

ANNEX

THE NEW FIREFIGHTERS' PENSION SCHEME (NORTHERN IRELAND)

PART 3

PERSONAL AWARDS

Ordinary pension

11.—(1) Subject to paragraph (2), this article applies to a person who satisfies an eligibility condition and retires, having reached normal retirement age, or state pensionable age.

(2) This article does not apply to a firefighter member whose notice of retirement states that he is retiring for the purpose of taking up employment with a fire and rescue service authority in England, Scotland or Wales.

(3) A person to whom this article applies becomes entitled on retiring to an ordinary pension calculated, subject to paragraph (4), by multiplying his pensionable service by his final pensionable pay and dividing the resultant amount by 60.

(4) Where a person to whom this article applies becomes entitled on retiring to a pension in respect of service as a retained or volunteer firefighter, his ordinary pension shall be calculated by multiplying his final pensionable pay by his pensionable retained or voluntary service and dividing the resultant amount by 60.

(5) Where a firefighter member is entitled to more than one ordinary pension, those pensions shall not be aggregated unless article 17(6) applies.

Award on ill-health retirement

12.—(1) — This article applies to a firefighter member who leaves his employment by reason of permanent disablement⁽¹⁾ (referred to in this Scheme as “ill-health retirement”).

(2) Every firefighter member to whom this article applies and who satisfies an eligibility condition is entitled, on retiring, to a lower tier ill-health pension calculated in accordance with paragraph 1 of Schedule 1.

(3) A firefighter member—

- (a) who is entitled to a lower tier ill-health pension;
- (b) who has at least five years of qualifying service; and
- (c) in respect of whom a qualified medical practitioner, has expressed the opinion, obtained in accordance with article 46(2), that he is permanently disabled from undertaking regular employment,

is also entitled, on retiring, to a higher tier ill-health pension calculated in accordance with paragraph 2 or 3 of Schedule 1, as his circumstances require.

Deferred pension

13.—(1) This article applies to a firefighter member who—

- (a) satisfies an eligibility condition; and
- (b) before reaching normal retirement age—

⁽¹⁾ See article 3.

Status: This is the original version (as it was originally made).

- (i) resigns or is dismissed from the fire and rescue service; or
- (ii) makes a contributions election.

(2) A person to whom this article applies is entitled to a deferred pension which, subject to paragraph (4) and article 15 becomes payable from normal benefit age.

(3) A deferred pension shall be calculated by multiplying the person's pensionable service by his final pensionable pay and dividing the resultant amount by 60.

(4) Subject to article 53 (withdrawal of early payment of deferred pension), where—

- (a) a person to whom this article applies gives to the Board notice in writing requesting early payment of his deferred pension; and
- (b) the Board is satisfied, having obtained the opinion of a qualified medical practitioner in accordance with article 46, that the person is permanently disabled from undertaking regular employment,

the Board shall pay the deferred pension from the date of the person's disablement or, if that date cannot be ascertained, the date of his request for early payment.

(5) Where a deferred pension is paid early in accordance with paragraph (4), it shall be subject to review under article 49(2) (review of ill-health pension).

(6) A person who cancels his deferred pension under article 14 ceases to be entitled to it.

Cancellation of deferred pension

14.—(1) Where—

- (a) a deferred pension awarded under article 13 is not being paid; and
- (b) the person entitled to it is again employed by the Board in a role which entitles him to rejoin this Scheme; and
- (c) he rejoins the Scheme,

he may, at any time before leaving the Board's employment, by notice in writing given to the Board, instruct the Board to cancel his deferred pension.

(2) Where the Board cancels a deferred pension, it shall add to the pensionable service used for the calculation of the pension to which the person becomes entitled on leaving the service the pensionable service used for the calculation of the deferred pension.

(3) Where a person is entitled to a deferred pension from a fire and rescue authority in England, Scotland or Wales ("the first authority"), and he is subsequently employed by the Board, he must by written notice to the first authority instruct it—

- (a) to cancel the deferred pension; and
- (b) to make arrangements with the Board for the transfer of his pensionable service in accordance with Part 12.

Pension on member-initiated early retirement

15.—(1) This article applies to a firefighter member who—

- (a) satisfies an eligibility condition; and
- (b) before reaching normal benefit age is awarded a deferred pension.

(2) A person to whom this article applies may, on or after his 55th birthday, by notice in writing to the Board request early payment of his deferred pension.

(3) The Board may refuse a request under paragraph (2) if the rate of the pension (after the actuarial reduction mentioned in paragraph (4)(b) or, as the case may be, paragraph (5)(b)), is likely to be less than the guaranteed minimum pension that would be payable from state pensionable age.

(4) A deferred pension paid before normal benefit age to a firefighter member whose service is as a regular firefighter shall be calculated by—

- (a) multiplying his pensionable service by his final pensionable pay and dividing the resultant amount by 60; and
- (b) applying to the amount ascertained in accordance with sub-paragraph (a) the appropriate actuarial reduction factor notified by the Scheme Actuary.

