

Firefighters' Consultees

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Your ref:
Our ref:

28 January 2015

Dear Colleagues

Consultation on amendments and transitional arrangements for the Firefighters' Pension Scheme (Scotland) 2015 and the Firefighters' Compensation Scheme (Scotland) 2007, and amendments to the retained section of the New Firefighters' Pension Scheme 2006

Please find enclosed a consultation on amendments and transitional arrangements for the schemes as detailed above.

The draft regulations also introduce governance arrangements and contribution rates for the new 2015 scheme and add provisions to the existing schemes to reflect the introduction of same sex marriage in Scotland.

In addition, to facilitate the successful implementation of the options exercise for the Modified Scheme it is proposed that all outstanding cases that are still being process on 31 March 2015 will be provisionally enrolled in the modified scheme on that date. These persons will only become special members when they complete the election to join. The proposed amendment will allow the Scottish Fire and Rescue Service an additional six months to finalise the exercise.

I would be grateful if you would distribute this letter and attachments as widely as possible.

The following documents are available on the SPPA Website:

http://www.sppa.gov.uk/index.php?option=com_content&view=article&id=936&Itemid=260

Annex A: Introduction

Annex B: Proposals for Consultation

Annex C: Link to the draft Firefighters' Pension Scheme (Scotland) (Transitional and Consequential) Regulations

Annex D: Link to the draft regulations for the Firefighters' Compensation scheme and amendments to the Modified Scheme
Annex E: Consultation Response Form

You can respond to this consultation on line via the following link:
<https://www.surveymonkey.com/r/firefightersconsultation2015>

Alternatively you may complete the Consultation Response Form attached at Annex E which can be submitted electronically to firepensionsreform@scotland.gsi.gov.uk or by post to the following address:

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A printable Consultation Response Form is available via the following link:
http://www.sppa.gov.uk/index.php?option=com_content&view=article&id=936&Itemid=260

The consultation will close on 19 February 2015 and we ask that anyone wishing to respond does so by then.

A copy of the consultation documentation is also available on the Agency's website at:
http://www.sppa.gov.uk/index.php?option=com_content&view=article&id=936&Itemid=260

We intend to publish a summary of consultation responses in due course and would like to be able to include any response you make in that summary. However, if you ask us not to publish your response to this consultation, we will regard it as confidential, and we will treat it accordingly.

Respondents should also be aware that the Scottish Government is subject to the provisions of the Freedom of Information (Scotland) Act 2002 and will have to respond appropriately to any relevant request made to the SPPA under that Act for information concerning this consultation exercise.

Yours faithfully



Chad Dawtry
Director of Policy

ANNEX A

Introduction

Background

In 2010, the UK Government gave a commitment to review the long-term affordability and sustainability of public service pension schemes. Although Scottish Ministers have executively devolved powers to make and amend regulations covering Firefighters' Pension Schemes, overall occupational pensions policy remains reserved to the UK Government.

In 2014 Scottish Ministers conducted consultations on the proposed 2015 Firefighters' pension scheme. The Scottish Statutory Instrument, the Firefighters' Pension Scheme (Scotland) Regulations 2015, was laid in the Scottish Parliament on 26 January 2015 and is due to take effect from 1 April 2015.

This consultation covers:

Amendments to the Firefighters' Pension Schemes to provide transitional arrangements for members who transfer to the Scottish Firefighters' Pension Scheme 2015 ("the Transitional Regulations")

Amendments to the Compensation Scheme to make provision for members of the Firefighters' Pension Scheme 2015 and amendments to the New Firefighters' Pension Scheme 2006 (NFPS) in respect of special members of the modified section of that scheme ("the Amendment Order").

The Transitional Regulations will cover the detailed transitional arrangements for those current firefighter members who transfer across from either the Firefighters' Pension Scheme 1992 (the 1992 Scheme) or the NFPS to the Firefighters Pension Scheme 2015, ("the 2015 scheme"), either on 1 April 2015 or in the subsequent 7 years. In particular the Regulations cover:

- retirement pension
- ill-health benefits
- survivor benefits
- refunds of contributions
- transfers between different pension schemes

Amendments are also made to 2015 scheme to set out more detail on scheme Governance and member contributions from 1 April 2015. Changes are also being made to the 1992 scheme and the NFPS to reflect the introduction of same sex marriages in Scotland.

