

2022 No. 155

PUBLIC SERVICE PENSIONS

**The Firefighters' Pension Schemes (Amendment) Regulations
(Northern Ireland) 2022**

Made - - - - *23rd March 2022*

Coming into operation - *1st April 2022*

The Department of Health^(a) makes these Regulations in exercise of the powers conferred by sections 1(1), (2)(f), (3) and (4), 2, 3(1), (2) and (3)(a) to (c), 4(1), (2) and (5), 5(1), (3)(c) and (5) and 8(1)(a), (2)(a) and (4), paragraph 6 of Schedules 1 and 2, Schedule 3 and paragraph 6 of Schedule 5 to the Public Service Pensions Act (Northern Ireland) 2014^(b).

In accordance with section 21 of that Act, the Department has consulted the representatives of such persons as appear to it likely to be affected by these Regulations.

In accordance with section 3(5) of that Act, the Department of Finance^(c) has consented to the making of these Regulations.

Citation, commencement and effect

1.—(1) These Regulations may be cited as the Firefighters' Pension Schemes (Amendment) Regulations (Northern Ireland) 2022.

(2) These Regulations shall come into operation on 1st April 2022.

(3) The following provisions shall have effect—

- (a) paragraph 4(7) of Schedule 1 from 1 April 2015;
- (b) paragraph 4 of Schedule 3 from 1 April 2006;

Amendment to the Firefighters' Pension Scheme Regulations (Northern Ireland) 2015

2. The Firefighters' Pension Scheme Regulations (Northern Ireland) 2015^(d) which establish the Firefighters' Pension Scheme 2015 shall be amended in accordance with Schedule 1.

(a) Formerly the Department of Health, Social Services and Public Safety, see 2016 c.5 (N.I.).

(b) 2014 c.2. (NI). Section 3 was amended by section 94(11) to (14) of the Public Service Pensions and Judicial Offices Act 2022 (c. 7).

(c) Formerly the Department of Finance and Personnel, see 2016 c.5 (N.I.).

(d) S.R. 2015 No. 78, amended by S.R. 2015 No. 420.

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

3. The Annex to the New Firefighter's Pension Scheme Order (Northern Ireland) 2007(a) shall be amended in accordance with Schedule 2.

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

4. The Annex to the Firefighters' Pension Scheme Order (Northern Ireland) 2007(b) shall be amended in accordance with Schedule 3.

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

5. The Annex to the Firefighters' Compensation Scheme Order (Northern Ireland) 2007(c) shall be amended in accordance with Schedule 4.

Sealed with the Official Seal of the Department of Health on 23rd March 2022.



Philip Rodgers
A senior officer of the
Department of Health

The Department of Finance consents to the foregoing Regulations.

Sealed with the Official Seal of the Department of Finance on 23rd March 2022.



Barry Armstrong
A senior officer of the
Department of Finance

(a) S.R. 2007 No. 215, amended by S.R. 2008 No. 381, S.R. 2012 No. 162, S.R. 2013 No. 84 and No. 172, S.R. 2014 No. 57 and No. 168, and S.R. 2015 No. 9 and No. 10, S.R. 2015 No. 420 and No. 422.
(b) S.R. 2007 No. 144, amended by S.R. 2008 No. 382, S.R. 2012 No. 161, S.R. 2013 No. 85, S.R. 2014 No. 56 and No. 169, S.R. 2015 No. 8, No. 11, No. 420 and No. 421 and S.R. 2019 No. 109.
(c) S.R. 2007 No. 143 amended by S.R. 2008 No. 238, S.R. 2015 No. 7 and S.R. 2015 No. 422.

SCHEDULES

SCHEDULE 1

Amendment to the Firefighters' Pension Scheme Regulations (Northern Ireland) 2015

1. In Chapter 4 (Ill-health benefits) of Part 5 (Retirement benefits) after regulation 73(2) (entitlement to lower tier ill-health pension and higher tier ill-health pension) insert—

“(2A) This paragraph applies where—

- (a) the Board has decided to obtain the written opinion of an IQMP under article 65 (determination by the Board) of the FPS concerning whether a member of that Scheme is permanently disabled or able to undertake regular employment before making a determination as to whether the member is entitled to an ill-health award under article 15 (ill health awards) of the FPS; and
- (b) the determination has not been made before 1st April 2022.”.

