STATUTORY RULES OF NORTHERN IRELAND

2008 No. 238

FIRE & RESCUE SERVICES

PENSIONS

The Firefighters' Compensation Scheme (Amendment) Order (Northern Ireland) 2008.

Made - - - -	*3rd June 2008*
Coming into operation	*4th July 2008*

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

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Firefighters' Compensation Scheme (Amendment) Order (Northern Ireland) 2008 and shall come into operation on 4th July 2008, but the amendments made by Article 2 shall have effect from 6th April 2006.

(2) In this order "the Compensation Scheme" means the Scheme set out in The Firefighters' Compensation Scheme Order (Northern Ireland) 2007(**5**).

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

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

General Transitional provision

3. Where a person to whom a protected benefit was being paid or might become payable under the Compensation Scheme is placed in a worse position than he would have been in if the Scheme had continued to have effect without the amendments made by Article 2, he may, by giving written notice

(**1**) S.I. 1999 No 283 (N.I. 1) Article 3 (6)
(**2**) S.I. 1984/1821 (N.I.11) see article 2(2) for the definition of the Department article 10(5) was amended by S.I. 1998/1549 (N.I.11)
(**3**) see S.R. 1999 No.481 Schedule 4 Part III
(**4**) Formerly the Department of Finance see S.I. 1982/338 (N.I. 6) article 3
(**5**) S.R. 2007 No. 143

to the Board, elect that the provisions of the 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 the benefit.

(1) Notice under paragraph (1) must be given not later than 4th September 2008.

(2) For the purposes of paragraph (1), a protection benefit is one paid, or capable of becoming payable, to or in respect of a person who, before the coming into operation of this Order, ceased to be employed by the Board or died.

Transitional provision: decisions and determinations

4.—(1) The amendments made by Article 2 shall not have effect in relation to a person in respect of whom a determination or decision relevant to whether permanent disablement has been occasioned by a qualifying injury (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) In a case to which paragraph (1) applies, 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 3rd June 2008

L.S.

Mr Noel McCann
A senior officer of the
The Department of Health, Social Services and Public Safety

The Department of Finance and Personnel approves this Order.
Sealed with the Official Seal of the Department of Finance and Personnel on 3rd June 2008

L.S.

Dr Mary McIvor
A senior officer of the
The Department of Finance and Personnel

SCHEDULE

Article 2

1. In Part 1 (general provisions)—

(a) in rule 2(1) (interpretation)—

(i) omit the definitions of "Pension Scheme", "pensionable pay" and "pensionable service", "retained firefighter" and "volunteer firefighter";

(ii) after the definition of "the 2006 Order", insert the following definitions—

""the Firefighters' Pension Scheme" means the Firefighters' Pension Scheme (Northern Ireland) as set out in the Firefighters' Pension Scheme Order (Northern Ireland) 2007(**6**);

"the New Firefighters Pension Scheme" means the New Firefighters' Pension Scheme (Northern Ireland) as set out in the New Firefighters Pension Scheme Order (Northern Ireland) 2007(**7**);" and

(iii) in the definition of "average pensionable pay" for "the Pension Scheme", substitute "the Firefighters' Pension Scheme"; and

(iv) insert, in the appropriate places, the following definitions—

""final pensionable pay" shall be construed in accordance with article 62 of the New Firefighters' Pension Scheme;

"normal benefit age" has the meaning given by article 6(2) of the New Firefighters' Pension Scheme;

"pensionable pay"—

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

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

"pensionable retained service", in relation to a retained or volunteer firefighter, means the same proportion of whole-time service as that which his actual annual pensionable pay bears to his reference pay;

"pensionable service"—

(a) in relation to the Firefighters' Pension Scheme, shall be construed in accordance with article 45 of that Scheme;

(b) in relation to the New Firefighters' Pension Scheme, shall be construed in accordance with articles 56 to 60 of that Scheme;

"reference pay", in relation to the pensionable pay of a retained or volunteer firefighter for any period, means the whole-time equivalent pensionable pay for that period of a regular firefighter employed in a similar role and with equivalent qualifying service;

"retained firefighter" and "retained or volunteer firefighter" mean a person employed by the board—

(a) as a firefighter but not as a regular 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

(**6**) S.R. 2007 No. 144
(**7**) S.R. 2007 No. 215

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;".

