

POLICY NOTE

The Firemen's Pension Scheme (Amendment) (Scotland) Order 2018

SSI 2018/216

The above instrument was made in exercise of the powers conferred by section 26(1) to (5) of the Fire Services Act 1947 and section 12 of the Superannuation Act 1972, as applied by section 16(3) of the Act, and all other powers enabling them to do so. The instrument is subject to negative procedure.

Policy Objectives

This order amends the Firemen's Pension Scheme Order 1992 and the amendments bring the pension scheme up to date. Some of the amendments introduce new provisions, others make corrections.

Paragraph 1 of the schedule omits rule A14 (compulsory retirement on grounds of efficiency) and rule A15 (compulsory retirement on grounds of disablement). Rules A4 to A8 and A12 are also omitted.

Paragraph 2(a) of the schedule amends rule B1 so that a chief fire officer, who is appointed after the date on which the order comes into force, is no longer required to obtain the permission of the fire and rescue authority before retiring. Paragraph 2(e) amends the formula for the calculation of pension where a person is entitled to an ill-health award or deferred pension and benefits from the entitlement to two pensions.

The amendment made by sub-paragraph f(i) of paragraph 2 is to make minor corrections so that it is clear which pensionable service can count for the long service increment additional pension benefit. The amendment only includes service with the Scottish Fire and Rescue Service.

Paragraph 2(g) of the schedule inserts a new rule B5C which extends additional pension benefit so that it covers-

- Payments to reward additional skills and responsibilities outside the requirements of the firefighter member's duties under the contract of employment but which are within the wider functions of the job;
- Any additional pay received whilst on temporary promotion or whilst temporarily carrying out the duties of a higher role;
- Any non-consolidated performance related payment.

Any payments in respect of a firefighter member's continuing professional development continue to be covered by additional pension benefit.

The amendments made by sub-paragraphs (ii), (iii) and (iv) of paragraphs 2(f) and 2(g) in relation to paragraph (3) and (4) of the new rule B5C amend the method of uprating additional pension benefit for the long service increment (rule B5B) and continuing professional development (rule B5C) from a specific index, retail price

index, to an index in accordance with the Pensions (Increase) Act 1971. There is a specific provision to provide that the consumer price index is used for the tax year 2017/18. These amendments have effect from 9th April 2018.

Paragraph 4 of the schedule substitutes a new rule D5 (child's allowance: limitations and duration). Paragraph 5 of the schedule makes various amendments to Part E (awards on death-additional provisions).

Paragraph 6 of the schedule amends Part F (pensionable service and transfer values) and in particular inserts new rule F1A (reckoning of service for purposes of awards) which repeats most of the provisions of the omitted rule A7.

Paragraph 7(b) inserts rule G2B (aggregate pension contributions for the purposes of awards) which repeats most of omitted rule A8 (aggregate pension contributions for purposes of awards) with some amendments.

Paragraph 8 inserts a new rule and substitutes 2 new rules in Part H (determination of questions and appeals). These enable –

- The review of medical opinion where there is new evidence (rule H1A: review of medical opinion);
- Improve the procedure of an appeal new rule H2 (appeal to medical referee);
- Remove the right of appeal to the Crown Court or Sheriff and replace it with arrangements implemented for dispute resolution by the fire and rescue authority under section 50 of the Pensions Act 1992 (rule H3: appeals on other issues).

Paragraph 9 amends the provisions in Part I (servicemen) to reflect changes in the relevant legislation.

Paragraph 11(b) amends rule K1A to remove a deferred member's entitlement to the early payment of a deferred pension where they have become capable of undertaking regular employment. Paragraph 11(c) of the schedule substitutes a new rule K4 which extends the fire and rescue authority's power to abate pension so this applies when a pensioner takes up employment in any role with an authority.

Paragraph 21 amends Part 1 (appeal to board of medical referees) of Schedule 9 (appeals) by the substitution of new paragraphs for paragraphs (1)(1), paragraph 2, 8(2),8(2A) and the insertion of new paragraph 2B and 6A. These amendments to procedures of the board enable the board to review its decision where there has been a material error of fact, to appoint a reviewing member to ensure it has all documents required before a hearing and also to increase the grounds on which the authority can require the appellant to pay some or all of the board's costs. Paragraph 23(2) omits Part 2 (appeal tribunals) which is consequential on the amendment of rule H3 (appeals on other issues).

Consultation

A formal consultation was undertaken from 22 March to 7 May 2018. The consultation was issued to representatives of firefighters and employers and relevant Scottish and UK Government departments.

Business and Regulatory Impact Assessment

This policy does not impose any additional costs or reduce existing costs for business, third or public sector organisations and on that basis no Business and Regulatory Impact Assessment is required for these Regulations.

Scottish Public Pensions Agency
An Agency of the Scottish Government
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