The Firefighters' Compensation Scheme and Pension Scheme (Amendment) Order amends the Firefighters' Compensation Scheme (Scotland) Order 2006 to provide compensatory injury payments for members of the Firefighters' Pension Scheme 2015 who suffer an injury on duty. It also amends the Firefighters' Pension Scheme

(Scotland) Order 2007 in respect of special members of the modified section of the NFPS.

Further details of the changes are set out in Annex B.

This consultation follows on from the consultation undertaken on the main scheme regulations during the period 26 June to 21 August 2014. Those regulations set out the main framework of the scheme and also how those close to retirement will be protected against the changes. As part of the post consultation discussions that took place with the Scottish Firefighters' Pension Forum (SFPF) further consideration was given on how the Early Retirement Factors (ERFs) were calculated for those firefighters in the 2015 scheme who take early retirement from age 55. The SFPF is a tripartite working group made up of representatives of trade unions, employers and Scottish Government officials which is the current forum for discussing and negotiating changes to the Firefighter pension schemes in Scotland

If a member at early retirement is treated as an active member up to age 60 rather than as a deferred member, the resulting impact is that the level of actuarial reduction applied from age 55 is reduced. For illustration that would mean a reduction of around 9% being applied for an early retirement at age 55 compared to around 22%.

The negotiations on the 2015 scheme design worked within a cost ceiling and as part of those negotiations any cost of an improvement to any element of the scheme design had to be offset by a reduction in another element(s). In order to deliver improved ERFs a reduction is therefore required to the scheme accrual rate which results in the rate changing from 1/59.7 as set out in the Framework document, to 1/61.6. The accrual rate is the rate at which rights in the scheme build up for each year of pensionable service.

The scheme accrual rate applies to all members of the scheme regardless of when they retire. The change to the ERFs is expected to be advantageous for staff retiring at earlier ages up to age 58. However as a result of a corresponding reduction in the accrual rate to 1/61.6 there would be less advantage for members who retire from around age 59 or later, retire on ill-health grounds or leave the service before age 55 with a deferred pension, when compared to an accrual rate of 1/59.7.

Following discussions with the Firefighters' stakeholder group it was agreed to apply the more generous early retirement factors as set out above with the corresponding offset in the scheme's accrual rate to 1/61.6.

ANNEX B

The Firefighters' Pension Scheme (Scotland) (Transitional and Consequential Provisions) Regulations 2015.

Schedule 1

Paragraph 2 -Scheme Governance

More detail is provided regarding the requirement for the scheme manager to set up scheme Pension and Advisory Boards. The provisions reflect the arrangements established for the other public service pension schemes in Scotland that are administered by the Scottish Public Pensions Agency.

Paragraph 3 and 5- Ill-health

(Amended Regulations 51, 65, 66 and new Regulation 69A of the 2015 Regulations, new paragraphs 22, 23, 24, 25, 38 and 39 of Schedule 2 of the 2015 Regulations and amended rule 2 of Part 3 and Annex 1 of the 2007 NFPS Order)

The Regulations provide that where a transition member becomes entitled to a lower-tier ill-health pension, that entitlement only arises in respect of the 2015 Scheme pension only. The lower-tier pension, in respect of their originating scheme service, is calculated in accordance with the rules of that scheme and an 'equivalent portion' is added to the ill-health pension paid from the 2015 scheme. This is to compensate for the fact that the member is not entitled to any ill-health pension from that existing Scheme. The higher tier calculation in the existing scheme is turned off, and any entitlement to a higher tier pension is calculated entirely in accordance with the 2015 scheme, but taking account of the lower tier pension from the existing scheme. Added pension is not taken into account in calculating the lower-tier pension of the link member.

As the member's existing pension is left in their existing scheme, it is possible for that pension to be transferred to another pension scheme, even if payment of ill-health benefits has already commenced from the 2015 scheme in respect of their existing scheme service. However, if that pension is transferred out to another pension scheme, the 'equivalent portion' is removed from the calculation of the ill-health pension paid out of the 2015 scheme.

