

SCHEDULE

Amendment to the Annex to the New Firefighters' Pension Scheme Order (Northern Ireland) 2007

Amendment of Part 3 (personal awards)

3.—(1) Part 3 is amended as follows.

(2) In article 11 (ordinary pension) for paragraph (2) substitute—

“(2) This article does not apply to—

- (a) a firefighter member whose notice of retirement states that he is retiring for the purpose of taking up employment with a fire and rescue authority in England, Scotland or Wales; or
- (b) subject to article 84C of Part 12, a special firefighter member in respect of special pensionable service.”.

(3) After article 11 insert—

“Special member’s ordinary pension

11A.—(1) Subject to paragraph (2), this article applies to a member of this Scheme who is a special member and who satisfies one of the special eligibility conditions and retires or has retired.

(2) This article does not apply to a special firefighter member whose notice of retirement states that he is retiring for the purpose of taking up employment as a firefighter with a fire and rescue authority in England, Scotland or Wales.

(3) Where a special member to whom this article applies—

- (a) is not entitled to an ill health award under article 12 or 12A;
- (b) attains or has attained the age of 55; and
- (c) retires,

he is entitled to a special member’s ordinary pension.

(4) A special member who is not entitled to a special member’s ordinary pension under paragraph (3) or an ill health award under article 12 or 12A is entitled to a deferred pension.

(5) Where a special member to whom this article applies becomes entitled to a special member’s ordinary pension in respect of service as a retained firefighter, his special member’s ordinary pension shall be calculated by multiplying his final pensionable pay by his special pensionable retained service and dividing the resultant amount by 45.

(6) Where a special member to whom this article applies has special pensionable service as a regular firefighter accrued whilst he was a special member, he becomes entitled on retiring to a special member’s ordinary pension calculated by multiplying that part of his special pensionable service which is attributable to his service as a regular firefighter by his final pensionable pay and dividing the resultant amount by 45.

(7) Where paragraph (6) applies, the amount calculated under that paragraph shall be added to the amount calculated under paragraph (5).

(8) Where a person joins this Scheme as a special pensioner member and is entitled to a pension under this article, the Board shall pay to him a lump sum equal to the value, together with interest, of the pension payments (“the past pension payments”) he would have received up to the date of payment of the lump sum if at the date of his retirement he had been a member of this Scheme who had made contributions equivalent to his contributions under article 66A and 66B of Part 11 and shall thereafter pay him a special member’s ordinary pension.

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- (9) The interest payable in accordance with paragraph (8) is payable as follows—
- (a) for the purposes of calculating interest under this paragraph it shall be assumed that the past pension payments were payable from the date that the member reached normal retirement age;
 - (b) interest starts to accrue from the date that the first past pension payment would have been made in accordance with sub-paragraph (a) and ceases to accrue on the date of payment of the lump sum in accordance with paragraph (8);
 - (c) interest shall be calculated by applying the past interest rate to the past pension payment compounded monthly between the month each past pension payment would have been made in accordance with sub-paragraph (a) until the date of payment of the lump sum,

and for the purposes of this article “past interest rate” is a rate equivalent to the interest available on the most recent issue of five-year fixed interest savings certificates from National Savings and Investments available on the 15th day of each month which would have been applicable to the period when the past pension payment in question would have been made in accordance with sub-paragraph (a).”

- (4) In article 12 (award on ill-health retirement) for paragraph (2) substitute—
- “(2) Every firefighter member to whom this article applies and who satisfies—
- (a) in the case of a firefighter member other than a special firefighter member, an eligibility condition;
 - (b) in the case of a special firefighter member, one of the special eligibility conditions, is entitled, on retiring, to a lower tier ill-health pension calculated in accordance with paragraph 1 of Schedule 1 to this Scheme.”
- (5) After article 12 insert—

“Retrospective award on ill-health retirement

12A.—(1) This article applies to a person who elects to join this Scheme as a special deferred member or a special pensioner member and who had been dismissed on the grounds of ill-health or had retired from employment as a retained firefighter before 6th April 2006.

(2) A person to whom this article applies may apply to the Board to be assessed by a qualified medical practitioner selected by it to determine whether he was permanently incapable of performing the duties of a firefighter on the date on which he was dismissed on the grounds of ill-health or retired and whether he has become capable of performing those duties since that date.

(3) An application under paragraph (2) shall be made during the period of three months beginning with the day on which the notice was served by the Board under article 65A(13) (purchase of service during the limited period) of Part 11.

(4) The Board shall obtain a written opinion from a qualified medical practitioner on whether the person was at the date of his dismissal or retirement permanently incapable of performing the duties of a firefighter and if so, whether he has become capable of performing those duties since that date.

(5) The Board shall determine whether the person is entitled to a retrospective award for ill-health retirement on the basis of the written opinion of the qualified medical practitioner and may only determine that a person is entitled to an award where the qualified medical practitioner gives an opinion that the person was permanently incapable of performing the duties of a firefighter on the date of his dismissal or retirement and has not become capable of performing those duties since that date.

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(6) A qualified medical practitioner's opinion under paragraph (4) shall be binding on the Board unless it is superseded by his response under article 46 (determinations and decisions of the Board) of Part 8 (determination of questions and appeals) or the outcome of an appeal under article 47 (appeal against opinion on a medical issue) of Part 8.

