

**FIREFIGHTERS' PENSION COMMITTEE**

**FIREFIGHTERS' PENSION SCHEME (FPS)**

**DRAFT INSTRUCTIONS AND REQUEST FOR ADVICE TO ODPM LEGAL  
DIRECTORATE**

The attached paper updates members on the current amendments to the FPS.

***ODPM  
January 2005***

# **FIREFIGHTERS' PENSION SCHEME ORDER 1992 – AMENDMENTS REQUIRED TO CURRENT SCHEME RULES**

## **Instructions to Draftsperson**

As you are aware, we intend to introduce a new pension scheme for those joining the fire and rescue service after April 2006. Although, the existing Firefighters' Pension Scheme (FPS) will be closed to new members it will continue to run in parallel for existing members including those who do not wish to transfer to the new scheme.

There are a number of amendments to the FPS that are required, driven either by wider legislative change or by issues that have arisen since the last amendment order (the Firemen's Pension Scheme (Amendment) Order 2004, SI 2004 No. 1912).

The amendments are detailed below. In most cases, we have attempted to identify the specific rule amendments required but would, of course, welcome advice on how best to achieve the amendments.

### **1. Changes to terminology**

1.1 The Fire and Rescue Services Act (FRSA) came in to force on 1 October 2004. Included within the Act are changes to the terminology relating to the Fire Service. The term "Fire Brigade" has been replaced by the term "Fire and Rescue Service" (FRS) and the term "Fire Authority" has been replaced by "Fire and Rescue Authority" (FRA). For the purposes of the Firefighters' Pension Scheme, the terminology throughout needs to reflect that a Firefighter is employed by a Fire and Rescue Authority but works within the Fire and Rescue Service maintained by a Fire and Rescue Authority.

1.2 The amendments required to specific rules are detailed in Annex A.

### **2. Replacement of compulsory retirement age with normal pension age**

2.1 Rule A13 of the FPS currently provides compulsory retirement ages for members. A person holding the rank of assistant divisional officer or higher is required to retire at age 60 and a person who holds the rank of station officer or lower is required to retire at age 55.

2.2 The provision is discriminatory and with more roles beyond operational firefighting becoming available, more flexible fitness criteria, improved equipment and better risk analysis, it can no longer be justified. Continued employment should depend on physical fitness to undertake the relevant role.

2.3 The provision needs to be replaced by one providing for a normal pension age of 60 or 55 depending on the person's rank, as a basis for determining some of the benefits etc in the Scheme.

2.4 The amendments required to specific rules are detailed in Annex B.

### **3. Pensions from regular and retained employment**

3.1 Retained firefighters are not eligible for membership of the FPS but they are entitled to benefits where they suffer a qualifying injury. Under rule J4 of the FPS, a retained member of a brigade who retires due to permanent disability occasioned by a qualifying injury is treated as a regular firefighter for the purposes of rules B3 (ill-health award) and B4 (injury award). Furthermore, under Rule J4 (7), any award will be calculated as if the retained firefighter held the rank of a regular firefighter and had the same service in that rank and was entitled to reckon as pensionable service a period equal to the retained service.

3.2 Some Fire and Rescue Authorities (FRAs) are employing regular firefighters as retained firefighters. The retained employment may either be with the same FRA or with a second FRA; and we understand that there are various contractual arrangements. This means that a regular/retained firefighter can be entitled to two pension awards. There are two concerns:

(i) Regular and retained employment with the same FRS.

3.3 The FPS does not provide for a situation where the retained and regular employment is with the same FRA. It is our view that, in this situation, a single set of awards (i.e. ill-health and injury) should be payable.

3.4 It may be sufficient to amend Rule L4(2) which excludes pensions payable under Rule J4 from the duplication rule.

(ii) Regular employment with one FRA and retained employment with a second FRA.

