

## **EXECUTIVE NOTE**

### **THE FIREFIGHTERS' PENSION SCHEME (SCOTLAND) ORDER 2007 S.S.I. 2007/199**

The above instruments is made in exercise of the powers conferred by sections 34(1) to (5) and (8) and 60(2) of the Fire and Rescue Services Act 2004. The powers in those sections have been executively devolved to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2005 (S.I. 2005/849). The instrument is subject to the negative resolution procedure and extends to Scotland only.

Schedule 1 to this Order provides for a new pension scheme for firefighters employed in the fire and rescue service in Scotland based on the policy objectives set out below. The new scheme takes effect from 6 April 2006 which is permissible under section 34(3) of the Fire and Rescue Services Act 2004.

#### **Policy Objectives.**

Included in the Executive's commitment to introduce modernisation of the fire service was the development of new pension arrangements more affordable and suited to both firefighters and the fire service of the future.

Through the provision of more extensive survivor benefits, the introduction of a uniform rate of pension accrual, which does not disadvantage late joiners and a lower member contribution rate employment in the fire service should be more attractive to a wider range of recruits in terms of lifestyles and age. These changes should help to provide a more diverse workforce which will support the modernisation programme.

The instrument provides a new scheme for firefighters who join the fire and rescue service on or after 6th April 2006. The previous scheme, the 1992 scheme was closed to those who joined the Service on or after 6th April 2006. New recruits joining since that date have been advised that they will be members of the new scheme, unless they choose to opt out.

Scottish Ministers have indicated their commitment to maintain a UK wide approach to firefighters' pensions and similar regulations have recently been enacted in England with the necessary legislation also expected to be enacted in Wales and Northern Ireland.

The Firefighters Pension Scheme ("FPS") provided by the Firefighters Pension Scheme Order 1992, as amended (SI 1992/129) was closed to new members from 5 April 2006. Its membership was restricted to regular firefighters only and did not extend to retained or volunteer firefighters. The New Firefighters Pension Scheme ("NFPS") provides a pension scheme for firefighters employed on a regular, retained and volunteer basis recruited from and including 6 April 2006. Eligibility for membership will be limited to employees of a fire and rescue authority in Scotland who, on joining the service, are employed in resolving operational incidents, or leading and supporting others in the resolution of operational incidents, i.e. firefighters, crew managers and watch managers.

Members of the FPS may elect to become members of the NFPS and will have the option of either transferring their pension accrued in the FPS into the NFPS at an advantageous rate or deferring the pension accrued in the FPS and becoming members of the NFPS from 6 April 2006. This option will be available to each FPS member during the period 1 January 2007 to 31 March 2007. Guidance on both schemes has been issued to fire authorities in order that an information options pack can be issued to each FPS member. Guides on both the FPS and NFPS are available on the SPPA website [http://www.sppa.gov.uk/pension\\_reform/fire.htm](http://www.sppa.gov.uk/pension_reform/fire.htm)

Key features of the NFPS include:

- firefighters contribute 8.5 per cent of their pay to the scheme (compared with 11 per cent under the FPS);
- continuation of pension benefits linked to final salary;
- a new option to nominate an unmarried partner (including a same-sex partner who is not a civil partner) as a pension beneficiary;
- new lifelong benefits for surviving spouses, civil partners and nominated unmarried partners;
- an even build-up of pension scheme benefits over a member's career, which gives late joiners a fair deal (compared with the FPS which has a greater rate of build-up of pension after 20 years' service); and
- an option to exchange part of the pension to a lump sum.

In order to assist the reader of the instrument, a summary of the purpose and effect of the key rules in each of the 14 parts of, annexes of and Schedule to the instrument is set out in the attached annex.

## **Consultation**

The provisions of the NFPS were the subject of a UK wide public consultation exercise in October 2004 undertaken by the Office of the Deputy Prime Minister (now known as Department of Communities and Local Government ("DCLG")) who took the lead on the consultation and development of the NFPS. Following consideration of the responses and publication of the outcome, further consultation and development continued with the Firefighters' Pension Committee ("FPC"). The Committee is chaired by the DCLG and has representatives from employers (the Local Government Association and the Chief Fire Officers Association), unions (the Fire Brigades Union and Retained Firefighters Union) and staff associations (Association of Principal Fire Officers and the Fire Officers Association) as well as representatives from the Scottish Executive, COSLA, the Welsh Assembly and Northern Ireland.

Based on a blueprint discussed and agreed by the FPC, DCLG recently completed an Order introducing the NFPS in England. This instrument, which creates a Scottish equivalent to the DCLG draft, was issued to the FPC and other Scottish stakeholders for consideration. This instrument does not include references to the Firefighters Pension Fund introduced as part of the new funding system for firefighter pensions in England.