(7) If—

- (a) the person concerned wilfully or negligently fails to submit himself to medical examination by the qualified medical practitioner selected by the Board, and
- (b) the qualified medical practitioner is unable to give an opinion on the basis of the medical evidence available to him,

the Board may make a decision on the issue on such other medical evidence as it thinks fit, or without medical evidence.

(8) If the Board determines that the person is entitled to a retrospective award following ill-health retirement, it shall give written notice to him within 14 days beginning with the date of its determination together with a copy of the qualified medical practitioner's opinion.

(9) Where the Board does not determine that the person is entitled as mentioned in paragraph (8) to a retrospective award following ill-health retirement, it shall—

- (a) give written notice to him within 14 days beginning with the date of its determination;
- (b) provide him with a copy of the qualified medical practitioner's opinion; and inform him that he can apply for a review of that opinion under article 46 (determinations and decisions of the Board) or appeal against that decision under article 47 (appeals against opinion on a medical issue) of part 8 (determination of questions and appeals).

(10) Where a person has satisfied one of the special eligibility conditions and the Board has determined that he is entitled to a retrospective award following ill-health retirement, the Board shall pay to him a lump sum equal to the value, together with interest, of the payments of higher tier ill-health pension ("past pension payments") he would have received up to the date of payment of the lump sum if at the date of his dismissal or retirement he had been a member of this Scheme who had made contributions equivalent to his contributions under article 66A Part 11 and shall thereafter pay him a higher tier ill-health pension.

(11) The interest payable in accordance with paragraph (10) is payable as follows—

- (a) for the purposes of calculating interest under this paragraph it shall be assumed that the past pension payments were payable from the date that the member would have first received payment of higher tier ill-health pension if, at the date of his dismissal or retirement, he had been a member of this Scheme;
- (b) interest starts to accrue from the date that the first past pension payment would have been made in accordance with sub-paragraph (a) and ceases to accrue on the date of payment of the lump sum in accordance with paragraph (10);
- (c) interest shall be calculated by applying the past interest rate to the past pension payment compounded monthly between the month each past pension payment would have been made in accordance with sub-paragraph (a) until the date of payment of the lump sum,

and for the purposes of this article "past interest rate" is a rate equivalent to the interest available on the most recent issue of five-year fixed interest savings certificates from National Savings and Investments available on the 15th day of each month which would have been applicable to the period when the past pension payment in question would have been made in accordance with sub-paragraph (a).

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- (12) A member of this Scheme entitled to a retrospective award under this article is not entitled to an ordinary pension or a special member's ordinary pension in respect of the same special pensionable service."
- (6) In article 13 (deferred pension)—
- (a) in paragraph (1) for "This article applies" substitute "Subject to paragraph (7), this article applies";
- (b) after paragraph (6) add—
- “(7) In the case of a firefighter member who is a special firefighter member, paragraph (1) shall apply with the substitution, in paragraph (a), of “one of the special eligibility conditions” for “an eligibility condition” and with the substitution in paragraph (3) of “45” for “60” and “special pensionable service” for “pensionable service”.”.
- (7) In paragraph (1) of article 15 (pension on member-initiated early retirement), after “firefighter member”, insert “other than a special firefighter member”.
- (8) In article 16 (pension on Board-initiated early retirement) after paragraph (2) add—
- “(3) This article does not apply to a firefighter member who is a special firefighter member.”.
- (9) In article 17 (entitlement to two pensions)—
- (a) in paragraph (1) for “Subject to paragraph (6)” substitute “Subject to paragraphs (6) and (9)”;
- (b) after paragraph (8), add—
- “(9) In the case of a special member, this article applies with the substitution of “45” for “60” in paragraphs (3), (4) and (7), with the substitution of “special pensionable service” for “pensionable service” wherever it occurs and with the substitution of (11A) for “11” in paragraph (5).”;
- (10) In article 17B (additional pension benefit), in paragraph (2), after “Scheme Actuary” add “and separate guidance and tables shall be provided for special members”.
- (11) In article 19 (commutation: general)—
- (a) in paragraph (2) for “The lump sum” substitute “Subject to paragraph (2A), the lump sum”;
- (b) after paragraph (2), insert—
- “(2A) In the case of a pension payable in respect of a special pensioner member the lump sum shall be calculated by multiplying the amount of the person's pension represented by the commuted portion at retirement by the factor specified in the table in Schedule ZA by reference to his age. ”;
- (c) in paragraph (4) for “The commuted portion” substitute “Subject to paragraph (4A), the commuted portion”;
- (d) after paragraph (4) insert—
- “(4A) In the case of a special member, the commuted portion must not exceed—
- (a) the amount calculated in accordance with paragraph (4); and
- (b) the maximum amount which would enable a lump sum to be paid to the member without incurring a scheme chargeable payment,
- whichever is lower.”;
- (e) after paragraph (8), insert—
- “(8ZA) In relation to a pension payable to a person who joins this Scheme as a special pensioner member, paragraphs (6) and (7) have effect as if references to the day of

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retirement and the effective date were references to the date on which the pension comes into payment.”;

(f) after paragraph (8C), insert—

“(8D) Where paragraph (8B) applies and the person entitled to that other pension is a special pensioner member, paragraph (8B) shall apply with the substitution of “special pensionable service” for “pensionable service”.”.