

EXPLANATORY MEMORANDUM TO
THE FIREFIGHTERS' PENSION SCHEME (ENGLAND) REGULATIONS 2014
2014 No. 2848

1. This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1. This instrument establishes a scheme (“the 2015 scheme”) for the payment of pensions and other benefits to, or in respect of, firefighters in England.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1. None.

4. Legislative Context

4.1. This instrument (“the instrument”) establishes a new pension scheme in respect of certain, defined firefighters in England under the powers provided in the Public Service Pensions Act 2013 (“the Act”).

4.2. The Act was enacted in response to the recommendations of the Independent Public Service Pensions Commission (“the Commission”) led by Lord Hutton of Furness. The Commission published its final report on 10th March 2011. The report recommended a series of changes to public service pension provision in order to preserve the sustainability of the pension schemes in the long term, while ensuring a more balanced distribution of costs between the members of the scheme and, via employers, the taxpayer.

4.3. The Act paved the way for the delivery of these reforms and set out a number of key requirements for new public service pension schemes. This instrument establishes the reformed scheme for firefighters in England. The 2015 scheme includes a pension calculated by reference to the member’s career average earnings, a Normal Pension Age of 60, and a deferred pension age equal to the state pension age. Other, reformed public service pension schemes are being established under the powers in the Act, and these too will come into force on 1 April 2015.

4.4. There will shortly be a consultation on separate transitional regulations which will provide the statutory backing for the detailed calculations for those firefighters who will have pension already accrued under either the 1992 or 2006 schemes, and subsequently under the 2015 scheme. A further consultation on the new governance arrangements, which proposes the establishment of a national Scheme

Advisory Board and local pension boards from 1 April 2015, has been issued and can be found at: <https://www.gov.uk/government/consultations/firefighters-pension-scheme-2015-proposals-for-new-governance-arrangements>.

5. Territorial Extent and Application

5.1. This instrument applies to England only.

6. European Convention on Human Rights

6.1. As the instrument is subject to the negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1. The cost of public service pensions has risen significantly in recent years. This increased, and increasing, burden on taxpayers and employers led to the Government setting up the Commission. The Commission was tasked to carry out a “fundamental structural review” of public service pension provision and to make recommendations on pension arrangements that are “sustainable and affordable in the long term, fair to both the public service workforce and the taxpayer, and consistent with the fiscal challenges ahead, while protecting accrued rights”.

7.2. The main recommendation from the Commission’s final report was that the current final salary public service pension schemes should be replaced by new schemes, which would continue to be defined benefit schemes with pension entitlement linked to salary, but rather than being linked to an employee’s final salary, pension benefits would be based on career average earnings. The Commission also recommended that the Normal Pension Age for firefighters should be age 60, in line with the New Firefighters’ Pension Scheme 2006.

7.3. The Government accepted the recommendations in the report as the basis for discussions with public service workers, trade unions and other member representative bodies. The Government and Trades Union Congress held a series of meetings to discuss public service pension scheme reform. One outcome of these discussions was that there should be scheme level discussions alongside the central process to ensure a fuller understanding of the implications of reform for each individual scheme.

7.4. In November 2011 the Treasury set out the Government’s preferred pension scheme designs for the largest public service pension schemes. The Government’s preferred scheme design for the firefighters’ pension scheme in England was made known to the firefighter unions on 8 December 2011. The trades unions were invited to suggest changes to these scheme designs on a workforce specific basis within the set cost ceiling.

