

2008 No. 382

FIRE AND RESCUE SERVICES

PENSIONS

**The Firefighters' Pension Scheme (Amendment) Order
(Northern Ireland) 2008**

Made - - - - 17th September 2008

Coming into operation - 16th October 2008

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred on it by Article 10(1), (3), (4) and (5) of the Fire Services (Northern Ireland) Order 1984(a) and now vested in it and with the approval of the Department of Finance and Personnel(b), in accordance with Article 10(1) of that Order, makes the following Order:

Citation and commencement and effect

1.—(1) This Order may be cited as the Firefighters' Pension Scheme (Amendment) Order (Northern Ireland) 2008.

(2) This Order shall come into operation on 16th October 2008, and subject to paragraphs (3) and (4) shall have effect from 1st July 2007.

(3) The amendment made by article 2 and paragraph 1 of the Schedule so far as it relates to the new article 16A, (entitlement to two pensions) shall have effect from 1st April 2007.

(4) The amendment made by article 2 and paragraph 3 of the Schedule (Ill Health Pension) shall have effect from 1st April 2006.

Amendment of the Firefighters' Pension Scheme Order (Northern Ireland) 2007

2. The Firefighters' Pension Scheme Order (Northern Ireland) 2007(c), shall be amended in accordance with the Schedule.

(a) S.I. 1984/1821 (N.I. 11) see article 2(2) for the definition of "the Department"; Article 10(5) was amended by S.I. 1998/1549 (N.I. 11) Article 4. Article 10 was continued by S.I. 2006/1254 (N.I. 9) Article 60 (1) and (2).

(b) Formerly the Department of Finance . See S.I. 1982/338 (N.I. 6) Article 3

(c) S.R. 2007 No. 144; see Annex

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on
17th September 2008



Noel McCann
A senior officer of the
Department of Health, Social Services and Public Safety

The Department of Finance and Personnel approves this order.
Sealed with the Official Seal of the Department of Finance and Personnel on 17th September 2008



Dr Mary McIvor
A senior officer of the
Department of Finance and Personnel

SCHEDULE

Article 2

AMENDMENT OF THE FIREFIGHTERS' PENSION SCHEME (NORTHERN IRELAND) 2007

1. In Part B (personal awards), after article 16 (deferred pension), insert—

“Entitlement to two pensions

16A.—(1) A regular firefighter who—

- (a) on taking up a different role; or
- (b) 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 pension age is less than it would otherwise have been, is entitled to two pensions.

(2) The amounts of the pensions shall be those found by applying the formulae set out in paragraphs (3) and (4) but, where the aggregate of those amounts exceeds that of the single award to which the firefighter would be entitled—

- (a) under paragraph (6) if he were to give notice under that paragraph, or
- (b) under paragraph (7) if he were to make an election under article 59,

his entitlement shall be to an amount equal to the amount of that single award.

(3) The amount of the first pension is that found by applying the formula—

$$A \times \frac{B}{C} \times \frac{D}{60}$$

where—

A is the firefighter's average pensionable pay for the year ending with his last day of service at the higher rate of pay;

B is the firefighter's pensionable service up to that day;

C is the firefighter's total pensionable service; and

D is the total number of 60ths that would have been used in the calculation of his single award had he given the instruction referred to in paragraph (6).

(4) The amount of the second pension is that found by applying the formula—

$$E \times \frac{F}{C} \times \frac{D}{60}$$

where—

C and D have the same meanings as in paragraph (3);

E is the firefighter's average pensionable pay for the year ending with his last day of service; and

F is—

(a) where the aggregate of—

(i) the pensionable service used to ascertain the value of B in his case for the purpose of the formula in paragraph (3); and

(ii) his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service, exceeds 30, the difference between B and 30;

(b) in any other case, his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service.

(5) Subject to paragraph (6), the pensions become payable on the date on which a pension would have become payable to the firefighter in whichever of the circumstances referred to in articles 13, 14, 15 and 16 applies in his case.

(6) A firefighter who is entitled to two pensions under this rule may, before leaving the employment of the Board by which he is employed, by written notice instruct the Board to make a single award which shall be calculated in accordance with whichever of articles 13, 14, 15 and 16 is applicable in his case.

(7) Where a firefighter who would be entitled to two pensions under paragraph (1) makes an election under article 59, he shall be entitled instead to a single pension, calculated as if it were a deferred pension to which he was entitled under article 16.

(8) In paragraph (1), "role", in relation to a firefighter, 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(a).

Additional pension benefit: long service increment

16B.—(1) A regular firefighter who—

(a) 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)

- (a) in respect of a period that includes 30th June 2007 is entitled to a long service increment or to an interim or transitional payment connected with long service, and
- (b) on or after 1st October 2007—
 - (i) retires from employment as a regular firefighter, or
 - (ii) becomes entitled to a deferred pension under article 16

shall be credited with an amount of additional pension benefit.

