

EXECUTIVE NOTE TO
THE FIREFIGHTERS' PENSION SCHEME (SCOTLAND) ORDER 2007
AMENDMENT ORDER 2008 SSI/2008/160

The above instrument makes amendments to the New Firefighters Pension Scheme (NFPS).

The NFPS is set out in Schedule 1 to the Firefighters' Pension Scheme (Scotland) Order 2007 (S.S.I. 2007/199). The Firefighters' Pension Scheme as set out in the Firefighters' Pension Scheme Order 1992 (S.I. 1992/129) is now a closed scheme and those qualifying members entering the fire and rescue service on or after 6 April 2006 automatically become members of the NFPS which is a new scheme introduced from 6 April 2006 for all firefighters appointed from that date and also those who were employed before that date and have chosen to join that scheme.

The amendments to the 2007 Order are made in exercise of the powers conferred by sections 34(1) to (4) and 60(2) of the Fire and Rescue Act 2004. These powers have been devolved to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005(S.I. 2005/849). The instrument is subject to the negative resolution procedure.

Certain of the amendments introduced by this instrument are expressed to take effect from a date earlier than the commencement of the instrument (pursuant to powers in section 34(3) of the Fire and Rescue Act 2004).

Policy Objectives

The purpose of the instrument is to provide an additional pension benefit to take into account contributions paid on both a long service allowance and a competency based payment. Firefighters with 15 years' continuous service have received an increment to their pay known as the Long Service Increment (LSI) and this has been pensionable. As part of the 2003 pay settlement, the National Joint Council (NJC) for Local Authority Fire and Rescue Services agreed that LSI should be phased out. LSI is being replaced by Continual Professional Development (CPD) payments which is a scheme to recognise and reward experienced employees who are able to demonstrate continual professional development over and above that required at "competent" level at each of the national standards.

Unlike LSI, CPD payments are subject to review so a firefighter may pay pension contributions on a CPD allowance which following a review and withdrawal of that allowance, may not be taken into account if the CPD does not form part of the pensionable pay used to determine the pension. Similarly for LSI payments, as future pension entitlements are calculated the pensionable pay used will not recognise the contributions firefighters will have made on LSI payments as again they will not form part of the pensionable pay used to determine pension entitlement. To ensure fairness in both cases the amendments introduce an additional pension that captures the contributions paid by firefighters under LSI and CPD and

accordingly provides an additional pension in respect of those contributions. Although the majority of NFPS members will not have qualified for a LSI there will be members who transferred over from the original Firefighters Pension scheme who will have qualified and paid contributions on those payments.

Amendments

The changes are:

- There are a number of minor correcting amendments and amendments resulting from the introduction of LSI and CPD additional pension payments. Some of the correcting amendments have resulted in the insertion of new rules or paragraphs in particular –

paragraph 4(a) of the Schedule inserts a new paragraph (4) in rule 2 of Part 3 (award on ill-health retirement) to provide for the calculation of ill-health awards payable in the case of a firefighter member who is entitled to two pensions by virtue of rule 7 of that Part;

paragraph 4(g) of the Schedule inserts new paragraphs (8A) to (8C) in rule 9 of Part 3 (commutation: general) to provide for account to be taken of any earlier commutation. This is to ensure that any subsequent pension and lump sum is reduced accordingly where an ill-health pension or a deferred pension that has been paid early is terminated under Part 9;

paragraph 6(c) of the Schedule inserts new rule 6 in Part 6 (pension sharing on divorce) which allows for the payment of a lump sum death grant where a pension credit member dies before any benefits under the NFPS become payable. The grant is to be paid to the deceased member's personal representatives.

- In Part 3 new rule 7A and the related part of new rule 7C concerns the discontinuance, with effect from 1st July 2007, of LSI payable to firefighters who have at least 15 years' continuous service and outlines how, for those retiring from 1 October 2007, an additional pension is to be calculated to reflect the contributions paid during the firefighters service.
- The amount of the LSI which was pensionable, was frozen, 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 but with transitional payments. The amendment to rule 2 of part 11 provides that firefighter members who were entitled to long service increments and related transitional payments up to and including 30th June 2007 and retire or become entitled to a deferred pension after 30th September 2006 and before 1st October 2007 will have the reduction disregarded for pension purposes and will benefit from the full £990 value of the LSI.
- The amendment introducing new rule 7B and the related part of new rule 7C are consequential on the introduction a new scheme of payments in respect of CPD to

replace the discontinued LSI. Under the 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 FPS. However, the amendment made to rule 2 of Part 11 in part 10 of the Schedule has the effect of making the payments part of pensionable pay and honours the agreement made by the NJC that any scheme to replace the long service increment should be pensionable.

- New rule 7B outlines how an additional pension is to be calculated for contributions paid on CPD payments and is calculated differently to the additional pension provided for under LSI.
- The amendment to rule 5 in Part 2 made by paragraph 3(b) of the Schedule ensures that a person cannot make an election to discontinue pension contributions only in respect of additional pension benefit under rule 7B.

Sensitivity

The Regulations are not contentious and the new provisions that protect the pensionability of the long service increment and give pension benefits based on continual professional development have been widely welcomed.

Consultation

The amendments have been the subject of consultation Scottish stakeholders and replicate the changes consulted on with the Firefighters' Pension Committee, on which there are representatives of both the employers and the employees. In addition details of the proposed changes were outlined in a Scottish Fire Circular prior to the consultation exercise beginning.

Financial implications

The NJC has set the level of continual professional development allowance at a rate that utilises the full cost savings from the discontinuance of the long service increment. There should, therefore, be no additional costs for fire and rescue authorities in respect of the associated pension benefits.

Regulatory Impact

A Regulatory Impact Assessment has not been prepared for this instrument as it has no adverse impact on business, charities or voluntary bodies.

Scottish Public Pensions Agency

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