

EXECUTIVE NOTE

The Firefighters' Pension Scheme Amendment (Scotland) Order 2005 SSI/2005/566

The above instrument is made in exercise of the powers conferred by section 26 of the 1947 Fire Services Act and sections 12 and 16 of the Superannuation Act 1972 which powers have been executively devolved to the Scottish Ministers. The instrument is subject to negative resolution procedure.

Policy Objectives

The aim of the Fire (Scotland) Act 2005 is to deliver modernised fire and rescue services and as a part of the Act the structure of fire authorities and brigades have been replaced by Fire and Rescue Authorities (FRAs). Consequently all references to brigades or fire authorities require to be changed in the Firefighters' Pension Scheme. In addition to these changes there are also the following amendments that do not arise from the Act:

- Rule A13 of the scheme provided compulsory retirement ages for scheme members. A person holding the rank of assistant divisional officer or higher was required to retire at age 60 and a person who held the rank of station officer or lower was required to retire at age 55 unless the fire authority were satisfied that an extension of service would be in the interests of efficiency. This provision is discriminatory and is replaced with one providing for a normal pension age of 55. This means that firefighters will be able to continue in service beyond age 55, subject to fitness and with the agreement of the fire and rescue authority. Pension benefits will, however, continue to be limited to 30 years pensionable service.
- Under changes introduced into the scheme from 1 October 2004 the role of firefighter was widened to include, in addition to fighting fires, other duties appropriate to the role. There was an anomaly in the scheme rules that allowed members found unfit for firefighting, but able to carry out other duties appropriate to the role, to resign prior to redeployment on non firefighting duties and immediately request early payment of their deferred pensions; on the grounds that they are permanently unfit for firefighting. To correct this, rule B5(4)(b) has been amended to only allow deferred pensions to be paid earlier than age 60 where the member becomes permanently disabled for engaging in firefighting or performing any other duties appropriate to his role as a firefighter.
- Rules C5 and C6 previously only referred to widows and the amendment reflects the fact that the surviving spouse of a deceased firefighter may be either a widow or a widower. In addition a correction has also been made whereby an award under rule C7, which is a spouse's award where no other award is payable, is not limited by reference to marriage outlined in rule C5. This change takes effect from 1 March 1992 the date on which the current scheme rules came into force.

- Retained firefighters are not eligible for membership of the FPS but they are entitled to benefits where they suffer a qualifying injury. Under Rule J4 a retained member of a brigade who retires due to permanent disability occasioned by a qualifying injury is treated as a regular firefighter for the purposes of Rules B3 (ill-health award) and B4 (injury award). Furthermore, under Rule J4 (7), any award will be calculated as if the retained firefighter held the rank of a regular firefighter; had the same service in that rank; and was entitled to reckon as pensionable service a period equal to the retained service.

Some FRAs may be employing regular firefighters as retained firefighters. The retained employment may either be with the same FRA or with a second FRA. Where a regular/retained firefighter suffers a qualifying injury attributable to their retained service, the scheme could have resulted in the payment of two pension awards. Although there are two separate employers there is, in effect, a single pension scheme and consequently there should be a single set of benefits payable in these situations. New rules L4A and L4B outline that the FRA employing the scheme member as a retained firefighter will now be responsible for financing the injury elements i.e., the gratuity and injury pension, and the FRA employing the member as a regular firefighter would be responsible for the ill-health pension element thus removing the possibility of a duplicate award being made.

- The amendment of references to members by rank to references to employees of FRAs by role reflects the new grading structure introduced by the Fire services Appointments and Promotion (Scotland) Regulations 2004 (SSI 2004/527)
- The amendment to rule G1 allows pension contributions to be paid and pensionable pay to be calculated on the salary before any salary sacrifice deductions are made. Salary sacrifice schemes allow employees to purchase specific items e.g. childcare vouchers, computers by using part of their salary before the deduction of tax and national insurance.
- Rule E5 is amended amalgamating two paragraphs using the term spouse rather than the separate paragraphs for widows and widowers.

Consultation

The Regulations have been the subject of consultation with FRAs, unions and associations representing staff within all roles and with other Government departments. Details of the amendments were discussed prior to consultation with the Firefighters Pension Committee which is used as the usual mechanism for consultation with both employer and employee representative organisations. Similar changes are being introduced by the Office of the Deputy Prime Minister for England and Wales.

Financial Effects

No Regulatory Impact Assessment has been prepared because no impact on the private or voluntary sector is foreseen. The instrument is not expected to have a significant additional impact on public sector resources. There are also potential savings with the removal of duplicate awards being made where a member is injured and employed both as a regular and retained firefighter. The amendment also removes the opportunity for the early payment of a deferred pension where permanent disablement relates solely to firefighting rather than the all of the duties that make up the role of firefighter.

Scottish Public Pensions Agency