- 7.5. Extensive and constructive scheme level discussions took place between the Department and employer and employee representatives to discuss the core scheme design for the reformed firefighters' pension scheme. The future cost of the 2015 scheme had to be reconciled by the Government Actuary's Department to fall within the overall agreed gross cost ceiling of 27% of pensionable pay in accordance with methodology set by the Treasury.
- 7.6. Following the discussions, a Proposed Final Agreement ("the Agreement") on the scheme design for the Firefighters' Pension Scheme 2015 in England was published on 23 May 2012. The unions were then to take this scheme design to their Executives. The Proposed Final Agreement ensured that there would be a balanced deal between public service employees and the taxpayer.
- 7.7. The principle elements of the scheme design set out in the Agreement were the main parameters for the 2015 scheme. These were:
- A pension scheme based on career average revalued earnings
 - An accrual rate of 1/58.7th of pensionable earnings each year
 - A revaluation rate of active members' benefits in line with average weekly earnings
 - There will be no cap on how much pension can be accrued
 - Pensions in payment and deferred benefits to increase in line with the Prices Index (currently the Consumer Prices Index)
 - A Normal Pension Age of 60
 - A deferred pension age equal to the individual's State Pension Age
 - Members permitted to take their 2015 scheme benefits as follows:
 - for all active members who are aged 57 or more at retirement, 2015 scheme benefits taken before Normal Pension Age to be actuarially reduced with reference to the 2015 scheme's Normal Pension Age, rather than the deferred pension age.
 - all other members to have their 2015 scheme benefits actuarially reduced on a cost neutral basis from the member's deferred pension age.
 - Late retirement factors for members retiring from active service to be actuarially neutral from the Normal Pension Age
 - Authority initiated early retirement for members of the 2015 scheme from age 55 to be based on the arrangements set out in Part 3, Rule 6 of the New Firefighters' Pension Scheme 2006
 - Optional lump sum by commutation at a rate of £12 for every £1 per annum of pension foregone in accordance with HMRC limits and regulations
 - Members rejoining after a period of deferment of less than 5 years can link new service with previous service, as if they had always been an active member
 - Members transferring between public service schemes to be treated as having continuous active service

- Ill-health retirement benefits to be based on those contained in the New Firefighters' Pension Scheme 2006
 - All other ancillary benefits to be based on those contained in the New Firefighters' Pension Scheme 2006
- Consolidation
 - 7.8. These are the first Firefighters' Pension Scheme 2015 Regulations created under the powers provided by the Public Service Pensions Act 2013. There is no requirement to consolidate these regulations.

8. Consultation outcome

- 8.1. Section 21 of the Act requires the Secretary of State responsible for making the regulations to consult either those who are likely to be affected by them, or the representatives of those persons, before making any regulations. The regulations were subject to two separate, but related statutory consultations. The first commenced on 18 December 2013 and ended on 12 March 2014. Twenty seven responses were received to that consultation, which can be found at <https://www.gov.uk/government/consultations/firefighters-pension-scheme-from-april-2015>.
- 8.2. A second consultation commenced on 23 May and ended on 4 July. This consultation took account of the responses received to the first consultation, which included a version of the draft scheme regulations. Forty responses were received to that consultation, which can be found at <https://www.gov.uk/government/consultations/consultation-on-the-regulations-to-introduce-a-new-firefighters-pension-scheme-from-april-2015>.
- 8.3. In both cases, the consultation papers were sent to the fire and rescue authorities, members of the Firefighters' Pension Committee, and key employer and employee representative bodies. Copies of each consultation paper and a full list of consultees can be found at: <https://www.gov.uk/government/organisations/department-for-communities-and-local-government/>
- 8.4. In addition to the statutory consultation, further consultation took place with administrators of the pension scheme on the detail of the regulations and discussions also continued with employee representatives on the scheme benefits.
- 8.5. A summary of the responses to the first consultation was published in the second consultation and is summarised in the Annex to the second consultation. A summary of responses to the second consultation can be found at: <https://www.gov.uk/government/consultations/consultation-on-the-regulations-to-introduce-a-new-firefighters-pension-scheme-from-april-2015>.
- 8.6. As a result of the consultation responses, a number of changes to the main scheme design have been introduced. The most significant alterations in the final

scheme design arose following comments during the second consultation that firefighters who wished to retire from service at age 55 or 56 could only do so with an actuarial reduction which was considered to be too severe. Therefore, Ministers agreed to alter the final scheme design to provide that actuarial reductions at ages 55 to 57 should use the scheme's Normal Pension Age of 60 in a similar way as was previously available to retirees from age 57. To remain within the cost ceiling, the scheme's accrual rate was varied to 1/59.7th. Also, as a result of consultation, Ministers agreed to reduce the cost for an authority that wished to exercise the authority initiated early retirement process, so that the extra costs incurred as a result of paying an unreduced pension were also calculated by reference to the scheme's Normal Pension Age, rather than deferred pension age. Further detailed changes were made to the regulations, and these are set out in the summary of responses.

