
STATUTORY RULES OF NORTHERN IRELAND

2023 No. 133

The Firefighters' Pensions (Remediable Service) Regulations (Northern Ireland) 2023

PART 7

Provision about special cases

CHAPTER 1

Ill-health retirement

Application and interpretation of Chapter 1

49. In this Chapter—

“FPS IHR member” means a member entitled to an ill-health award under article 15 of the FPS;

“NFPS IHR member” means a member entitled to an ill-health pension under article 12 of the NFPS;

“2015 IHR member” means a member entitled to an ill-health pension under regulation 73 of the 2015 Regulations;

“alternative scheme” means, in relation to—

- (a) a FPS IHR member or a NFPS IHR member, the reformed scheme;
- (b) a 2015 IHR member, the member’s legacy scheme;

“higher tier award” means, in relation to—

- (a) the FPS, an award determined in accordance with article 15(5)(b) of the FPS;
- (b) the NFPS, an award determined in accordance with article 12(4) of the NFPS;
- (c) the reformed scheme, an ill-health pension payable under regulation 73(2) of the 2015 Regulations

“ill-health benefits” means benefits payable by virtue of an entitlement mentioned in paragraph (1);

“IQMP” has the same meaning given in regulation 3 of the 2015 Regulations;

“lower tier award” means, in relation to—

- (a) the FPS, an award determined in accordance with article 15(5)(a) of the FPS;
- (b) the NFPS, an award determined in accordance with article 12(3) of the NFPS;
- (c) the reformed scheme, an ill-health pension payable under regulation 73(1) of the 2015 Regulations.

“remediable ill-health benefits” means ill-health benefits payable in relation to M’s remediable service as a firefighter.

Commencement Information

II Reg. 49 in operation at 1.10.2023, see [reg. 1](#)

M's entitlement to ill-health benefits to be treated as equivalent in M's alternative scheme

50.—(1) This regulation applies in relation to an immediate choice member (“M”) who, during the period beginning on 1st April 2015 and ending on 31st March 2022 was—

- (a) a NFPS IHR member;
- (b) a 2015 IHR member.

(2) For the purposes of PSPJOA 2022 and these Regulations, M is to be treated as meeting the requirements for an equivalent ill-health award in M's alternative scheme.

(3) In paragraph (2), “equivalent ill-health award in M's alternative scheme” means, where M is entitled to—

- (a) a lower tier award under the NFPS, a lower tier award under the reformed scheme;
- (b) a higher tier award under the NFPS, a higher tier award under the reformed scheme;
- (c) a lower tier award under the reformed scheme, and—
 - (i) M's legacy scheme is the FPS, a lower tier award under that scheme;
 - (ii) M's legacy scheme is the NFPS, a lower tier award under that scheme;
- (d) a higher tier award under the reformed scheme, and—
 - (i) M's legacy scheme is the FPS, a higher tier award under that scheme;
 - (ii) M's legacy scheme is the NFPS, a higher tier award under that scheme.

(4) No question relating to M's entitlement to ill-health benefits that has been decided following referral to an IQMP is to be re-opened by virtue of any provision of PSPJOA 2022 or of these Regulations.

Commencement Information

II Reg. 50 in operation at 1.10.2023, see [reg. 1](#)

Entitlement to ill-health benefits where a remedy member's legacy scheme is the FPS

51.—(1) Paragraph (2) applies where—

- (a) A remedy member (“M”) is a FPS IHR member, and
- (b) M's entitlement to an ill-health award has not been assessed under regulation 73 of the 2015 Regulations.

(2) The scheme manager must obtain the opinion of an IQMP on the following questions—

- (a) whether M would, at the time of the original decision, have met the criteria to be entitled to a lower tier award under the reformed scheme, and
- (b) whether M would, at the time of the original decision, have met the criteria to be entitled to a higher tier award under the reformed scheme.

(3) Paragraph (4) applies where—

- (a) a remedy member's (“M”) legacy scheme is the FPS,

- (b) M's entitlement to an ill-health award was assessed under regulation 73 of the 2015 Regulations,
 - (c) it is determined in accordance with that regulation that—
 - (i) M was not entitled to a lower tier award, or
 - (ii) M was entitled to a lower tier award but was not entitled to a higher tier award, and
 - (d) M is a deferred or pensioner member of the reformed scheme.
- (4) The scheme manager must obtain the opinion of an IQMP on the following questions—
- (a) where it was determined that M was not entitled to a lower tier award—
 - (i) whether M would, at the time of the original decision, have met the criteria to be entitled to a lower tier award under the FPS, and
 - (ii) whether M would, at the time of the original decision, have met the criteria to be entitled to a higher tier ill-health award under the FPS;
 - (b) where it is determined that M was entitled to a lower tier award but not to a higher tier award, whether M would, at the time of the original decision, have met the criteria to be entitled to a higher tier ill-health award under the FPS.
- (5) The IQMP who is to provide an opinion on a question in accordance with this regulation must—
- (a) examine or interview M if the IQMP thinks it is necessary to provide an opinion on the question, and,
 - (b) give the scheme manager and M a written opinion containing a decision on the question.
- (6) For the purpose of providing an opinion in accordance with this regulation and subject to paragraph (5)(a), the IQMP may only have regard to information that was available or could have been produced at the time of the original decision.
- (7) The scheme manager must determine whether M is entitled to an ill-health award, and the provisions of Part 12 of the 2015 Regulations apply to —
- (a) a determination under this paragraph as if it were a determination under regulation 161 of those Regulations, and
 - (b) an opinion of the IQMP obtained under this regulation as if it were an opinion of the IQMP obtained in accordance with that Part.
- (8) Where it is determined that M is entitled to an ill-health award M is to be treated for the purposes of PSPJOA 2022 and of these Regulations as being entitled to that ill-health award from the time of the original decision.
- (9) In this regulation, “original decision” means—
- (a) for the purposes of paragraphs (1) and (2), the decision under Part H of the FPS by virtue of which M became entitled to an ill-health award under the FPS;
 - (b) for the purposes of paragraphs (3) and (4), the decision under Chapter 4 of Part 5 of the 2015 Regulations by virtue of which it was determined that M was not entitled to a lower tier award or, as the case may be, a higher tier award under the reformed scheme.

