STATUTORY RULES OF NORTHERN IRELAND

2015 No. 7

FIRE AND RESCUE SERVICES

PENSIONS

The Firefighters' Compensation Scheme (Amendment) Order (Northern Ireland) 2015

Made - - - - 19th January 2015

Coming into operation 1st April 2015

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred by article 10(1), (3), (4) and (5) of the Fire Services (Northern Ireland) Order 1984(**1**), and now vested in it(**2**) and with the approval of the Department of Finance and Personnel(**3**) in accordance with article 10(1) of that Order makes the following Order:

Citation, commencement, effect and interpretation

1.—(1) This Order may be cited as the Firefighters' Compensation Scheme (Amendment) Order (Northern Ireland) 2015.

(2) Subject to paragraph (3) this Order shall come into operation on 1st April 2015.

(3) The following provisions of the Schedule shall have effect from 1st April 2006—

(a) paragraph 1(2), (3), (4)(a), (b)(ii), (iii) and (iv), (5)(a)(ii) and (6);

(b) paragraph 2(2)(a) and (c);

(c) paragraphs 3, 4 and 5;

(d) paragraph 7(2)(b) and (3);

(e) paragraphs 8, 9, 10 and 11;

(f) paragraphs 1(1), 2(1) and 7(1) so far as necessary for the purposes of sub-paragraphs (a) to (e).

(4) In this Order—

(**1**) S.I. 1984/1821 (N.I. 11) article 10(5) was amended by S.I. 1998/1549 (N.I.11) article 4. Article 10 was continued by S.I. 2006/1254 (N.I.9) article 60(1) and (2).

(**2**) See S.R. 1999 No. 481 article 6(c) and Schedule 4, Part III

(**3**) Formerly the Department of Finance. See S.I. 1982/338 (N.I. 6) article3.

"the Compensation Scheme" means the Scheme set out in the Annex to the Firefighters' Compensation Scheme Order (Northern Ireland) 2007(**4**);

"retained firefighter" has the meaning given in the Compensation Scheme (as amended by this Order).

Amendment of the Firefighters' Compensation Scheme Order (Northern Ireland) 2007

2. The Annex to the Firefighters' Compensation Scheme Order (Northern Ireland) 2007 is amended in accordance with the Schedule.

Transitional provisions

3.—(1) The amendments made by article 2 and paragraphs 6 (award for or in relation to a retained or volunteer firefighter) and 7 (prevention of duplication) of the Schedule shall not have effect in relation to a person in respect of whom a determination or decision relevant to whether death or permanent disablement has been occasioned by a qualifying injury (coming within the meaning of rule 7 of Part 1 of the Compensation Scheme) has been made before the coming into operation of this Order.

(2) The amendments made by article 2 and paragraphs 6 and 7 of the Schedule shall not have effect in relation to a person who has been in continuous employment as a retained firefighter since 5th April 2006 and has sustained an injury in the performance of his duties as a firefighter before the coming into operation of this Order where it is subsequently determined that that injury is a qualifying injury (coming within the meaning of rule 7 of Part 1 of the Compensation Scheme) and that he is permanently disabled as a result of that injury.

(3) In a case to which paragraph (1) or (2) applies and in relation to the provisions mentioned in that paragraph, the provisions of the Compensation Scheme, in the form in which they existed immediately before the coming into operation of this Order, shall continue to have effect in relation to such a person.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 19th January 2015

L.S.

Linda Devlin
A senior officer of the
Department of Health, Social Services and
Public Safety

(**4**) S.R. 2007 No. 143 amended by S.R. 2008 No. 238.

The Department of Finance and Personnel approves this Order
Sealed with the Official Seal of the Department of Finance and Personnel on 19 January 2015

L.S.

Anthony Simpson
A senior officer of the
Department of Finance and Personnel

SCHEDULE 1 Article 2

Amendments to the Firefighters' Compensation Scheme Order (Northern Ireland) 2007

Amendments to Part 1 (general provisions)

1.—(1) Part 1 is amended as follows.