- 8.7. The following sets out the main regulations following the outcome of the statutory consultations.
- 8.8. **Regulations 1 – 3** are general introductory provisions, including the commencement date and a list of definitions.
- 8.9. **Regulations 4 – 5** stipulate the role of the scheme manager and explain which fire and rescue authority is responsible for any given scheme member. They also confer a power on the Secretary of State and Scheme Manager to delegate their functions.
- 8.10. **Regulations 6 – 8** set out the eligibility criteria for joining the scheme. If a person is eligible through more than one employment, they are permitted to hold a membership in respect of each scheme employment.
- 8.11. **Regulations 9 – 16** deal with the automatic enrolment or re-enrolment for eligible individuals. Members have the right to opt out of the scheme. If they do so before the expiry of a three month period, it is taken that no pensionable service has been accrued. For any longer periods, however, scheme membership is accrued for the time in question.
- 8.12. **Regulations 17 – 18** set out the elements that comprise a member's "pensionable pay" and the circumstances in which "assumed pensionable pay" will apply.
- 8.13. **Regulations 19 – 21** define the concepts of "active membership", "deferred membership" and "pension credit member".
- 8.14. **Regulation 22** defines the "description of pension" for the purposes of pension accounts.
- 8.15. **Regulation 23** explains how accrued pension should be calculated for the purposes of deferment and retirement. Any added pension that has been purchased is also taken into account.

- 8.16. **Regulations 24 – 27** provide for an adjustment of the indexation to be applied to a type of pension in the leaving year. Whilst a member remains in active membership, accrued pension is increased annually so that it keeps pace with earnings. Members who continue to contribute to the Scheme after the Normal Pension Age are awarded an “age addition” to maintain the overall value of the pension due to it being taken later.
- 8.17. **Regulations 28 – 29** outline the system of pension accounts, an essential feature of the career-average system.
- 8.18. **Regulations 30 – 33** begin the detailed provisions relating to members’ accounts. If a member belongs to the Scheme through more than one contemporaneous employment, an active member’s account must be maintained for each. Members may receive a credit to their account in respect of membership that is transferred from another recognised scheme.
- 8.19. Further details on the operation of pension accounts are set down in **Regulations 34 – 37**. The accrual rate is specified as $1/59.7^{\text{th}}$, meaning that for each year of full membership, this fraction of the member’s pensionable pay is accrued in their account. It is also specified that during each year of active membership, pension earned in a previous year is increased by an index adjustment. When a member returns to active membership from a period of lower-tier ill-health, the pension that they had accrued earlier is protected.
- 8.20. **Regulations 38 - 42** set out the provisions for added pension. A separate account is established if a member decides on this option, which should be operated in a similar method as the main account.
- 8.21. The operation of deferred members’ accounts is set out in **Regulations 43 – 49**. Such an account should be opened at the same time as the active member’s account is closed if the member is not claiming a pension, with the addition of the appropriate index adjustment and, in respect of a member who is at least a month beyond the Normal Pension Age, the assumed age addition. A deferred member’s account is also established if a member ceases to be paid a lower tier ill-health pension. A deferred account is replaced by an active account if a member returns to pensionable service within five years and the member’s earlier accrued pension is restarted and recalculated so that the period of non-membership is uprated in accordance with earnings.
- 8.22. Under **Regulations 50 – 51**, retirement accounts are to be created, for either a retirement or an ill-health pension, replacing the active member’s account. If a member opts for partial retirement, the existing active member account is closed, and the accrued pension transferred to a retirement account. The figure to be entered into the new retirement account must take into account a number of considerations, including the retirement index adjustment, any age addition, any added pension, any early payment reductions, any commutation amount and any allocation amount. A new active member’s account is opened for the subsequent period of service.

