

## ANNEX

### THE NEW FIREFIGHTERS' PENSION SCHEME (NORTHERN IRELAND)

## PART 1

### CITATION AND INTERPRETATION

#### Citation

1. This Scheme may be cited as the New Firefighters' Pension Scheme (Northern Ireland).

#### Interpretation

- 2.—(1) In this Scheme—

“the 2007 Scheme” means the Firefighters' Pension Scheme 2007<sup>(1)</sup>;

“the 1993 Act” means the Pension Schemes (Northern Ireland) Act 1993<sup>(2)</sup>;

“the 1999 Act” means the Welfare Reform and Pensions Act 1999<sup>(3)</sup>;

“the 1999 Order” means the Welfare Reform and Pensions Order (Northern Ireland) 1999<sup>(4)</sup>;

“adoption leave” means leave under Article 107A of the Employment Rights (Northern Ireland) Order 1996<sup>(5)</sup>; and “ordinary adoption leave” and “additional adoption leave” shall be construed accordingly;

“amount”, in relation to a pension, means the annual amount of the pension;

“award” means a pension or lump sum under this Scheme, or the refund of pension contributions;

“Board-initiated early retirement” means retirement before normal retirement age under article 16;

“cash equivalent” and “part-cash equivalent” have the respective meanings given by sections 90 and 94(1) of the 1993 Act;

“child”, in relation to a scheme member, means—

- (a) a child who is financially dependent on him, and is—

- (i) a natural child, step-child or adopted child of his; or

- (ii) otherwise related to him; or

- (iii) the child of his spouse, civil partner or nominated partner; and

- (b) any child of his—

- (i) who is born after his death; and

- (ii) with whom the child's mother was pregnant at the date of the member's death;

“Compensation Scheme” means the Firefighters' Compensation Scheme (Northern Ireland) out in Schedule 1 to the Firefighters' Compensation Order (Northern Ireland)<sup>(6)</sup>

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(1) S.R. 2007 No. 144

(2) 1993 c.49.

(3) 1999 c.30.

(4) S.I. 1999/3147 (N.I. 11).

(5) .S.I. 1996/1919 (N.I. 16) Article 107A was inserted by Article 3 of the Employment (Northern Ireland) Order 2002 (S.I. 2002/2836 (N.I.2))

(6) S.R. 2007 No. 143

“contracted-out”, in relation to an employment or scheme, has the same meaning as in section 8 of Chapter 1 of Part III of the 1993 Act;

“contributions equivalent premium” has the meaning given by section 51(2) of the 1993 Act and any reference to a case in which a contributions equivalent premium has been paid includes a reference to a case in which such a premium is payable;

“contributions election” means an election under article 8(1) not to make pension contributions;

“deferred member” has the meaning given by article 4(3);

“disabled” and “disablement” have the meanings given by article 3;

“eligibility condition” means any of the conditions set out in article 5(1);

“final pensionable pay” shall be construed in accordance with article 62;

“firefighter member” has the meaning given by article 4(1);

“guaranteed minimum” is the amount determined for the purposes of sections 9 to 13 of the 1993 Act, and “guaranteed minimum pension” has the same meaning as in that Act; any reference to the guaranteed minimum in relation to a pension under a pension scheme at a particular time is a reference to the amount certified as that minimum at that time;

“higher tier ill-health pension” has the meaning given by article 12(3);

“ill-health retirement” means retirement under article 12;

“independent 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>(7)</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>(8)</sup>;

“injury” means any injury or disease, whether of body or mind;

“lower tier ill-health pension” has the meaning given by article 12(2);

“maternity leave” means leave under Article 103 of the Employment Rights (Northern Ireland) Order 1996; and “ordinary maternity leave” and “additional maternity leave” shall be construed accordingly;

“member-initiated early retirement” means retirement before normal retirement age under article 15;

“nominated partner” has the meaning given by article 4(6);

“normal benefit age” is 60;

“normal retirement age” is 65;

“paternity leave” means leave under regulation 4 or 8 of the Paternity and Adoption Leave (Northern Ireland) Regulations 2002<sup>(9)</sup>;

“pension”, unless a contrary intention appears, means a pension under this Scheme;

“pensionable pay” shall be construed in accordance with article 61;

“pensionable retained or volunteer service”, in relation to a retained or volunteer firefighter and any period, means the same proportion of whole-time service as that which has actual pensionable pay for that period bears to his reference pay for that period;

“pensionable service” shall be construed in accordance with articles 56 to 59;

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

(8) S.I. 2003/1250.