3.5 Where the retained employment is with a second FRA, double payment may occur in that an injury gratuity, injury pension and an ill-health pension will be paid in respect of the retained employment and an ill-health pension will be paid in respect of the regular employment. Rule L4 of the FPS normally prevents duplication but specifically excludes awards payable under rule J4 (Retained member of a brigade). The FPS therefore appears to provide for two separate awards but this is contradicted by Schedule 2 Part V paragraph 2(1) which requires an injury pension to be reduced by three quarters of any other pension calculated by reference to pensionable service reckonable by virtue of the period of service during which he received the qualifying injury.

3.6 Amendment is required to protect the FPS from double payment in these circumstances. Although there are two separate employers there is, in effect, a single pension scheme. Our view is that there should be a single set of benefits payable in this situation also. The FRA employing the scheme member as a retained firefighter would be responsible for payment of the injury elements i.e., the gratuity and injury pension, and the FRA employing the member as a regular firefighter would be responsible for the ill-health pension element. Subject to mutual agreement, a single FRA could administer the payment.

3.7 The following rules would appear to require amendment. L1 (Authorities responsible for payment of awards) to provide for more than one authority to be responsible for payment; L4 (Prevention of duplication) to include pensions payable

under Rule J4; Schedule 2 Part V to enable three quarters of any other pension to reduce an injury pension where two FRAs are responsible for payment.

#### **4. Basis for calculating transfer values**

4.1 Amendments to the FPS were made to allow membership by part-time regular firefighters by the Firemen's Pension Scheme (Amendment) Order 2004.

4.2 In paragraph 41 of that order, reference is made incorrectly to "average pensionable pay". Transfer values are calculated using annual pensionable pay and amendment to Schedule 6, Part II paragraph 4(a) is therefore required to substitute "annual pensionable pay" for "average pensionable pay".

#### **5. Medical qualifications**

5.1 Under the definition of "Independent qualified medical practitioner" in Schedule 1 (Glossary of Expressions) as amended by the 2004 Order, such persons are required to hold a diploma in occupational medicine or an equivalent qualification issued by a competent authority in an EEA State (which has the meaning given by the European Specialist Medical Qualifications Order) 1995.

5.2 We now understand that the Specialist Medical Qualifications Order 1995 has been replaced by the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003. This was noted by Scottish lawyers while they were drafting the Scottish Amendment Order. The wording in their order is as follows:

*"Independent qualified medical practitioner - A medical practitioner holding a diploma in occupational medicine or an equivalent qualification issued by a competent authority in an EEA State (for the purposes of this definition, "a competent authority" has the meaning given by the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 [6]) or being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine[7] or an equivalent institution of an EEA State.*

*[6] S.I. 2003/1250 as amended by S.I. 2004/1947*

*[7] The faculty of Occupational Medicine is a registered charity no. 1035415"*

5.3 Prior to her departure, Samantha Pullin had sight of the draft amendment and was content with the wording. A similar amendment is therefore required for Schedule 1.

#### **6. Resignation of Firefighters to avoid re-deployment and obtain deferred benefits**

6.1 There is an anomaly in the scheme rules that allows members found unfit for firefighting, but able to carry out other duties appropriate to the role, to resign prior to redeployment with a deferred pension and immediately request early payment of their deferred pensions under the provisions in Rule B5(4)(b) on the grounds that they are permanently unfit for firefighting.

6.2 To correct this, an amendment is required to rule B5(4)(b) to add after the words “he becomes permanently disabled” the words “for engaging in firefighting or the performance of any other duties as appropriate to his role as a firefighter”. The provision will need to apply to any firefighter who has resigned on or after 13 September 2004. We are not seeking to capture those who resigned before the amendment to the definition of regular firefighter to include duties other than firefighting.

6.3 This amendment would be consistent with Rule K1(1) which provides for the cancellation of ill-health and injury pensions if a person becomes capable of performing the duties of a regular firefighter.