When the transition member reaches the Normal Pension Age in their originating scheme, the 'equivalent portion' ceases to be payable from the 2015 scheme and is replaced by a pension from the member's existing scheme. The member will see no change in the amount of pension paid to them.

There are special provisions to deal with the cases of members who are being considered for an ill-health award at the time of transition.

Paragraph 4- Member contributions from 1 April 2015

The member contribution rates for the 2015 scheme are set out for each of the four years from 1 April 2015 and mirror the rates being introduced to the Firefighters' scheme in England. This amends regulation 110 of the 2015 scheme.

Member contribution rates in the 1992 scheme and NFPS will remain at their current rates. However, Scottish Ministers propose to uprate the pensionable pay bands which are used to determine the contribution rate payable by the employee in 2015-16 and for subsequent years. The proposal is for the pensionable pay bands to be uprated on the same basis as the 2015 scheme pay bands, by 1% per annum, so for instance the current pay band range in the 1992 scheme and NFPS of £21,000 to £30,000 will become £21,210 to £30,300 in 2015-16, £21,422 to £30,603 in 2016-17 and so on.

Paragraph 5- Death Benefits

New paragraphs 26, 27, 28, 29, 30 and 31 of Schedule 2 of the 2015 Regulations)

Surviving partners of all transition members who die in pensionable service in the 2015 scheme will receive benefits under the 2015 Scheme, rather than under the member's originating scheme where that member is treated as "active" in the originating scheme. Similarly, where these members who die in service have eligible children, they will also receive benefits under the 2015 scheme, rather than under the member's originating scheme. Where the individual was a deferred member for their originating scheme, the survivor will receive deferred survivor benefits.

Paragraph 5- Additional pension

New paragraphs 32 and 35 of Schedule 2 of the 2015 Regulations and Rule 7 of Part 11 of the 2007 NFPS Regulations)

A current election to purchase additional service or increased benefits in existing schemes will remain valid even after the member transfers to the 2015 scheme. Transition members will continue to pay additional contributions on the same basis as they did before transferring from their original Scheme.

Paragraph 5-Final pensionable pay

(New paragraphs 33, 34, 43 and 44 of Schedule 2 of the 2015 Regulations; and Rule 2 of Part 11 and Rule 8 of Part 12 of the 2007 NFPS Order)

Where a transition member is treated as "active" in the originating scheme, the end of a transition member's pensionable service under the existing scheme is taken as being the same as the end of pensionable service in the 2015 scheme. In the case of the 1992 Scheme this means continuous pensionable service. In the case of the NFPS this means that the member is treated as active in the 2015 scheme without a gap of service exceeding five years.

Where the final salary link applies, there is a requirement in the 2013 Act that the 2015 scheme pensionable pay definition is not less generous than the existing scheme definition which would have applied. One element of the existing scheme definition is the protection of the pension when there is a reduction in salary. To ensure that the pensionable pay definition for the purposes of the final salary link provides for the same amount of pensionable pay as the existing scheme, where a transition member's pensionable pay decreases, there is provision to ensure that this does not disadvantage the member. When the decrease occurs before transition takes place and pay does not again rise above the high point, final pensionable pay is determined wholly on the basis of the member's originating Scheme. When the decrease occurs after transition, the member's pensionable pay is taken on the basis of the pensionable pay in the last year of service before the decrease occurs. The definition of final pensionable pay to be used includes certain allowances and supplements which have previously been deemed to be pensionable.

Provided a member does not have a break in active membership exceeding 5 years disregarding any period in other pensionable service, benefits relating to the member's existing Scheme will be linked to their final salary when the member ceases active membership of the Firefighters' Pension Scheme 2015.

If a pension has been calculated using the final salary link and is in payment, if the member concerned resumes employment and membership of the 2015 scheme, this does not cause the existing scheme pension to be re-calculated as a result.