- 8.23. **Regulations 52 – 53** stipulate how, following the death of a member, a survivor’s account should be established, for each survivor who is entitled to be a beneficiary.
- 8.24. **Regulations 54 – 55** stipulate how a pension credit member’s account should be established, following divorce or dissolution of a civil partnership. The account of the original scheme member is subjected to an appropriate pension debit.
- 8.25. **Regulation 56** introduces the Part on retirement benefits.
- 8.26. **Regulation 57** sets out the type of membership that counts as “qualifying service”. This may include membership of one of the existing Firefighters’ Pension Schemes or of some other pension scheme, or pension that has been transferred into the 2015 scheme.
- 8.27. **Regulations 58 – 60** stipulate the conditions that need to be fulfilled if a member is to claim a retirement pension, including that the member has reached the age of 55 and has at least three months qualifying service. Formulae are specified for the purposes of calculating the annual rate of pension for both formerly active and formerly deferred members. The phrase “full retirement” that had been used in the consultation draft has been dropped. This term was originally used to distinguish it from “partial retirement”, but the Department accepted consultees’ comments that the term was potentially misleading.
- 8.28. **Regulations 61 – 62** set out the terms under which a member may take early retirement. Both active and deferred members may claim a retirement pension from the age of 55 onward. Actuarial reductions apply, using the scheme’s Normal Pension Age in the case of active members, and the deferred pension age in the case of deferred members. Where an employer determines that a member should retire on the grounds of business efficiency, there is no actuarial reduction.
- 8.29. Under **Regulations 63 – 64**, a member aged at least 55 may exercise the option of partial retirement, receiving benefits accrued up to that point whilst remaining in pensionable service.
- 8.30. **Regulations 65 – 67** state when a member may potentially be entitled to a lower tier or to a higher tier ill-health pension. To be entitled for a lower tier ill-health pension, a firefighter must be permanently incapable of undertaking the role in which they were last employed. To be entitled to the additional higher tier pension, a firefighter must be incapable of regular employment, as defined in the regulations. A particular formula is specified for calculating the level of pension in each case. There is also separate provision for the early payment of pension to a deferred member if the member is unable to undertake regular employment.
- 8.31. **Regulations 68 – 69** set out the scheme manager’s duties regarding the review of cases where members have been granted an ill-health award. In the case of a lower-tier ill-health member whose health has sufficiently improved, the entitlement to such a pension ceases following any offer of employment by the employer.

- 8.32. **Regulations 70 – 71** deal with the commencement of retirement pension, partial retirement pension, and ill-health pension, detailing the responsibilities of the scheme manager and of the member. Before payment of pension is commenced, a member may commute up to 25% into a lump sum cash payment at the rate of 12: 1. A member cannot commute the higher tier element of an ill-health pension.
- 8.33. **Regulations 72 – 75** deal with the process of allocation whereby an active or deferred member may allocate up to a third of the amount of the annual rate of retirement pension to their nominated beneficiary. If an allocation election takes effect, the member's retirement pension is reduced accordingly, although if the beneficiary pre-deceases the member, the allocated portion is paid to the pensioner.
- 8.34. **Regulations 76 – 77** introduce the survivor benefits that are available under the Scheme. These may be awarded to a spouse, civil partner or an individual in a long-term relationship with the member.
- 8.35. **Regulations 78 – 80** set out the survivor's pension to be paid to those individuals who meet the criteria. Different formulae are stipulated according to whether the member was active, deferred or a pensioner.
- 8.36. Under **Regulation 81**, a bereavement pension is payable to a survivor for a period of 13 weeks. Different formulae are stipulated according to whether the member was active or a pensioner.
- 8.37. Under **Regulation 82**, survivor pensions are reduced if the survivor is more than 12 years younger than the member.
- 8.38. **Regulation 83** defines the survivor's guaranteed minimum pension.
- 8.39. **Regulations 84 – 85** introduce the provisions on children's pensions, which can include the entitlement to a bereavement pension. A number of criteria through which an individual can qualify as an "eligible child" are listed.
- 8.40. **Regulations 86 – 88** set out the survivor's pension for eligible children. Different formulae are stipulated according to whether the member was active, deferred or a pensioner.
- 8.41. Under **Regulation 89** the rate of benefit payable to each eligible child is adjusted according to the number of eligible children in the family.
- 8.42. Under **Regulations 90 – 92**, the rate of benefit is increased if there is no surviving partner or if the member was a pension debit member. A bereavement pension is payable to an eligible child if there is no surviving partner or if the partner dies within 13 weeks of the member's death.

