

SCHEDULES

SCHEDULE 3

Article 4

Amendments to the Annex to the Firefighters' Pension Scheme Order (Northern Ireland) 2007

1. In Part A (general provisions and retirement)—

- (a) in article 2 (exclusive application to regular firefighters) in paragraph (1) for “Subject to paragraphs (3) to (5)” substitute “Subject to paragraphs (4) to (5A)” and after paragraph (5) insert—

“(5A) This paragraph applies to a person who satisfies the requirements of paragraph (5) if that person ceases to be a person who is entitled to reckon service as a firefighter as pensionable service under article 46 (current service)—

- (a) where the person is not a full protection member of this Scheme or a tapered protection member of this Scheme, on the scheme closing date;
- (b) where the person is a tapered protection member of this Scheme on the tapered protection closing date, or if earlier, on the date on which the person ceases to be a tapered protection member;
- (c) where the person is a full protection member of this Scheme, on the date on which the member retires from scheme employment in the 2015 Scheme, or if earlier on the date on which the person ceases to be a full protection member of this Scheme.

(5B) Where paragraph (5A) applies, if the person remains in continuous pensionable service under the 2015 Scheme, or is treated as an active member of that Scheme, after the transition date without a break in that service or membership until the date on which that person retires or ceases to be an active member of that Scheme, and the pension account for that scheme employment was the account to which the pensionable service from this Scheme was added, the person is entitled to a pension under article 13A.

(5C) A person who is entitled to the payment of an equivalent amount to the FPS lower tier ill-health pension is treated as having been in continuous pensionable service under the 2015 Scheme for the purposes of paragraph (5B).

(5D) Where paragraph (5A) applies to a person who was entitled to an ill-health award under this Scheme or under the 2015 Scheme and who accepts an offer of employment made referred to in article 81(2)(b) or referred to in regulation 77(3)(b) of the 2015 Regulations, that person is treated as having been in continuous pensionable service under the 2015 Scheme for the purposes of paragraph (5B).

(5E) A person who refuses the offer of employment mentioned in paragraph (5D) becomes entitled to a deferred pension under article 16 and paragraph (5B) does not apply to that member.”;

- (b) after article 9 (normal pension age) insert—

“9A. The normal pension age for a regular firefighter to whom paragraph (5B) of article 2 applies is 55.”.

2. In Part B (personal awards)—

- (a) in article 13 (ordinary pension) in paragraph (2) after sub-paragraph (b) insert—

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“or

(c) a person to whom paragraph (5A) of article 2 applies.”.

(b) after article 13 (ordinary pension) insert—

“Continuous service pension

13A.—(1) Where a person satisfies the requirements of paragraph (5B) of article 2, that person is entitled on retiring from scheme employment in the 2015 Scheme at or after normal pension age to a continuous service pension calculated in accordance with Part IIA of Schedule 2.

(2) A person to whom paragraph (1) applies is not entitled to a pension or award under article 13 (ordinary pension), article 14 (short service award), article 15 (ill-health awards) or article 16 (deferred pension).

(3) Where article 13 (ordinary pension) would have applied to a person to whom paragraph (1) applies if article 2(5A) (exclusive application to regular firefighters) had not applied to that person—

(a) the age at which that person may retire is ascertained by applying article 13 to that person as if the reference to the “pensionable service” in paragraph (1)(b) included “2015 pensionable service”, and

(b) in paragraph (1) “normal pension age” is to be read as “the age ascertained in accordance with sub-paragraph (a)”.

13B.—(1) A person to whom article 13A does not apply and to whom paragraph (5A) of article 2 does apply is entitled to a deferred pension under article 16 (deferred pension).

(2) A person who is entitled to a deferred pension under paragraph (1) is not entitled to a pension or award under article 13A (continuous service pension), article 13 (ordinary pension), article 14 (short service award) or article 15 (ill-health awards).”;

(c) in article 14 (short service award)—

(i) in paragraph (1) for “This article applies” substitute “Subject to paragraph (3), this article applies”;

(ii) after paragraph (2) insert—

“(3) This article does not apply to a person to whom paragraph (5A) of article 2 applies.”;

(d) after article 14 (short service award) insert—

“Continued pension

14A. Where a person to whom paragraph (5B) of article 2 applies is entitled to an equivalent amount of FPS lower tier ill-health pension under regulation 73(4)(b) (entitlement to lower tier ill-health pension and higher tier ill-health pension) of the 2015 Regulations and that person reaches normal pension age under this Scheme or the age for retirement ascertained in accordance with article 13A(3)(a), that person is entitled to a continued pension of an amount equal to the annual rate of the equivalent amount to the FPS lower tier ill-health pension.”;

