

FIREFIGHTERS' PENSION COMMITTEE

FIREFIGHTERS' PENSION SCHEME (FPS)

CIVIL PARTNERSHIP ACT 2004

Note by ODPM

Introduction

The Civil Partnership Act 2004 comes into force on the 5 December 2005. This creates an obligation on the FPS to provide survivor benefits to same-sex partners of scheme members who have registered a civil partnership.

At the 3rd meeting of the FPS members were invited to comment on paper FPC(05)5 (Civil Partnerships - Amendments to the FPS) which set out the amendments that were necessary as a consequence of the Civil Partnership Act. No comments were received.

Timetable for Amendment Order

Following discussions between HM Treasury and the Department for Trade and Industry, the following timetable has been agreed for implementing the necessary changes to public sector pension schemes:

- 11th October 2005 - draft amendment order to be submitted for ministerial approval;
- 18th/19th October 2005 - amendment order to be made and laid before Parliament;
- 5th December 2005 - commencement.

Consultation

Attached at Annex A is the draft 'Firefighters' Pension Scheme (Civil Partnership Amendments) (England) Order 2005'.

The draft order will be issued under cover of a Firefighters' Pension Scheme circular shortly for statutory consultation.

Members are invited to:

- (i) note; and
- (ii) comment.

ODPM
September 2005

2005 No. xxxx

FIRE AND RESCUE SERVICES, ENGLAND

CIVIL PARTNERSHIP

THE FIREFIGHTERS' PENSION SCHEME (CIVIL PARTNERSHIP AMENDMENTS) (ENGLAND) ORDER 2005

<i>Made</i>	- - - -	<i>October 2005</i>
<i>Laid before Parliament</i>		<i>October 2005</i>
<i>Coming into force</i>		<i>5th December 2005</i>

The First Secretary of State, in exercise of the powers conferred by section 259(1) and (4)(b) of the Civil Partnership Act 2004(a), makes the following Order:

Citation, commencement, interpretation and application

1.—(1) This Order may be cited as the Firefighters' Pension Scheme (Civil Partnership Amendments) (England) Order 2005, and shall come into force on 5th December 2005.

(2) In this Order "the Scheme" means the Firefighters' Pension Scheme set out in Schedule 2 to the Firemen's Pension Scheme Order 1992(b).

(3) The amendments made by this Order apply only in relation to the Scheme as it has effect in England(c).

(a) 2004 c.33.

(b) S.I. 1992/129; amended by 1997/2309 and 2851, 1998/1010, 2001/3649 and 3691, 2004/1912 and 2005/xxxxxxxxxx. The Scheme was made under section 26 of the Fire Services Act 1947 (c.41). That Act was repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c.21). Subsections (1) to (5) of section 26 were continued in force, for the purposes of the scheme established under that section as the Firemen's Pension Scheme, by the Firefighters' Pension Scheme (England and Scotland) Order 2004 (S.I. 2004/2306). The name of the scheme was changed to the Firefighters' Pension Scheme, by article 4(1) of that Order.

(c) The Secretary of State's functions under section 26 of the Fire Services Act 1947, in so far as they were exercisable in relation to Scotland, were devolved to the Scottish Ministers by section 63 of the Scotland Act 1998 (c.46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 (S.I. 1999/1750). The Secretary of State's functions under section 26 of the Fire Services Act 1947, in so far as they were exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry for the Fire Services Act 1947 in Schedule 1. The National Assembly for Wales preserved the scheme established under section 26 of the Fire Services Act 1947, in relation to Wales, as the Firefighters' Pension (Wales) Scheme by virtue of S.I. 2004/2918 (W.257).

Amendment of the Firefighters' Pension Scheme (England only)

2. The Scheme shall be amended in accordance with the Schedule to this Order.

Signed by authority of the First Secretary of State

xx October 2005

[Minister of State][Parliamentary Under Secretary of State]
Office of the Deputy Prime Minister

SCHEDULE

AMENDMENT OF THE FIREFIGHTERS' PENSION SCHEME (ENGLAND ONLY)

