of receipt of the determination, require the Board to deal with the disagreement by means of the arrangements implemented by it pursuant to the requirements of article 50 of the Pensions (Northern Ireland) Order 1995<sup>(6)</sup> (requirement for dispute resolution arrangements) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2008<sup>(7)</sup>.”

9. In Part I (servicemen)—

(1) In this Part, in each place where it occurs, for “serviceman” or “servicemen” substitute “reservist” or “reservists” as the case may be.

(2) In article 68 (preliminary), in paragraph (1), for “the armed forces” substitute “the reserve forces”.

(3) For article 69 (awards to servicemen), substitute—

<sup>(6)</sup> S.R. 1995 No 3213 (N.I. 22); section 50 was substituted by Article 250 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005 No 255 (N.I. 1)) and amended by the Pensions Act (Northern Ireland) 2008 (Chapter 1)

<sup>(7)</sup> S.I. 2008 No. 116

### **“Awards on permanent disablement**

69. A reservist who, at the end of his forces period, is permanently disabled for performing the duties of a firefighter by reason of an infirmity that—

- (a) is unrelated to any injury received during his forces period; and
- (b) is not a qualifying injury,

is entitled to an award under article 15 (ill health award).”.

(4) In article 70 (awards on death of servicemen);

- (a) in paragraph (2) for “paragraphs (4) and” substitute “paragraph”;
- (b) in paragraph (3) omit “Subject to paragraph (4)”;
- (c) omit paragraph (4);
- (d) in paragraph (5) omit “mentioned in paragraph (4)(a)”;
- (e) in paragraph (6) omit “under paragraph (4)(b)”.

(5) In article 71 (servicemen who do not resume service in the fire and rescue service), in paragraph (1) omit “Subject to paragraph (3)” and omit paragraph (3).

(6) In article 73 (pension contributions), for paragraph (2) substitute—

“(2) A reservist shall for those purposes be treated as having received no pensionable pay (and accordingly is not liable to pay contributions) in respect of any period during which his service pay is less than the pensionable pay described in paragraph (1)”.

(7) After article 73, add—

### **“Interpretation of Part I**

73A. In this Part—

“the 1996 Act” means the Reserve Forces Act 1996<sup>(8)</sup>;

“qualifying injury” means an injury, received by a person in the performance of his duties as a firefighter, which is not wholly or mainly due to his own culpable negligence or misconduct;

“relevant service in the reserve forces” means service in the forces specified in section 1(2) of the 1996 Act—

- (a) in pursuance of a training obligation under Part 3 of that Act, or
- (b) by virtue of a call out for permanent service or a recall under Part 2 of the Reserve Forces Act 1980<sup>(9)</sup> or Part 6 or Part 7 of the 1996 Act; and

“reservist” means a person who, immediately before a forces period, was a firefighter.”.

10. In Part J (pension credit members)—

(1) In article 74 (pension credit member’s entitlement to pension), in paragraph (2), for “Government Actuary” substitute “Scheme Actuary”.

(2) In article 75 (commutation of the pension credit benefits) in paragraph (4), for “Government Actuary” substitute “Scheme Actuary”.

(3) In article 76 (death grants where pension credit member dies before pension credit benefits payable), for “Government Actuary” substitute “Scheme Actuary”.

11. In Part L (revision and withdrawal of awards)—

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<sup>(8)</sup> 1996 c.14.

<sup>(9)</sup> 1980 c.9; prospectively repealed by the 1996 Act as from a date to be appointed.

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(1) In article 80 (review of ill-health and certain deferred pensions), in paragraph (3)(a) for “article 16” substitute “article 16(4)(b)”.

(2) For article 83 (withdrawal of pension during service as a regular firefighter) substitute—

**“Withdrawal of pension whilst employed by the Board**

83. The Board may withdraw the whole or any part of the pension, except a pension under Part C (awards on death—spouses and civil partners), for any period during which the person entitled to it is employed by the Board in whatever capacity.