(2) In rule 2(1) (interpretation)—

(a) for the definition of "pensionable pay" substitute—

""pensionable pay"—

(a) in relation to a person who is a member of the Firefighters' Pension Scheme shall be construed in accordance with article 56 of that Scheme;

(b) in relation to a person who is a member of the New Firefighters' Pension Scheme shall be construed in accordance with article 61 of that Scheme;

(c) in the case of a person who is not a member of either scheme, shall be construed in accordance with rule 11 of this Part;";

(b) after the definition of "regular firefighter" insert—

""relevant service", except in rule 1 of Part 7 (servicemen) and rule 1 of Part 7A (reservists), means service which either was, or would, but for an election under article 59 of the Firefighters' Pension Scheme or article 8 of the New Firefighters' Pension Scheme or a failure to elect under article 58 of the Firefighters' Pension Scheme or article 64 of the New Firefighters' Pension Scheme, have been reckonable as pensionable service;"

(c) for the definitions of "retained firefighter" and "retained or volunteer firefighter" substitute —

""retained firefighter" means a person who is employed by the Board—

(a) as a retained firefighter, but not as a regular firefighter or a volunteer firefighter,

(b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),

(c) otherwise than in a temporary capacity, and

(d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives;";

(d) after the definition of "surviving spouse" insert—

""volunteer firefighter" means a person who is employed by the Board—

(a) as a volunteer firefighter but not as a regular firefighter or a retained firefighter,

(b) on terms under which he is, or may be, required to engage in fire-fighting or may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),

(c) otherwise than in a temporary capacity, and

(d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives; ".

(3) In rule 3—

(a) for the heading substitute—

"Exclusive application to regular and retained firefighters";

(b) in paragraph (1) for "regular firefighters" substitute "regular and retained firefighters";

(c) in paragraph (2) for "regular firefighter" substitute "regular or retained firefighter".

(4) In rule 6 (reckoning of service for purpose of awards)—

(a) in paragraph (2) for "regular firefighter" substitute "regular or retained firefighter".

(b) in paragraph (3)—

(i) for "retained or volunteer firefighter" substitute "volunteer firefighter";

(ii) omit "and Part 2 of Schedule 2";

(iii) after "any period of service" insert "as a retained firefighter or"

(iv) for "pensionable service" substitute "relevant service".

(5) In rule 7 (qualifying injury)—

(a) in paragraph (1)—

(i) in sub-paragraph (b) omit "retained or";

(ii) for "regular firefighter" substitute "regular or retained firefighter"";

(b) in paragraph (3) omit the words—

(i) "and paragraph (4) of rule 2 of Part 10"; and

(ii) "retained or".

(6) After rule 10 (effective date of retirement), add—

"**Determining pensionable pay in certain cases**

11.—(1) Where an award is to be calculated in respect of a person who is not, or was not, a member of the Firefighters' Pension Scheme or the New Firefighters' Pension Scheme, the definition of "pensionable pay" shall be construed in accordance with—

(a) article 56 of the Firefighters' Pension Scheme in the case of a person who elected not to pay pension contributions under article 59 of that Scheme;

(b) article 61 of the New Firefighters' Pension Scheme in the case of a person who elected not to pay pension contributions under article 8 of Part 2 of that Scheme;

(c) article 61 of the New Firefighters' Pension Scheme, where an election had been made at different times under both schemes.

(2) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the Firefighters' Pension Scheme, his award shall be calculated on the basis of the pay which would have been his average pensionable pay if he had not made an election.

(3) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the New Firefighters' Pension Scheme, his award shall be calculated on the basis of the pay which would have been his final pensionable pay if he had not made an election.

(4) For the purposes of calculating a retained firefighter's pensionable pay (whether or not that person is or was a member of the New Firefighters' Pension Scheme), the Board shall determine the period of the person's service from its records.