

## ANNEX

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

## PART G

### PENSIONABLE PAY AND CONTRIBUTIONS

#### **Pensionable pay and average pensionable pay**

56.—(1) Subject to paragraph (2), the pensionable pay of a regular firefighter is the pay he receives (whether as a whole-time or part-time member of the fire and rescue service) in the ordinary course of fulfilling his duties as determined—

- (a) in relation to his role; or
- (b) in the case of a chief fire officer, deputy chief fire officer or assistant chief fire officer, for the post

during the period used to calculate his average pensionable pay in paragraph (4).

(2) For the purposes of paragraph (1), in the case of a person by whom pension contributions became payable after 31st May 1989 either—

- (a) for the first time; or
- (b) following any period in respect of which they were not payable,

except where regulation 4 of the Retirement Benefit Schemes (Tax Reliefs on Contributions) (Disapplication of Earnings Cap) Regulations 1990(1) applies his pay shall be taken not to include any excess, in any tax year, over the figure which is the permitted maximum for that year for the purposes of section 594(2) and (3) of the Income and Corporation Taxes Act 1988(2) (that is to say, the figure specified for the year by an order made by the Treasury under section 590C(6) of that Act).

(3) For the purposes of article 58 the pensionable pay of a regular firefighter during a period of maternity, paternity or adoption leave shall be deemed to be the pay to which the person is entitled for that period including any statutory maternity, paternity or adoption pay under the Social Security Contributions and Benefits (Northern Ireland) Act 1992.

(4) The average pensionable pay of a regular firefighter is, subject to paragraphs (6) to (8), the aggregate of his pensionable pay for the year ending with the relevant date.

(5) Pay is pensionable pay when it is paid to a regular firefighter at the rate applicable to his role and in the ordinary course of fulfilling his duties under this contract of employment during the relevant period used to determine average pensionable pay.

(6) Subject to paragraphs (7) and (8), if he was in receipt of pensionable pay for part only of the year ending with the relevant date, his average pensionable pay is the aggregate of his pensionable pay for that part multiplied by the reciprocal of the fraction of the year which that part represents.

(7) For the purposes of paragraphs (4) and (6) any reduction of pensionable pay as a result of any—

- (a) sick leave;
- (b) stoppage by way of punishment;
- (c) ordinary maternity, ordinary adoption or paternity leave;
- (d) paid additional maternity or additional adoption leave ; or

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(1) S.I. 1990/586

(2) 1988 c. 1: section 590C was inserted, and section 594 amended, by the Finance Act 1989 (c.26), section 75 and Schedule 6 paragraphs 4 and 6.

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- (e) unpaid additional maternity or additional adoption leave where contributions have been paid under article 58, shall be disregarded.
- (8) If the amount determined in accordance with paragraphs (3) to (6) is less than it would have been if the relevant date had been the corresponding date in whichever of the two preceding years yields the highest amount, that corresponding date shall be taken to be the relevant date.
- (9) The relevant date is—
  - (a) for the purposes of article 29 (spouse’s or civil partner’s award where no other award payable) the date of the person’s last day of service as a regular firefighter; and
  - (b) for all other purposes of this Scheme, the date of his last day of service in a period during which pension contributions were payable under article 57(1).
- (10) A regular firefighter’s average pensionable pay for a week is his average pensionable pay divided by 52 1/6th.

**Pension contributions**

57.—(1) A regular firefighter shall, except where an election under article 59 has effect, pay pension contributions to the Board at the rate specified in paragraph (2).

- (2) The rate is—
  - (a) for a person who takes up employment with the Board on or after 6th April 2006, unless article 2(6) applies, 8.5 per cent of his pensionable pay; or
  - (b) in any other case, 11 per cent of his pensionable pay.
- (3) The contributions payable under paragraph (1) on each instalment of pay are due at the same time as that instalment and, without prejudice to any other method of payment, may be deducted by the Board from the instalment.
- (4) For each financial year beginning with the financial year commencing on 1st April 2006, the Board shall, by transfer to its Firefighters’ Pension Fund from any other fund maintained by it, make an annual contribution towards the discharge of its future liability for the payment of pensions under this Scheme and the Compensation Scheme.
- (5) The annual contribution shall be such percentage of the Board’s estimate of the aggregate of the pensionable pay, for the year in respect of which the contribution is made, of those firefighters employed by the Board who are required by paragraph (1) to make pension contributions in that year, as shall have been notified to it for that year by the Department.
- (6) Where a firefighter elects under article 59(1) not to pay pension contributions, nothing in paragraphs (3) and (4) shall require the Board to make a contribution in respect of its future liability for the payment of his pension as regards—
  - (a) in the financial year in which notice of that election is given, the part of the year that falls after the first date after the notice is received on which an instalment of pay falls due; and
  - (b) any later period in which the election not to pay pension contributions has effect.