12. In Part M (payment of awards and financial provisions)—

(1) In article 85 (payment of awards)—

(a) in paragraph (1)(b), omit “in advance”; and

(b) in paragraphs (7) and (8), in each place where it occurs, for “gratuity” substitute “gratuity or lump sum”.

(2) In article 86 (prevention of duplication), in paragraph (1), for “or the Compensation Scheme” substitute “and the Compensation Scheme”.

13. In Part P (Firefighters’ Pension Fund)—

(1) In article 91 (special payments and transfers into Firefighters’ Pension Fund)—

(a) in paragraph (1), for “paragraphs (2) to (5)” substitute “paragraphs (2) to (7)”;

(b) in paragraph (4)—

(i) in sub-paragraph (b) for “ill-health award,” substitute “ill-health award; or”; and

(ii) after sub-paragraph (b), insert—

“(c) with an entitlement to payment of a deferred pension under article 16(4)(b),”.

(c) after paragraph (5), add—

“(6) Where the Board exercises its discretion not to withdraw the payment in whole or in part of any pension under article 83 (withdrawal of pension whilst employed by the Board), the Board shall in the financial year in which payment is not withdrawn, transfer into the FPF an amount equal to the amount of pension paid during that financial year to that person which could have been abated or withdrawn.

(7) Where the Board pays an increased lump sum under article 18(6)(a) (commutation—general provision), in respect of a firefighter, the Board shall in the financial year in which payment is made transfer into the FPF an amount equal to the difference between the actual commuted lump sum and the commuted lump sum of two and a quarter times the full amount of the pension paid during that financial year to that firefighter.”.

(2) In article 92 (transfer from firefighters’ pension fund), for paragraph (5)(a) substitute—

“(a) a higher tier ill-health pension or a lower tier ill-health pension, or a deferred pension under article 16(4)(b) is wholly and permanently withdrawn under article 84 (withdrawal of pension on conviction of certain offences); and”.

(3) In article 97 (excess amount – actual surpluses), in paragraph (1)(b), for the word “that” substitute “than”.

14. In Schedule 1 (interpretation), in Part 1 (glossary of expressions)—

(1) After the expression “The 1999 Act”, insert—

““The 2004 Act” The Finance Act 2004(10).”

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(2) In the meaning of the expression “Aggregate pension contributions”, for “article 6” substitute “article 58A (aggregate pension contributions for the purposes of awards)”.

(3) Omit the expression “Approved scheme”.

(4) For the meaning of the expression “Cash equivalent”, “part cash equivalent”, substitute “The first expression means a cash equivalent mentioned in section 90(1) of the Pension Schemes (Northern Ireland) Act 1993; the second expression means a variation of rights mentioned in section 94(1) of that Act.”.

(5) For the meaning of the expression “Club scheme”, substitute “A scheme providing reciprocal arrangements for the payment and receipt of transfer values between the Scheme and other occupational pension schemes under the public sector transfer arrangements”.

(6) After the expression “Pension”, insert—

““the 1993 Act” The Pension Schemes (Northern Ireland) Act 1993.”

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(7) After the expression “Rank”, insert—

““Registered scheme” Construe in accordance with Part 1 of Schedule 36 to the 2004 Act.”

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(8) Omit the expression “Relevant service in the armed forces”.

(9) After the expression “Relative”, insert—

““Reservist” The meaning given in article 73A.”

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(10) After the expression “Retire”, insert—

““Role” The meaning given by article 56(11)

“Scheme Actuary” The actuary appointed by the Department.”

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15. In Schedule 2 (personal awards), in Part IV (calculation of awards for part-time service), in paragraph (2)(1), for the meaning of A substitute—

“A is the amount of that award calculated under the relevant Part that the person would have received had he been a whole time employee of the Board”.

16. In Schedule 2 (personal awards), in Part V (deferred pension), for paragraph (1)(1) substitute—

“Paragraph 2 has effect subject to Parts IV, VI and VII”.

17. In Schedule 3 (awards on death-spouses or civil partners)—

(1) In Part I (spouse’s or civil partner’s ordinary pension), in paragraph 1(2)(a), for “pension” substitute “award” and for “a pension” substitute “an award”.