Paragraph 5- Deferred membership

(New paragraphs 36 and 37 of Schedule 2 of the 2015 Regulations, Rule 1C of Part 2 of the 2007 NFPS Order and rules 3 and 4 of Part 3 of the 2007 NFPS Order)

A "transition member", for the purpose of this consultation, means a member who has been moved from one of the existing Schemes to the 2015 Scheme. If such a member leaves active membership but returns after a gap not exceeding 5 years, or has been a member of another public service pension scheme within that 5 years, that individual's new 2015 scheme service status will be treated as continuous with their previous 2015 scheme service. If the gap in membership exceeds 5 years and the member has not been in another public service scheme, the earlier 2015 scheme membership is treated as "deferred" and the new membership is treated entirely separately.

In respect of NFPS scheme transition members, if they qualify as an active member for their linked 2015 scheme membership, they will be treated as an active member in respect of their linked NFPS membership. The final salary link will apply to their NFPS membership. Where the member is deferred for their linked 2015 scheme membership, their NFPS membership will also be deferred. This would mean that "final salary" for NFPS purposes would be calculated at the point of deferral from the 2015 scheme.

A different approach applies in respect of 1992 scheme transition members as that scheme is closed to rejoiners. Due to this, the member cannot re-activate their linked

1992 scheme pension if they have a break in service while a member of the 2015 scheme. In such instances they would become deferred for their 1992 scheme pension. However, the final salary link will apply to their 1992 scheme pension where the member rejoins their linked 2015 scheme membership.

Paragraph 5- Refunds of contributions

(New paragraph 40 of Schedule 2 of the 2015 Regulations)

If a transition member with existing NFPS service ceases active membership after transferring to the 2015 scheme, their contributions are refunded if the member has a total of less than 3 months' qualifying service and further contributions for additional service cease to be payable.

Paragraph 5 –Qualifying benefits

(New paragraphs 41 and 42 of Schedule 2 of the 2015 Regulations)

In considering whether a transition member qualifies for benefits in either their originating scheme or the 2015 scheme, any linked 1992, NFPS and 2015 scheme service is to be taken into account. For qualifying purposes, transferred-in membership in an existing scheme is counted on the same basis as currently.

Paragraph 5-Transfer of final salary benefits

Transfer of final-salary benefits (New paragraphs 45, 46 and 47 of Schedule 2 of the 2015 Regulations)

Where a person transfers in benefits from a final salary scheme upon joining the 2015 scheme, the appropriate amount is transferred into the NFPS. This is because the 2015 Scheme is operated wholly on a career-average basis and does not provide for final salary pensions.

Schedule 2 and Schedule 3 amendments to the 1992 and 2007 Orders

The transitional regulations also apply the transitional protections to active members of the modified pension scheme. The Normal Pension Age for members of the modified pension scheme is age 55, and the transitional protections apply to members of that scheme who, as at 1 April 2012, were aged 45.

Where a transition member is early retired on efficiency grounds under the 2015 Scheme, the employing authority must at the same time consider using the equivalent provisions in the NFPS.

Transition members with 1992 scheme benefits will continue to be able to commute those benefits under the same arrangements as currently applied (i.e. in accordance with actuarial neutral factors). A 2015 scheme service that is continuous for a 1992 scheme transition member will also count towards determining whether the member

can commute the maximum 25% of their 1992 scheme pension if they retire before age 55.

Accrual rate

Transition members with 1992 scheme benefits will have those benefits calculated on the basis of an accrual rate that takes into account the member's lost double accrual by taking into account pensionable service in the 2015 scheme (so if they complete 30 years' continuous service, their 1992 scheme accrual rate is effectively calculated on the basis of 45ths).

Same Sex Marriage

Following the introduction of The Marriage (Same Sex Couples) Act 2013 (Consequential and Contrary Provisions and Scotland) Order 2014 SI 560/2014, amendments are being made to the 1992 scheme and NFPS to extend the rights provided for civil partners to surviving dependents of same sex marriages.

The Firefighters' Compensation Scheme and Pension Scheme (Scotland) (Amendment) Order 2015

Compensation Scheme

The draft amendment order, set out in Annex D, also forms part of this consultation ("the Amendment Order"). The Amendment Order contains provisions which amend the 2006 Compensation Scheme and the NFPS (in respect of special members). The proposals are set out below. The Amendment Order is currently incomplete and there may be further amendments in particular to Part 7 (servicemen) and Part 7A (reservists).