(5) A deferred pension paid before normal benefit age to a firefighter member whose service is as a retained or volunteer firefighter shall be calculated by—

- (a) multiplying his pensionable retained service by his final pensionable pay as in article 62(6) and dividing the resultant amount by 60; and
- (b) applying to the amount ascertained in accordance with sub-paragraph (a) the appropriate actuarial reduction factor notified by the Scheme Actuary.

Pension on Board-initiated early retirement

16.—(1) The Board may, having regard to—

- (a) the economical, effective and efficient management of its functions; and
- (b) the costs likely to be incurred in the particular case,

determine that a firefighter member who is aged 55 but under normal retirement age should be retired from the service.

(2) The pension of a person in respect of whom a determination is made under paragraph (1) shall be calculated in accordance with article 11.

Entitlement to two pensions

17.—(1) Subject to paragraph (7), a firefighter member who—

- (a) (i) satisfies an eligibility condition; and
- (b) on taking up a different role within the fire and rescue service or becoming entitled to a different rate of pay in his existing role, suffers a reduction in the amount of his pensionable pay such that the amount to be taken into account in the calculation of the pension to which he will be entitled at normal retirement age is less than it would otherwise have been,

is entitled to two pensions.

(2) The pensions shall be calculated as mentioned in paragraphs (3) and (4) and shall become payable as mentioned in paragraph (5).

(3) The amount of the first pension is that found by multiplying the member's pensionable service up to (but not including) the day on which paragraph (1) first applies to him by the final pensionable pay to which he would have been entitled had he retired on that day, and dividing the resultant amount by 60.

(4) The amount of the second pension is that found by multiplying the member's pensionable service on and after the day on which paragraph (1) first applies to him by the final pensionable pay to which he is entitled on that day, and dividing the resultant amount by 60.

(5) Subject to paragraph (6), the pensions become payable on the date on which a pension would have become payable to the member in whichever of the circumstances referred to in articles 11, 12, 13, 15 and 16 applies in his case.

(6) A member who is entitled to two pensions under this article may, by notice in writing to the Board, before leaving that employment, instruct the Board to make a single award which shall be calculated in accordance with paragraph (7).

(7) The single award under paragraph (6) shall be calculated by—

- (a) multiplying the aggregate of the periods of pensionable service used for the purposes of paragraphs (3) and (4) by the final pensionable pay used for the purposes of paragraph (4), and
- (b) dividing the resultant amount by 60.

(8) If the member makes a contributions election, he shall be entitled to a single pension, calculated as mentioned in paragraph (3); and that pension shall be treated for the purposes of article 13(4) to (6) and article 14 as if it were a deferred pension to which he was entitled under article 13.

Refund of aggregate pension contributions

18.—(1) A firefighter member who—

- (a) leaves the Board's employment without satisfying an eligibility condition; or
- (b) remains in that employment but makes a contributions election before he has accrued three months' qualifying service,

is entitled to a refund of his aggregate pension contributions less—

- (i) the amount of any tax and national insurance premium required to be deducted; and
- (ii) such part of any contributions equivalent premium paid in respect of the member as is permitted by or under section 57 of the 1993 Act.

(2) In paragraph (1), "aggregate pension contributions" means all of the payments made by the member to the Board by way of pension contributions.

Commutation: general

19.—(1) Subject to paragraphs (3) and (4), a person entitled or prospectively entitled to any pension under this Part may commute a portion of it ("the commuted portion") for a lump sum.

(2) The lump sum shall be calculated by multiplying by 12 the amount of the person's pension represented by the commuted portion at the date of retirement.

(3) A person taking ill-health retirement may not commute any portion of a higher tier ill-health pension.

(4) The commuted portion must not exceed—

- (a) in a case to which paragraph (4) or (5) of article 15 applies, one quarter of the amount of the pension calculated in accordance with that paragraph;
- (b) in any other case, one quarter of the amount to which he is entitled by way of pension.

(5) In order to commute a portion of a pension a person must—

- (a) not earlier than four months before the date on which he intends to retire; but
- (b) not later than the day before the pension comes into payment,

give the Board written notice of commutation specifying the commuted portion.

(6) Notice of commutation takes effect on the day of the person's retirement ("the effective date").

(7) The Board shall—

- (a) from the effective date, reduce the person's pension by the commuted portion; and

(b) as soon as reasonably practicable after the effective date, pay the lump sum.

(8) In relation to a deferred pension, a pension on member-initiated early retirement, a pension on Board-initiated early retirement, or either or both of the two pensions referred to in article 17, paragraphs (6) and (7) have effect as if references to the day of retirement and the effective date were references to the date on which the pension comes into payment.

(9) For the purposes of this article—

- (a) the pension of a pension debit member shall be taken to be the amount of the pension after reduction in accordance with article 22; and
- (b) no account shall be taken of any increase under article 2 or 3 of Part 7 of the Compensation Scheme in an award to a serviceman.

