

FIREFIGHTERS' PENSION COMMITTEE

FIREFIGHTERS' PENSION SCHEME (FPS)

CIVIL PARTNERSHIPS - AMENDMENTS TO THE FPS

DRAFTING INSTRUCTIONS

Purpose of Paper

This paper updates members on the current position with regard to amendments required to the FPS.

DRAFT INSTRUCTION

Background

The enactment of the Civil Partnership Act 2004 on 5 December 2005 creates an obligation for pension schemes to provide survivor benefits for same-sex partners of scheme members where the two people have registered a civil partnership. This minute contains instructions to amend the Firefighters' Pension Scheme Order 1992 accordingly. Similar provisions will be included in the new pension scheme.

Effective date of change

The Civil Partnership Act will have retrospective survivor effect and pension benefits will be available to registered partners of members from the 6th April 1988 at employer cost. The power to back-date will not only apply to active members of scheme at the date of change, but also to pensioners and deferred pensioners with post-1988 service.

There may need to be provision for pre-6 April 1988 membership to be taken into account in calculating benefits but at member cost. We are awaiting further advice from Treasury on this issue.

At this stage therefore, any benefits should be based on the member's pensionable service from 6 April 1988.

The Provisions of the Firefighters' Pension Scheme Order 1992 (FPS)

The 1992 regulations require amendment to ensure that civil partners will qualify for survivor benefits in the same way as spouses. It is our understanding that it will not be acceptable merely to add to the definition of "spouse" (and "widow"/"widower") so as to construe a reference to a spouse as including a civil partner. This is because there is to be no implication that a

civil partnership is akin to a marriage even though the rights and responsibilities are the same.

The following amendments will therefore be necessary:

1. Add "or civil partner/s" after any references to "spouse/s"
2. Add "or civil partnership" after references to "marriage";
3. Add "or surviving civil partner" after references to "surviving spouse" and/or "widow/er";
4. Add "or formed a civil partnership" after "married";
5. Add "or forms a subsequent civil partnership" after references to "remarriage";
6. Add "or forms a subsequent civil partnership" after references to "remarried".

[5 & 6 will need to ensure that the following circumstances are covered - that a person who was formerly married either remarries or forms a civil partnership and a person who was formerly in a civil partnership either forms a subsequent civil partnership or marries]

The provisions of the FPS that will need to be amended under the current scheme are detailed in the table below:

Amendments to the Firefighters' Pension Scheme following the enactment of the Civil Partnership Act 2004.

Rule	Provision	CPA Act Effect
A3	Exclusive application to Firefighters	Action: Add "or civil partners," after "and their spouses" in Rule A3(1).
B9	Allocation	<p>Action:</p> <p>B9(2)(a): Add "or civil partner" after "spouse".</p> <p>B9(4)(b): Add "or form a civil partnership" after "marry"; and "or form a subsequent civil partnership" after "remarry".</p> <p>B9(4): Add "or civil partner" after "spouse"; and "or civil partnership" after marriage.</p> <p>B9(7)(b): Add "or form a civil partnership" after "marry", and "or form a subsequent civil partnership" after "remarry". Add "or civil partner" after "spouse". Add "or civil partnership" after "marriage" on the two occasions where it appears.</p> <p>B9(11): Add "or civil partnership" after "marriage".</p>
C1	Spouse's Ordinary Pension	<p>Action: The title of Part C will need to be amended to "Awards on Death - Spouses and Civil Partners". The title of C1 will also need to be amended to "Spouse's or Civil Partner's Ordinary Pension".</p> <p>C1(1): Add "or surviving civil partner" after "surviving spouse".</p> <p>C1(2): Add "or surviving civil partner" after "surviving spouse".</p> <p>C1(3): Add "or surviving civil partner" after "surviving spouse"</p> <p>C1(5): Add "or surviving civil partner" after "surviving spouse"</p>
C2	Spouse's Special Award	<p>Action: The title of Part C2 will need to be amended to "Spouse's or Civil Partner's Special Award"</p> <p>C2(1): Add "or surviving civil partner" after "surviving spouse"</p>

