
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Firefighters' Pension Scheme Order (Northern Ireland) 2007. Some of the amendments introduce new provisions. Other amendments make corrections.

Except as mentioned below the Order has effect from 1st July 2014. Power to give the Order retrospective effect is conferred by article 10(4) of the Fire Services (Northern Ireland) Order 1984 as continued by the Fire and Rescue Services (Northern Ireland) Order 2006.

Paragraph 1 of the Schedule omits article 10 (compulsory retirement on grounds of efficiency) and article 11 (compulsory retirement on grounds of disablement). Articles 3 to 6 and 8 are also omitted.

Paragraph 2(1) of the Schedule amends article 13 so that a chief fire officer, who is appointed after the date on which the order comes into force, is no longer required to obtain the permission of the Board before retiring. Paragraph 2(5) amends the formula for the calculation of pension where a person is entitled to an ill-health award or deferred pension and benefits from the entitlement to two pensions.

The amendment made by sub-paragraph 6(a) of paragraph 2 is to make minor corrections so that it is clear which pensionable service can count for the long service increment additional pension benefit.

Paragraph 2(7) of the Schedule inserts a new article 16C which extends additional pension benefit so that it covers—

- payments to reward additional skills and responsibilities outside the requirements of the firefighter member's duties under the contract of employment but which are within the wider functions of the job;
- any additional pay received whilst on temporary promotion or whilst temporarily carrying out the duties of a higher role;
- any non-consolidated performance related payment.

Any payments in respect of a firefighter member's continuing professional development continue to be covered by additional pension benefit.

The amendments made by sub-paragraphs (b), (c) and (d) of paragraphs 2(6) and 2(7) in relation to paragraph (3) and (4) of the new article 16C amend the method of uprating additional pension benefit for the long service increment (article 16B) and continuing professional development (article 16C) from a specific index, retail price index, to an index in accordance with the Pensions (Increase) Act (Northern Ireland) 1971. There is a specific provision to provide that the consumer price index is used for the tax year 2010/2011. These amendments have effect from 11th April 2011.

The amendments made by paragraph 2(9) to article 18 (commutation general provision) confer a discretion on the Board to permit the commutation of a pension for a lump sum in excess of two and quarter times the full amount of the pension in all cases where they have had regard to the economical, effective and efficient management of their functions and the costs likely to be incurred in the particular case. Where the Board exercises this discretion an amendment by paragraph 13(1) to article 91 inserting new paragraph (7) requires the Board to make a transfer into the Firefighters' Pension Fund of an amount equal to the increase in the commuted lump sum.

Paragraph 4 of the Schedule substitutes a new article 35 (child's allowance: limitations and duration). Paragraph 5 of the Schedule makes various amendments to Part E (awards on death – additional provisions).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Paragraph 6 of the Schedule amends Part F (pensionable service and transfer values) and in particular inserts new article 45A (reckoning of service for purposes of awards) which repeats most of the provisions of the omitted article 5.

Paragraph 7(1) of the Schedule amends the definition of pensionable pay in article 56(1) to include payments which are pensionable under additional pension benefit (new article 16C(1)) and provide that average pensionable pay is calculated without including any additional pension benefit payable under article 16C. Article 56 is also amended by the insertion of a new paragraph (12) to provide that payments which are not within the definition of pensionable pay in article 56(1)(a) as amended, other than additional pension benefits payable for long service or in respect of a firefighter's continual professional development, should remain pensionable only whilst the firefighter continues to receive them.

Paragraph 7(4) inserts article 58A (aggregate pension contributions for the purposes of awards) which repeats most of omitted article 6 (aggregate pension contributions for purposes of awards) with some amendments.

Paragraph 8 inserts a new rule and substitutes 2 new rules in Part H (determination of questions and appeals). These enable—

- the review of medical opinion where there is new evidence (article 65A: review of medical opinion);
- improve the procedure of an appeal new article 66 (appeal against opinion on a medical issue);

Remove the right of appeal against decision of the Board and replace it with arrangements implemented for dispute resolution by the Board under article 50 of the Pensions (Northern Ireland) Order 1995 (article 67: appeals on other issues).

Paragraph 9 amends the provisions in Part I (servicemen) to reflect changes in the relevant legislation.

Paragraph 11(2) of the Schedule substitutes a new article 83 which extends the Board's power to abate pension so this applies when a pensioner takes up employment in any role with the Board. This amendment has effect from 25th September 2009.

Paragraph 13(1)(c) of the Schedule inserts a new paragraph (6) in article 91 (special payments and transfers into Firefighters' Pension Fund). This requires the Board to transfer into the Firefighters' Pension Fund an amount equal to the amount of pension paid to a person in respect of whom the authority choose not to exercise its discretion to withdraw or abate the permitted amount of the individual's pension under article 83 (withdrawal of pension whilst employed by the Board). This amendment does not have effect in relation to a pensioner who took up employment before the date on which this order comes into force.

Paragraph 22 amends Schedule 8 (appeal to independent medical referee) by the substitution of new paragraphs for paragraphs 1(1), paragraph 2, 8(3) and the insertion of a new paragraph 2A and 6A. These amendments to procedures of the independent medical referee enable the independent medical referee to review its decision where there has been a material error of fact and to increase the ground on which the Board can require the appellant to pay some or all of the Board's costs.

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