



Firefighters' Pension Scheme Circular

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Action:			
Title:	<i>Firefighters' Pension Scheme</i>		
Issued by:	Martin Hill Local Government and Firefighters' Pensions Division		

Summary:	This circular advises FRAs on: (i) the Pension Increase (Review) Order 2007, (ii) the FRC - levy on Pension Schemes, and (iii) recycling commuted lump sums
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New Firefighters' Pension Scheme

Martin Hill

Firefighters' Pension Scheme Order 1992 and Compensation Scheme

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1.0 Pension Increase (Review) Order 2007

- 1.1 The Pensions Increase (Review) Order 2007 provides for public sector pensions beginning before 10th April 2006 to be increased on 9th April 2007 by 3.6% (in line with the increase in the Retail Price Index in the 12 months to September 2006). Any pension that has been in payment for less than a year will be increased by a proportionate amount depending upon the number of months it has been in payment.
- 1.2 Fire and Rescue Authorities are reminded that in accordance with the provisions in Rule E9 of the Firefighters' Pension Scheme order 1992, widow(er)'s flat-rate pensions and children's flat rate allowances are increased directly by orders made under Section 59 of the Social Security Pensions Act 1975, as amended. These awards should accordingly be increased by 3.6% from 9th April 2007.
- 1.3 The Pension Increase (Review) Order 2007 can be viewed by accessing [Pensions Increases](#)

2.0 Financial Reporting Council - Levy on Pension Schemes

- 2.1 We are aware that FRAs have been receiving invoices in respect of the Financial Reporting Council Levy on pensions. The Levy will equate to £2 for every 100 scheme members and it is our view that this cost should be borne by the Authority's "Firefighters' Pension Fund" account.
- 2.2 We have attached guidance at [Annex A](#).

3.0 Recycling of Pension Commencement Lump Sums

- 3.1 Administrators of the FPS and the NFPS should be aware of the rule concerning the recycling of pension commencement lump sums in Part 7 of the Finance Act 2006.
- 3.2 The recycling rule is intended to prevent exploitation of the tax rules through the generation of artificially high amounts of tax relief by putting a pension commencement lump sum back into a registered pension scheme by way of a further, tax relieved, contribution.
- 3.3 The recycling rule applies to all pension commencement lump sums paid on or after 6 April 2006. It applies when:
 - the individual receives a pension commencement lump sum;
 - because of the lump sum, the amount of contributions paid into a registered pension scheme in respect of the individual is significantly greater than it otherwise would be;
 - the additional contributions are made by the individual or someone else, such as an employer;
 - the re-cycling was pre-planned;
 - the amount of the pension commencement lump sum, taken together with any other such lump sums taken in the previous 12 month period, exceeds 1% of the standard lifetime allowance (£15k for 2006/07);

- the cumulative amount of the additional contributions exceeds 30% of the pension commencement lump sum.
- 3.4 When the recycling rule is triggered, the amount of the pension commencement lump sum is treated as an unauthorised member payment (although if a lifetime allowance charge arises on any part of the lump sum, that part is not treated as an unauthorised payment to prevent a double tax charge under both the lifetime allowance charge and the recycling rule). The unauthorised payment is deemed to have occurred when all the conditions for the recycling rule to apply are met. So that date will determine the year of assessment in which the charge arises.
- 3.5 The deemed unauthorised member payment will trigger an unauthorised payments charge and, possibly, the unauthorised payments surcharge. This means that the member will be liable to an income tax charge of up to 55%, based on the amount of lump sum in question that is deemed to be an unauthorised payment. The scheme administrator (or in the case of the FPS/NFPS the sub-scheme administrator) that makes the deemed unauthorised member payment will be subject to a scheme sanction charge of between 15% and 40% based on the amount of the payment.
- 3.6 A scheme member who intends to take a pension commencement lump sum as part of a recycling device is required to inform the scheme administrator of that fact within 30 days of the date of the deemed unauthorised payment. The administrator would then be able to report the unauthorised payment to HM Revenue and Customs (HMRC). However, there may be situations where the member fails to inform the administrator either deliberately to attempt to gain a tax advantage or because they inadvertently fall foul of the recycling rule.
- 3.7 Scheme administrators are able to apply to HMRC to ask it to discharge their liability in respect of a scheme sanction charge but the scheme administrator must set out just and reasonable grounds as part of the application.
- 3.8 Subsequent to the introduction of the recycling rule, HM Treasury have recommended that public sector pension schemes introduce measures to safeguard against incurring a scheme sanction charge and have advised that a recycling declaration would be a relatively straightforward measure to put in place. The scheme administrator asks a member who elects to commute pension for a lump sum to declare whether part or all of the lump sum is being taken with the intention of increasing contributions to one or more registered pension schemes. An example, based on the declaration used for Civil Service pensions has been attached at [Annex B](#).
- 3.9 Although non-recycling declarations are not required by HMRC, their recycling guidance says that if a member gives such a declaration and the scheme administrator later has to apply to HMRC for discharge from a scheme sanction charge, HMRC will accept that the declaration constitutes reasonable grounds for not applying the scheme sanction charge.

3.10 We therefore recommend that Fire and Rescue Authority (FRA) scheme administrators introduce a recycling declaration as part of the routine pre-retirement process. FRAs may already use such a declaration form or could add such a declaration to an existing form or add a new form. If the declaration is not signed the member would not receive a pension commencement lump sum.

3.11 Detailed guidance on the recycling rule can be found in the Registered Pension Schemes Manual pages on the HMRC website at:

<http://www.hmrc.gov.uk/manuals/rpsmmanual/RPSM04104900.htm>

Guidance on the definition of Pension Commencement Lump Sum can be found at:

<http://www.hmrc.gov.uk/manuals/rpsmmanual/rpsm09100330.htm>

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