		C2(2): Add "or surviving civil partner" after "surviving spouse".
C3	Spouse's Augmented Award	Action: The title of Part C3 will need to be amended to "Spouse's or Civil Partner's Augmented Award" C3(1): Add "or surviving civil partner" after "surviving spouse"
C4	Spouse's Accrued Pension	Action: The title of Part C4 will need to be amended to "Spouse's or Civil Partner's Accrued Pension" C4(1): Add "surviving civil partner" after "surviving spouse". C4(3): Add "or surviving civil partner" after "surviving spouse"
C5	Limitation on award to widow with reference to date of marriage	Action: C5(1): Add "or civil partner" after "widow" and add "or formed a civil partnership" after "married". C5(2): Add "or civil partner" after "widow"
C6	Widow's requisite benefit and temporary pension	Action: The title of Part C6 needs to be amended to "Widow's or Civil Partner's Requisite and Temporary Pension". C6(1)(a): Add "or civil partner" after "widow". C6(2): Add "or civil partner" after "widow". C6(5)(b): Add "or civil partner" after "widow".
C7	Spouse's award where no other award payable	Action: The title of Part C7 needs to be amended to "Spouse's or Civil Partner's award where no other award payable". C7(1): Add "or surviving civil partner" after "surviving spouse". C7(2): Add "or surviving civil partner" after "surviving spouse".
C8	Limitation where spouses living apart	Action: The title of Part C8 needs to be amended to "Limitation where spouses or civil partners living apart". C8(1): Add "or surviving civil partner" after "surviving spouse" C8(2): Add "or surviving civil partner" after "surviving spouse" C8(3)(a): Add "or surviving civil partner" after "surviving spouse" C8(3): Add "or surviving civil partner" after "surviving spouse" C8(4)(a): Add "or civil partner" after "spouse". C8(4)(b): Add "or civil partner" after "spouse" and add "or civil partner's" after "spouse's". C8(7): Add "or surviving civil partner" after "surviving spouse".
C9	Effect of remarriage	Action: The title of Part C9 needs to be changed. C9(1): Add "or forms a subsequent civil partnership" after "remarries" and add "or civil partnership" after "marriage". C9(2): Add "or forms a subsequent civil partnership" after "remarries" and "or civil partnership" after "marriage"
C10	Pension Debit Members	Action: Add "or surviving civil partner" after "surviving spouse". NB - We may need to seek legal advise regarding definitions that are construed in other legislation e.g. the definition of pension credit members is defined in the Pensions Act 1995 etc. Will these Acts be changed to adhere to the Civil Partnership Act?
D3	Child's Special Gratuity	Action: D3(1): Add "or surviving civil partner" after "surviving spouse".

D5	Child's allowance or special gratuity	Action: D5(1)(a): Add "or civil partnership" after "marriage". D5(1)(b): Add "or civil partner" after "spouse" and "civil partnership" after "marriage" and "or was formed on" after "took place"..
E1	Lump sum death grant	Action: E1(4)(a): Add "or surviving civil partner" after "spouse". E1(4)(b): Add "or surviving civil partner" after "spouse". E1(5): Add "or surviving civil partner" after "surviving spouse".
E3	Dependent Relative's Gratuity	Action: E3(2): Add "or surviving civil partner" after "spouse"
E4	Payment of balance of Contributions to Estate	Action: E4(2)(f): Add "or surviving civil partner's" after "surviving spouse's"
E5	Gratuity in lieu of surviving spouse's pension	Action: The title of E5 will need to be changed to "Gratuity in lieu of surviving spouse's or surviving civil partner's pension" E5(1): Add "or surviving civil partner" after "widow" E5(2)(a): Add "or surviving civil partner" after "widow". E5(2)(d): Add "or civil partner" after "widow". E5(3)(a): Add "or surviving civil partner" after "widower". E5(3)(c): Add "or surviving civil partner" after "widower".
E8	Increase of pensions and allowances during first 13 weeks	Action: E8(1): Add "or surviving civil partner's" after "surviving spouse's" E8(4)(a): Add "or surviving civil partner's" after "widow's" E8(5)(a): Add "or surviving civil partner" after "surviving spouse". E8(5)(b): Add "or surviving civil partner" after "surviving spouse". E8(7): Add "surviving civil partner" after "surviving spouse".
E9	Flat-rate awards	Action: E9(1)(a): Add "or civil partner's" after "spouse's". E9(1)(b): Add "or civil partner's" after "spouse's".
G1	Pensionable Pay and Average Pensionable Pay	Action: G1(4)(a): Add "or surviving civil partner's" after "spouse's" on both occurrences.
I3	Awards on death of servicemen	Action: I3(2)(a): Add "or civil partner's" after "spouse's". I3(2)(b): Add "or civil partner's" after "spouse's" I3(3)(a): Add "or surviving civil partner" after "surviving spouse".
I5	Servicemen who do not resume service in their former brigade	Action: I5(2): Add "or surviving civil partner's" after "widow's".
J1	Guaranteed minimum pension	Action: J1(2)(c): Add "or surviving civil partner" after "widower" on both occurrences.
J3	Whole-time or part-time member of a brigade who is not a firefighter	Action: J3(3)(a): Add "or a surviving civil partner" after "surviving spouse"
J4	Retained or Volunteer member of a brigade	Action: J4(4): Add "or surviving civil partner" after "surviving spouse"; and substitute "spouse's or civil partner's" for "spouse's"; and

