
STATUTORY RULES OF NORTHERN IRELAND

2015 No. 7

**FIRE AND RESCUE SERVICES
PENSIONS**

**The Firefighters' Compensation Scheme
(Amendment) Order (Northern Ireland) 2015**

Made - - - - 19th January 2015
Coming into operation 1st April 2015

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred by article 10(1), (3), (4) and (5) of the Fire Services (Northern Ireland) Order 1984⁽¹⁾, and now vested in it⁽²⁾ and with the approval of the Department of Finance and Personnel⁽³⁾ in accordance with article 10(1) of that Order makes the following Order:

Citation, commencement, effect and interpretation

1.—(1) This Order may be cited as the Firefighters' Compensation Scheme (Amendment) Order (Northern Ireland) 2015.

(2) Subject to paragraph (3) this Order shall come into operation on 1st April 2015.

(3) The following provisions of the Schedule shall have effect from 1st April 2006—

- (a) paragraph 1(2), (3), (4)(a), (b)(ii), (iii) and (iv), (5)(a)(ii) and (6);
- (b) paragraph 2(2)(a) and (c);
- (c) paragraphs 3, 4 and 5;
- (d) paragraph 7(2)(b) and (3);
- (e) paragraphs 8, 9, 10 and 11;
- (f) paragraphs 1(1), 2(1) and 7(1) so far as necessary for the purposes of sub-paragraphs (a) to (e).

(4) In this Order—

(1) S.I. 1984/1821 (N.I. 11) article 10(5) was amended by S.I. 1998/1549 (N.I.11) article 4. Article 10 was continued by S.I. 2006/1254 (N.I.9) article 60(1) and (2).
(2) See S.R. 1999 No. 481 article 6(c) and Schedule 4, Part III
(3) Formerly the Department of Finance. See S.I. 1982/338 (N.I. 6) article3.

“the Compensation Scheme” means the Scheme set out in the Annex to the Firefighters’ Compensation Scheme Order (Northern Ireland) 2007(4);

“retained firefighter” has the meaning given in the Compensation Scheme (as amended by this Order).

Amendment of the Firefighters’ Compensation Scheme Order (Northern Ireland) 2007

2. The Annex to the Firefighters’ Compensation Scheme Order (Northern Ireland) 2007 is amended in accordance with the Schedule.

Transitional provisions

3.—(1) The amendments made by article 2 and paragraphs 6 (award for or in relation to a retained or volunteer firefighter) and 7 (prevention of duplication) of the Schedule shall not have effect in relation to a person in respect of whom a determination or decision relevant to whether death or permanent disablement has been occasioned by a qualifying injury (coming within the meaning of rule 7 of Part 1 of the Compensation Scheme) has been made before the coming into operation of this Order.

(2) The amendments made by article 2 and paragraphs 6 and 7 of the Schedule shall not have effect in relation to a person who has been in continuous employment as a retained firefighter since 5th April 2006 and has sustained an injury in the performance of his duties as a firefighter before the coming into operation of this Order where it is subsequently determined that that injury is a qualifying injury (coming within the meaning of rule 7 of Part 1 of the Compensation Scheme) and that he is permanently disabled as a result of that injury.

(3) In a case to which paragraph (1) or (2) applies and in relation to the provisions mentioned in that paragraph, the provisions of the Compensation Scheme, in the form in which they existed immediately before the coming into operation of this Order, shall continue to have effect in relation to such a person.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 19th January 2015



Linda Devlin
A senior officer of the
Department of Health, Social Services and
Public Safety

The Department of Finance and Personnel approves this Order
Sealed with the Official Seal of the Department of Finance and Personnel on 19 January 2015



Anthony Simpson
A senior officer of the
Department of Finance and Personnel

SCHEDULE 1

Article 2

Amendments to the Firefighters' Compensation Scheme Order (Northern Ireland) 2007

Amendments to Part 1 (general provisions)

1.—(1) Part 1 is amended as follows.