Commencement Information

I3 Reg. 51 in operation at 1.10.2023, see [reg. 1](#)

Assessment and reassessment of certain transitional ill-health cases

52.—(1) This regulation applies where—

- (a) a remedy member (“M”) was, immediately before 1st April 2022, not a full protection member of the FPS or a full protection member of the NFPS,
- (b) an assessment (“the transitional assessment”) of M’s entitlement to an ill-health award under the reformed scheme began before 1st April 2022, and
- (c) a determination had not been made by the scheme manager in relation to the transitional assessment by the end of 31st March 2022.

(2) Where the transitional assessment has not been determined before 1st October 2023, the scheme manager must secure that—

- (a) the transitional assessment is undertaken on the basis that M’s normal pension age is 55, and
- (b) any steps in relation to the transitional assessment the outcome of which might have been different had they been taken on the basis that M’s normal pension age is 55 are retaken.

(3) Paragraph (4) applies where—

- (a) the transitional assessment has been determined before 1st October 2023, and
- (b) it was determined that—
 - (i) M was not entitled to a lower tier award in the reformed scheme, or
 - (ii) M was entitled to a lower tier award in the reformed scheme, but not a higher tier award in that scheme.

(4) Where this paragraph applies, the scheme manager must secure that—

- (a) M is assessed for entitlement to a relevant award under the reformed scheme on the basis that M’s normal pension age is 55, and
- (b) M is treated as if the transitional assessment had not been undertaken so far as it relates to the relevant award.

(5) In this regulation—

“full protection member of the FPS” means a full protection member of the FPS within the meaning of paragraph 9 of Schedule 2 to the 2015 Regulations;

“full protection member of the NFPS” means a full protection member of the NFPS within the meaning of paragraph 9 of Schedule 2 to the 2015 Regulations;

“relevant award” means—

- (a) where paragraph (3)(b)(i) applies, a lower tier award and a higher tier award;
- (b) where paragraph (3)(b)(ii) applies, a higher tier award.

Commencement Information

I4 Reg. 52 in operation at 1.10.2023, see [reg. 1](#)

CHAPTER 2

Miscellaneous special cases

Protection of the amount of pension payable to an eligible child

53.—(1) This regulation applies where—

- (a) immediately before 1st October 2023, benefits are in payment to an eligible child (“E”) in respect of the remediable service as a firefighter of a deceased member,
 - (b) there is a surviving partner (“S”) within the meaning of paragraph 1(1) of the Schedule in relation to the deceased member,
 - (c) S does not have parental responsibility for E, and
 - (d) S makes an immediate choice decision which would (disregarding this regulation) result in a decrease in the amount of benefits payable to E in relation to M’s remediable service as a firefighter.
- (2) Where this regulation applies—
- (a) E does not owe the scheme manager a liability under section 14(3) of PSPJOA 2022 in respect of benefits received in relation to M’s remediable service as a firefighter, and
 - (b) the amount of benefits payable continues to be the amount that was payable before the election was made.

Commencement Information

I5 Reg. 53 in operation at 1.10.2023, see [reg. 1](#)

Payment of annual allowance tax charges and provision of information

54. Where a remedy member is unable to give an effective notice to the scheme administrator under section 237B(3) of FA 2004(1) in relation to an in-scope tax year (within the meaning of direction 7(7) of the PSP(NI) Directions 2023) because the time limit in section 237BA(2) has passed, direction 7(2) to (6) of the PSP(NI) Directions 2023 applies in relation to the remedy member.

Commencement Information

I6 Reg. 54 in operation at 1.10.2023, see [reg. 1](#)

(1) In accordance with section 110(1) of PSPJOA 2022, “FA 2004” means the Finance Act 2004 (c. 12). Section 237B was inserted by paragraph 15 of Schedule 17 to the Finance Act 2011 (c. 11).

(2) Section 237BA was inserted by section 9(3) of the Finance Act 2022 (c. 3).

Changes to legislation:

There are currently no known outstanding effects for the The Firefighters' Pensions (Remediable Service) Regulations (Northern Ireland) 2023, PART 7.