2. In Part 2 (injury awards and duty related compensation)—

(a) in rule 1, in paragraph (1), omit "regular";

(b) for rule 2 substitute—

"**Part-time, retained and volunteer firefighters**

2.—(1) Where a person is entitled to an award under this Part and some or all of his service, by virtue of which his pensionable service is reckonable, is part-time service, his award shall be calculated in accordance with Part 2 of Schedule 1.

(2) Where a person—

(a) first takes up employment with the Board as a retained or volunteer firefighter on or after 6th April 2006; and

(b) is entitled to an award under this Part,

his award shall be calculated in accordance with Part 3 of Schedule 1.";

(c) in rule 3 (compensation for death or permanent incapacity while on duty), in paragraph (8), for "the Pension Scheme" substitute "the Firefighters' Pension Scheme, or any lump sum payable under the New Firefighters' Pension Scheme"; and

(d) in rule 4 (commutation of small compensatory pensions), in paragraph (1)(b), for "the Pension Scheme", substitute "the Firefighters' Pension Scheme or article 37 of the New Firefighters' Pension Scheme".

3. In Part 3 (awards on death: spouses and civil partners)—

(a) in rule 1 (special award for spouse or civil partner)—

(i) in paragraph (2), for "3 and 4", substitute "3, 4 and 6";

(ii) in paragraph (3)—

(aa) after "average pensionable pay" (in each place), insert "or, as the case may be, his final pensionable pay", and

(bb) in sub-paragraph (a) (ii), for "the Pension Scheme", substitute "the Firefighters' Pension Scheme or article 12 of the New Firefighters' Pension Scheme"; and

(iii) in paragraph (4) after "average pensionable pay", insert "or, as the case may be, his final pensionable pay";

(b) in rule 4 (limitation where spouse or civil partner is living apart)—

(i) in paragraph (1), for "A", substitute, "Subject to paragraph (1A), a";

(ii) after paragraph (1), insert—

"(1A) Paragraph (1) does not apply to a person—

(a) who is a member of the New Firefighters' Pension Scheme, or

(b) who first takes up employment with the Board on or after 6th April 2006 and is entitled to be a member of that Scheme, but elects not to pay pension contributions;" and

(iii) in paragraph (2) (a) for "the Pension Scheme", substitute "the Firefighters' Pension Scheme";

(c) in rule 5 (effect of new relationship)—

(i) in paragraph (1), for "A" substitute "Subject to paragraph (3), a";

(ii) in paragraph (2), for "Where", substitute "Subject to paragraph (3) where"; and

(iii) after paragraph (2) add—

"(3) Paragraphs (1) and (2) do not apply to a person—

(a) who is a member of the New Firefighters Pension Scheme

(b) who first takes up employment with the Board on or after 6th April 2006 and is entitled to be a member of that Scheme, but elects not to pay pension contributions"; and

(d) after rule 5 insert—

"**Amount of Survivor's pension: special cases**

6.—(1) This rule applies in relation to a person—

(a) who is a member of the New Firefighters' Pension Scheme on the day on which he dies; or

(b) in respect of whom an election under rule 5(1) of Part 2 not to make pension contributions has effect on that day.

(2) Subject to paragraph (3), where the person entitled to a special pension under rule 1 is more than twelve years younger than the deceased on the day on which he dies, a reduction of 2.5 per cent. for each year by which the age of the surviving spouse or civil partner exceeds, by more than twelve years, that of the deceased, shall be applied to the Schedule 2 amount.

(3) Where the application of paragraph (2) would result in the payment of a special pension of less than 50 per cent. of the Schedule 2 amount, the special pension shall be 50 per cent. of the Schedule 2 amount.

(4) In paragraphs (2) and (3), "the Schedule 2 amount" means the amount that would have been ascertained in accordance with Part 1 of Schedule 2 if rule 1 were not subject to this rule.

(5) For the purposes of paragraph (2), a part of a year shall be treated as a whole year.

(6) References in this rule to rule 1 include references to that rule as applied by rule 2(3)."

4. In Part 4 (awards on death: children), in rule 3 (child's special allowance or gratuity: limitations), for paragraphs (2) to (7), substitute—

"(2) Subject to paragraphs (3) and (4), no allowance shall be paid to a person if—

(a) he is 18 or older;

(b) he has ceased full-time education and is in paid employment; or

(c) he is married or has entered into a civil partnership.

(3) A child who is aged 18 but not more than 23 is entitled to an allowance if he is in full time education or attending a course of a least one year's duration.

(4) A child who is aged 18 or more is entitled to an allowance if, when the scheme member dies, he is dependant on him by reason of permanent disablement.