(2) Subject to paragraph (3), the amount of additional pension benefit is that calculated in accordance with the formula—

$$\frac{A + (B \times 2) \times \pounds 990}{60}$$

where—

A is the number of years (counting part of a year as the appropriate fraction) by which the firefighter's pensionable service up to and including 30th June 2007 exceeds 15 but does not exceed 20; and

B is the number in years (counting part of a year as the appropriate fraction) by which his pensionable service up to and including 30th June 2007 exceeds 20.

(3) Where the Retail Prices Index for the month of September preceding the relevant tax year is higher than it was for September 2007, the amount of additional pension benefit (as calculated in accordance with paragraph (2) and, if applicable, this paragraph) shall be increased by the same percentage as the percentage increase in the Retail Prices Index.

(4) Any increase in accordance with paragraph (3) shall be applied with effect from the first Monday of the relevant tax year.

(5) In this article—

“relevant tax year” means a tax year in relation to which—

- (a) the amount of a firefighter's pension benefits is calculated for the purposes of this Scheme; and
- (b) he is not in receipt of a pension under this Scheme or entitled to a deferred pension under this Scheme or entitled to a deferred pension under article 16; and

“tax year” means the period of 12 months beginning with 6th April.

Additional pension benefit: continual professional development

16C.—(1) A regular firefighter who, in any CPD year beginning with the year commencing on 1st July 2007, received CPD payments, shall be credited with an amount of additional pension benefit in respect of that year.

(2) Subject to paragraph (3), the amount of additional pension benefit in respect of a CPD year shall be determined on 1st July immediately following the year in question in accordance with guidance and tables provided by the Scheme Actuary.

(3) Where the Retail Prices Index for the month of September preceding the relevant tax year is higher than it was for the month of September in the CPD year in question, the amount of additional pension benefit for that CPD year (as calculated in accordance with paragraph (2) and, if applicable, this paragraph) shall be increased by the same percentage as the percentage increase in the Retail Prices Index.

(4) Any increase in accordance with paragraph (3) shall be applied with effect from the first Monday of the relevant tax year.

(5) In this article—

“CPD payments”, as regards a firefighter, means payments made to him by the Board in respect of his continual professional development;

“CPD year” means a period of 12 months beginning with 1st July in which a firefighter is in receipt of CPD payments;

“relevant tax year” means a tax year in relation to which—

- (a) the amount of a firefighters’ pension benefits is calculated for the purposes of this Scheme, and
- (b) he is not in receipt of a pension under this Scheme or entitled to a deferred pension under article 16;

and a tax year is a relevant tax year in relation to a particular CPD year if it is the tax year in which CPD payments for that CPD year are taken into account; and

“tax year” means the period of 12 months beginning with 6th April.

Additional pension benefit: supplementary provisions

16D.—(1) Subject to paragraphs (2) and (3), additional pension benefit under article 16B or 16C is payable from normal pension age or, in the case of a regular firefighter to whom article 13 (ordinary pension) applies, from the date of his retirement.

(2) Where the firefighter resigns or is dismissed or makes an election under article 59 additional pension benefit is payable at normal benefit age^(a); and paragraphs (4) and (5) of article 16 (deferred pension) shall apply in relation to that benefit as if it were a deferred pension to which he was entitled under that article.

(3) Where the firefighter is required to retire on grounds of permanent disablement (article 11), his additional pension benefit is payable immediately.

(4) For the purposes of articles 18 and 19, additional pension benefit shall be treated as if it were a pension payable under this Part.

(5) For the purposes of determining the amount of any survivor’s pension under Part C, Part D or Part E or pension credit under Part J additional pension benefit shall be treated as if it were a pension payable under this Part.”.

2. In Part G (pensionable pay and contributions)—

- (a) In article 56 (pensionable pay and average pensionable pay)—

- (i) for paragraph (1) substitute—

“(1) Subject to paragraph (2), the pensionable pay of a regular firefighter is the aggregate of—

- (a) the amount determined in relation to the performance of the duties of his role (whether as a whole-time or part-time employee); and
- (b) the amount (if any) paid to him in respect of his continual professional development.”;

- (ii) in paragraph (4), for “paragraphs (6) to (8)”, substitute “paragraphs (6) to (8D)”; and

- (iii) after paragraph (8) insert—

“(8A) The average pensionable pay of a regular firefighter who—

- (a) is entitled to a long service increment; and
 - (b) retires after 30th September 2006 and before 1st October 2007, or becomes entitled to a deferred pension under article 16 within that period,

shall be calculated—

- (i) as if his long service increment had accrued at the rate of £990 per annum (disregarding the reduction in the amount of the long service increment that had effect in relation to times on and after 1st October 2006), and
 - (ii) disregarding any LS-related payment.

