

EXECUTIVE NOTE TO
THE FIREFIGHTERS' PENSION SCHEME AMENDMENT (SCOTLAND) ORDER
2008 SSI/2008/161

The above instrument make amendments to the Firefighters' Pension Scheme (FPS).

The FPS is set out in Schedule 2 to the Firefighters' Pension Scheme Order 1992 (S.I. 1992/129) (1992 Order). It 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 New Firefighters' Pension Scheme (NFPS).

The amendments to the 1992 Order are made in exercise of the powers conferred by section 26(1) to (5) of the Fire Services Act 1947 and sections 12 and 16 of the Superannuation Act 1972. These powers have been executively devolved to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750) and the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2006 (S.I. 2006/304). 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 12 of the Superannuation Act 1972).

Policy Objectives

The purpose of the instrument is to introduce the following principal changes.

It provides for a facility to allow members who change duties to a lower paid role to protect the pension accrued at the higher salary and if more beneficial receive a split pension to recognise the point when pensionable pay was reduced for the purposes of calculating a pension.

It provides for 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.

Amendments

The changes are:

- The amendment that introduces new rule B5A reflects rule 7 in Part 3 of the NFPS. It entitles a regular firefighter to two pensions if -
 - (a) he suffers a reduction in the amount of his pensionable pay on taking up a different role or becoming entitled to a different rate of pay in his existing role;
 - and
 - (b) the effect of the reduction would be to reduce the amount of his pension.

New rule B5A sets out the way in which the two pensions are to be calculated, contains some limitations and allows a firefighter who is entitled to two pensions to elect to have them paid as a single award.

- New rule B5B and the related part of new rule B5D 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 G7 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 B5C and the related part of new rule B5D are consequential on the introduction of 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 G1 in part 2 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 B5C 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 G3 made by paragraph 2(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 5BC.

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 with 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 CPD allowance at a rate that utilises the full cost savings from the discontinuance of the LSI. 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

April 2008