

## ANNEX

### The Firefighters' Compensation Scheme (Northern Ireland) 2007

## PART 1

### GENERAL PROVISIONS

#### **Citation, commencement and effect**

1.—(1) This Scheme may be cited as the Firefighters' Compensation Scheme (Northern Ireland) 2007.

(2) With the exception of rule 3 of Part 2 (compensation for death or permanent incapacity while on duty), the provisions of this Scheme have effect from 1st April 2006.

(3) Rule 3 of Part 2 has effect from 1st April 2000.

#### **Interpretation**

2.—(1) In this Scheme—

“the 1984 Order” means the Fire Services (Northern Ireland) Order 1984<sup>(1)</sup>;

“the 2006 Order” means the Fire and Rescue Services (Northern Ireland) Order 2006<sup>(2)</sup>;

“amount”, in relation to a pension or allowance, means its annual amount;

“average pensionable pay” has the same meaning as in the Pension Scheme<sup>(3)</sup>;

“award” means a pension, allowance or gratuity under this Scheme;

“child”, in relation to a person who has died, means—

(a) a legitimate or illegitimate child, step-child or adopted child of his, and

(b) any other child who was substantially dependent on him and either is related to him or is the child of his spouse or civil partner;

and “parent” shall be construed accordingly;

“disabled”, “disablement” and “permanent disablement” shall be construed in accordance with rule 8 of this Part ;

“the Board” means the Northern Ireland Fire and Rescue Service Board;

“qualified medical practitioner” means a medical practitioner holding a diploma in occupational medicine or an equivalent or higher qualification issued by a competent authority in an EEA State, or being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine<sup>(4)</sup> or an equivalent institution of an EEA State; and for the purposes of this definition “a competent authority” has the meaning given by the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003<sup>(5)</sup>;

“injury” includes disease;

“normal pension age”, in relation to employees of the Board appointed on terms under which they are or may be required to engage in fire-fighting, means 55;

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(1) S.I. 1984/1821 (N.I. 11)

(2) S.I. 2006/1254 (N.I.9)

(3) See rule G1.

(4) The Faculty of Occupational Medicine is a registered charity no. 1035415

(5) S.I. 2003/1250, amended by S.I. 2004/1997.

*Status: This is the original version (as it was originally made).*

“pension” means a pension under this Scheme;

“Pension Scheme” means the Firemen’s Pension Scheme Order (Northern Ireland) 2007(6);

“pensionable pay” and “pensionable service” have the same meaning as in the Pension Scheme(7);

“qualifying injury” shall be construed in accordance with rule 7 of this Part ;

“regular firefighter” means a person who is employed—

- (a) by the Board as a firefighter (whether whole-time or part-time), other than as a retained or volunteer firefighter, and
- (b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting) and whose employment is not temporary;

“retained firefighter” means an employee of the Board who is obliged to attend—

- (a) at the station to which he is attached for training, development and maintenance duties for an average of two hours each week (plus an additional hour per week on average at the discretion of the Board) or such less hours as the officer in charge of the station, subject to any orders of the Chief Officer, considers necessary;
- (b) promptly, at any time, in response to a call;
- (c) at any incident or other occurrence, or at any other station for reserve or standby duties in accordance with the orders he receives; and
- (d) receives a retaining fee and other such fees as may be appropriate in respect of those duties;

“retire” shall be construed in accordance with rule 11 of this Part;

“state pensionable age” means pensionable age as determined in accordance with the rules in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995(8);

“surviving spouse” means a widow or widower; and

“volunteer firefighter” means an employee of the Board who—

- (a) is obliged to attend at the station to which he is attached for training, development and maintenance duties for an average of two hours each week (plus an additional hour per week on average at the discretion of the Board) or such less hours as the officer in charge of the station, subject to any orders of the Chief Officer, considers necessary and, promptly, at any time, in response to a call; and
- (b) receives no retaining fee in respect of those duties.

(2) Where this Scheme requires anything to be done within a specified period after or from a specified day or event, the period begins immediately after the specified day or, as the case may be, the day on which the specified event occurs.

### **Exclusive application to regular firefighters**

3.—(1) Subject to paragraph (3) and Part 8 (special cases), this Scheme applies in relation to regular firefighters and their spouses or civil partners and dependants to the exclusion of pension provision under any enactment other than Article 10 of the 1984 Order and the Pension Schemes (Northern Ireland) Act 1993 (9).

(6) Set out in the Annex to the Firemen’s Pension Scheme (Northern Ireland) Order 2007 (S.R. 2007 No.144).

(7) See, as to “pensionable pay”, article 65 and, as to “pensionable service”, article 53.

(8) S.I. 1995/3213 (N.I. 22).

(9) 1993 c.49.

(2) In paragraph (1) “pension provision” means any provision for the payment of an award, on death or permanent disablement, in respect of employment as a regular firefighter.