Commutation: small pensions

20.—(1) Where the amount of any pension payable under this Part to a member who has attained state pensionable age, together with any pension to which he is entitled under article 37 and any increase under the Pensions (Increase) Act (Northern Ireland) 1971⁽²⁾, does not exceed the commutation limit specified for the purposes of Part 1 of Schedule 29 to the Finance Act 2004 (lump sum rule)⁽³⁾, the Board may commute the pension for a lump sum.

(2) The amount of a lump sum under this article is the actuarial equivalent of the pension, calculated from tables prepared by the Scheme Actuary.

- (a) (3) (a) Where a member is entitled to more than one pension under this Part, the pensions shall be treated as one for the purposes of this article.

(4) On the day on which a pension is commuted under this article, all other entitlements of the member under this Part are extinguished.

Allocation of pension

21.—(1) A firefighter member may, in accordance with paragraphs (6) and (7), but subject to—

- (a) section 214 of the Finance Act 2004 and paragraphs (4) and (5); and
- (b) where he is over 74, to paragraphs 16A to 16C of Schedule 28 to the Finance Act 2004⁽⁴⁾,

allocate up to one-third of any pension to which he is entitled or prospectively entitled under this Part.

(2) The persons to whom a portion of a pension may be allocated are—

- (a) the firefighter member's spouse, civil partner or nominated partner; or
- (b) with the consent of the Board, any other person who is substantially dependent on the firefighter member.

(3) The Board may withhold consent under paragraph (2)(b) if it is not satisfied that the person is substantially dependent on the firefighter member.

(4) For the purposes of paragraph (1), the Board shall disregard any increase under article 2 or 3 of Part 7 of the Compensation Scheme (awards to, or on death of, servicemen) in—

- (a) awards to—
 - (i) reservists; or
 - (ii) reservists who do not resume service with the Board; and

(2) 1971 c.35 (N.I.).

(3) As to the “lump sum rule”, see section 166 of the Finance Act 2004 (c.12). As to the commutation limit, see paragraph 7(4) of Part 1 of Schedule 29 to that Act.

(4) Paragraphs 16A to 16C were inserted by the Finance Act 2005 (c.7), Schedule 10, paragraph 28.

(b) awards paid under the Compensation Scheme.

(5) Where more than one portion of a particular pension is allocated under this article, the total of the allocated portions of that pension must not exceed the portion of that pension retained by the firefighter member.

(6) The firefighter member must—

- (a) satisfy the Board that he is in good health and has a normal life expectancy; and
- (b) give the Board written notice of allocation specifying—
 - (i) the portion;
 - (ii) the name and address of the intended beneficiary; and
 - (iii) the sex of the beneficiary.

(7) The notice of allocation, which may be sent by post, must be given—

- (a) if the pension is a deferred pension, not earlier than two months before the pension comes into payment;
- (b) in any other case, not earlier than two months before the firefighter member's intended retirement.

(8) Where the Board is satisfied that—

- (a) the firefighter member has complied with paragraphs (6) and (7); and
- (b) the allocation proposed by him can be made without contravening section 214 of the Finance Act or, as the case may be, paragraphs 16A to 16C of Schedule 28 to that Act,

it shall, as soon as reasonably practicable after receiving the member's notice of allocation, notify him in writing that it has accepted his proposal.

(9) Where a proposal is accepted, the notice of allocation only takes effect—

- (a) if it refers to a deferred pension, where the pension comes into payment within two months of the date of receipt of the notice;
- (b) in any other case, where the firefighter member entitled to the pension retires within two months of the date of receipt of the notice.

(10) If a notice of allocation takes effect, it does so on the day on which the pension comes into payment or, as the case may be, on the day on which the member retires.

(11) Where—

- (a) a notice of allocation has taken effect;
- (b) the pension to which it relates has become payable; and
- (c) the beneficiary survives the pensioner,

the Board shall, from the date of the pensioner's death, pay the beneficiary a pension which is the actuarial equivalent of the allocated portion.

(12) Where more than one portion has been allocated under this article, a separate calculation shall be made under paragraph (13) in respect of each allocation.

(13) The actuarial equivalent of an allocated portion shall be calculated in accordance with tables prepared by the Scheme Actuary and in force when the notice of allocation takes effect; and in the calculation shall be made by reference to the ages of the pensioner and the beneficiary at the date on which the notice of allocation was given.

(14) Where—

- (a) a notice of allocation has taken effect; and
- (b) the beneficiary pre-deceases the pensioner,

the Board shall pay to the pensioner (distinguishing it from any other pension payable to him) the portion of pension that he had allocated (“the failed allocation pension”).

(15) Where paragraph (14) applies, the pensioner is not entitled to recover from the Board the amount of any deduction made in respect of the failed allocation pension.

Pension debit members

22. Where a pension debit member is entitled to an award under this Part—

- (a) the award shall be calculated by reference to the member’s rights under this Scheme as reduced by virtue of Article 28 of the 1999 Order and in accordance with such tables and other guidance as are provided for the purpose by the Scheme Actuary; and
- (b) articles 19 to 21 have effect accordingly.