(2) In Part II (spouse’s or civil partner’s accrued pension), omit paragraph 1(1)(f) and (2)(e).

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18. In Schedule 4 (awards on death-children)—

(1) In Part I (child’s ordinary allowance), in paragraph 1(4)(a), for “pension” substitute “award” and for “a pension” substitute “an award”.

(2) Omit Part III (reduction in child’s allowance during full-time remunerated training).

19. In Schedule 5 (lump sum in lieu of child’s allowance) in paragraph 2, for “Government Actuary” substitute “Scheme Actuary”.

20. In Schedule 6 (pensionable service and transfer values)—

(1) In paragraph 2(1) for “Subject to sub-paragraph (2) the” substitute “The”.

(2) Omit paragraph 2(2).

(3) In Part II (service reckonable on receipt of transfer value), in Part III (transfer payments between fire authorities) and in Part IV (amount of transfer value), in each place where it occurs, for “Government Actuary” substitute “Scheme Actuary”.

21. In Schedule 7 (purchase of increased benefits)—

(1) For Part I (payments) substitute—

“1.—(1) In the case of a man, the lump sum mentioned in article 62(1)(a) is  $A \times B$ , where—

A is the specified number of sixtieths of his average pensionable pay, and

B is the percentage of his total pensionable pay during the year ending with the date of the election (“the relevant period”) ascertained from the Table in paragraph 5 by reference to his age on his next birthday after that date and his role.

(2) For the purposes of sub-paragraph (1)—

(a) any reduction of pay during sick leave or stoppage by way of punishment shall be disregarded, and

(b) if he was in receipt of pensionable pay for part only of the relevant period, his total pensionable pay during the relevant period is his total pensionable pay for that part multiplied by the reciprocal of the fraction of the period which that part represents.

2. In the case of a woman, the lump sum mentioned in article 62(1)(a) is the amount determined by the Scheme Actuary to be appropriate to the additional benefits secured by the election.

3.—(1) In the case of a man, the amount for any period of the contributions mentioned in article 62(1)(b) is  $A \times C$ , where—

A is the specified number of sixtieths of his average pensionable pay, and

C is the percentage of his pensionable pay for the period ascertained from the Table in paragraph 5 by reference to his age on his next birthday after the date of the election and his role.

(2) For the purposes of sub-paragraph (1)—

(a) any reduction of pay during sick leave or stoppage by way of punishment shall be disregarded, and

(b) for any period for which he is for any reason disentitled to pensionable pay, his pensionable pay shall be taken to be what it would have been but for the disentanglement.

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4. In the case of a woman, the rate of the contributions mentioned in article 62(1)(b) is the rate determined by the Scheme Actuary to be appropriate to the additional benefits secured by the election.

5. The following Table is that referred to in paragraphs 1 and 3.”.

(2) In paragraph 5 for the table heading substitute—

<i>“Age birthday</i>	<i>next</i>	<i>Station Commander or superior role</i>	<i>Roles below Station Commander</i>
		<i>Percentage Lump Contributions Sum</i>	<i>Percentage Lump Contributions” Sum</i>

(3) In Part II (calculation of appropriate amount)—

- (a) in paragraph 2 for “retirement date” substitute “normal pension age”;
- (b) in paragraph 3—
  - (i) for “Government Actuary” substitute “Scheme Actuary”;
  - (ii) for “retirement date” substitute “normal pension age”.

22. In Schedule 8 (appeal to independent medical referee)—

(1) In paragraph 1(1) substitute—

“1.—(1) Subject to sub-paragraph (2), written notice of appeal against a decision on an issue of a medical nature stating—

- (a) the appellant’s name and address, and
- (b) the grounds of the appeal,

must be given to the authority within 28 days beginning with the date on which the appellant receives the documents referred to in article 66(4); and where the appellant receives those documents on different dates, they shall be treated for this purpose as received on the later or latest of those dates.”.

