



Fire and Rescue Services Act 2004

2004 CHAPTER 21

PART 4

EMPLOYMENT

Pensions etc

35 Information in connection with pensions etc

- (1) A fire and rescue authority or a Scottish fire authority may in prescribed circumstances—
 - (a) provide information in connection with the questions mentioned in subsection (2) to a prescribed person;
 - (b) require a person to whom information is provided under paragraph (a) to pay a reasonable fee in respect of any administrative expenses incurred in providing it.
- (2) These are the questions—
 - (a) whether an individual who has opted or transferred out has suffered loss as a result of a contravention which is actionable under [^{F1}section 138D] of the Financial Services and Markets Act 2000 (c. 8) (actions for damages in respect of contravention of rules etc.);
 - (b) if so, what payment would need to be made in respect of that individual to the fire and rescue authority or Scottish fire authority concerned to restore the position to what it would have been if the individual had not opted or transferred out.
- (3) Subsection (4) applies if—
 - (a) an individual who has opted or transferred out becomes entitled to make contributions to a fire and rescue authority or Scottish fire authority under a scheme brought into operation under section 34, or

Changes to legislation: There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Section 35. (See end of Document for details)

- (b) a payment is made to a fire and rescue authority or Scottish fire authority in respect of such an individual to restore the position to what it would have been if the individual had not opted or transferred out.
- (4) The fire and rescue authority or Scottish fire authority may require a prescribed person to pay a reasonable fee in respect of any administrative expenses incurred in connection with the entitlement or payment.
- (5) An individual is taken to have opted or transferred out for the purposes of this section if—
- (a) for any period during which he is employed by a fire and rescue authority or Scottish fire authority, he does not make contributions to a scheme brought into operation under section 34 but instead makes contributions to a personal pension scheme, or
 - (b) a transfer value is paid in respect of him to a personal pension scheme by a fire and rescue authority or Scottish fire authority.
- (6) In this section—
- “personal pension scheme” has the meaning given by section 1 of the Pension Schemes Act 1993 (c. 48);
- “prescribed” means prescribed by regulations made by the Secretary of State for the purposes of this section.
- [^{F2}“Scottish fire authority”—
- (a) means the Scottish Fire and Rescue Service, and
 - (b) in subsection (5) includes a relevant authority as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5) (despite the repeal of that section by the Police and Fire Reform (Scotland) Act 2012 (asp 8)).]

Textual Amendments

- F1** Words in s. 35(2)(a) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 102](#) (with [Sch. 20](#)); [S.I. 2013/423, art. 3, Sch.](#)
- F2** Definition in s. 35(6) added (E.W.) (1.4.2013) by [The Police and Fire Reform \(Scotland\) Act 2012 \(Consequential Provisions and Modifications\) Order 2013 \(S.I. 2013/602\), art. 1\(2\), Sch. 1 para. 7\(3\); \(S.\) \(1.4.2013\) by Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\), s. 129\(2\), Sch. 7 para. 66\(3\); S.S.I. 2013/51, art. 2](#) (with transitional provisions and savings in [S.S.I. 2013/121](#))

Modifications etc. (not altering text)

- C1** S. 35(1)(4)(6) transfer of functions (23.3.2005) by [Scotland Act 1998 \(Transfer of Functions to the Scottish Ministers etc.\) Order 2005 \(S.I. 2005/849\), art. 1, Sch.](#) (with art. 6)

Commencement Information

- I1** S. 35 in force at 7.9.2004 for specified purposes except in relation to W. and 1.10.2004 otherwise except in relation to W. by [S.I. 2004/2304, art. 2](#) (with art. 3)
- I2** S. 35 in force at 10.11.2004 for W. by [S.I. 2004/2917, art. 2](#)

Changes to legislation:

There are currently no known outstanding effects for the Fire and Rescue Services Act 2004, Section 35.