STATUTORY INSTRUMENTS

2014 No. 2848

The Firefighters' Pension Scheme (England) Regulations 2014

PART 5

Retirement benefits

CHAPTER 6

Allocation of part of pension

Allocation election

72.—(1) This regulation applies in relation to a retirement earned pension payable in respect of a member's pensionable service under this scheme.

(2) An active member or deferred member may elect to allocate up to a third of the amount of the annual rate of any of the member's retirement pensions under this scheme to a beneficiary ("allocation election").

(3) The beneficiary of an allocation election must be a person who, when the allocation election is made is—

(a) the spouse, civil partner or cohabiting partner of the active member or the deferred member; or

(b) with the consent of the scheme manager, any other person who is substantially dependent on the active member or deferred member and would have been a dependant of the member for the purposes of paragraph 15(2) or (3) of Schedule 28 to FA 2004 if the member had died when the election was made.

(4) The scheme manager may withhold consent under paragraph (3)(b) if the scheme manager is not satisfied that the person is substantially dependent on the active member or deferred member.

(5) If a member wishes to allocate pension to more than one beneficiary, a separate election must be made in respect of each beneficiary.

(6) Where more than one portion of a particular pension is allocated, the total of the allocated portions of that pension must not exceed the portion of that pension retained by the active or deferred member.

(7) If paragraph (8) applies, the member may elect to allocate only so much of the pension (after subtracting the commutation amount, if any) that exceeds the guaranteed minimum, multiplied by such factor as is indicated for a person of the member's description in tables provided by the scheme manager having regard to actuarial guidance.

(8) This paragraph applies if the member has a guaranteed minimum under section 14 (earner's guaranteed minimum) of PSA 1993 in relation to the whole or part of a pension as a result of receipt by this scheme of a transfer payment from another pension scheme in respect of which the member had such a guaranteed minimum.

Making an allocation election

73.—(1) When an active or deferred member intends to make an allocation election, that member
must—

    (a) satisfy the scheme manager that that member is in good health and has a normal life
expectancy; and

    (b) give the scheme manager written notice of an allocation election specifying—

        (i) the portion,

        (ii) the name and address of the beneficiary,

        (iii) the sex of the beneficiary, and

        (iv) the date of birth of the beneficiary.

(2) The notice of allocation, which may be sent by post, must be given not earlier than two months
before the pension comes into payment.

(3) Where the requirements in paragraphs (1) and (2) have been satisfied, the scheme manager
must notify the member that it has accepted the allocation election.

(4) An election has no effect if the member or the beneficiary dies before the notice of allocation
takes effect.

Effect of allocation

74.—(1) If an allocation election takes effect, the member's retirement pension is reduced
accordingly.

(2) If a notice of allocation takes effect, it does so on the day on which the retirement pension
comes into payment.

(3) Where a notice of allocation has taken effect, and the beneficiary survives the pensioner, the
scheme manager must, from the date of the pensioner's death, pay the beneficiary a pension for life
("allocated pension") of an amount determined by the scheme manager in accordance with actuarial
guidance in force when the notice of allocation takes effect, having regard to—

    (a) the amount of retirement pension allocated under the election; and

    (b) the age of the pensioner and beneficiary at the date when the notice of allocation was given.

(4) Where more than one portion of a member's retirement pension has been allocated, a separate
calculation must be made under paragraph (3) in respect of each allocation.

(5) Where—

    (a) a notice of allocation has taken effect; and

    (b) the beneficiary pre-deceases the pensioner,

the scheme manager must pay to the pensioner (distinguishing it from any other pension payable to
that pensioner) the portion of pension that had been allocated ("the failed allocation pension").

(6) Where paragraph (5) applies, the pensioner is not entitled to recover from the scheme manager
the amount of any deduction made in respect of the failed allocation pension.

(7) An allocation ceases to have effect for the purposes of this regulation if it would result in a
pension being paid under this regulation to a beneficiary who is neither—

    (a) the member's spouse or civil partner or cohabiting partner on—

        (i) the date on which the member becomes entitled to the pension, or

        (ii) when the member dies; nor

    (b) a dependant of the member for the purposes of paragraph 15(2) or (3) of Schedule 28 to FA 2004 when the member dies.

Adjustment of allocated benefit

75.—(1) The amount of allocated pension payable to the beneficiary of an allocation election may be adjusted in a manner determined by the scheme manager if—

    (a) the member who made the allocation election dies after reaching the age of 75; and

    (b) on the death of the member, the amount of allocated pension payable to the beneficiary does not qualify as a dependants' scheme pension under section 167 (the pension death benefit rules) of FA 2004(**1**).

(2) In this regulation, "allocated pension" has the same meaning as that given in regulation 74(3) (effect of allocation).

(**1**) Section 167 was amended by the Finance Act 2007 (c.11) Schedule 20 paragraph 22 and the Finance Act 2011 (c.11) Schedule 16 paragraph 11. See also Part 2 of Schedule 28 to that Act for the meaning of expressions used in section 167.