(e) in article 15 (ill-health awards)—

(i) in paragraph (1) for “This article applies” substitute “Subject to paragraph (1A), this article applies”;

(ii) after paragraph (1) insert—

- “(1A) This article applies to a person if paragraph (5A) of article 2 applies to that person and the requirements of paragraph (5B) of that article are not satisfied.”;
- (f) in article 16 (deferred pension) after paragraph (1) insert—
- “(1A) This article applies to a person to whom paragraph (5A) of article 2 applies if paragraph (5B) of that article does not apply to that person.”;
- (g) in article 16A(1) (entitlement to two pensions) after paragraph (8) insert—
- “(9) Where a person to whom this article applies is a person to whom paragraph (13) of article 56 applies, in paragraph (3) for “E is the firefighters’ average pensionable pay for the year ending with his last day of service” substitute “E is the firefighters’ average pensionable pay as modified by paragraph (13) of article 56 for the year ending with his last day of service in the 2015 scheme”.”;
- (h) in article 16D(2) (additional pension benefit: supplementary provisions)—
- (i) in paragraph (1) for “Subject to paragraphs (2) and (3)” substitute “Subject to paragraphs (1A), (2) and (3)”;
- (ii) after paragraph (1) insert—
- “(1A) Where additional pension benefit under article 16B or 16C(3) is payable to a person, who is entitled to a continuous service pension under article 13A, it is payable from normal pension age or at the age ascertained in accordance with paragraph (3)(a) of article 13A if that is earlier.”;
- (iii) after paragraph (2) insert—
- “(2A) Where a person to whom paragraph (5A) of article 2 applies is not entitled to a continuous service pension under article 13A or to an ill-health award under regulation 65 of the 2015 Regulations, paragraph (2) applies to that person as if that person were a firefighter who had resigned or been dismissed or made and election under article 59.”;
- (iv) after paragraph (3) insert—
- “(3A) Where the firefighter is entitled to an ill-health award under regulation 73 of the 2015 Regulations additional pension benefit is payable under this Scheme at the same time as the equivalent amount to the FPS lower tier ill-health pension.”;
- (i) in article 18(4) (commutation – general provision)—
- (i) after paragraph (1) insert—
- “(1A) This article also applies to a pension under article 13A and to the equivalent amount to the FPS lower tier ill-health pension where that amount is included in the annual rate of a retirement pension for a person under regulation 68(2)(ba) (annual rate of retirement pension (active members)) of the 2015 Regulations.”;
- (ii) in paragraph (2) for “Subject to paragraph (3)” substitute “Subject to paragraphs (3) and (3A)” and after paragraph (3) insert—
- “(3A) Where a person is entitled to a continued pension under article 14A, that person may not commute a portion of that pension under this article.”;
- (iii) in paragraph (6) for “Subject to paragraph (6A)” substitute “Subject to paragraphs (6A) and (6B)” and after paragraph (6A) insert—

(1) Article 16A was inserted by S.R. 2008 No. 382 and amended by S.R. 2014 No. 169.

(2) Article 16D was inserted by S.R. 2008 No. 382 and amended by S.R. 2014 No. 169.

(3) Article 16B and article 16C were inserted by S.R. 2008 No. 382 and amended by S.R. 2014 No. 169.

(4) Article 18 was amended by S.R. 2014 No. 169.

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“(6B) In the case of a person who is entitled to a pension under article 13A or to the equivalent amount to the FPS lower tier ill-health pension where the annual rate of a retirement pension (active members) under regulation 68(2)(ba) of the 2015 Regulations includes that amount, the reference to “pensionable service” in sub-paragraph (a) of paragraph (6) includes “2015 pensionable service”.”;

(j) in article 20 (allocation) after paragraph (1) insert—

“(1A) This article applies to a pension under article 13A.”;

3. In Part C (awards on death – spouses or civil partner) in article 25 (spouse’s or civil partner’s ordinary pension) in paragraph (1) for “This article applies” substitute “Subject to paragraph (1A) this article applies” and after paragraph (1) insert—

“(1A) This article does not apply to a person who dies leaving a spouse or civil partner while serving as a regular firefighter if paragraph (5A) of article 2 applied to that person.”.

4. In Part D (awards on death – children) in article 33 (child’s ordinary allowance) in paragraph (1) for “This article applies” substitute “Subject to paragraph (1A) this article applies” and after paragraph (1) insert—

“(1A) This article does not apply to a person who dies leaving a child while serving as a regular firefighter if paragraph (5A) of article 2 applied to that person.”.