(2) In rule 2(1) (interpretation)—

(a) for the definition of “pensionable pay” substitute—

““pensionable pay”—

- (a) in relation to a person who is a member of the Firefighters' Pension Scheme shall be construed in accordance with article 56 of that Scheme;
- (b) in relation to a person who is a member of the New Firefighters' Pension Scheme shall be construed in accordance with article 61 of that Scheme;
- (c) in the case of a person who is not a member of either scheme, shall be construed in accordance with rule 11 of this Part;”;

(b) after the definition of “regular firefighter” insert—

““relevant service”, except in rule 1 of Part 7 (servicemen) and rule 1 of Part 7A (reservists), means service which either was, or would, but for an election under article 59 of the Firefighters' Pension Scheme or article 8 of the New Firefighters' Pension Scheme or a failure to elect under article 58 of the Firefighters' Pension Scheme or article 64 of the New Firefighters' Pension Scheme, have been reckonable as pensionable service;”

(c) for the definitions of “retained firefighter” and “retained or volunteer firefighter” substitute

—

““retained firefighter” means a person who is employed by the Board—

- (a) as a retained firefighter, but not as a regular firefighter or a volunteer firefighter,
- (b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),
- (c) otherwise than in a temporary capacity, and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives;”;

(d) after the definition of “surviving spouse” insert—

““volunteer firefighter” means a person who is employed by the Board—

- (a) as a volunteer firefighter but not as a regular firefighter or a retained firefighter,
- (b) on terms under which he is, or may be, required to engage in fire-fighting or may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),
- (c) otherwise than in a temporary capacity, and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives;”.

(3) In rule 3—

- (a) for the heading substitute—
 - “*Exclusive application to regular and retained firefighters*”;
 - (b) in paragraph (1) for “regular firefighters” substitute “regular and retained firefighters”;
 - (c) in paragraph (2) for “regular firefighter” substitute “regular or retained firefighter”.
- (4) In rule 6 (reckoning of service for purpose of awards)—
- (a) in paragraph (2) for “regular firefighter” substitute “regular or retained firefighter”.
 - (b) in paragraph (3)—
 - (i) for “retained or volunteer firefighter” substitute “volunteer firefighter”;
 - (ii) omit “and Part 2 of Schedule 2”;
 - (iii) after “any period of service” insert “as a retained firefighter or”
 - (iv) for “pensionable service” substitute “relevant service”.
- (5) In rule 7 (qualifying injury)—
- (a) in paragraph (1)—
 - (i) in sub-paragraph (b) omit “retained or”;
 - (ii) for “regular firefighter” substitute “regular or retained firefighter”;
 - (b) in paragraph (3) omit the words—
 - (i) “and paragraph (4) of rule 2 of Part 10”; and
 - (ii) “retained or”.
- (6) After rule 10 (effective date of retirement), add—

“Determining pensionable pay in certain cases

11.—(1) Where an award is to be calculated in respect of a person who is not, or was not, a member of the Firefighters’ Pension Scheme or the New Firefighters’ Pension Scheme, the definition of “pensionable pay” shall be construed in accordance with—

- (a) article 56 of the Firefighters’ Pension Scheme in the case of a person who elected not to pay pension contributions under article 59 of that Scheme;
- (b) article 61 of the New Firefighters’ Pension Scheme in the case of a person who elected not to pay pension contributions under article 8 of Part 2 of that Scheme;
- (c) article 61 of the New Firefighters’ Pension Scheme, where an election had been made at different times under both schemes.

(2) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the Firefighters’ Pension Scheme, his award shall be calculated on the basis of the pay which would have been his average pensionable pay if he had not made an election.

(3) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the New Firefighters’ Pension Scheme, his award shall be calculated on the basis of the pay which would have been his final pensionable pay if he had not made an election.

(4) For the purposes of calculating a retained firefighter’s pensionable pay (whether or not that person is or was a member of the New Firefighters’ Pension Scheme), the Board shall determine the period of the person’s service from its records.

(5) Where the Board is not able to determine the period of the person’s service from its records, the person, or any other person entitled to an award under this Scheme, may provide the Board with documents to assist it to determine the person’s period of service.

(6) Where the Board is not able to determine the period of the person’s service and the Board does not hold records of that person’s pay for that period, and the necessary documents cannot be provided in accordance with paragraph (5), the Board may estimate the person’s pensionable pay for that period from the records which it holds and may in particular estimate this on the basis of the average of recent pay data for retained firefighters at the same station or stations at that at which the person was based for the relevant period.”.

Amendments to Part 2 (injury awards and duty-related compensation)

2.—(1) Part 2 is amended as follows.

