

**FIREFIGHTERS' PENSION SCHEMES
2017/05**

WHO SHOULD READ: Chief Fire Officer of the Scottish Fire and Rescue Service
HR Managers, Scheme Members and representatives
Pension Administrators

ACTION: The contents of this circular should be brought to the attention of all firefighters

SUBJECT: Unmarried Survivor pensions (2006 Scheme)

The purpose of this circular is to provide clarification on:

- **Unmarried nominated partner pensions under the 2006 pension scheme following the Judicial review on the Brewster case by the Supreme Court**

This circular outlines changes being introduced to the New Firefighters' Pension Scheme 2006 ("the 2006 scheme") in respect of nominated partner benefits. The 1992 or 2015 schemes are **not** affected by these changes.

Benefits for unmarried partners were included in the New Firefighters' Pension scheme from April 2006 as part of the reforms introduced to public service pensions, and are also provided for in the 2015 scheme. There are underlying conditions that must be met for a continuous period of at least 2 years to allow a nominated partner pension to be paid. These are :

- The scheme member is able to marry, or form a civil partnership with their partner;
- The scheme member and partner are living with each other as if they were a married couple or civil partners;
- Neither the scheme member nor the partner is living with a third person as if they were a married couple or civil partners; and
- The member and partner are financially interdependent or the partner is financially dependent on the member.

In addition to those conditions the 2006 Scheme also required that a nomination form had to be completed to allow a claim to proceed. If a nomination form was not received then a nominated partner pension could not be paid even if the underlying conditions were met.

On 8 February 2017, the Supreme Court decided that refusing a claim on the grounds that a nomination form had not been completed despite the underlying conditions being met is incompatible with Article 14 of the European Convention on Human Rights, and was therefore unlawful.

The Supreme Court's decision applies to other public service schemes, and since February SPPA has removed the mandatory requirement for a declaration form in the 2006 scheme. However the underlying conditions mentioned above have not changed and must still be met for a claim to succeed.



Scottish Ministers have decided that this change should be applied to any case that has previously met the underlying conditions but which would not have gained entitlement due to the lack of a declaration form. In those cases, the surviving partner concerned should contact SPPA for guidance. It remains the case that for a nominated partner pension to be paid the underlying conditions **must** be met.

Amendments will be made to the 2006 scheme to reflect this change.

Please bring the contents of this circular to the attention of all firefighters.

Claire McGow
Policy Manager
18 April 2017

Contact information

Please contact Claire.McGow@gov.scot if you have any enquiries about this circular.

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