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Dear Sir or Madam

SCOTTISH FIRE SERVICE CIRCULAR No 20 /2006

FIREFIGHTERS PENSION SCHEME (FPS)

This circular covers:

- 1 New Firefighter's Pension Scheme (NFPS);**
- 2 Additional guidance regarding the Firefighter's Pension scheme and the new tax regime;**
- 3 Revised advice on the widening of the definition of regular firefighter introduced from 1 October 2004;**
- 4 Contact details**

This circular should be brought to the attention of your fire authority, pension managers, brigade medical officers/occupational health managers, Human Resources and active members of the FPS

1. New Firefighter's Pension Scheme (NFPS)

1.1 In Scottish Fire Service Circular (SFSC) 9/2006 we set out the intended arrangements for the introduction of the NFPS. Good progress is being made in drafting the Scheme Order on the basis of the Instructions discussed with the Firefighters' Pension Committee (FPC) and the first draft was put to the FPC at its August meeting. A copy of this can be accessed using the following link [DCLG NPPS draft Order](#) . A Scottish Order will be prepared based on the final agreed version of the DCLG draft but you are welcome to comment on the draft.

Workshops

1.2 The issues raised in the workshops on the NFPS which were held during May and June were considered by DCLG. A copy of the report can be accessed using the following link [DCLG Workshop reports](#)

New Scheme Options Exercise

1.3 SFSC 9/2006 set out the initial proposals for the options exercise which will take place once the Scheme Order has been made. The exercise will give members of the Firefighters' Pension Scheme the opportunity to transfer to the NFPS.

1.4 Concerns were expressed by some practitioners attending the workshops about their preparedness for this options exercise.

1.5 It is expected that the exercise will take place between January and March 2007 rather than October and December 2006, as previously suggested. It is intended that all FRAs should act in concert to facilitate management of the exercise and ensure that publicity can be co-ordinated. Also, as the conversion factors for this exercise will probably be more favourable than those which will normally be available, there will be no leeway for any FRA to delay the exercise.

1.6 FRAs should review their preparedness and consider whether there are any steps they need to take in advance to ensure the smooth running of the exercise. For example, authorities which have not previously issued benefit statements to members of the FPS may wish to consider the advantage of running a data cleansing exercise now to reduce the level of queries they receive about the accuracy of personal data when the benefit statements are issued as part of the options exercise. FRA's have recently confirmed to this Agency their readiness for this exercise but if there are any significant problems regarding meeting this requirement FRA's should take urgent action to address them now.

Statement Packages and Guidance Notes

1.7 FRAs will be supported with the provision of model guidance and other relevant documentation. The first package of documents was issued with SFSC 9/2006.

1.8 **Warning:** the documentation will be subject to alteration until the NFPS Order has been made and the arrangements have been approved by Ministers. We will ensure that the versions are kept updated but it is important that, if any are used in the interim, you should check with this Agency to confirm if there have been any updates.

1.9 Further documentation has now been prepared as follows and allows, as in guidance already issued, the opportunity for a FRA to badge and insert relevant contact details:

- Guide for retained firefighters;
- Guide regarding ill health arrangements;
- Guide to the FPS.

Copies of the above are issued as an attachment to this circular and will also be placed on the SPPA website.

1.10 Advice has been taken from a Communications Working Group and members of the FPC in developing this material. Comments are welcomed on the documents and in particular on ways in which we can ensure that it is clear and unambiguous.

2. Additional guidance regarding the Firefighter's Pension scheme and the new tax regime.

Commutation of the Additional Voluntary Contributions (AVC) element of a transfer payment

2.1 Prior to 6 April 2006, the Home Office had advised FRAs that the FPS could accept transfer payments that included an AVC element but that any post 8 April 1987 AVC element had to be ring fenced so that it could not be commuted to provide a lump sum.

2.2 Following HMRC's introduction of the new tax regime for pensions, we have been advised that the tax legislation that had previously imposed the restriction on the commutation of an AVC element has been removed from 6 April 2006. Therefore, subject to the conditions set out in the Finance Act 2004, a tax free pension commencement lump sum of up to 25% can be taken in respect of any AVC elements of a pension.

2.3 As the FPS does not have any in-house AVC provisions, it will not require amendment to the Scheme.

Gratuity in lieu of surviving spouse's pension

2.4 Also, as a consequence of the new tax regime for pensions, where a surviving spouse/civil partner elects, under Rule E5 of the FPS, to commute for a lump sum the survivor's pension, they will have extinguished their rights to all other benefits under the pension scheme. It is therefore important for administrators to note that in these cases the lump sum death grant payable under Rule E1, will have to be paid prior to or at the same time as the Rule E5 gratuity is paid to prevent it from becoming an unauthorised payment.

Split Scheme Administration

2.5 The HMRC have now laid the legislation necessary for the FPS, in common with the Police Scheme and the Local Government Scheme, to be treated as a split scheme. Under the legislation FRAs are regarded as sub-scheme administrators with delegated responsibilities and liabilities under the Finance Act 2004. An extract from the legislation listing the responsibilities and liabilities included at Annex A. The full order can be seen at <http://www.opsi.gov.uk/si/si2006/20060569.htm>

Pension Input Period (PIP)

2.6 With the introduction of the new tax regime for pensions and in accordance with the Finance Act 2004, a PIP is needed to determine the increase in the value of a scheme member's pension rights. It is the pension input amount for the pension input period ending within the tax year that will become part of the total pension input amount and tested against the annual allowance.