- 8.43. **Regulations 93 – 94** introduce the provisions on lump sum death benefits by providing definitions for “final pay” and “annualised final pay”, both of which are necessary elements in the formulae for calculating such benefits.
- 8.44. **Regulation 95** stipulates that the scheme manager has discretion to pay the lump sum death benefit to an individual with a connection to the member.
- 8.45. Under **Regulations 96 – 98** it is made clear that different amounts are paid depending on whether the member is active or a pensioner. If on a member’s death that individual was both an active and a pensioner member the option which produces the highest amount for the beneficiary should be used.
- 8.46. **Regulation 99** provides formulae for a lump sum payable on the death of a pension credit member either before that member had received any benefit or before that member reached the age of 75. Different formulae should be used in each of those two scenarios.
- 8.47. **Regulations 100 – 104** deal with the commencement, adjustment and cessation of death benefits. It is made clear that such survivor benefits may be adjusted or ceased if they were awarded on the basis of incorrect information.
- 8.48. **Regulations 105 – 109** set out the benefits for pension credit members. The pension may only be claimed from the age of 65 onward. Up to a quarter of the pension may be commuted to a lump sum.
- 8.49. The table in **Regulation 110** specifies four different pay ranges and the pension contribution rate to be paid by members in each of those four bands for each of the four years from 2015 – 16 onward. Part-time regular firefighters pay at the rate of their whole time equivalents. Retained firefighters pay at the rate which applies to a regular firefighter employed in a similar role and with equivalent qualifying service.
- 8.50. **Regulation 111** sets out the contributions that a member needs to pay during certain types of absence. If the member is away due to illness, contributions are paid on the pay received, including statutory sick pay. Members who then move on to nil pay may, if they wish, make contributions on the basis of their pay immediately before cessation. Members may also make contributions when they are either absent on a trade dispute or on an authorised unpaid absence.
- 8.51. **Regulations 112** deals with members during absences from work on reserve forces service leave. Those members who are treated as receiving assumed pensionable pay must pay contributions at the specified rate.
- 8.52. **Regulation 113** deals with members on child-related leave. Those who are paid must pay contributions at the specified rate; whilst those on ordinary, but unpaid, leave are treated as if they had paid contributions. Those on additional leave may elect to pay contributions if they wish.
- 8.53. **Regulations 114 - 115** deal with the timing and method of deductions of contributions for ordinary and additional pension.