## **7. Disability Discrimination Act**

7.1 From 1 October 2004, firefighting was brought within the scope of the Disability Discrimination Act. Job applicants will not be able to be excluded from recruitment on the basis of specific medical conditions unless objective justification can be demonstrated. Fire and Rescue Authorities (FRAs) may therefore not be able to exclude applicants who are, for example, suffering from a degenerative condition and some of those admitted under the DDA may be at greater risk of having to retire early on ill-health grounds. There is an automatic right of membership of the FPS and therefore this could create extra costs on the pension scheme for FRAs.

7.2 Two possible options for dealing with the potential impact of the DDA on the FPS have been identified.

7.3 The first is to impose no access to any ill-health benefits for certain firefighters, who would in turn not pay contributions towards ill-health benefits. This approach is similar to the approach adopted by the civil service. This option has the attraction of being established practice. It is in accordance with the current Civil Service arrangements where legal advice has accepted that it is not in breach of the DDA. The Police Pension Scheme has followed the policy adopted by the PCS (ref The Police Pensions (Amendment) (No 3) Regulations 2004 SI 2004 No. 2354).

7.4 Whilst it might be argued that a blanket restriction is too severe and would not recognise the nature of the work within the Fire and Rescue Service and the level of inherent risks in firefighting we consider that the second option, which would be to withdraw ill-health benefits for scheme members in respect of the ill-health condition that puts the scheme at risk, but to give access to normal ill-health benefits if early retirement on ill-health grounds is not related to the relevant condition would be too complex.

7.5 An advantage of the PCS approach is that the firefighter will know the position with regard to ill-health benefits at the outset and can plan accordingly. The PCS use one of two tables provided by the Government Actuary's Department to decide whether a new joiner should be excluded from ill-health benefits (one table relates to joiners with normal life expectancy; the other to joiners with reduced life expectancy). Both tables show whether an individual with given entry age and “duration to assumed ill-health retirement” (as assessed by the medical adviser)

should be included or excluded for ill-health retirement benefits. The individual is excluded if the cost of benefits for a new joiner who retires on ill-health grounds at the assumed duration is more than 50% greater than for a normal new joiner, with no increased propensity to retire on grounds of ill-health. The threshold applied to the FPS could be a different percentage or another criterion could be adopted.

7.6 Any new procedure will require rules to allow for screening of applicants, to restrict duplicate applications to more than one FRA, to cover re-application or re-assessment and to provide for appeals against decisions.

## **8. Protection of pensionable pay**

8.1 Schedule 1 of the Firemen's Pension Scheme (Amendment) Order 2004 amended the definition of "Regular firefighter" (Schedule 1). From that date a Fire and Rescue Authority can consider whether a firefighter who is permanently unfit for firefighting duties would be suitable for any other duties (appropriate to the role) before deciding whether ill-health retirement should apply. We are aware that FRAs may be considering re-deployment to posts which attract lower rates of pay than those for firefighting: the reason for such lower pay are that non-operational staff are employed in these jobs and equal pay considerations apply.

8.2 There would be an impact on pensions in that the FPS is a "final salary" pension scheme. Benefits are calculated on the basis of the best of the three years of service. If the pay is less than pay received earlier in the period of membership, a lower level of benefits would result. The benefits would not reflect pay received and contributions deducted before the pay reduction. Payments made under death and injury compensation provisions, which also rely on average pensionable pay would also be affected.

8.3 We are, therefore, proposing an option to members of protecting pensionable pay through use of a certificate of protection as used by the Local Government Pension Scheme (Regulation 23 of the LGPS Regulations 1997). Under the LGPS an employee whose pay is permanently reduced (or restricted) by their employer has a right to a certificate provided he/she requests it within 12 months of the pay reduction/restriction. A certificate may be issued at the discretion of the Authority if the employee has failed to request it within the first 12 months of the pay reduction/restriction. The certificate protects the value of the benefits by allowing them to be calculated by reference to a final pay figure notified at retirement and then uprated by pensions increases which have occurred since the day after the "final pay period". The "final pay period" protected by the certificate can be either a) any one of the last five years of membership or b) the annual average of any three consecutive years falling within the span of 13 years' membership before the date of leaving.