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

(a) in paragraph (1) of article 37 (lump sum death grant) for “On the death of” substitute “Subject to paragraph (1A) on the death of” and after paragraph (1) insert—

“(1A) This article does not apply to a person who dies while serving as a regular firefighter if paragraph (5A) of article 2 applied to that person.”;

(b) in paragraph (1) of article 38 (dependent relative’s gratuity) for “This article applies” substitute “Subject to paragraph (1A) this article applies” and after paragraph (1) insert—

“(1A) This article does not apply to a person who dies while serving as a regular firefighter if paragraph (5A) of article 2 applied to that person.”.

(c) in paragraph (1) of article 39 (payment of balance of contributions to estate) for “This article applies” substitute “Subject to paragraph (1A) this article applies” and after paragraph (1) insert—

“(1A) This article does not apply to a person who dies while serving as a regular firefighter if paragraph (5A) of article 2 applied to that person.”;

(d) in paragraph (1) of article 43A(5) (bereavement pension: children) for “This article applies” substitute “Subject to paragraph (1A) this article applies” and after paragraph (1) insert—

“(1A) This article does not apply where the deceased died while serving as a regular firefighter if paragraph (5A) of article 2 had applied to the deceased.”.

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

(a) in article 46 (current service)—

(i) in paragraph (2) after sub-paragraph (a) insert—

“(ab) any period of service as a regular firefighter beginning with the day on which paragraph (5A) or article 2 applies to that person, or”;

(ii) after paragraph (7) insert—

(5) Article 43A was inserted by [S.R 2014 No. 169](#).

“(8) A person to whom paragraph (5B) of article 2 applies is entitled to reckon as 2015 pensionable service any continuous pensionable service in relation to the active member’s account in the 2015 Scheme to which pensionable service in this Scheme was added for the purpose of regulation 66 (qualifying service) of the 2015 Regulations for the period whilst paragraph (5B) of article 2 continues to apply.”;

(b) in article 55 (payment of transfer values)—

(i) in paragraph (1) for “Subject to paragraphs (2) to (9)” substitute “Subject to paragraphs (1A) to (9)”;

(ii) after paragraph (1) insert—

“(1A) A transfer value may not be paid if—

(a) paragraph (5A) of article 2 applies to the person, and

(b) paragraph 1(1) of Schedule 7 of the 2014 Act applies to that person by virtue of the person’s pensionable service in the 2015 Scheme so that person’s final salary falls to be determined by reference to paragraph 1(2) of that Schedule.

(1B) A transfer value may not be paid if paragraph (5B) of article 2 applies to the person and that person is receiving payment of the equivalent amount to the FPS lower tier ill-health pension from the 2015 Scheme under the 2015 Regulations.”.

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

(a) in article 56(6) (pensionable pay and average pensionable pay)—

(i) in paragraph (1) for “Subject to paragraphs (2) and (12)” substitute “Subject to paragraphs (2), (12) and (13)”;

(ii) after paragraph (12) insert—

“(13) Where paragraph (5A) of article 2 (exclusive application to regular firefighters) applies to a regular firefighter and paragraph 1 of Schedule 7 (final salary link) to the 2014 Act applies to that person, paragraph (1) does not apply and the average pensionable pay is determined in accordance with Schedule 7 to that Act so that the member’s pensionable pay under the 2015 Regulations, as modified by paragraph 34 of Schedule 2 to those Regulations, derived from service in the 2015 Scheme is to be regarded as derived from service in this Scheme.

(14) Where paragraph (13) and paragraph 34(4) of Schedule 2 to the 2015 Regulations apply to a member of this Scheme, the pensionable pay to be regarded as derived from service in this Scheme is the pensionable pay derived from service in the 2015 Scheme under the 2015 Regulations as modified by paragraph 34 of Schedule 2 to those Regulations for the last year of pensionable service before the reduction in pensionable pay.

(15) Where the pensionable pay under the 2015 Regulations is the pensionable pay of the person employed as a retained firefighter or as a volunteer firefighter for the purposes of paragraphs (13) and (14) the pensionable pay under the 2015 Regulations is that of a whole-time regular firefighter employed in a similar role and with equivalent qualifying service.

(16) Where paragraph 34(3) of schedule 2 to the 2015 Regulations applies to a person to whom paragraph (5A) of article 2 applies, average pensionable pay is determined in accordance with paragraph (4) and paragraph (13) does not apply in the case of that person.

