



Firefighters' Pension Scheme Circular

Circular Number:	FPS 4/2005	Date Issued:	21/11/2005
Action:	For Information		
Title:	<i>Firefighters' Pension Scheme (Amendment) (England) Order 2005</i>		
Issued by:	Martin Hill Local Government and Firefighters' Pensions Division		

Summary:	This circular provides information on the Firefighters' Pension Scheme (Amendment) (England) Order 2005 and outlines the areas of the pension scheme that have been amended. A copy of the amendment order in word format is attached at Annex 1.
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The Firefighters' Pension Scheme (Amendment) (England) Order 2005

- 1.1 The Firefighters' Pension Scheme (Amendment) (England) Order 2005 (SI 2005 No 2980) amends the Firefighters' Pension Scheme. It came into force on the 21 November 2005. Some of the provisions will have retrospective effect.
- 1.2 The changes made to the Firefighters' Pension Scheme (FPS) are outlined below. Some have been made as a consequence of the Fire and Rescue Services Act 2004; and the Fire Service Appointments and Promotion Regulations 2004, others to address issues and anomalies that have arisen since the last amendment order in 2004.
- 1.3 These amendments were announced previously in circular FPSC 3/2005 and have been the subject of extensive consultation with the Firefighters' Pension Committee. FRAs should note that the proposed amendment to include a 'Scheme Administrator' has been postponed pending further guidance from HM Revenue and Customs on issues relating to tax simplification.
- 1.4 We have also made an additional amendment to provide equal treatment for widows and widowers in relation to survivor benefits. This amendment is in preparation for the amendments to the FPS that we are making as a consequence of the Civil Partnership Act 2004. We will issue further information on these amendments shortly.
- 1.5 The following changes are made by the Firefighters' Pension Scheme (Amendment) (England) Order 2005:

- **Changes in terminology as a consequence of the Fire and Rescue Services Act 2004**

The Fire and Rescue Services Act (FRSA) came in to force on 1 October 2004. The Act changed 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 The term "Fire Brigade" has been replaced by the term "Fire and Rescue Service" (FRS) and the term "Fire Authority" has been replaced by "Fire and Rescue Authority" (FRA).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 FPS, the terminology throughout has been amended 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.

This amendment will take effect from 1 October 2004.

- **Changes to the grading structure in the Fire and Rescue Service**

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" have now been replaced with "role".

This amendment will take effect from 1 October 2004.

- **Replacement of compulsory retirement age**

Retaining the compulsory retirement ages is discriminatory and they have been removed from the Scheme. This means that firefighters will not be compelled to retire at age 55 (60). Scheme benefits will still, however, be limited to thirty years service (40/60ths). Rule A13 now provides for a "normal pension age" which is 55, regardless of role. Continued employment will no longer depend upon age but upon fitness to undertake the relevant role.

The change does not affect rights to draw pension from age 50: it means that members may continue in the pension scheme and accrue additional benefits after age 55.

The amendment protects the position of those at Station Manager B and above who were subject to a compulsory retirement age of 60 and whose ill-health enhancement has been based on a normal pension age of 60.

This amendment will take effect from 21 November 2005.

- **Prevention of duplication of pension payments**

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 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, or where the injury is attributable in part to both the regular and the retained service, the current provisions could result in the payment of two pension awards.

An amendment has been made to protect the FPS from duplication of payment in these circumstances on the basis that, although there may be two separate employers or contracts there is, in effect, a single pension scheme. The amendment to the Scheme provides for a single set of benefits to be payable in these situations. The FRA employing the scheme member as a retained firefighter will be responsible for financing the injury elements i.e., the gratuity and injury pension, and the FRA employing the member as a regular firefighter will 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. This amendment also sets out the responsibility for payment if more than one FRA is involved.

This amendment will take effect from 21 November 2005.

- **Equal treatment of widows and widowers**

The FPS currently provides different treatment for widows and widowers in respect of survivor benefits. Although the definitions of certain expressions in the 1973 Scheme were amended in 1984 so that “widow” included “widower” and “wife” included “husband”, no amendment was made to the death benefit provisions (because at that time there were few female firefighters). The amendments made by this Order equalise treatment of widows and widowers and are preparatory to forthcoming amendments required by the Civil Partnership Act 2004.

This amendment will take effect from 1 March 1992.

- **Early payment of deferred pension**

The FPS was amended in 2004 to allow for a member to remain a member if they are employed on duties appropriate to the role as a firefighter other than engaging in firefighting. The amendment now made by paragraph 15(d) of the Schedule to the Order removes an anomaly in the FPS that allowed a member 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 the deferred pension on the grounds that they are permanently unfit for firefighting.

This amendment will have effect from 21 November 2005.

- **Pensionable pay and salary sacrifice**

Salary sacrifice schemes are permitted by HM Revenue and Customs and allow an employer to offer an employee certain benefits, e.g. childcare, in return for giving up part of their salary. For the employee there are savings of National Insurance contributions and income tax. As a consequence of the establishment of such schemes, pensionable pay of a regular firefighter

should be taken to be the amount determined in relation to the performance of the duties of the role rather than the pay received. FRAs have already received advice on this point but the amendment made by paragraph 47 of the Schedule to the Order will ensure that authorities which have introduced salary sacrifice schemes can collect pension contributions based on the amount of pay before reduction for the sacrifice, and thus preserve full pensionable benefits.

This amendment has effect from 1 October 2004.

- **Medical qualifications of Independent Qualified Medical Practitioners**

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. FRAs 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. The FPS has been amended to reflect this change.

Apart from the change in the meaning of a 'competent authority' this definition is very similar to that previously contained in the FPS 1992 and so is unlikely to have any effect on a FRAs selection of medical practitioners for this purpose.

This amendment will have effect from 13 September 2004.

- **Correction of error in previous amendment Order**

Amendments to the FPS were previously made to allow membership by part-time firefighters by the Firefighters' Pension Scheme (Amendment) Order 2004. In paragraph 41 of that order, reference was made incorrectly to 'average pensionable pay'. Transfer values are calculated using annual pensionable pay and therefore we have taken this opportunity to substitute 'annual pensionable pay' for 'average pensionable pay'.

This amendment is backdated to 13 September 2004, the date the incorrect expression was first introduced.

1.6 I have attached a copy of the Amendment Order at Annex 1.

1.7 The Commentary on the Firefighters' Pension Scheme will be updated in due course.

Martin Hill