1. In rule A3 (exclusive application to regular firefighters)(a), in paragraph (1), after “spouses”, insert “or civil partners”.
2. In rule B9 (allocation)—
 - (a) after “spouse” (in each place), insert “or civil partner”;
 - (b) after “marry” (in both places), insert “or form a civil partnership”;
 - (c) after “re-marry” (in both places), insert “or form a subsequent civil partnership”; and
 - (d) after “marriage” (in each place), insert “or civil partnership”.
3. In rule C1 (spouse's ordinary pension), after “spouse” (in each place), insert “or civil partner”.
4. In rule C2 (spouse's special award), after “spouse” (in both places), insert “or civil partner”.
5. In rule C3 (spouse's augmented award), in paragraph (1), after “spouse”, insert “or civil partner”.
6. In rule C4 (spouse's accrued pension), after “spouse” (in both places), insert “or civil partner”.
7. In rule C5 (limitation on award to surviving spouse with reference to date of marriage)—
 - (a) in paragraph (1)—
 - (i) after “spouse”, insert “or civil partner”; and
 - (ii) after “married to”, insert “or had a civil partnership with”; and
 - (b) in paragraph (2), after “spouse”, insert “or civil partner”.
8. In rule C6 (spouse's requisite benefit and temporary pension), after “spouse” (in each place), insert “or civil partner”.
9. In rule C7 (spouse's award where no other award payable), after “spouse” (in both places), insert “or civil partner”.
10. In rule C8 (limitation where spouses living apart)—
 - (a) after “spouse” (in each place), insert “or civil partner”; and
 - (b) in paragraph (4)(b), after “spouse's”, insert “or civil partner's”.
11. In rule C9 (effect of remarriage)—
 - (a) after “remarries” (in both places), insert “or forms a subsequent civil partnership”; and
 - (b) after “marriage” (in both places), insert “or civil partnership”.
12. In rule C10 (pension debit members), after “spouse”, insert “or civil partner”.
13. In rule D3 (child's special gratuity), in paragraph (1), after “spouse”, insert “or civil partner”.
14. In rule D5 (child's allowance or special gratuity – limitations), in paragraph (1)—

(a) Rule A3 was amended by S.I. 2001/3691.

- (a) in sub-paragraph (a), after “took place”, insert “, or of a civil partnership that was formed”; and
 - (b) in sub-paragraph (b), after “took place”, insert “, or of a civil partner whose civil partnership with the deceased was formed.”.
- 15.** In rule E1 (lump sum death grant), after “spouse” (in each place), insert “or civil partner”.
- 16.** In rule E3 (dependent relative’s gratuity), in paragraph (2), after “spouse” (in each place), insert “or civil partner”.
- 17.** In rule E4 (payment of balance of contributions to estate), in paragraph (2)(f)(i), after “spouse’s”, insert “or civil partner’s”.
- 18.** In rule E5 (gratuity in lieu of surviving spouse’s pension), in paragraph (2), after “spouse” (in both places), insert “or civil partner”.
- 19.** In rule E8 (increase of pensions and allowances during first 13 weeks), after “spouse” (in each place), insert “or civil partner”.
- 20.** In rule I3 (awards on death of servicemen)—
- (a) in paragraph (2)(a) and (b) after “spouse’s”, insert “or civil partner’s”; and
 - (b) in paragraph (3)(a), after “spouse”, insert “or civil partner”.
- 21.** In rule J1 (guaranteed minimum pension)—
- (a) in paragraph (2)(b), after “widow”, insert “or civil partner”;
 - (b) in paragraph (2)(c)—
 - (i) after “a widower”, insert “or civil partner”; and
 - (ii) for “the widower”, substitute “he”; and
 - (c) in paragraph (4), after “remarries”, insert “or forms a civil partnership”.
- 22.** In rule J3 (whole-time member of brigade who is not a regular firefighter), in paragraph (3)(a), after “spouse”, insert “or civil partner”.
- 23.** In rule J4 (part-time member of brigade), for paragraph (4) substitute—
- “(4) Where paragraph (3) applies and the deceased leaves a surviving spouse or civil partner, the deceased shall be treated for the purposes of rules C2 (spouse's or civil partner’s special award) and C3 (spouse's or civil partner’s augmented award) as having been a regular firefighter falling within the description in paragraph (7); and rules C5 (limitation with reference to date of marriage or formation of civil partnership), C8 (limitation where spouses or civil partners living apart), C9 (effect of remarriage or formation of subsequent civil partnership), E5 (gratuity in lieu) and E8 (increase of pensions and allowances during first 13 weeks) apply accordingly in relation to awards to which the spouse or civil partner is thus entitled.”.
- 24.** In rule K4 (withdrawal of pension during service as a regular firefighter), after “spouses”, insert “and civil partners”.
- 25.** In rule L3 (payment of awards), for paragraph (3), substitute—
- “(3) Where, after receiving a payment in advance in respect of a pension under Part C, a surviving spouse or civil partner marries or forms a subsequent civil partnership, no claim for repayment shall be made on the ground that the payment or any part of it is referable to a period after the marriage or, as the case may be, the formation of the new civil partnership.”.
- 26.** In rule L4 (prevention of duplication), in paragraph (4)(b), after “spouse”, insert “or civil partner”.
- 27.** In rule L4B (prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters)—
- (a) in paragraph (2)(a) and (b), after “spouse’s”, insert “or civil partner’s”;
 - (b) in paragraph (2) (in each place)
- 28.** In Schedule 1, in Part I (glossary of expressions), in the definition of “child”, after “spouse”, insert “or civil partner”.