(6) Article 56 was amended by [S.R. 2014 No. 169](#).

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- (17) Subject to paragraph (16), where paragraph (13) applies—
- (a) in sub-paragraph (a) of paragraph (9) “the date of the person’s last day of service as a regular firefighter” is to be read as “the date of the person’s last day of service in scheme employment in the 2015 Scheme”;
 - (b) in sub-paragraph (b) of paragraph (9) “in a period during which contributions were payable under article 57” is to be read as “in a period during which member contributions were payable under regulation 118 of the 2015 Regulations”; and
 - (c) in sub-paragraph (e) of paragraph (7) where any unpaid period of additional maternity leave or adoption leave is within a period for which the pensionable pay derived from 2015 scheme service is treated as pensionable pay derived from this Scheme, “contributions have been paid under article 58” is to be read as “where contributions have been paid under regulation 121 of the 2015 Regulations”.

(18) In a case where paragraphs (1) and (14) apply, in sub-paragraph (a) of paragraph (9) “the date of the person’s last day of service as a regular firefighter” is to be read as “the date of the person’s last day of service in scheme employment in the 2015 Scheme before the reduction of pensionable pay”.

- (b) in article 58 after paragraph (3) insert—

“(3A) Where the regular firefighter returns to work, or ceases to be employed, after the date on which paragraph (5A) or article 2 applies to that person, the election under paragraph (3) may only be made in respect of the period before paragraph (6) applied to that person.”;

- (c) in article 63 (payment of periodical contributions for increased benefits) after paragraph (3) insert—

“(4) In the case of a person to whom paragraph (5B) of article 2 applies—

- (a) periodical payments continue to be payable whilst paragraph (5B) applies;
- (b) where the person is entitled to the payment of an equivalent amount to the FPS lower tier ill-health pension under regulation 73 of the 2015 Regulations and following review of that award under regulation 76 of those Regulations, accepts the offer of employment, the contributions again become payable.”;

- (d) in article 64 (effect of payment for increased benefits) in sub-paragraph (a) of paragraph (1) after “pension under article” insert “13A” and after “16 (” insert “continued”.

8. In Part I (glossary of expressions) of Schedule 1 (interpretation) in the appropriate places insert—

““The 2014 Act” means The Public Service Pensions Act (Northern Ireland) 2014;

“The 2015 Regulations” means The Firefighters’ Pension Scheme Regulations (Northern Ireland) 2015;

“2015 pensionable service” Construe in accordance with article 14A;

“The 2015 Scheme” means The Firefighters’ Pension Scheme (Northern Ireland) 2015 which is established in the Firefighters’ Pension Scheme Regulations (Northern Ireland) 2015;

“Continued pension” Construe in accordance with article 14A;

“Continuous service pension” Construe in accordance with article 13A;

“Equivalent amount to the FPS lower tier ill-health pension” Construe in accordance with regulation 73(5) of the 2015 Regulations;

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“Full protection member of this Scheme” means a person who is a full protection member of this Scheme by virtue of paragraph 9 of Schedule 2 to the 2015 Regulations;

“Scheme closing date” is 31st March 2015;

“Tapered protection closing date” Construe in accordance with paragraph 3 of Schedule 2 to the 2015 Regulations;

“Tapered protection member of this Scheme” means a person who is a tapered protection member of this Scheme by virtue of paragraph 15 of Schedule 2 to the 2015 Regulations;”.

9. In Schedule 2—

(a) after Part II insert—

“PART IIA

Continuous service pension

1. Subject to Parts IV and VII the amount of a continuous service pension of a member of this Scheme to whom paragraph (5B) of article 2 applies, or has applied, is—

$$A/60 \times B/C \times APP$$

Where—

APP is the person’s average pensionable pay,

B is the period in years of the person’s pensionable service until the day before his transition date,

C is the period in years of his pensionable service and his 2015 pensionable service (subject to a maximum of pensionable service of 40 years),

A in the sum of $E + (F \times 2)$ and must not exceed 40 years

Where—

E is the period in years of his pensionable service and of his 2015 pensionable service up to 20 years,

F is the period in years by which his pensionable service and his 2015 pensionable service exceeds 20 years.”;

(b) in Part IV—

(i) in paragraph 1 after sub-paragraph (b) insert—

“(ba) continuous service pension under Part IIA,”;

(ii) after paragraph 2 insert—

“3. Where the award listed in paragraph 1 is a continuous service pension, the reference to “pensionable service” in paragraphs 1 and 2 includes 2015 pensionable service.”.