2.—(1) Part 12 (Determination of Questions of Appeals) is amended as follows.

(2) Omit regulation 160 (Determinations by the Scheme Manager).

(3) In regulation 161 (Determinations by the Pension Board) for paragraph (1) substitute—

“Determinations and decisions of the Scheme Manager

161.—(1) The question whether a person is entitled to any and if so what awards shall be determined in the first instance by the Scheme Manager.”.

(4) In regulation 161 (Determinations and decisions of the Scheme Manager) and in regulation 162 (Appeal against opinion on a medical issue), in each place where it occurs, for “Pension Board” substitute “Scheme Manager”.

(5) Omit regulation 163 (Appeals against decision of the Pension Board).

(6) In regulation 164 (Appeal to Independent Medical Referee)—

- (a) in each place where it occurs, for “Pension Board” substitute “Scheme Manager”;
- (b) in paragraph (11) for “under paragraph (6)” substitute “under paragraphs (6) to (10)”;
- (c) in paragraph (21)(a) for “under paragraph (6)” substitute “under paragraphs (6) to (10)”.

(7) For regulation 165 (Disputes on other issues) substitute—

“Appeals on other issues

165. Where a person makes a formal complaint to the Scheme Manager which does not involve an issue of a medical nature, the Scheme Manager shall deal with the complaint under the arrangements implemented by it pursuant to the requirements of article 50 of the Pensions (Northern Ireland) Order 1995(a) (requirement for dispute resolution arrangements) and the Occupational Pension Schemes (Internal dispute Resolution Procedures) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2008(b).”.

(a) S.R. 1995 No 3213 (N.I. 22); section 50 was substituted by Article 250 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005 No 255 (N.I. 1)) and amended by the Pensions Act (Northern Ireland) 2008 (Chapter 1).

(b) S.R. 2008 No 116.

3. In Part 13 (Supplementary) for regulation 179 (Scheme administrator for the purposes of the 2004 Act) omit the words “which the scheme manager assumes as sub-scheme administrator under regulation 3 of, and Schedule 3 to the Registered Pension Schemes (Splitting of Schemes) Regulations 2006”.

4.—(1) Schedule 2 (transitional provisions) is amended as follows.

(2) In paragraph 1 (Interpretation)—

(a) in the definition of “closing date”, in sub-paragraph (c), for from “member, or” to the end substitute—

“member,

(ii) if the member is a full protection member of the FPS or the NFPS, 31st March 2022, or

(iii) if the member is not a protected member of one of those schemes, the scheme closing date”;

(b) in the definition of “transition date”, for from “member, and” to the end substitute—

“member,

(b) if the member is a full protection member of the FPS or the NFPS, 1st April 2022, and

(c) if the member is not a protected member of the FPS or the NFPS, the day after the scheme closing date, or the day the person ceased to be a protected member of that scheme, if later”.

(3) In paragraph 3(3) (meaning of “tapered protection closing date”), at the end insert “which must be before 1st April 2022”.

(4) In paragraph 9(2) (full protection members of the FPS or the NFPS), for from “as the case may be,” to the end substitute—

“as the case may be—

(a) on 31st March 2022; or

(b) when P cease to be in pensionable service under that scheme and ceases to be eligible to be an active member of the NFPS unless sub-paragraph (3) or (4) applies, if earlier.”.

(5) In paragraph 31(2)(a) (pensionable service under the NFPS), omit the words from “or if T returns to pensionable service” to the end.

(6) Omit paragraphs 37 (Scheme manager determines member of the NFPS is not entitled to an ill-health award) and 38 (Scheme manager determines member of the FPS is not entitled to an ill-health award).

(7) In Part 3D(a) (Transfer of final salary benefits) in paragraph 45 (Acceptance of club transfer value payments), after “relates to a member’s final salary benefit” insert “apart from a payment from the Firefighters’ Pension Scheme (FPS) as that scheme has effect in England, Scotland and Wales”.

SCHEDULE 2

Amendment to the Annex to the New Firefighters’ Pension Scheme Order (Northern Ireland) 2007

1. In Part 1 (Citation and Interpretation) in article 2 (Interpretation) at the end of the definition “survivor’s pension” remove “and”.