(a) By virtue of Article 1 of and part 1 of Schedule 1 to, the Scheme, “normal benefit age” is 60.

(8B) The average pensionable pay of a regular firefighter who—

- (a) is entitled to additional pension benefit under article 16B (additional pension benefit: long service increment), and
- (b) retires on or after 1st October 2007,

shall be calculated on the basis of whichever of the following paragraphs yields the greater amount—

- (i) the calculation is made with regard to the amount credited to him under article 16B, but without regard to his long service increment and any LS-related payment, or
- (ii) the calculation is made with regard to his long service increment and any LS-related payment, but without regard to the amount credited to him under article 16B.

(8C) The average pensionable pay of a regular firefighter shall be calculated without reference to any continual professional development allowance credited under article 16C (additional pension benefit: continual professional development).

(8D) In paragraphs (8A) and (8B) “LS-related payment” means an interim or transitional payment made to a regular firefighter in connection with his long service.”; and

(iv) after paragraph (10) add—

“(11) In this article “role”, in relation to a firefighter, 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.(a)”

(b) in article 59 (election not to pay pension contributions)—

- (i) in paragraph (1), for “paragraph (11)”, substitute “paragraphs (1A) and (11)”; and
- (ii) after paragraph (1) insert—

“(1A) An election not to pay contributions may not be made solely in respect of contributions relevant to additional pension benefit under article 16C (additional pension benefit: continual professional development).”.

3. In Schedule 2 (Personal awards) Part III (Ill-health pension) paragraph 4(2)(b) for;
“ $\{(7 \times A) + (A \times D / 60) + (2 \times A \times E / 60)\}$ ”, substitute
“ $\{(7 \times A / 60) + (A \times D / 60) + (2 \times A \times E / 60)\}$ ”

EXPLANATORY NOTE

(This note is not part of the Order)

This order amends the Firefighters’ Pension Scheme Order (Northern Ireland) 2007. The amendment that introduces new article 16A entitlement to two pensions (made by article 2 and paragraph 1 of the Schedule) has effect from 1st April 2007. The amendment made by article 2 and paragraph 3 of the Schedule has effect from the 1st of April 2006. The other amendments have effect from 1st July 2007. The power to give retrospective effect is conferred by article 10 of the Fire Services (Northern Ireland) Order 1984, as continued by Article 60(1) and (2) of the Fire and Rescue Services (Northern Ireland) Order 2006.

The amendment that introduces new article 16B relates to the discontinuance, with effect from the end of June 2007, of long service increments payable to firefighters who have at least 15 years’ continuous service at that point. The amount of the increment, which was pensionable, was frozen,

(a) The document is accessible at http://www.lge.gov.uk/conditions/firefighters/content/documents/fire_service_rolempas.pdf

with effect from 7th November 2003, at the annual rate of £990 and reduced, with effect from 1st October 2006, to an annual rate of £495 The effect of the amendment that introduces the related new article 56 (7A) is that the pension of a regular firefighter who was entitled to long service increment and either retires or becomes entitled to a deferred pension after 30th September 2006 but before 1st October 2007 will be calculated (in accordance with article 56 (4)) without regard to the reduction in the annual rate. The effect of the amendment that introduces new article 56 (7B) is that the pension of a regular firefighter who was entitled to a long service increment (or a compensatory interim or transitional payment) and either retires or becomes entitled to a deferred pension on or after 1st October 2007 will be calculated (in accordance with article 56(4)) either with regard to the amount credited under new article 16B and without regard to his actual long service increment (and any compensatory interim or transitional payment) or with regard to his actual long service increment (and any compensatory interim or transitional payment) and without regard to the amount credited under new article 16B, according to whichever article produces the more beneficial result for the firefighter.

Other amendments are consequential on the introduction by the National Joint Council for Local Authority Fire and Rescue Services, with effect from 1st July 2007, of a new scheme of payments in respect of continual professional development. Under that scheme the payments are subject to annual review and therefore temporary in nature. For that reason, they would not ordinarily be regarded as pensionable for the purposes of the Scheme. However, the amendments have the effect of making the payments part of pensionable pay. This attracts, among other provisions those of article 57 of the Scheme, which require the making of pension contributions in respect of pensionable pay. But the amendment that introduces new article 56 (7C) provides for additional pension benefit credited in respect of continual professional development to be disregarded for the purposes of determining the amount of average pensionable pay (on which the amount of the ordinary pension is based).

The amendment to article 59 of the Scheme ensures that a person cannot make an election to discontinue pension contributions only in respect of additional pension benefit under new article 16C.

The amendment made to Schedule 2 of the scheme (Personal Awards) corrects a typographical error in a formula.

A full impact assessment has not been produced for this Order, as no impact on the private or voluntary sectors is foreseen.

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