		"spouse/s or civil partner/s" for "spouse/s" where it exists in this provision. Also add "or formation of civil partnership" after "marriage"; and "remarriage or formation of a subsequent civil partnership" after "remarriage".
K4	Withdrawal of pension during service as a regular firefighter	Action: Change "Part C (awards on death – spouses)" to "Part C (awards on death – spouses and civil partners)"
L3	Payment of Awards	Action: L3(3): Add "or surviving civil partner" after "surviving spouse"; and add "or forms a subsequent civil partnership" after "remarries". Also add "or forms of a subsequent civil partnership" after "remarriage".
L4	Prevention of Duplication	Action: L4(4)(b): Add "or surviving civil partner" after "surviving spouse".
Schedule 1 Part I	Glossary of Expressions	Action: Amend the definition of "Child" to "In relation to a person who has died, a legitimate or illegitimate child, step-child or adopted child of his; any other child who was substantially dependent on him and either is related to him or is the child of his spouse or <u>civil partner</u> . "Parent is to be construed accordingly" There needs to be a definition inserted for "Civil Partner/Partnership" i.e. "construe in accordance with the Civil Partnership Act 2004"
Schedule 2 Part VIII	Reduction of Pension related to the Up-rating of widow's pension	Action: The title of Schedule 2 Part VIII will need to be changed to "Reduction of Pension related to the Up-rating of Widow's and Surviving Civil Partner's Pension"
Schedule 3	Awards on Death Spouses	Action: The title of Schedule 3 will need to be changed to "Awards on Death - Spouses and Civil Partners"
Schedule 3 Part I	Spouse's Ordinary Pension	Action: The title of Schedule 3, Part I will need to be changed to "Spouse's or Civil Partner's Ordinary Pension". 1(2): Add "or civil partner's" after widow's". 2: Add "or civil partner" after "spouse".
Schedule 3 Part II	Spouse's Special Pension	Action: The title of Schedule 3, Part II will need to be changed to "Spouse's or Civil Partner's Pension".
Schedule 3 Part III	Spouse's Accrued Pension	Action: The title of Schedule 3, Part II will need to be changed to "Spouse's or Civil Partner's Accrued Pension". 2(1): Add "or surviving civil partner's" after "surviving spouse's". 3(1): Add "or surviving civil partner's" after "surviving spouse's".
Schedule 3 Part IV	Pension for Widow of post-retirement marriage	Action: The title of Schedule 3, Part IV will need to be changed to "Pension for Widow or Civil Partner of post-retirement marriage or post-retirement formation of civil partnership" 1(1): Add "or civil partner" after "widow". 1(2)(b): Add "or civil partner" after "widow". 2(1): Add "or civil partner" after "widow".
Schedule 3 Part V	Spouse's Requisite Benefit Pension	Action: The title of Schedule 3, Part V will need to be changed to "Spouse's or Civil Partner's Requisite Benefit Pension".
Schedule 4 Part 1	Child's Ordinary Allowance	Action: 1(4): Add "or surviving civil partner" after "widow's". 2(1)(b): Add "or surviving civil partner" after "surviving spouse". 2(2): Add "or civil partner's" after "spouse's".

Schedule 4 Part 3		5(a): Add "or surviving civil partner's" after "surviving spouse's"
Schedule 5 Part I	Adult Dependent Relative's Special Pension	Action: 1(a): Add "or surviving civil partner" 2(1)(a): Add "or surviving civil partner's" after "spouse's". 2(2)(a): Add "or surviving civil partner's" after "widow's"
Schedule 5 Part II	Gratuity in Lieu of Surviving Spouse's Pension	Action: The title of Schedule 5, Part II will need to be changed to "Gratuity in Lieu of Surviving Spouse's or Surviving Civil Partner's Pension". 1: Add "or surviving civil partner's" after "widow's". 2: Add "or surviving civil partner's" after "widower's".
Schedule 6 Part II	Service Reckonable on Receipt of Transfer Value	Action: 2(2)(E): Add "or surviving civil partner's" after "spouse's".
Schedule 6 Part III	Transfer Payments between Fire Authorities	Action: 3: Add "or civil partner's" after "spouse's".
Schedule 8 Part III	Increase by reference to Appropriate Amount	Action: 2(2)(b): Add "or civil partner's" after "spouse's". 2(2)(c): Add "or surviving civil partner" after "widow". 3(2)(a): Add "or surviving civil partner's" after "surviving spouse's". 4: Add "or civil partner's" after "spouse's".
Schedule 10	Servicemen-Increased Awards	Action: 2(b): Add "civil partner" after "spouse".
Schedule 11 Part 1	Spouse's Awards	Action: The title of Schedule 11, Part 1 will need to be changed to "Spouse's and Civil Partner's Awards". 1(1): Add "or civil partner's " after "spouse's". 2(1): Add "or civil partner's" after "spouse's". 3(1): Add "civil partner's" after "spouse's". 3(2): Add "or civil partner's" after "spouse's".

Transferring Pensions

When calculating the transfer values (t.v.) under the current scheme provisions, account is taken of a widow/er's element in the overall liability of a pension. After the enactment of the Civil Partnership Act 2004, administrators will not be able to assume that the partner of a scheme member is opposite sex and therefore will have to establish whether or not a "widow/er's" or "surviving civil partner's" element should be considered when calculating a t.v. This is important due to the different actuarial assumptions on life expectancy used by the Government Actuary's Department which will ultimately be reflected in the value of the t.v. GAD have been approached regarding this issue and they have confirmed that additional information/factors will be required for calculating a t.v. for same-sex partners. They will issue advice to public sector schemes in due course.

Conclusion

The Committee is invited to comment.

ODPM
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