

**FIREFIGHTERS' PENSION SCHEME
CIRCULAR 13/2010**

WHO SHOULD READ: The Chief Executives, Fife Council and Dumfries and Galloway Council
Chief Fire Officers
Clerks to Joint Boards

ACTION: Please draw this circular to the attention of Pension Managers and Superannuation Sections. You may also wish to draw it to the attention of the Directors of Finance and Administration.

SUBJECT: PENSION SCHEME AMENDMENTS CONFIRMING NEW PENSION FINANCE ARRANGEMENTS FROM APRIL 2010

The purpose of this circular is to:

- Inform relevant parties that the above regulations will come into force on 31 October 2010

Amendments to both the Firefighters' and New Firefighters' Pension schemes came into force on 31st October 2010 and introduce the legislative basis for the new financing system for firefighters' pensions being introduced from 1 April 2010.

Background

In October 2008, the Scottish Government and COSLA reached agreement on the extra funding needed to offset pressures on the police service and the fire and rescue service caused by a record number of retirements. As part of that agreement, a way forward on reforming arrangements for police and fire pensions was negotiated.

As a result the Steering group was set up to progress the police and fire pension reform project, and a working group was established in order to manage the changes required to introduce the new financial arrangements.

Briefly, under the new arrangements, fire service pension costs will be met through a combination of employee contributions, a new actuarially-based employer's contribution calculated as a percentage of pensionable pay and, as required, a "top-up" payment by the Scottish Government. Authorities will be required to set up and maintain a new Firefighters' Pension Account into which defined income will be made for example member and employer contributions and out of which pensions in payment will be made. Any shortfall between the Firefighters' Pension Account income and expenditure will be met by top up payments from the Scottish Government and any surpluses will be taken into account as part of future pension funding.

Although the regulations came into force on 31st October they have effect from 1st April

2010. Retrospective effect is a commonly used feature and is permitted by section 26(5) of the Fire Services Act 1947(a) and sections 12 and 16 of the Superannuation Act 1972(b) which is part of the enabling powers under which firefighters are made.

Unlike the amendments made for the police pension schemes amendments were made to each of the Firefighter Pension Scheme Orders so there are two statutory instruments.

The first one is The Firefighters' Pension Scheme Amendment (Scotland) (No.2) Order 2010 (SSI 2010/332) and amends the Firefighters' Pension Scheme Order 1992.

Article 2 Paragraphs 1-4

These cover a number of amendments, including ensuring the sending Fire and Rescue Authority (FRA) retains responsibility for members on relevant employment and confirms under rule F2 the amount of employers contributions due rather than the previous "notional" rate.

Paragraph 5 and 6

Recognises that transfer payments between Scottish FRAs are no longer applicable from 1 April 2010 and are replaced by the use of service certificates. At the same time the amendment confirms that transfers to other UK FRA's or the Fire service of N Ireland still require a transfer to be calculated and made as before. Section 8 of the guidance confirms this new process

Paragraph 7

This change to rule B3 aligns the 12 month period under which regular work is considered to the period where the capacity under question began and the amendment to rule H1 confirms the questions to be considered includes those outlined in rule B3..

Paragraph 8 introduces a new Part LA to cover the introduction of the new Firefighter Pension Account.

(i) Confirms that the FRA need to set up and manage a Firefighters' Pension Account under part LA1.

(ii) Part LA2 outlines what can be paid in and out of the Firefighters' Pension Account.

(iii) Part LA3 confirms what the employer contribution rate is and when it should be paid i.e. in line with member contributions but also in specified cases where contributions are deemed as paid. The regulation confirms that the rate going forward from April 2010 is 21.8%.

(iv) that a capital equivalent charge of 2 x average pensionable pay has to be paid by the FRA when a firefighter receives a lower tier ill health award. A charge of 4 x pensionable pay for a higher tier ill health award.

(v) This new rule also confirms that where a FRA chooses not too abate a pension that it can abate under the applicable firefighters pension regulation then the authority has to compensate the Firefighters' Pension Account accordingly.

(vi) Confirms that where a FRA chooses to meet the employer share of contributions due

for periods of unpaid leave that amount is transferred into the Firefighters' Pension Account (vii) Rule LA4 –outlines that the Pensions Account is for pension related payments only. The awards available under the Firefighters' Compensation Scheme (Scotland) Order 2006 are not reliant on membership of the pension schemes and for tax purposes are not recognised as pension benefits. This regulation makes clear that injury based awards have to be paid from the Firefighters' Operating Account.