(2) In rule 2 (part-time, retained and volunteer firefighters)—

- (a) in paragraph (1) for “this Part” substitute “rule 1” and omit “by virtue of which his pensionable service is reckonable”;
- (b) in paragraph (2)(a) omit “retained or”;
- (c) in paragraph (2)(b) for “this Part” substitute “rule 1”;
- (d) after paragraph (2) add—

“(3) Where a person—

- (a) is employed as a retained firefighter; and
- (b) is entitled to an award under rule 1,

his award shall be calculated in accordance with Part 3 of Schedule 1.”.

Amendments to Part 3 (awards on death: spouses and civil partners)

3.—(1) Part 3 is amended as follows.

(2) In rule 1 (special award for spouse or civil partner) in paragraph (1) and paragraph (3) for “regular firefighter” in each place where it occurs substitute “regular or retained firefighter”.

(3) In rule 2 (augmented award for spouse or civil partner), in paragraph (1), for “regular firefighter” substitute “regular or retained firefighter”.

Amendments to Part 4 (awards on death: children)

4.—(1) Part 4 is amended as follows.

(2) In rule 1(1) (child’s special allowance) and rule 2(1) (child’s special gratuity) for “regular firefighter” in each place where it occurs substitute “regular or retained firefighter”.

(3) In rule 3(1) (child’s special allowance or gratuity: limitations) for “be a regular firefighter” substitute “be either a regular or retained firefighter”.

Amendments to Part 5 (awards on death: additional provisions)

5. In Part 5 in rule 1(1) (adult dependent relative’s special pension), rule 2(1)(a) (dependent relative’s gratuity) and rule 5(1)(a) (increase of pensions and allowances during first 13 weeks) for “regular firefighter” in each place where it occurs substitute “regular or retained firefighter”.

Amendments to Part 8 (special cases)

6. In Part 8 in rule 2 (award for or in relation to a retained or volunteer firefighter)—

- (a) in the heading to the rule omit “retained or”;
- (b) in paragraph (1)(a) omit “retained firefighter or”;
- (c) in paragraphs (5)(b) and (10)(a) and (b) omit “retained or” in each place where it occurs.

Amendments to Part 10 (payment of awards and financial provisions)

- 7.—(1) Part 10 is amended as follows.
- (2) In rule 2 (prevention of duplication)—
- (a) in paragraph (4) for sub-paragraph (a)(ii) substitute—
 - “(ii) under article 11, 11A, 12 or 13 of Part 3 of the New Firefighters’ Pension Scheme to an ordinary, special member’s ordinary, ill health or deferred, or”;
 - (b) in paragraph (5) for “regular firefighter” substitute “regular or retained firefighter”.
- (3) In rule 3 (prevention of duplication: other injury awards for persons who are both regular and retained firefighters) in paragraph (2)—
- (a) for “both a regular firefighter and” substitute “a volunteer firefighter and a retained firefighter or as a regular firefighter”;
 - (b) omit the words in sub-paragraph (a).
- (4) In rule 4(1) (prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters) at the end of paragraph (3) insert—
- “(g) “(g) a survivor’s pension under article 23 of Part 4 of the New Firefighters’ Pension Scheme,
 - (h) a survivor’s bereavement pension under article 26 of Part 4 of the New Firefighters’ Pension Scheme,
 - (i) a child’s pension under article 28 of Part 4 of the New Firefighters’ Pension Scheme,
 - (j) a child’s bereavement pension under article 31 of Part 4 of the New Firefighters’ Pension Scheme,
 - (k) a death grant under article 35 of Part 5 of the New Firefighters’ Pension Scheme,
 - (l) a post-retirement death grant under article 36 of Part 5 of the New Firefighters’ Pension Scheme.”.

Amendments to Schedule 1 (injury awards and duty-related compensation)

- 8.—(1) Schedule 1 is amended as follows.
- (2) In Part 1 (calculation of awards for full-time service) omit sub-paragraph (2) of paragraph 1.
- (3) In Part 2 (calculation of awards for part-time service)—
- (a) in paragraph 1 omit “by virtue of which his pensionable service is reckonable”;
 - (b) in paragraph 2(1) in the definitions of “B”, “C” and “D”, for “pensionable service” substitute “relevant service” in each place where the words occur.
- (4) In Part 3 (calculation of awards for retained or volunteer service) for “paragraph 1(2)” substitute “paragraph 1” and for “pensionable service” substitute “relevant service”.