## **Financial Effects**

No Regulatory Impact Assessment has been prepared because no impact on business or the private or voluntary sector is foreseen.

The impact on the public sector will be an initial increased workload in introducing and administering the NFPS concurrently with the present FPS. Over the long term, as more firefighters join the new scheme and the numbers in the FPS reduce, there will be a saving in public expenditure, as the new scheme costs less as a percentage of pay than the current scheme. The savings are found in the main by the change in the normal pension/retirement age (that is from 55 under the FPS scheme to 60 in the NFPS) and the removal of double accrual of pensionable service after the first 20 years which is a feature of the FPS scheme.

Scottish Public Pensions Agency

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## ANNEX

### **Part 1 Citation and Interpretation**

1. In addition to defining terms used in the NFPS, this part also defines disablement, which is used to determine whether a firefighter is potentially eligible to retire on the grounds of ill-health.

### **Part 2 Scheme membership cessation and retirement**

2.

Part 2 provides that eligibility for scheme membership is limited to employees of a fire and rescue authority who, on joining the service on or after 6 April 2006, are employed in resolving operational incidents, or leading and supporting others in the resolution of operational incidents, i.e. firefighters, crew managers and watch managers. This includes regular, retained and volunteer firefighters who meet these criteria. A firefighter can elect not to be a member of the scheme by making an election not to pay the scheme contributions. There is an opportunity for such an election to be cancelled at a future date if the firefighter wishes to rejoin the scheme

3. The normal retirement date will be when a firefighter reaches age 60 if the firefighter has at least 3 months qualifying service. Where someone has less than 3 months' service a refund of pension contributions would be made outlined in Part 3. This part also outlines the conditions that must be met for a survivors benefit to be paid to a nominated partner; a benefit not available in the FPS.

### **Part 3 Personal Awards**

4. Part 3 sets out the pension benefits payable to the firefighter member. It includes ordinary and ill health retirement together with the provision for the awarding of deferred pensions payable at age 65. Although the normal retirement age is 60 it is possible to claim the early payment of pension on an actuarially reduced basis from age 55. There is also provision for the fire and rescue authority to permit a firefighter member to retire early from age 55 on an unreduced pension and in this case there is no actuarial reduction applied to the member.
5. Rule 2 of Part 3 sets out that ill-health retirement will be in two tiers. Those who are unable to continue to work in the role of firefighter will receive an immediate pension based on the amount of pensionable service accrued in the scheme. Those who are unable to undertake any kind of regular employment (defined as being able to work on average at least 30 hours per week over a 12 month period) will also receive a higher tier ill-health pension. These provisions are similar to those in the FPS introduced by SSI 2006/342.
6. Rule 7 provides protection for a firefighter member's pension rights should they change roles and suffer a reduction in pay. Pensionable service before and after the reduction may be used to calculate separate pensions using the relevant pensionable pay for each. When the member retires he may have two pensions based on the two periods of service i.e. up to the reduction in pay and then from that date to retirement which is known as a split pension. Alternatively service before and after the reduction

in pay can be aggregated resulting in one pension based on pensionable pay at the end of service, if it would be more advantageous.

7. Rule 9 confirms that a retiring member will be able to commute up to a quarter of their pension for a lump sum payment with a fixed common commutation factor for all members. Rule 10 allows a small pension when within a defined limit to be commuted to a lump sum and rule 11 allows a member to allocate a portion of pension for someone dependent on them to be paid in the event of that member's death.

#### **Part 4 Survivor Pensions**

8. Part 4 which is divided into two chapters sets out the pension benefits payable to adult survivors and eligible children in the event of the death of a member of the scheme. The new scheme extends benefits to nominated partners, including those from same sex couples who choose not to enter into a civil partnership. Survivor pensions are reduced where the survivor is 12 or more years younger than the firefighter member. The reduction will be 2.5% for each year above the 12 years up to a maximum of 50%. Adult survivor pensions are paid for life.
9. Part 4 also sets out that where there is no adult survivor but there is an eligible child (or children) any pension that would have been paid to the adult survivor will be paid to the eligible child (or children).

#### **Part 5 Awards on Death**

10. Part 5 sets out that a death grant of 3 times the pensionable pay at the date of death (compared with 2 times the pensionable pay in the FPS) will be paid. This also includes provision to protect the position of those who may have varied their working pattern
11. Also included is a guarantee that, if a pensioner member dies within 5 years of retiring, a post-retirement death grant is payable and is the difference between the amount paid before death and the amount that would have been paid in that five year period.