## **9. FPS Administrators for Inland Revenue purposes**

9.1 Section 270 of the Finance Act 2004 places a requirement on pension schemes to identify a scheme administrator to the Inland Revenue. For the FPS, we have agreed with the Inland Revenue that there should be separate scheme administrators for each of the 47 Fire and Rescue Authorities. This arrangement will be similar to proposals for the LGPS.

9.2 We are consulting with the FRS to identify administrators and anticipate that the FPS will need to make reference to the role; unless it will be sufficient to place the responsibility with the FRA. There is currently no existing provision although Rule L2 requires FRAs to maintain accounts, so Rule L may be an appropriate place for an amendment.

9.3 Section 270 of the Finance Act 2004 defines the scheme administrator of a registered pension scheme. It provides that:

(1) references to the scheme administrator in relation to a pension scheme, are to the person who is, or persons who are, appointed in accordance with the rules of the pension scheme to be responsible for the discharge of the functions conferred on or imposed on the scheme administrator of the pension scheme by and under the Act;

(2) a person cannot be the person who is, or one of the persons who are, the scheme administrator of a pension scheme unless the person-

- (a) is resident in the United Kingdom or another state which is a member State (Note: this means a member of the EU) or a non-member EEA State, and
- (b) has made the required declaration to the Inland Revenue.

(3) “The required declaration” is a declaration that the person-

- (a) understands that the person will be responsible for discharging the functions conferred or imposed on the scheme administrator of the pension scheme by and under this Part and
- (b) intends to discharge those functions at all times, whether resident in the United Kingdom or another state which is a member State or a non-member EEA State.

9.4 A more detailed note on the definition and duties of an administrator is at Annex C.

## **10. Ranks to Roles**

{To be drafted}

## **11. Purchase of Additional Benefits**

{To be drafted}

**Martin Hill**

## **CHANGES OF TERMINOLOGY**

### **General**

There are a number of headings in the Order which are affected by the changes outlined below. Our understanding is that we cannot change the wording of the headings.

### **Citation and Commencement**

No amendment needed.

As a consequence of the Firefighters' Pension Scheme (England and Scotland) Order 2004 (SI 2004 No 2306) it is now the Firefighters' Pension Scheme 1992 rather than the Firemen's Pension Scheme 1992.

### **Revocations (Schedule 1)**

No amendment needed.

### **Arrangement of rules**

Amendment required to headings of the following rules:

A4	"fire services" change to "fire and rescue services"
A14	delete "of brigade"
F8	} "fire authorities" change to "fire and rescue authorities"
Schedule 6 part III	}
I5	replace "service in their former brigade" with "employment
with	their former fire and rescue authority".
J3	} replace "member of a brigade" with "employee of fire and
rescue	
J4	} authority"
J5	replace "Members of brigade" with "Employees of fire and rescue authority"

### **Parts A to K and Schedules (as amended)**

All references to "fire authority" to be replaced by "fire and rescue authority", and their plural forms.

All references to "member of a brigade" to be replaced by "employee of a fire and rescue authority", and their plural forms.

However references in the following rules and Schedules apply specifically to periods pre-dating FRSA so should not be amended:

i.e. A7(3); F2(1)(b); Schedule 7, Part V, 9(3) and Part VI, 1(1)(b).