(3) A person who is not an employee of the Board but whose employment is, under rule 4 or 5 of this Part, treated for the purposes of this Scheme as employment as a regular firefighter, is not a regular firefighter for the purposes of this rule.

#### **Application to temporary employment connected with fire services**

4.—(1) This rule applies in the case of a person who has ceased to perform duties as a regular firefighter and has entered temporary employment.

(2) For the purposes of this rule temporary employment is employment, on duties connected with the provision of fire and rescue services—

- (a) as an instructor at the central training institution or any training centre maintained by the Secretary of State, or
- (b) as an inspector appointed under Article 55 of the 2006 Order or under section 24 of the Fire Services Act 1947; or
- (c) in pursuance of arrangements made by the Secretary of State in connection with the training in fire-fighting of members of the armed forces of the Crown, or
- (d) in pursuance of arrangements made by the Secretary of State, in connection with the training and organisation of fire-fighting forces in any country or territory outside the United Kingdom.

(3) Where this rule applies the person’s temporary employment shall be treated for the purposes of this Scheme as employment by the Board; and this Scheme applies in relation to the temporary employment as if—

- (a) he were, and his duties were duties as, a regular firefighter;
- (b) his pay and role were the same as they would have been had he not ceased to perform duties as a regular firefighter;
- (c) any reference to employment with the Board were a reference to the temporary employment, and
- (d) any reference to the Board were a reference to the Secretary of State.

#### **Application to permanent employment as instructor**

5.—(1) This rule applies in the case of a person who has ceased to perform duties as a regular firefighter and has entered permanent employment.

(2) For the purposes of this rule permanent employment is employment, on duties connected with the provision of fire and rescue services, as an instructor at the central training institution or any training centre maintained by the Secretary of State.

(3) Where this paragraph applies the person’s permanent employment shall be treated for the purposes of this Scheme as employment by the Board and this Scheme applies in relation to the permanent employment as if—

- (a) he were, and his duties were duties as, a regular firefighter, and
- (b) any reference to the Board were a reference to the Secretary of State.

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

6.—(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—

$$A + (B \div 365) \text{ years}$$

where—

A is the number of completed years in the period, and

B is the number of completed days in any remaining part of a year,

and a part of a year which includes 29th February in a leap year and comprises 365 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 that 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 rule 2 of Part 8 (special cases: award for or in relation to a retained or volunteer firefighter) and Part 2 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.

### **Qualifying injury**

7.—(1) Except in—

- (a) rule 3 of Part 2 (compensation for death or permanent incapacity while on duty),
- (b) rule 2 of Part 8 (special cases: award for or in relation to a retained or volunteer firefighter), and
- (c) rule 3 of Part 10 (prevention of duplication),

references in this Scheme to a qualifying injury are references to an injury received by a person, without his own default, in the exercise of his duties as a regular firefighter.

(2) In rule 3 of Part 2, references to a qualifying injury are references to an injury received by a person in the exercise of his duties as a regular, retained or volunteer firefighter.

(3) In rule 2 of Part 8 and paragraph (4) of rule 2 of Part 10, references to a qualifying injury are references to an injury received by a person, without his own default, in the exercise of his duties as a retained or volunteer firefighter.

(4) For the purposes of this Scheme an injury shall be treated as having been received by a person without his own default unless the injury is wholly or mainly due to his own serious and culpable negligence or misconduct.

## **Disablement**

8.—(1) References in this Scheme to a person's being permanently disabled are references to his being disabled at the time when the question arises for decision and to his disablement being at that time likely to be permanent.

(2) In determining whether a disablement is permanent, the Board shall have regard to whether the disablement will continue until the person's normal pension age.

(3) Subject to paragraph (4), disablement means incapacity, occasioned by infirmity of mind or body, for the performance of duty, except that, in relation to a child, it means incapacity, so occasioned, to earn a living.

(4) Where it is necessary to determine the degree of a person's disablement, it shall be determined by reference to the degree to which his earning capacity has been affected as a result of a qualifying injury.

(5) Where, as a result of a qualifying injury, a person is receiving in-patient treatment at a hospital, he shall be treated as being totally disabled.

(6) Where—

(a) a person has retired before becoming disabled; and

(b) the date on which he becomes disabled cannot be ascertained,

it shall be taken to be the date on which the claim that he is disabled is first made known to the Board.

## **Death or infirmity resulting from qualifying injury**

9.—(1) Except for the purposes of rule 3 of Part 2 a person shall be taken to have died from the effects of a qualifying injury if it appears that, had he not suffered that injury, he would not have died when he did.

(2) Except for the purposes of rule 3 of Part 2, in the case of a person who has died or become permanently disabled, any infirmity of mind or body shall be taken to have been occasioned by an injury if the injury caused or substantially contributed to the infirmity or, as the case may be, the person's death.

## **Effective date of retirement**

10.—(1) For the purposes of this Scheme an employee of the Board shall be taken to retire immediately after his last day of service.