(2) For paragraph 2 substitute—

“2.—(1) On receiving a notice of appeal, the Board shall supply the Department with one copy of—

- (a) the notice of appeal,
- (b) the notice of the relevant decision,
- (c) the opinion, response or evidence (as the case may be) supplied to the appellant, and
- (d) every other document in its possession or under its control which appears to it to be relevant to the issue that is the subject of the appeal.

(2) The Department shall refer an appeal to the independent medical referee.”.

(3) After paragraph 2 insert—

“2A.—(1) As soon as reasonably practicable after reviewing the documents the independent medical referee shall give written notice to the Department—

- (a) of any other information which he considers would be desirable for the purpose of enabling him to determine the appeal, and

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- (b) if it be the case, that it is his opinion that the appeal is frivolous, vexatious or manifestly ill-founded.
- (2) On receipt of the independent medical referee's notice the Department shall—
  - (a) where the independent medical referee has notified the Department of the desirability of obtaining other information, require the Board to use its best endeavours to obtain that information, and
  - (b) where the notice contains an opinion of the description mentioned in sub-paragraph (1)(b), send a copy of it to the Board.
- (3) When the Board receives a copy of the independent medical referee's opinion it shall, as soon as reasonably practicable—
  - (a) send a copy of it to the appellant, and
  - (b) by written notice to the appellant—
    - (i) advise him that, if his appeal is unsuccessful, he may be required to pay the Board's costs, and
    - (ii) require him to notify it, within 14 days beginning with the date of its notice, whether he intends to pursue or withdraw the appeal.
- (4) Where the Board notifies an appellant under sub-paragraph (3)(b) it shall inform the Department of the appellant's response to its request under sub-paragraph (b)(ii); and the Department shall notify the independent medical referee accordingly.”
- (4) In paragraph 3, for “The independent medical referee shall secure”, substitute “Where an appeal is to be pursued, the independent medical referee shall secure”.
- (5) In paragraph 4, in sub-paragraph (2)(b) for “not less than 21 days’ notice of”, substitute “not less than two months’ notice of”.
- (6) After paragraph 6, insert—

“6A.—(1) Where the appellant and the Board have received a copy of the report supplied under paragraph 6 and—

- (a) the appellant and the Board (“the parties”) agree that the independent medical referee has made an error of fact which materially affects the independent medical referee's decision;
- (b) the Board shall within 28 days beginning with the date of receipt of the report, supply the Department with one copy of a statement agreed between the parties setting out—
  - (i) the error of fact;
  - (ii) the correct fact, andinvite the independent medical referee to reconsider his decision.
- (2) The Department shall within 14 days beginning with the date of receipt of the statement supply a copy of it to the independent medical referee.
- (3) As soon as reasonably practicable after receiving the statement, the independent medical referee shall reconsider his decision.
- (4) Within 14 days beginning with the date of that reconsideration the independent medical referee shall—
  - (a) give written notice to the Department that he has confirmed his decision, or revised his decision (as the case may be), and

(b) if he has revised his decision, supply the Department with a written report of his revised decision.

(5) The Department shall supply to the appellant and the Board a copy of the written notice confirming the independent medical referee's decision, or a copy of the written report of the independent medical referee's revised decision (as the case may be)."

(7) In paragraph 8—

(a) in sub-paragraph (2)—

(i) after "decides" insert "an appeal"; and

(ii) after "7(1)" substitute "as it" with "as the Board".

(b) for sub-paragraph (3) substitute—

"(3) Where—

(a) the appellant gives notice to the independent medical referee—

(i) withdrawing the appeal;

(ii) requesting cancellation of, postponement of, or adjournment of the date appointed for an interview or medical examination under paragraph 4(2), and

the notice is given less than 21 working days before the date appointed under paragraph 4(2); or

(b) the appellant's acts or omissions cause the independent medical referee to cancel, postpone or otherwise adjourn the date appointed under paragraph 4(2) less than 21 working days before the date so appointed,

the Board may require the appellant to pay it such sum, not exceeding the total amount of the fees and allowances payable to the independent medical referee under paragraph 7(1), as the Board thinks fit."

23. In Schedule 9 (special cases) omit Part III (calculation of pensionable service where person ceased to serve before 1st May 1975).