In addition the following specific changes would appear necessary:



Rule A6: replace “who is enrolled for service in the brigade is” with “whose employment “

Rule A14(c): delete “in the brigade” and in last line replace "its" with "their"

Rule B1(2)(a): replace "joining another brigade" with "employment with another FRA"

Rule B5(2): ditto

Rule B5(3)(b): replace "rejoining his brigade" with " re-employment with his FRA"

Rule B6(1): replace "joining another brigade" with "employment with another FRA"

Rule C3(5) refers to entitlement to death gratuity being based on pensionable pay, at the date of the death, of a regular firefighter "holding the rank of firefighter in the brigade maintained by the London Fire and Civil Defence Authority" replace with "employed by the London Fire and Emergency Planning Authority".

Rule F1(7): replace "resumes service in his former brigade" with "resumes employment with his former FRA"

Rule F2(a): may need amendment to reflect the change of terminology from 1 October 2004.

Rule F2(3): replace "maintaining the brigade in which the person is serving" with "the FRA which employs the regular firefighter"

Rule F3(a): replace "from a brigade" with "from employment by a FRA"

Rule F3(b): replace "service as a regular firefighter in the brigade" with "employment as a regular firefighter with the FRA"

Rule F4(1)(a): replace "from a brigade" with "from employment with a FRA"

Rule F4(1)(b): replace "of the fire authority maintaining the brigade...regular firefighter" with "of the fire and rescue authority by whom he was employed, taken up employment with another fire and rescue authority as a regular firefighter".

Rule F4(1)(c): replace "joining the other brigade" with "commencing employment with the other FRA" and delete "maintaining that brigade".

Similar amendments are required with Rules F4(3), F4(4), F4(5) and F5(1).

Rule F7(1): replace "in the brigade maintained" with "employed"

Rule F8(1)(a): replace "from a brigade ("the first brigade")" with "from employment with the FRA ("the first FRA")"

Rule F8(1)(b): replace "in another brigade ("the second brigade")" with "in the employment of another FRA ("the second FRA")"; and "the fire authority maintaining .... the second brigade" with "the first FRA shall pay the second FRA"

Rule F9(1)(a): replace "in the brigade maintained by them" with "employed by the FRA"

Rule G6(4)(a): delete "of brigade"

Rule I5(1): replace "service in his former brigade" with "his employment with his former FRA"

Rule I5(3): replace "joining new brigade" with "employment with a new FRA"

Rule I6: replace "having ...serve in his former brigade" with "having, during his forces period, continued in employment with his former FRA"

Rule I7(1): replace "serve in his former brigade" with "employment with his former FRA"

Rule J3(3): replace "from the brigade" with "from employment with the FRA"

Rule J4(1): replace "retained or volunteer member of a brigade" with "retained or volunteer firefighter", and with consequential amendments to the definition of "retained member of a brigade" and "volunteer member of a brigade" in Schedule 1, Part 1 (Glossary of expressions).

Rule J4(7): replace "is a whole-time member of a brigade" with "is a whole-time employee with a fire and rescue authority"; and replace "part-time member" with "retained or volunteer employee of a FRA" .

Rule K1(4): replace "service in the brigade" with "employment with the FRA"

Rule K4: replace "serving as a regular firefighter in any brigade" with "employed as a regular firefighter by any FRA"

Rule L(1): presumably the references to "fire authority" should be changed even though the firefighter may have been employed by a fire authority at the time of retirement or resignation.

Schedule 6, Part III: replace "from the first brigade" with "from employment with the first FRA" wherever it occurs.

Rule L2: presumably references to the "1973 Scheme and previous Firemen's Pension Schemes" do not need altering.

Schedule 7, Part 1, paragraph 2 (2)(a): amend to read "the fire and rescue authority in whpse employment the person ...".

Schedule 7, Part III, paragraph 1(1)(b): should reference here and elsewhere to "Firemen's Pension Scheme" be amended to "Firefighters' Pension Scheme".

Schedule 11, Part I, paragraph 4(2)(c): amendment may not be appropriate here as it refers to pre-1972 service. If change is necessary, replace "joining another brigade" with "employment with another FRA"

Schedule 11, Part V, 1: replace "brigade" with "FRA". However, as it refers specifically to changes of brigade before as well as after the commencement of the 1992 Scheme, should it refer to "brigade or FRA".