(a) Part 3D was inserted by S.R, 2015 No. 420.

- 2.—(1) Part 8 (Determination of questions and appeals) is amended as follows.
- (2) In article 46 (Determination and decisions of the Board)—
- (a) in paragraph (2)(d) for “has become incapable” substitute “is capable”;
 - (b) in paragraph (2) for “at least one qualified medical practitioner” substitute “an independent qualified medical practitioner”;
 - (c) in paragraph (3) omit “or practitioners”.
- (3) For article 48 (Appeals on other issues) substitute—

“Appeals on other issues

48. Where a person makes a formal complaint to the Board which does not involve an issue of a medical nature, the Board shall deal with the complaint under the arrangements implemented by it pursuant to the requirements of article 50 of the Pensions (Northern Ireland) Order 1995(a) (requirement for dispute resolution arrangements) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures) (Consequential and Miscellaneous amendments) Regulations (Northern Ireland) 2008(b).”

3. In Schedule 1 (ill-health pensions) re-number paragraph 7(c) as paragraph 3D.

SCHEDULE 3

Amendment to the Annex to the Firefighters’ Pension Scheme Order (Northern Ireland) 2007

1. In Part H (Determination of questions and appeals) for article 67 (Appeal against decision of the Board) substitute—

“Appeals on other issues

67. Where a person makes a formal complaint to the Board which does not involve an issue of a medical nature, the Board shall deal with the complaint under the arrangements implemented by it pursuant to the requirements of article 50 of the Pensions (Northern Ireland) Order 1995(d) (requirement for dispute resolution arrangements) and the Occupations Pension Schemes (Internal Dispute Resolution Procedures) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2008(e).”

2. In Part L (Revision and Withdrawal of awards) for article 83 (Withdrawal of pension whilst employed by the Board) substitute—

“Withdrawal of pension whilst employed by the Board

83. The Board may, in their discretion, withdraw the whole or any part of the pension, except a pension under Part C (awards on death – spouses and civil partners), for any period during which the person entitled to it is employed by the Board, or by any fire authority in England, Scotland or Wales in whatever capacity.”

3. In Part N (Scheme administration, receipts and expenses) for article 88 (Scheme administrator for purposes of Part 4 of the Finance Act 2004) substitute—

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- (a) S.R. 1995 No 3213 (N.I. 22); section 50 was substituted by Article 250 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005 No 255 (N.I. 1)) and amended by the Pensions Act (Northern Ireland) 2008 (Chapter 1).
 - (b) S.R. 2008 No 116.
 - (c) Paragraph 7 was inserted by S.R. 2015 No. 420.
 - (d) S.R. 1995 No 3213 (N.I. 22); section 50 was substituted by Article 250 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005 No 255 (N.I. 1)) and amended by the Pensions Act (Northern Ireland) 2008 (Chapter 1).
 - (e) S.R. 2008 No 116.

“Scheme administrator for the purposes of Part 4 of the Finance Act 2004

88. The Board is appointed to be responsible for all liabilities and responsibilities connected with the functions conferred or imposed on the scheme administrator by or under Part 4 of the 2004 Act.”

4. In Part P (Firefighters’ pension fund) in article 91(2) for “article 17 (ill-health award)” substitute “article 15 (ill-health award)”.

SCHEDULE 4

**Amendment to the Annex to the Firefighters’ Compensation Scheme
Order (Northern Ireland) 2007**

1.—(1) In Part 1 (General Provisions) in rule 2 (Interpretation) for ‘qualified medical practitioner’ substitute ‘independent qualified medical practitioner’.

2.—(1) Part 6 (Determination of questions and appeals) is amended as follows.

(2) In rule 1 (Determination by board) in paragraph (2) for “a qualified medical practitioner” substitute “an independent qualified medical practitioner”.

(3) In rule 3 (Appeals against decision of the Authority) substitute—

“Appeals on other issues

3. Where a person makes a formal complaint to the Board which does not involve an issue of a medical nature, the Board shall deal with the complaint under the arrangements implemented by it pursuant to the requirements of article 50 of the Pensions (Northern Ireland) order 1995^(a) (requirement for dispute resolution arrangements) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures) (Consequential and Miscellaneous Amendments) Regulations (Northern Ireland) 2008^(b).”.