(viii) Rule LA5 – the FRA must balance its Firefighters' Pension Account to a zero balance each year. Any Firefighters' Pension Account surplus is transferred to the Firefighters' Operating Account and any deficit cleared by a payment from the Firefighters' Operating Account. Rule LA5(3) provides that this is done without any inclusion of any top up paid to the authority. This will indicate what shortfall or deficit arises from the Firefighters' Pension Account and the top up required.

(ix) Rule LA6 confirms that the pension audited accounts will determine future funding of pension contributions and top up. It is expected that the audited accounts will be available in the October following the end of the financial year to which they refer and any surplus or deficit will inform on any future pension funding i.e. top up. It will be likely that it will affect the top up due in the financial year the audited accounts are actually received and considered but the term "future funding" is used to avoid the application of strict timescales on determining what impact the audited accounts have on pension funding.

(x) Rule LA7 outlines the information that Scottish Ministers can request. This will include forecasts, outturns, unaudited and audited Firefighters' Pension Accounts. This information will ensure the resulting deficits and surpluses are correctly managed.

(xi) Rule LA8 simply confirms that associated pension costs as defined should be charged to the Firefighters' Operating Account.

Paragraph 9 defines the new terms used in these rules.

The second SSI The Firefighters' Pension Scheme (Scotland) Order 2007 Amendment (no 2) Order 2010 (SSI 2010/333) amends the Firefighters' Pension Scheme (Scotland) order 2007.(i.e the New Firefighters' Pension scheme.)

Article 2 Paragraph 1

Provides for the new terms used in the amendments to be defined for the purposes of the main 2007 Order

Paragraph 2

Relates to unpaid period of absence, substituting the phrasing of a notional funding system with the actual employer contributions introduced under new rule 13B.

Paragraph 3

Amends Part 12 concerning transfers to recognise that transfer payments between Scottish FRAs are no longer applicable from 1 April 2010 and are replaced by the use of service certificates. At the same time the amendment confirms that transfers to other UK FRAs or the Fire service of N Ireland still require a transfer to be calculated and made as before. Section 8 of the guidance confirms this new process.

Paragraph 4

(1) introduces new Part 13B confirming that from 1 April 2010 fire and rescue authorities need to set up and manage a firefighters Firefighters' Pension Account.

(2) Outlines what can be paid into and out of the Firefighters' Pension Account and confirms:

- what the employer contribution rate is and when it should be paid i.e. in line with member contributions but also in specified cases where contributions are deemed as paid. The regulation confirms that the rate going forward from April 2010 is 11.5%.
- that a capital equivalent charge of 2 x average pensionable pay has to be paid by the FRA when a firefighter receives a lower tier ill health award. A charge of 4 x pensionable pay for a higher tier ill health award.
- where a FRA chooses not to abate a pension that it can abate under the applicable firefighters pension regulations then the authority has to compensate the Firefighters' Pension Account accordingly.

New rule 4 covers awards under the Firefighters' Compensation Scheme (Scotland) order 2006. This makes clear that injury based awards have to be paid from the Firefighters' Operating Account.

New rule 5 outlines that the FRA must balance its Firefighters' Pension Account to a zero balance each year. The rules provide that in achieving that aim any Firefighters' Pension Account surplus is transferred to the Firefighters' Operating Account and any deficit cleared by a payment from the Firefighters' Operating Account. This is done without inclusion of any top up paid to the authority. This will indicate what shortfall or deficit arises from the Firefighters' Pension Account and the top up required.

New rule 6 Confirms that the pension audited accounts will determine future funding of pension contributions and top up. It is expected that the audited accounts will be available in the October following the end of the financial year t which they refer and any surplus or deficit will inform on any future pension funding i.e. top up. It will be likely that it will affect the top up due in the financial year the audited accounts are actually received and considered but the term "future funding" is used to avoid the application of strict timescales on determining what impact the audited accounts have on pension funding.

New rule 7 outlines the information that Scottish Ministers can request. This will include forecasts, outturns, unaudited and audited Firefighters' Pension Accounts. This information will ensure the resulting deficits and surpluses are correctly managed.

(New rule 8 simply confirms that associated pension costs as defined should be charged to the operational account.

A copy of this circular will be placed on the Agency's website.

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17 November 2010

Contact Information:

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