Schedule 11, Part V, 2(1): replace "first brigade" with "first FRA"; "member of another brigade" with "employee of another FRA"; and "second brigade" with "second FRA"; and replace 2(2)(a) and (b) with "(a) this Scheme has effect as if the second FRA was the first FRA, and (b) if in the first FRA ..."

### **Schedule 1**

In Interpretation Part 1, presumably if we are referring at some points to "brigade" we need to retain the definition and need to continue to refer to the "principal Act" and define this as "the Fire Services Act 1947" but do we need to refer to the Fire and Rescue Services Act 2004 and define "fire and rescue authority" by reference to it.

### **Schedule 7**

Reference to the Belfast Fire Brigade in Part III, (6)(C) should not presumably be amended although I suspect that the references in this part are hopelessly out of date.

### **Schedule 9**

In Schedule 9 Part II 1(b) there is reference to a Scottish Brigade which should not be amended.

**REMOVAL OF COMPULSORY RETIREMENT AGE**

**A4(3)(d)** - delete reference to Rule A13.

**A5(3)(d)** - delete reference to Rule A13.

**A13(2)** – replace heading and amend rule to provide for a normal pension age rather than a compulsory retirement age.

**A13(3)** - repeal

**B2 (1)(a)** -delete

**B7 (5)(b)** - amend reference to compulsory retirement age and refer to normal pension age. It may be sufficient to refer to "he retires under Rule A13".

**E9(3)(b)** - replace "he could have been required to retire on account of age" with (normal pension age".

**G5(3)** - replace "he could be required to retire on account of age" with reference to normal pension age under Rule A13(2).

**G6(5)(b)** - replace "of the date on which the person could be required to retire on account of age" with "of the person's normal pension age".

**K1(1)(c)** - replace "could not have been required to retire on account of age" with "would not have attained normal pension age".

**Schedule 1 (Glossary of terms)** - No amendment to definition of "retirement date" should be necessary, nor is the addition of a definition of "normal pension age" necessary..

**Schedule 2, Part III, paragraph 5(1)(a)** - replace "could be required to retire on account of age" by "attains normal pension age".

**Schedule 2, Part VI, paragraph 2(3):** in second line deletes "could" and then in (a) add "could" before "retire with" and amend (b) to "had attained normal pension age".

**Schedule 3, Part III, paragraph 3** - in B replace "he could have been required to retire on account of age" by "he had attained normal pension age".

**Schedule 6, Part I, paragraph 1** - delete "he could be required to retire on account of age" by "he attains normal pension age".

**Schedule 11, Part V, paragraph 2(2)(b)** - amend reference to "(compulsory retirement on account of age)" or delete and not replace.

**Definition of a scheme administrator**

1. Under the new regime the Inland Revenue will specify that the "scheme administrator" is our contact for fulfilling various functions and being liable for tax charges.
2. The scheme administrator is the person/s who is appointed in accordance with the pension scheme rules to be responsible for the functions conferred or imposed on the scheme administrator throughout the Finance Act.
3. If there is more than one appointed scheme administrator they will jointly be liable to any tax charges due.
4. A scheme administrator must be resident in the UK, or a member State or a non-member EEA State.
5. A declaration must be made to the Inland Revenue by the scheme administrator to the effect that they understand what they are responsible for and that they intends to carry out their responsibilities.
6. Where a person/persons are immediately replaced by another as scheme administrator, any liabilities (excluding any penalties incurred) will pass to the new appointee.
7. Where a person ceases to be a scheme administrator and no new administrator is immediately appointed the retiring administrator retains existing liabilities until a new administrator is appointed. There is provision for the retiree to apply to be released by the Inland Revenue, and provision to appeal to the Commissioners if the IR refuses.
8. Where there is no current or retired scheme administrator, or the scheme administrator cannot be traced, or has seriously defaulted on his liability, the liability for scheme administrator will pass to the following in order of priority
  - Any UK resident trustee or trustees of the pension scheme
  - Any person who controls the management of the pension scheme
  - Any person who established the scheme or their successor
  - If an OPS any employer whose employees are being provided with benefits under the scheme
  - Any trustee of the scheme who is not resident in the UK
9. Where none of the persons mentioned in 8 above have met the liability, certain liabilities will be passed to certain members of the pension scheme. The