^(a) S.R. 1995 No 3213 (N.I. 22); section 50 was substituted by Article 250 of the Pensions (Northern Ireland) Order 2005 (S.I. 2005 No 255 (N.I. 1)) and amended by the Pensions Act (Northern Ireland) 2008 (Chapter 1).

^(b) S.R. 2008 No 116.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations makes amendments to—

- (i) The Firefighters’ Pension Scheme Regulations (Northern Ireland) 2015 (the 2015 Regulations);
- (ii) The New Firefighters’ Pension Scheme Order (Northern Ireland) 2007 (NFPS);
- (iii) The Firefighters’ Pension Scheme Order (Northern Ireland) 2007 (FPS); and
- (iv) The Firefighters’ Compensation Scheme Order (Northern Ireland) 2007 (the Compensation Scheme).

Some provisions in these Regulations have retrospective effect – these are set out in regulation 1(3). The power to give the Regulations retrospective effect is conferred by section 3(3)(b) of the Public Service Pensions Act (Northern Ireland) 2014.

Paragraph 1 of Schedule 1 amends regulation 73 of the Firefighters’ Pension Scheme 2015 so that where members of the FPS are awaiting a decision on whether they are entitled to an ill-health award when they join the Firefighters’ Pension Scheme 2015 on 1st April 2022, the criteria used to determine entitlement to such an award reflect the criteria in the FPS.

Paragraph 2(2), (3), (4) and (6)(a) of Schedule 1 makes minor amendments to correct references from the Pension Board to the Scheme Manager.

Paragraph 2(5) and (7) of Schedule 1, paragraph 2(3) of Schedule 2, paragraph 1 of Schedule 3 and paragraph 1(3) of Schedule 4 make amendments to provide arrangements implemented for dispute resolution by the Board under article 50 of the Pensions (Northern Ireland) Order 1995.

Paragraph 3 of Schedule 1 and paragraph 3 of Schedule 3 amends the 2015 Regulations and the FPS to clarify administrator responsibilities for the purposes of Part 4 of the Finance Act 2004.

Paragraph 4(2) to (6) of Schedule 1 amends the 2015 Regulations in consequence of provision made by the Public Service Pensions and Judicial Offices Act 2022 (c.7). The amendments ensure that the existing pension schemes established by the Firefighters’ Pension Scheme Order (Northern Ireland) 2007 (SR 2007 No 144) and the New Firefighters’ Pension Scheme Order (Northern Ireland) 2007 (SR 2007 No 215) will, except for limited purposes, be closed to the accrual of pension benefits on and after 1st April 2022, and that any members currently treated as being in pensionable service under the existing pension schemes will, on that date, begin accruing benefits in the scheme established by the 2015 Regulations. It amends Schedule 2 to the 2015 Regulations as follows—

- the definition of “closing date” and “transition date” in paragraph 1 are amended to insert dates in respect of those terms that apply to full protection members so that provisions which refer to those terms operate as intended in respect of such members;
- paragraph 3(3) is amended so that a scheme manager may only set a tapered protection closing date under that paragraph if such date is before 1st April 2022;
- paragraph 9(2) is amended so that protection ceases for a full protection member on the earlier of the day on which they leave pensionable service under the existing scheme, or 31st March 2022;
- paragraph 31(2) is amended so that no new elections to purchase additional service under the NFPS may be made after 31st March 2022;
- paragraphs 37 and 38 are omitted so that members who are awaiting a decision on whether they are entitled to an ill-health award under an existing scheme on 1st April 2022 transition to the Firefighters’ Pension Scheme 2015 on that date.

Paragraph 4(7) of Schedule 1 amends the 2015 Regulations to clarify that protected members of the scheme constituted by the Firefighters’ Pension Scheme transferring to Northern Ireland from England, Scotland or Wales continue to be entitled to remain as members of that Scheme.

Paragraph 2 of Schedule 3 amends the FPS to extend the Board's power to abate pension so this applies when a pensioner takes up employment in any capacity with the NI Fire and Rescue Service or a fire authority in England, Scotland or Wales.

The remaining paragraphs correct minor drafting errors.

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

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