- 29.** In Schedule 3 (awards on death – spouses)—
- (a) in Part I (spouse’s ordinary pension), in paragraph 2, after “spouse”, insert “or civil partner”;
 - (b) in Part III (spouse’s accrued pension)—
 - (i) in paragraph 2(1), after “spouse’s”, insert “or civil partner’s”; and
 - (ii) in paragraph 3(1), after “spouse”, insert “or civil partner”; and
 - (c) in Part IV (pension for widow of post-retirement marriage), after “widow” (in each place), insert “or civil partner”.
- 30.** In Schedule 4 (awards on death - children)—
- (a) in Part I (child’s ordinary allowance), in paragraph 2(1)(b) and (2), after “spouse’s”, insert “or civil partner’s”; and
 - (b) in Part III (child’s accrued allowance), in paragraph 5(a), after “spouse’s”, insert “or civil partner’s”.
- 31.** In Schedule 5 (awards on death – additional provisions), in Part I (adult dependent relative’s special pension)—
- (a) in paragraph 1(a), after “spouse”, insert “or civil partner”; and
 - (b) in paragraph 2(1)(a) and (2), after “spouse’s”, insert “or civil partner’s”.
 - (i) and
 - (c) omit Part II (gratuity in lieu of surviving spouse’s pension).
- 32.** In Schedule 6 (pensionable service and transfer values)—
- (a) in Part II (service reckonable on receipt of transfer value), in paragraph 2(2), in the definition of “E”, after “spouse’s”, insert “or civil partner’s”; and
 - (b) in Part III (transfer payments between fire authorities), in paragraph 3—
 - (i) after “spouse’s”, insert “or civil partner’s”; and
 - (ii) in the definition of “E”, after “spouse” insert “or civil partner”.
- 33.** In Schedule 8 (purchase of increased benefits), in Part III (increases by reference to appropriate amount)—
- (a) in paragraph 2(2)(b), after “spouse’s”, insert “or civil partner’s”;
 - (b) in paragraph 2(2)(c), after “post-retirement marriage”, insert “or civil partnership”;
 - (c) in paragraph 3(2)(a), after “spouse’s”, insert “or civil partner’s”; and
 - (d) in paragraph 4, after “spouse’s”, insert “or civil partner’s”.
- 34.** In Schedule 10 (servicemen – increased awards), in paragraph 2(b), after “spouse”, insert “or civil partner”.
- 35.** In Schedule 11 (special cases)—
- (a) in Part I (spouse’s awards), after “spouse’s” (in each place), insert “or civil partner’s”; and
 - (b) in Part IV (modification for persons serving on 10th July 1956)—
 - (i) in paragraph 6(a), after “spouse” insert “or civil partner”;
 - (ii) in paragraph 9(a), after “widow”, insert “or civil partner”; and
 - (iii) in paragraph 19, in paragraph 3 (Scheme II) of the substituted Part I of Schedule 3, after “widow’s”, insert “or civil partner’s”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends, with effect from 5th December 2005, the Firefighters’ Pension Scheme, set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992, as it has effect in England (“the Scheme”).

The amendments (specified in the Schedule to this Order) are consequential on the Civil Partnership Act 2004. The amendments enable civil partners to qualify for survivor benefits under the Scheme on the same basis as spouses.

This Order has no impact on the costs of business, charities or voluntary bodies; though there will be costs to the Government from extending survivor benefits to include civil partners. Depending on the take-up rate of civil partnerships, the total annual cost to all public service pension schemes for providing survivor benefits to civil partners could amount to between £7m and £14m per year. There will also be a one-off capital addition to outstanding liabilities of between £60m (low take up) and £125m (high take up) to provide survivor benefits on the basis of service from 1988 up to the introduction of civil partnership. A Regulatory Impact Assessment was published alongside the Civil Partnership Act 2004 and outlines the cost implications for public service pension schemes. The final Regulatory Impact Assessment for the Civil Partnership Act 2004 can be viewed at <http://www.dti.gov.uk/access/ria/index.htm#equality>. A separate Regulatory Impact Assessment has not been produced for this Order.