2.7 If a scheme does not take steps to define its own PIP, then it will default to the anniversary of a member's commencement date. For all members of the FPS at 5 April 2006 the default end date of the PIP will be 5 April 2007 but for those joining after the 5 April 2006, the end of the PIP would vary from member to member. Scheme administrators are able to nominate a new end date for the PIP and it would seem advisable, therefore, for PIPs for the FPS to be standardised.

2.8 Under HMRC legislation, responsibility for nominating new PIP end dates rests with sub-scheme administrators (FRAs). Therefore, we would recommend that FRAs:

- nominate 31 March 2007 as the end date for this first PIP (the end of the accounting years for FRAs). Thereafter, PIPs would run from 1 April to 31 March of the following year; and
- use 31 March for both the FPS and the NFPS so that any testing of annual allowances will be using the same data as that required for annual benefit statements.

2.9 The Finance Act 2004 requires the nominated date to be notified to individuals and FRAs should therefore advise members accordingly.

3. Revised advice on the widening of the definition of regular firefighter made introduced from 1 October 2004.

3.1 Guidance in section (a) Annex B of SFSC 10/2004 sets out the consequence of the amendment to the definition of “regular firefighter” in Schedule 1, Part 1 (Glossary of expressions) of the Firefighters’ Pension Scheme (FPS). Since the guidance was issued, the Fire and Rescue Service have responded positively to the requirement for fitness for other related duties in addition to engaging in firefighting to be considered when assessing whether a person is permanently unfit under Rule A10 and accordingly, over the last 12 months, we have revised the guidance which we have been giving to fire and rescue authorities when asked about the consequences of the amendment.

3.2 In the circumstances, we are amending the guidance set out in the circular and the following paragraph, which more accurately reflects the provisions of the FPS, should be substituted:-

“(a) Amendment to the definition of “regular firefighter” (Schedule 1, Part 1) Eligibility for full membership of the FPS is limited to regular firefighters only. The definition of “regular firefighter” includes a requirement to engage in firefighting and to perform other duties as appropriate to his role as a firefighter (other than, or in addition to, engaging in firefighting). The test in assessing whether a regular firefighter ought to retire on the grounds that he is permanently disabled under Rule A15 is whether he is permanently disabled for firefighting and for performing other duties appropriate to the role.”

4. Contact details

If you have any queries regarding the content of this circular then you should contact the SPPA as follows:

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Yours sincerely



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Responsibilities and liabilities of sub-scheme administrators in respect of a sub-scheme

PART 1 Finance Act 2004

<i>Statutory Reference</i>	<i>Subject-matter</i>
Liabilities	
Section 205	Short service refund lump sum charge
Section 206	Special lump sum death benefit s charge
Section 207	Authorised surplus payments charge
Section 215(9)	Lifetime allowance charge – amount of charge
Section 217	Lifetime allowance charge (joint & several with the individual)
Section 227(3)	Annual allowance charge
Section 238(3) and (4)	Pension input period
Section 239	Scheme sanction charge
Information	
Section 250(1)	To make and deliver a registered pension scheme return
Section 254	Accounting for tax by scheme administrators
Interest and penalties	
Section 257	Penalty for failure to comply with a S250 notice.
Section 258 (1)	Penalty for failure to provide information within S251(1)(a)
Section 258 (2)	Penalty for failure to comply with regulations within S251(1)(b)
Section 259 (1)	Penalty for failure to comply with a notice under S252
Section 260 (1), (4) and (6)	Penalties for failure to make a return within S254
Section 265 (3)	Penalty for winding up a scheme to obtain a winding up lump sum
Section 266 (2)	Penalty for transfers to "non" insured schemes (unauthorised transfer)
Section 266 B	Scheme liability (inserted by Paragraph 4 Schedule10 FA 05)

Section 267	Discharge of lifetime allowance charge in the case of good faith.
Section 268	Unauthorised payment surcharge & scheme sanction charge
Scheme administrator	
Section 271	Liability of a scheme administrator
Section 272	Trustees etc. liable as scheme administrator
Section 273	Members liable as scheme administrator
Section 274	Supplementary provisions
Paragraph 1 of Schedule 28	Scheme administrator to receive evidence of member's ill health.
Paragraph 15(2)(b) of Schedule 28	Scheme administrator to agree if a child is a dependant
Paragraph 15(3) of Schedule 28	Scheme administrator to decide whether someone is a dependant.
Paragraph 4(1) of Schedule 29	Scheme administrator to consider evidence of serious ill health
Paragraph 19(1)(d) of Schedule 29	Scheme administrator to nominate arrangement for transfer lump sum benefit
Paragraph 19(2) (e) of Schedule 29	Scheme administrator to nominate arrangement for transfer lump sum benefit.
Paragraph 9(2) of Schedule 32	Changes to benefit crystallisation event 2
Paragraph 9(3) of Schedule 32	Changes to benefit crystallisation event 2 (inserted by paragraph 43(4) of Schedule 10 to the Finance Act 2005).
Paragraph 13(4) and (5) of Schedule 32	Changes to benefit crystallisation event 3 (inserted by paragraph 43(5) of Schedule 10 to the Finance Act 2005)
Paragraph 14(1A) & (1B) of Schedule 32	Changes to benefit crystallisation event 5 (inserted by paragraph 43(7) of Schedule 10 to the Finance Act 2005)
Paragraph 5 of Schedule 34	Exemption for scheme administrator from s.205 & s.206 charges
Paragraph 17 of Schedule 3	Omits reference to scheme administrator in s. 217

Paragraph 4(1), (2) and (3) of Schedule 36	Transitional provisions for deemed registered schemes
Paragraph 6 of Schedule 36	Pre-commencement liability of scheme administrator