- 8.54. Under **Regulation 116** if an individual leaves the scheme before accruing a total of three months membership, providing that certain other conditions are met, all contributions are returned, minus a deduction equal to the income tax payable. All rights under the scheme are extinguished.
- 8.55. Under **Regulation 117**, the employer must pay contributions on each member's pensionable earnings at a rate set by the Secretary of State.
- 8.56. **Regulations 118 – 119** are when additional contributions are payable by the employer in the circumstances of an award being made for a member's ill-health, depending on whether only a lower tier pension has been awarded or whether a higher tier award has been added. Repayments are due from the scheme manager to the employer if it is determined to be appropriate that entitlement to either level of award should cease.
- 8.57. Employers must also pay additional contributions under **Regulation 120** when they determine that a member should be paid a retirement pension before the Normal Pension Age without an actuarial reduction.
- 8.58. **Regulations 121 – 124** make it clear that the Firefighters' Pension Fund to be used in respect of the 2015 scheme is the same Fund as that used for the existing schemes. The seven types of payment which need to be paid into the Fund by the scheme manager are listed. Repayments, refunds, benefits and transfer payments are to be made from the Fund.
- 8.59. **Regulation 125** stipulates that the scheme manager must provide to the Secretary of State all necessary financial information by the stated deadlines.
- 8.60. **Regulation 126** deals with estimated deficits. Where it is estimated that the amount to be paid out of the fund will exceed the amount to be paid into the fund in a particular financial year, the Secretary of State must pay 80% of the estimated deficit.
- 8.61. **Regulation 127** deals with estimated surpluses. Where it is estimated that the amount to be paid into the fund will exceed the amount to be paid out of the fund in a particular financial year, the scheme manager must pay 80% of the estimated deficit to the Secretary of State.
- 8.62. **Regulation 128** deals further with deficits. Firstly, where it appears likely that the deficit for the financial year is likely to be either more or less than was estimated under Regulation 126, the Secretary of State, or the scheme manager, as the case may be, must make up the difference. Secondly, once the accounts have been audited, where it is evident that the deficit is either more or less than was previously estimated, the Secretary of State, or the scheme manager, as the case may be, must again make up the difference.
- 8.63. **Regulation 129** deals further with surpluses. Firstly, where it appears likely that the surplus for the financial year is likely to be either more or less than was estimated under Regulation 127, the Secretary of State, or the scheme manager,

as the case may be, must make up the difference. Secondly, once the accounts have been audited, where it is evident that the surplus is either more or less than was previously estimated, the Secretary of State, or the scheme manager, as the case may be, must again make up the difference.

- 8.64. Under **Regulation 130**, a scheme manager must provide the Secretary of State with any such information in relation to the Firefighters' Pension Fund as the Secretary of State requests.
- 8.65. **Regulations 131 and 132** introduce the Part on transfers, giving the legislative context and a list of definitions.
- 8.66. **Regulation 133** details the legislative restrictions relating to transfers out of the scheme. Transfers undertaken between public service bodies (and other, limited bodies) may be undertaken on 'Club' terms. The regulation specifies that Club transfers may only be made in the 12 months following the member becoming eligible for the new scheme concerned.
- 8.67. Under **Regulations 134 – 135**, a member wishing to transfer out of the scheme must obtain a statement of entitlement from the scheme manager. The statement should specify the value of the pension to be transferred as at a specified ("guarantee") date.
- 8.68. Under **Regulation 136**, having obtained such a statement, any member wishing to proceed with a transfer must submit a written notice to the scheme manager, specifying the other pension scheme or arrangement to which the transfer payment should be made.
- 8.69. **Regulation 137** sets out the provisions on calculating the transfer value, which should be calculated using actuarial guidance as necessary. If the payment is made more than six months after the guarantee date, the amount of the guaranteed cash equivalent must be increased in accordance with the appropriate regulations.
- 8.70. **Regulation 138** makes it clear that transfers of all the member's accrued pension result in all of the member's scheme rights being extinguished.
- 8.71. **Regulations 139 - 140** introduce the Chapter on transfers into the scheme, giving a list of definitions.
- 8.72. **Regulations 141 – 142** stipulate that a member may submit a written request to the scheme manager, requesting that specified rights from another named pension scheme be transferred into the firefighters' scheme. In turn, the scheme manager may require the member to obtain from the transferring scheme a statement of the amount to be transferred.
- 8.73. **Regulations 143 and 145** state the amount of pension which the member is entitled to count as a result of the transfer.