member may be assessed on an appropriate share of the tax based on the value of assets relating to them, as a member, in relation to the overall value of the scheme. An assessment may be made on any person who was a member within the 3 years leading up to the liability.

### **Duties/Liabilities of the scheme administrator covered in Legislation**

- 1. Registration of schemes** - The application to register a pension scheme must be accompanied by a declaration that the application is being made by the scheme administrator. The IR will notify the scheme administrator of the decision of the application.
- 2. Appeals against IR's decisions on non-registration, de-registration** - Any appeals to IR must be made by the scheme administrator.
- 3. IR to notify of de-registration** - If IR withdraw the registration of a pension scheme they must notify scheme administrator.
- 4. Operate relief at source** - It is the responsibility of the scheme administrator to operate RAS and claim any tax relief back from the IR.
- 5. Provision of Information Regulations** - Regulations require the scheme administrator to send an event report to the Inland Revenue within the time scales applicable to Self Assessment. (31 Jan following the end of the relevant tax year).
  - The Information Regulations also require anyone who ceases to be a scheme administrator to notify the IR of the termination of their appointment within 30 days.
  - Scheme administrators must provide details of a member's death benefits and other crystallisation events within 2 months.
  - Scheme administrators must provided information to the member of anticipated benefit crystallisation.
  - They must provide the member with information about unauthorised payments in the form of provision of benefits no later than 7 July following the end of the tax year.
  - Scheme administrators must provide information to the member a statement of the amount of the LTA which has been crystallised where the member is in receipt of a pension.
  - Scheme administrators must retain documentation in relation to the scheme for a period of 6 years following the year the information relates to.
- 6. Registered pension scheme return** - The scheme administrator is responsible for making and delivering a scheme return and providing accounts, statements

and other documents

7. **Provision of information to others** - The scheme administrator must make certain information available to members, insurers, personal representatives etc. [ section 251(4) FA 2004]
8. **Accounting For Tax return form (AFT)** - the scheme administrator must make quarterly returns of income tax [section 254] to the IR.
9. **Tax charges and penalties**

The following are tax charges made on the scheme administrator

1. Short service refund lump sum charge [section 205].
2. Special lump-sum death benefits charge [section 206].
3. Authorised surplus payments charge [section 207].
4. Lifetime allowance charge [section 217].
5. De-registration charge [section 242].
6. Scheme sanction charge [section 239].

Tax deducted in respect of charges 1-5 should be returned on the AFT – see Note 8 above.

The following are penalties that may be charged on the scheme administrator

7. Penalty for not making and delivering a pension scheme return [section 257].
8. Penalty for failure to provide information or providing false information required by regulations – see Note 5 above [section 258].
9. Penalties for failures in respect of the AFT – see Note 8 above [section 260].
10. Winding up penalty to facilitate payment of lump sums [section 265].
11. Transfers to insured schemes penalty [section 266] - Penalty of up to £3000 if transfer not made to another scheme administrator of a registered pension scheme or relevant insurance company

### **Discharge of tax liability**

s267 & s268 provide that a scheme administrator may apply to be discharged from liability for the LTA charge or scheme sanction charge acted in good faith. Section 269 provides a right of appeal where the Revenue refuses an application for a discharge of liability.

### **Operation of PAYE**

Under regulation 11 of the PAYE Regulations (SI 2003 No. 2682) all pension payers are treated as employers for the purpose s of deducting PAYE.