(9) S.R. 2002 No. 377.

“pension credit” means a credit under Article 26(1)(b) of the 1999 Order or section 29(1)(b) of the 1999 Act;

“pension credit benefit” has the meaning given by section 97B of the 1993 Act<sup>(10)</sup>;

“pension credit member” has the meaning given by Article 121(1) of the Pensions (Northern Ireland) Order 1995<sup>(11)</sup>;

“pension credit rights” has the meaning given by section 97B of the 1999 Act;

“pension debit” means a debit under Article 26(1)(a) of the 1999 Order or section 29(1)(a) of the 1999 Act;

“pension debit member” means a person whose benefits or future benefits under this Scheme have been reduced under Article 28 of the 1999 Order or section 31 of the 1999 Act;

“pensioner”, except in the definition of “pensioner member”, means a person who is in receipt of a pension;

“pensioner member” has the meaning given by article 4<sup>(4)</sup>;

“pension sharing order” means an order or provision mentioned in Article 25(1) of the 1999 Order or section 28(1) of the 1999 Act;

“personal pension scheme” has the meaning given by section 1 of the 1993 Act;

“qualifying service” has the meaning given by article 55;

“reference pay”, in relation to the pay of a retained or volunteer firefighter over any period or 12 consecutive months, means the whole-time equivalent pensionable pay over that period of a regular firefighter employed in a similar role and with equivalent qualifying service;

“regular employment” means employment for at least 30 hours a week on average over a period of not less than 12 consecutive months beginning with the date on which the issue of the person’s capacity for employment arises;

“regular firefighter” means a person employed (whether whole-time or part-time) by the Board

- (c) as a firefighter, but not as a retained or volunteer firefighter,
- (d) 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
- (e) otherwise than in a temporary capacity;

“retained firefighter” and “volunteer firefighter” mean a person employed by the Board—

- (a) as a firefighter, but not as a regular firefighter;
- (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);
- (c) otherwise than in a temporary capacity; and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives;

and “retained or volunteer firefighter” shall be construed accordingly;

<sup>(10)</sup> Section 97B was inserted by Article 34 of 1999/3147 (N.I. 11).

<sup>(11)</sup> S.I. 1995/3213 (N.I. 22) as amended by S.I. 1993/3147 (N.I. 11) Schedule 1 paragraph 50(3).

“role”, in relation to a firefighter, except in article 4(1), means the role in which he is for the time being employed, being a role set out in “Fire and Rescue Services Rolemaps” issued by the National Joint Council for Local Authority Fire and Rescue Services in August 2005(12);

“state pensionable age” means pensionable age as determined in accordance with the articles in paragraph 1 of Schedule 2 to the Pensions (Northern Ireland) Order 1995(13)

“survivor’s pension” means a pension under article 23; and

“transfer value payment” means a payment to another pension scheme or arrangement in respect of rights to benefits that have accrued to, or in respect of, a member under this Scheme.

(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.

### **Disablement**

3.—(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) Disablement—

- (a) in relation to a firefighter member, means such incapacity, occasioned by infirmity of mind or body, as makes him unable to perform any duties of the role in which he was last employed;
- (b) in relation to a child, means such incapacity, occasioned by infirmity of mind or body, as makes him unable to earn a living.

(3) In determining whether a person’s disablement is permanent, the Board shall have regard—

- (a) in every case, to whether the disablement will continue until the person’s normal retirement age; and
- (b) in relation to a person who has taken a deferred pension, to whether the disablement will continue until his normal benefit age.

(4) Where—

- (a) a person has left the Scheme with deferred entitlement to benefits before becoming disabled; and
- (b) the date on which he becomes disabled cannot be ascertained,

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

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(12) The document is accessible at [http://www/lge.gov.uk/conditions/firefighters/content/documents/fire service rolemaps.pdf](http://www/lge.gov.uk/conditions/firefighters/content/documents/fire%20service%20rolemaps.pdf).

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