- 8.74. Under **Regulation 144**, the scheme manager may require the member to obtain from a transferring club scheme a statement of the amount of pension to be transferred.
- 8.75. **Regulation 146** deals with transfers of employment within the fire service. When such transfers occur, scheme managers must provide to the member a certificate setting out the details of their pension account(s), including any additional pension.
- 8.76. **Regulations 147 – 148** give rights to members who wish to dispute the information supplied in such a certificate. A member should firstly request that the accuracy be checked. A member who is still dissatisfied has the right to instigate the Internal Dispute Resolution Procedure.
- 8.77. Under **Regulation 149**, the next stage is for an individual to give the certificate to the new employer, who must obtain confirmation from the original employer that all of the member's accounts have been dealt with. There are special procedures in place to deal with situations in which more than one account has to be closed or opened.
- 8.78. **Regulation 150** deals with the appointment by the Secretary of State of a suitably qualified scheme actuary. The scheme manager must provide the actuary with sufficient data to enable valuations and reports of the scheme to be completed.
- 8.79. **Regulation 151** stipulates that it is the role of the scheme manager to determine if an individual should be entitled either to an award or to retain such an award.
- 8.80. Under **Regulations 152 - 153**, it is the role of the Independently Qualified Medical Practitioner (IQMP) to advise on the health-related aspects of such determinations. In particular the IQMP is required to consider such issues as an individual's current and future capacity, both in a firefighting role and in general employment. Where the IQMP is able to give an opinion, this is binding on the scheme manager, unless it is superseded by a further IQMP response based on new evidence or by an appeal to the Board of Medical Referees.
- 8.81. Once the scheme manager has sent to the member a copy of the documents relating to such a determination as outlined above, under **Regulation 154** a member is entitled to appeal against the decision to a board of medical referees.
- 8.82. **Regulations 155 – 156** set out the appeals process. The member must submit written notice of an appeal within 28 days of receiving all of the relevant documents (or within six months if extended by the scheme manager). The scheme manager is obliged to send all necessary documentation to the Secretary of State, who must refer the appeal to a board of medical referees consisting of at least three members. Having obtained any further necessary information, the board must come to a decision on whether there is sufficient evidence to proceed and inform the scheme manager accordingly. The scheme manager must conclude this stage of the process by updating the member and the Secretary of State.

- 8.83. Under **Regulation 157**, the board must inform both interested parties if it is going to determine an appeal. It must then proceed towards a decision by means of interview, medical examination and consideration of the written evidence.
- 8.84. **Regulation 158** deals with the board's report, which must be submitted to the Secretary of State, for onward transmission to both parties.
- 8.85. Where both parties agree that the board has made an error of fact which materially affected its decision, the board is obliged to reconsider, as detailed in **Regulation 159**.
- 8.86. Procedures are set down in **Regulations 160 and 161** for fees and allowances to be paid to the board members and for the expenses of either party to be met, depending on the outcome of the case.
- 8.87. Under **Regulation 162**, if relevant information is posted to the member at the member's last known place of residence, it is assumed as having been received, unless there is proof to the contrary.
- 8.88. For appeals of a non-medical nature, **Regulation 163** permits a member to appeal under the dispute resolution arrangements for the matter in question to be resolved.
- 8.89. **Regulation 164** makes it clear that members have no right to anticipate that all matters related to pensions increase will be paid before the end of the scheme year in which they retire.
- 8.90. **Regulation 165** applies to years when the Treasury determine that the economic conditions are such that pensions increase should be negative. In such circumstances, the scheme manager must inform members that any overpayment will be recovered by reducing or omitting future payments.
- 8.91. **Regulation 166** provides an assurance to members that nothing in the Regulations will counter a member's statutory rights to a Guaranteed Minimum Pension.
- 8.92. **Regulation 167** provides that a member entitled to a small pension, as defined in this Regulation, and in other legislation, may consent to receiving a lump sum in place of the pension.
- 8.93. **Regulation 168** deals with individuals who become incapable of managing their own affairs, so that payments can be made for their benefit.
- 8.94. **Regulation 169** applies on the death of a member, enabling payments to be made to those beneficially entitled to the deceased's estate or personal representatives where the Administration of Estates (Small Payments) Act 1965 applies.