Eligibility

The regulations relating to the 2006 Compensation Scheme apply to members of the 2015 Scheme who satisfy the qualifying conditions for entitlement to a compensatory award under the compensation scheme, in a similar way as it currently applies to members of the 1992 scheme and NFPS.

Pensionable Pay and Reckonable Service (Amended Part 1, Rule 2)

For the purposes of calculating an entitlement to an injury award for 2015 Scheme members, pensionable pay will be construed in accordance with the 2015 Regulations. For those individuals who failed to exercise an option to join the 2015 Scheme or who exercised an option not to join the 2015 Scheme, any injury award will be calculated in accordance with their pay that would have been pensionable under the 2015 Scheme had they not failed to opt in, or had not opted out.

For members of the 2015 Scheme, relevant service will be determined by the amount of pensionable service that they accrued under the 2015 Scheme's regulations. For those members of the 2015 Scheme who transition from one of the

existing schemes, relevant service will also include any pensionable service accrued in the 1992 scheme or NFPS, as the case may be, in relation to their employment as a firefighter.

Where an individual makes an election not to join the 2015 Scheme, relevant service will be determined by reference to the period that they had an entitlement to join the 2015 Scheme.

Awards on Death (Amended Parts 3, 4 & 5)

Where a 2015 Scheme member dies from the effects of a qualifying injury, any entitlement to an 'award on death' will also apply to surviving spouses/partners and children, in the same way as they currently apply to 1992 and NFPS Scheme members.

Servicemen and Reservists (Possible amendments to Parts 7 and 7A)

Amendments may be required in respect of individuals who return to service as a firefighter following a period of relevant service in the armed forces. These will be finalised during consultation but the intention is for existing entitlement to be maintained.

Review, withdrawal and forfeiture of awards (Amended Part 9)

The current provisions for reviewing, withdrawal and forfeiture of an injury award will extend to 2015 Scheme members, in the same way as they currently apply to members of the 1992 scheme and NFPS.

Prevention of duplication of awards (Amended Part 10, Rule 3)

The current prevention of duplication of awards will, where applicable, cover payments made under the 2015 Scheme, in the same way as they currently apply to the 1992 scheme and NFPS.

Modified Scheme

Options exercise (Part 11, rule 6C)

To facilitate the successful implementation of the Options exercise, it is proposed to amend the scheme so that all outstanding cases that are still being processed on 31 March 2015 will be provisionally enrolled to the modified scheme on that date. Provisionally enrolled members will only become special members of the modified scheme if they subsequently confirm that they wish to proceed with an election to join the scheme after the Scottish Fire authority has provided them with the required pension quote. The proposed amendment will provide the authority with an additional 6 months to finalise those cases where the individual has been provisionally enrolled.

Commutation factors (Annex ZA)

Following the identification of a small number of errors, the commutation factors that apply to special members of the modified scheme will be amended to correctly reflect those in the 1992 Scheme as on 31 March 2014, in line with the original policy.

Interest on past service employee contributions (Part 11, rule 13A)

Individuals who elect to convert their special service in the modified scheme to standard service in the NFPS, and, by virtue of this election, are required to pay additional standard employee contributions in respect of any break in membership between 6 April 2006 and the point of they joined the NFPS, will have interest applied to the contributions owed.

Additional amendments

In addition to the proposed amendments mentioned above, there are a number of other minor amendments proposed to correct legislative references included in the modified scheme. These proposed amendments are as follows:

- Part 1, Rule 2 to correct legal references to the definition of special deferred member; special eligibility conditions; special firefighter member; and special pensioner member;
- Part 2, Rule 2A to remove superfluous wording; and to clarify the specific Part that the provision is referring to;
- Part 11, Rule 5A(1) to remove superfluous wording; and
- Part 11, Rule 6A(2) to insert a missing “to”.

ANNEX C

[insert draft transitional and 2015 regulations]

ANNEX D

[Insert draft FCS and Modified Scheme regulations]