



Firefighters' Pension Scheme Circular

Circular Number:	FPS 3/2005	Date Issued:	13/09/2005
Action:	For comment by 30 September 2005		
Title:	<i>Firefighters' Pension Scheme - Amendments</i>		
Issued by:	Martin Hill Local Government and Firefighters' Pensions Division		

Summary:	This circular provides information about, and invites comments on, proposed amendments to the Firefighters' Pension Scheme (FPS) to: (i) make changes as a consequence of the Civil Partnership Act 2004; and (ii) amendments to reflect other legislative changes. A copy of a consolidated version of the FPS is attached to aid consideration.
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Addressed to:	Please Forward to:
The Chief Executive of the County Council The Clerk to the Fire and Rescue Authority The Commissioner of the London Fire and Emergency Planning Authority The Chief Fire Officer	Pension and human resources managers Medical/Occupational health managers Active members of the FPS

Enquiries:		
Pensions Team Leader:		
Martin Hill	martin.hill@odom.gsi.gov.uk	020 7944 8641
Firefighters' Pension Scheme Order 1992		
Andy Boorman	andy.boorman@odpm.gsi.gov.uk	020 7944 8123
Anthony Mooney	anthony.mooney@odpm.gsi.gov.uk	020 7944 8087
New Pension Arrangements Project		
Jean Archer	jean.archer@odpm.gsi.gov.uk	020 7944 5862
Medical Appeals		
Maggie Smith	maggie.smith@odpm.gsi.gov.uk	020 7944 6787
General Enquiries:	firepensions@odpm.gsi.gov.uk firepensions-medical.appeals@odpm.gsi.gov.uk	

Firefighters' Pension Scheme Website: www.odpm.gov.uk/firepensions

1.0 Civil Partnerships

- 1.1 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.
- 1.2 The Government has decided that survivor benefits for civil partners must be provided on the basis of service from April 1988 at cost to employers. This is the date from which survivor benefits provision for male and female dependants were equalized for all pension schemes.
- 1.3 Amendments to the FPS are consequently required. The FPS provisions for survivor benefits have historically applied to spouses, widows and dependant children from marriage. The amendments required, therefore, are generally to ensure that civil partners and their dependants qualify for survivor benefits under the FPS on the same basis.
- 1.4 The Government has estimated that, 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.
- 1.5 The draft of the amending order is included at Annex A. We are required to submit the order for Ministerial approval by 11th October 2005. Amending Orders for Civil Partnerships for all public sector schemes are being co-ordinated by the Department for Trade and Industry and will be laid before Parliament in groups.
- 1.6 The proposals have been discussed and agreed by the Firefighters' Pension Committee.
- 1.7 **Comments are invited on the draft by 30 September 2005.**

[Editor's note: Comments invited from circular addressees only]

2.0 Amendments to the FPS

- 2.1 There are a number of amendments to the FPS that are necessary, either to take account of wider legislative changes or to address 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.
 - Changes to terminology
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 and Rescue 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.

- Replacement of compulsory retirement age with normal pension age
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 unless there are special circumstances. The provision is discriminatory and we propose to replace with one providing for a normal pension age of 55. This means that firefighters will be able to continue in service beyond age 55, subject to fitness and with the agreement of the fire and rescue authority. Pension benefits will, however, continue to be limited to 30 years pensionable service but the amendments include protection for those whose benefits from the scheme are currently based on service to age 60.
- Prevention of duplication of pensions from regular and retained employment
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; had the same service in that rank; and was entitled to reckon as pensionable service a period equal to the retained service.

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. Where a regular/retained firefighter suffers a qualifying injury attributable to their retained service, the current provisions could result in the payment of two pension awards. An amendment is proposed to protect the FPS from duplication of payment in these circumstances on the basis that, 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 these situations. The FRA employing the scheme member as a retained firefighter would be responsible for financing 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. Fire and Rescue Authorities would need to make notional calculations based on both regular and retained status and, where there is a difference, the greater award would be payable.

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

- Medical qualifications
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. Authorities will wish to note that the Specialist Medical Qualifications Order 1995 has been replaced by the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003. Amendment is therefore required for Schedule 1.
- Resignation of Firefighters to avoid re-deployment and obtain deferred benefits
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 provisions in Rule B5(4)(b) on the grounds that they are permanently unfit for firefighting. To correct this, an amendment is made to rule B5(4)(b) to add after the words “he becomes permanently disabled” the words “for engaging in firefighting or the performing any other duties appropriate to his role as a firefighter”. The provision will 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.
- FPS Administrators for Inland Revenue purposes
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.
- Ranks to Roles
The Fire Service Appointments and Promotion Regulations 2004 (SI 2004 No. 481) introduced a new grading structure for the Fire and Rescue Service. An effect of the regulations is that a structure based on “rank” has been replaced by one based on “role”. As a result, references in the FPS to “rank” need, in most cases, to be replaced with “role”.
- Pensionable pay and salary sacrifice
Amendment has been made to Rule G1 (pensionable pay and average pensionable pay) to define pensionable pay of a regular firefighter as the amount determined in relation to the performance of the duties of the role rather than the “pay he receives” as at present. We have advised FRAs on this previously but, to avoid any doubt about powers, this will ensure that authorities which have introduced salary sacrifice schemes can collect pension contributions on the amount of pay before reduction for the sacrifice in order to preserve full pensionable benefits.

- 2.2 The proposals have been discussed and agreed with the Firefighters' Pension Committee.
- 2.3 The draft of the amending order is included at Annex B. Subject to consideration of any comments we may receive it is proposed that we should invite Ministers to approve and lay the order before Parliament in October. The order will need to be made immediately in advance of the one dealing with civil partnerships.
- 2.4 **Comments are invited on the draft by 30 September 2005.**

[Editor's note: Comments invited from circular addressees only]

3.0 **Consolidated version of the Firefighters' Pension Scheme**

- 3.1 ODPM lawyers have prepared the attached version of the Firefighters' Pension Scheme Order which is an informal consolidation of all the amendments which have been made since 1992. We hope that this will assist in consideration of the proposed amendments and also be a useful tool in working with the FPS. We aim to provide an updated version as further changes are made.
- 3.2 Whilst we have tried to ensure that the text in this version accurately reflects the text as at 1 July 2005 the text is not a substitute for the statutory instruments published by the Stationery Office. If you find any mistakes please inform us on firepensions@odpm.gsi.gov.uk.

Martin Hill