**Optional pension contributions during maternity and adoption leave**

- 58.—(1) A regular firefighter who—
  - (a) is on maternity or adoption leave which would not otherwise count as pensionable service under article 47; and

(b) for the whole or part of the period of leave is not entitled to receive pay (including any statutory maternity pay or statutory adoption pay under the Social Security Contributions and Benefits (Northern Ireland) Act 1992)(3),  
may elect to pay pension contributions in respect of such period.

(2) The contributions shall be calculated by applying article 57 to the pensionable pay (including any statutory maternity or adoption pay under the Social Security Contributions and Benefits (Northern Ireland) Act 1992) received by him immediately before the start of the unpaid period in question.

(3) An election to pay pension contributions under paragraph (1) must be made by the person in writing to the Board before the expiry of a period of 30 days (or such longer period as the Board may allow) beginning with—

- (a) the day on which he returns to work; or
- (b) if he does not return to work after the leave period, the day he ceases to be employed by the Board.

(4) Where the person dies before the end of the period in paragraph (3) without having given the required notice, he shall be deemed to have given the notice and to have paid the contributions.

(5) On receipt of the notice the Board shall calculate the amount of contribution due and shall give notice in writing of that amount to the person concerned.

(6) Where the full amount of contributions due has not been paid within 6 months of the date of notice in paragraph (5), the person concerned shall be entitled to reckon as pensionable service such proportion of the period in respect of which contributions were due, as the contributions paid relate to the total amount of contributions due.

(7) Where the period of additional maternity or additional adoption leave ended prior to 1st April 2006 the provisions of this article shall apply where the person gives written notice to the Board by 30th April 2007.

### **Election not to pay pension contributions**

59.—(1) Subject to paragraph (11), a regular firefighter may at any time, by giving written notice to the Board, elect that article 57 is not to apply in his case.

(2) Subject to paragraphs (3) and (4), an election under paragraph (1) takes effect on the first date after the notice is received on which an instalment of pay falls due.

(3) In the case of a person who has given notice under paragraph (1) within 3 months after the date on which he last became a regular firefighter (“the material date”), the election shall be treated as having taken effect on the material date.

(4) Where—

- (a) a person gives notice under paragraph (1) within 3 months of taking up employment as a regular firefighter; and
- (b) no transfer of pension rights from another pension scheme has been made in respect of him,

the election shall be treated as given on his first day of employment and the Board shall repay the pension contributions made by him.

(5) Where an election is to be treated as having taken effect on the material date—

- (a) the Board shall repay the person the pension contributions paid by him since that date; and
- (b) for the purposes of articles 28 and 29 pension contributions shall be taken not to have been payable by him at any time.

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(3) 1992 c.7

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(6) Where aggregate pension contributions are repaid under paragraph (4), the Board shall transfer from its Firefighters' Pension Fund to any other fund maintained by it an amount equal to the aggregate of the amounts that it has paid by way of employer's contributions under article 57(4) in respect of the firefighter concerned.

(7) Subject to paragraphs (8) and (9), a person who has made an election under paragraph (1) may cancel it by giving written notice to the Board.

(8) Except in the case of a person to whom article 51 applies, a notice under paragraph (7) must be given no later than his 45<sup>th</sup> birthday.

(9) Except in the case of a person to whom article 51 applies, the Board may resolve that a person's election may not be cancelled unless he has undergone a medical examination, at his own expense, and satisfied it as to his good health.

(10) Where an election is cancelled it ceases to have effect on the first date after the notice is received on which an instalment to pay falls due.

(11) A person who has cancelled an election made under paragraph (1) may not make a further election under that paragraph during the same period of service as a regular firefighter.

(12) References in this Scheme to any period during which an election under this article not to pay pension contributions had effect shall not include any period in respect of which a transfer value or lump sum has been paid under article 51.

#### **Continued payment of additional and further contributions**

60. A regular firefighter who immediately before 1st April 2006 was still liable to pay additional or further contributions pursuant to an election under Article 52(2) or (3) of the 1973 Scheme shall continue to pay them, except while an election under article 59 has effect, for so long as they would have remained payable if that Scheme had not been revoked.