- 8.95. **Regulation 170** is a general provision to safeguard the legitimate payment of benefits to members' dependents.
- 8.96. **Regulation 171** states that offences of sufficient gravity may result in the forfeiture of scheme benefits, although a guaranteed minimum would be retained. Scheme managers may subsequently restore benefits if they conclude that this would be appropriate.
- 8.97. Under **Regulation 172**, no individual may benefit from survivor benefits if they are convicted of the murder of the member, whilst the benefits of individuals guilty of manslaughter may be withheld to the extent the scheme manager considers appropriate. If convictions are quashed, benefits are suitably restored.
- 8.98. Under **Regulation 173**, no individual may benefit from lump sum death benefit if they are convicted of the murder or manslaughter of the member. If the conviction is quashed, benefits are suitably restored.
- 8.99. The scheme manager has powers under **Regulation 174** to withhold certain benefits to a member who owes a monetary obligation to the employer or to the scheme.
- 8.100. Scheme managers also have powers under **Regulation 175** to set off certain relevant monetary obligations owed by members to their employer or the scheme against the amount of a member's benefits.
- 8.101. Under **Regulation 176**, scheme managers are obliged to inform members in writing of any forfeiture or set-off procedure taken against them, including the provision of a certificate to show the amount of benefit concerned.
- 8.102. **Regulation 177** confirms the scheme manager's responsibilities as regards the administration of taxation.
- 8.103. Under **Regulation 178** a member may request that the lifetime allowance charge is paid by the scheme administrator.
- 8.104. Under **Regulation 179**, if no such request is made and the scheme manager and member are jointly liable to pay the necessary charge, the amount of benefits payable is reduced accordingly.
- 8.105. **Regulations 180 - 181** oblige the scheme manager to inform members of any annual allowance charge, as necessary. Where the scheme manager pays any such liability, benefits for the relevant tax year are reduced accordingly.
- 8.106. **Regulation 182** deals with how different periods of time should be measured under the Regulations. The scheme's primary measurement is years.
- 8.107. **Regulation 183** obliges the scheme manager to provide an annual benefit statement to non-pensioner members.

- 8.108. Under **Regulation 184**, where a scheme manager considers it necessary, beneficiaries or potential beneficiaries may be asked for supporting evidence in order to demonstrate their entitlement.
- 8.109. Under **Regulation 185**, a scheme manager is required to supply to members, who are about to commence reserve forces service leave, a statement giving details of assumed pensionable pay and the future contribution rates which will apply.
- 8.110. **Regulation 187** imposes a duty on scheme managers to have regard to any guidance issued by the Secretary of State.
- 8.111. **Schedule 1** specifies the procedures for making payments for additional pension, setting out notice periods and the timing and limit for payments.
- 8.112. **Schedule 2** sets out how long certain members of the 1992 and 2006 schemes may remain as members of those schemes, including a group of members whose protection is to be tapered as detailed in Part 3 and Annex A.

9. Guidance

- 9.1. There are a number of detailed resources available to prospective scheme members and employers, including pension calculators, frequently asked questions and guidance to calculate certain other pension benefits. Over the coming months, the Department will work with employers to provide further detailed information and supportive resources to prospective scheme members on the application of the regulations from early 2015. DCLG will encourage employers to implement the communications programme with prospective members.
- 9.2. The Department will look to amend the existing guidance, *Guidance for fire and rescue authorities on new financial arrangements for firefighter pensions with effect from April 2006*, to also cover the 2015 scheme. The existing guidance can be found at: <https://www.gov.uk/government/publications/firefighter-pensions-financial-arrangements-guidance>.

10. Impact

- 10.1. The impact on business, charities or voluntary bodies is nil.
- 10.2. The impact on the public sector is minimal.
- 10.3. An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

- 11.1. The legislation does not apply to small business.

12. Monitoring & review

12.1. These Regulations will be monitored by the Department and reviewed on a regular basis. The scheme will be subject to regular actuarial valuation and the Government has committed to reviewing the impact of a Normal Pension Age of 60.

13. Contact

13.1. Andrew Cornelius, at the Department for Communities and Local Government, on 030344 42171 or andrew.cornelius@communities.gsi.gov.uk, can answer any queries regarding the instrument.