#### **Part 6 Pension Sharing on Divorce**

12. Pension credits arise when a member is subject to a pension sharing order. The member's pension rights are reduced (they become subject to a pension debit) and their ex-spouse gains scheme pension rights as a "pension credit member". These are separate from any other NFPS benefits and have limited appeal rights. Pension credit pensions are not payable until age 65 and the credit may commute part of that entitlement to a lump sum. The amount of the pension is calculated in accordance with guidance provided by the Scheme actuary. If a pension credit member dies within 5 years of the pension coming into payment the fire authority will pay the difference between the amount that would have been paid over the five years and what has actually been paid in the form of a death grant.

## **Part 7 Reservists**

13. A reservist is a person who, immediately before undertaking a period of relevant service in the reserve forces, was a firefighter. Periods of relevant service in the reserved forces are treated as continuing service as a firefighter. A reservist who at the end of their relevant service is permanently disabled for the performance of the duties of a firefighter will be entitled to an ill health retirement award and provision for survivor benefits will also be included.

## **Part 8 Determination of questions and Appeals**

14. Part 8 sets out how questions and appeals are handled. These are broadly in line with the FPS except that there is a provision allowing for reconsideration by the independent qualified medical practitioner before an appeal to a board of medical referees on a medical issue. Non-medical issues are determined by means of the authority's internal dispute resolution procedures.

## **Part 9 Review Withdrawal and Forfeiture of Awards**

15. This sets out the arrangements for the review, withdrawal and forfeiture of awards and follows the equivalent provisions of the FPS scheme.

## **Part 10 Qualifying service and Pensionable service**

16. Part 10 sets out what service will enable a firefighter member to qualify for a pension and the amount of service that can reckon towards a pension. Provision is made for a firefighter member to buy back unpaid periods of service that would otherwise not reckon for pension purposes. The member is responsible for their own and what the employer's costs are in these circumstances although there is discretion for the fire authority to request only the member's costs in such requests.

## **Part 11 Pensionable Pay Pension contributions and Purchase of additional service**

17. This part is divided into two chapters firstly covering pensionable pay and contributions. This defines what pensionable pay is i.e. what pay a member pays pension contributions on and how to calculate final pensionable pay which is used to determine the amount of benefit due. This part confirms that the contribution rate is 8.5% of pensionable pay (compared with 11% in the FPS).
18. Chapter 2 makes provision to enable firefighter members to purchase additional service outlining the criteria needed to be met before such service can be purchased. It also outlines the methods of payment available, the length of time that any periodical payments should be made over and how such service is affected by the periodical payment ending before normal retirement age.

## **Part 12 Transfer into and out of the scheme**

19. Part 12 is divided into 5 chapters and provides for the transfer of pensions into and out of the Scheme. Transfers between authorities requires a transfer payment in respect of the accrued pension right of the transferring member. This will apply to all transfers to or from the scheme in Scotland.
20. Chapter 5 allows for the reinstatement of pensionable service to a member who transferred scheme pension rights into a personal pension plan as a result of pension mis-selling. It will unlikely that many, if any, such cases will arise.

## **Part 13 Payment of awards**

21. This part states that NFPS awards are to be paid by the fire and rescue authority to which the fire fighter was last employed. In pension credit cases this will be the responsibility of the authority under which the pension credit was made. Generally, pensions are payable monthly in arrears from the date of a member's retirement and survivor pensions are payable monthly from the date of death of the member. Any award is normally only payable to the person entitled to it.
22. Rule 2 of this part specifies the circumstances in which the benefits payable to a member shall be reduced to reflect an amount of tax due or a recovery charge due under the Finance Act 2004 in relation to the prevailing Lifetime Allowance.

## **Part 14 Miscellaneous Provisions**

23. Part 14 sets out how Guaranteed Minimum Pensions (GMP) will be dealt with for both the firefighter member and any adult survivor. These derive from service or employment in the period 6 April 1978 to 5 April 1997, so this rule will only apply if a member has accrued GMP rights in previous service or employment and has transferred these into NFPS as part of previous pension rights. The rule provides that if the member reaches state pension age and their NFPS pension rights are less than their GMP, the guaranteed minimum must be paid.
24. There is also a requirement for members to receive an annual benefit statement outlined in this part.
25. Annex 1 to Schedule 1 of this instrument outlines how an ill-health pension payable under part 3 should be calculated. Annex 2 confirms the procedures that will required in making and hearing of an appeal to a board of medical referees.
26. Schedule 2 to the instrument confirms the terms under which FPS members may transfer to the NFPS during the options exercise period 1 January 2007 to 31 March 2007.