Amendments to Schedule 2 (awards for spouses and civil partners)

9. In Part 1 (special pension)—
- (a) in paragraph 1 for “Subject to paragraph 2” substitute “Subject to paragraphs 2 and 3”;

- (b) in paragraph 2, in the definitions of “B”, “C” and “D”, for “pensionable service” substitute “relevant service” in each place where the words occur;
- (c) after paragraph 2, add—

“3.—(1) Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of his death, the amount of special pension shall be calculated in accordance with the formula—

$$A \times (B/C)$$

where—

A is the amount calculated under paragraph 1 as if the final pensionable pay was the pay the deceased would have received had he been a whole-time employee of the Board;

B is the period in years of his pensionable retained service; and

C is the period in years of his relevant service.

(2) Where the person was a member of the New Firefighters’ Pension Scheme, neither B nor C shall exceed 40 years.”.

Amendments to Schedule 3 (awards on death: children)

10. In Part 1 (child’s special allowance)—

- (a) in paragraph 1 for “Subject to paragraph 4” substitute “Subject to paragraphs 4 and 5”;
- (b) in paragraph 4(1) omit “which is reckonable as pensionable service,”;
- (c) after paragraph 4 add—

“5. Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of his death, the amount of the special allowance shall be calculated in accordance with the formula—

$$A \times (B/C)$$

where—

A is the amount calculated under paragraphs 1 to 3 of this Part as if the final pensionable pay was the pay the deceased would have received had he been a whole-time employee of the Board;

B is the period in years of his pensionable retained service;

C is the period in years of his relevant service.”.

Amendments to Schedule 4 (awards on death: additional provisions)

11. In Part 1 (adult dependent relative’s special pension)—

- (a) in paragraph 1, for “Subject to paragraphs 2 and 3” substitute “Subject to paragraphs 2, 3 and 4”;
- (b) in paragraph 3 omit “which is reckonable as pensionable service,”;
- (c) after paragraph 3 add—

“4. Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of his death, paragraphs 1 and 2 shall apply with the modification

that for any reference to his final pensionable pay there shall be substituted the product of the formula—

$$A \times (B/C)$$

where—

A is the amount of pay the deceased would have received had he been a whole-time employee of the Board;

B is the period in years of his pensionable retained service;

C is the period in years of his relevant service.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order further amends the Annex to the Firefighters’ Compensation Scheme Order (Northern Ireland) 2007 in which is set out the compensation scheme for firefighters and dependants of firefighters in Northern Ireland.

Certain provisions have retrospective effect to 1st April 2006 by virtue of article 10(4) of the Fire Services (Northern Ireland) Order 1984 as continued by article 60 of the Fire and Rescue Service (Northern Ireland) Order 2006.

Article 3 of the Order contains transitional provisions in relation to the amendments made by article 2 and paragraphs 6 and 7 of the Schedule to this Order – they provide for the Compensation Scheme in its unamended form to continue to apply in certain circumstances.

The amendments made to rule 2 (award for or in relation to a retained or volunteer firefighter) of Part 8 (special cases) remove the right of a retained firefighter who was employed as a retained firefighter before 6th April 2006 to an injury award calculated as though he were a wholetime firefighter from the date of commencement of the Order. These changes are consequential on changes to pension arrangements for retained firefighters made by the New Firefighters’ Pension Scheme (Amendment) Order (Northern Ireland) 2015.

The amendments to rule 6 (reckoning of service for purpose of awards) and rule 7 (qualifying injury) of Part 1 (general provisions) and those to rule 3 of Part 10 are consequential on the amendments to rule 2 of Part 1.

The various amendments which substitute “regular or retained firefighters” for a reference to “regular firefighter” correct the general terms of the Compensation Scheme which were intended to apply to retained firefighters who took up employment as a retained firefighter after 5th April 2006. The effect of the amendments made to rule 2 of Part 8 by this Order is that the general provisions of the Compensation Scheme apply to all retained firefighters who do not fall within the transitional provisions.

The amendments to Part 1 (special pension) of Schedule 2 (awards for spouses and civil partners), Part 1 (child’s special allowance) of Schedule 3 (awards on death: children) and Part 1 (adult dependent relative’s special pension) of Schedule 4 (awards on death: additional provisions) insert a formula to calculate an award in respect of retained firefighters.

Status: *This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen and the impact on the public sector is minimal.