#### **Purchase of increased benefits**

61.—(1) For the purpose of securing increased benefits as provided in article 64, additional sixtieths of average pensionable pay may be purchased in accordance with articles 62 and 63 by eligible persons.

(2) An eligible person is a regular firefighter—

- (a) who is paying pension contributions under article 57;
- (b) whose normal pension age is at least 9 years after the date on which he last became a regular firefighter; and
- (c) who at his normal pension age would be entitled to reckon less than 30 years' pensionable service.

#### **Election to purchase increased benefits**

62.—(1) Subject to paragraphs (2) to (4), an eligible person may, by giving written notice to the Board, elect to purchase a specified number of sixtieths on his average pensionable pay by paying to the Board—

- (a) a lump sum calculated in accordance with paragraph 1 or 2 of Part I of Schedule 7; or
  - (b) periodical contributions calculated in accordance with paragraph 3 or 4 of that Part.
- (2) The number of sixtieths specified—

- (a) must not be such that, if he continued to serve as a regular firefighter until his normal pension age, more than 40 sixtieths of his average pensionable pay would count in calculating his pension; and
- (b) need not be a whole number.
- (3) An election to pay a lump sum—
  - (a) must be made within 12 months after the date on which he last became a regular firefighter; and
  - (b) if the sum is not paid within 3 months of the date that payment of periodical contributions commenced, that portion of the election shall be treated as not having been made.
- (4) An election to pay periodical contributions must be made at least 2 years before the person's retirement date, but no such election may be made—
  - (a) if the Board has notified him that they require him to retire under article 10 (efficiency) or 11 (disablement), or
  - (b) if the Board so resolves, unless he has at his own expense undergone a medical examination and satisfied it as to his good health.
- (5) An election under this article—
  - (a) takes effect, subject to paragraph (3)(b), on the day on which the written notice is received by the Board;
  - (b) continues to have effect notwithstanding any postponement by reason of promotion of the date on which the person could be required to retire on account of age; and
  - (c) is irrevocable.

#### **Payment of periodical contributions for increased benefits**

63.—(1) Subject to paragraphs (2) and (3), where a person has elected under article 62 to pay periodical contributions they are payable from his next birthday and continue to be payable until the earliest of—

- (a) his normal pension age;
- (b) the date on which he ceases to serve as a regular firefighter; and
- (c) the date on which any election under article 59 takes effect.

(2) If before his normal pension age he—

- (a) retires with an ill-health pension, and resumes service as a regular firefighter; or
- (b) having made an election under article 59, cancels it,

the contributions again become payable, and continue to be payable as provided in paragraph (1).

(3) If the Board is satisfied that payment of the periodical contributions is causing, or is likely to cause, financial hardship it may consent to the discontinuance of payment for such period as it thinks fit.

#### **Effect of payment for increased benefits**

64.—(1) Where a person has paid a lump sum, or begun paying periodical contributions, in accordance with an election under article 62—

- (a) if he becomes entitled to a pension under article 13, 14, 15 or 16 (ordinary, short-service, ill-health and deferred pensions) the amount of the pension, before any commutation under article 18, shall be increased by the appropriate amount; and

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(b) awards mentioned in paragraph 2(2), 3(2), 4 and 5 of Part III of Schedule 7 shall be increased in accordance with that Part.

(2) Subject to paragraph (3), where the person—

- (a) dies while serving as a regular firefighter; or
- (b) retires with an ill-health pension; or
- (c) retires on or after his normal pension age,

the appropriate amount is the number of sixtieths of his average pensionable pay specified in the election.

(3) If the person had begun paying periodical contributions and—

- (a) payment of those contributions had at any time been discontinued under article 63(3); or
- (b) he had made and subsequently cancelled an election under article 59,

the appropriate amount is the amount described in paragraph 1 of Part II of Schedule 7.

(4) Where on—

- (a) ceasing to be a member of the fire and rescue service in circumstances not falling within paragraph (2); or
- (b) making an election under article 59 which is not subsequently cancelled,

the person does not become entitled to the repayment of his aggregate pension contributions, the appropriate amount is to be ascertained from paragraphs (5) and (6).

(5) Subject to paragraph (6)—

- (a) if he had paid a lump sum, the appropriate amount is the number of sixtieths of his average pensionable pay specified in the election; and
- (b) if he had begun paying periodical contributions, the appropriate amount is the amount described in paragraph 2 of Part II of Schedule 7.

(6) Where he retires with an ordinary pension before his normal pension age, the appropriate amount is the amount specified in paragraph (5)(a) or (b) reduced by the actuarial valuation described in paragraph 3 of Part II of Schedule 7.