POLICY NOTE

THE FIREFIGHTERS' PENSION SCHEME AMENDMENT (INCREASED PENSION ENTITLEMENT) (SCOTLAND) ORDER 2019

SSI 2019/381

The above instrument was made in exercise of the powers conferred by section 26(1) to (5) of the Fire Services Act 1947(a), sections 12 and 16 of the Superannuation Act 1972(b). The instrument is subject to negative procedure.

Purpose of the instrument.

The purpose of this instrument is to ensure continuity of an affected member's pension at its current rate where incorrect GMP data has applied to the annual indexation of that pension. The incorrect element of the award is converted to an award of Increased Pension Entitlement.

Policy Objectives

Contracted out employment was abolished from April 2016 with the introduction of the new single tier State Pension. A Guaranteed Minimum Pension (GMP) accrued for contracted out service between April 1978 and April 1997. It reflects the level of earnings related state pension a member would have received had they not been contracted out. With the ending of contracting out public service schemes are undertaking a reconciliation of their GMP data with HMRC.

For those scheme members who reached state pension age before April 2016 and had claimed their state pension the annual indexation of their GMP is shared between the scheme and the Department for Work and Pensions (DWP). Annual indexation for a GMP accrued between April 1978 and April 1988 is fully paid by DWP. Payment of the annual indexation of a GMP accrued between April 1988 and April 1997 is shared between the scheme and DWP with the scheme paying the annual increase up to the value of 3% with any remainder paid by DWP.

In cases where either no GMP details are held or the GMP data is incorrect, the result can be indexation has been applied incorrectly leading to an overpayment which is compounded year on year by further incorrect indexation being applied. The GMP reconciliation exercise will establish correct GMP data allowing any identified incorrect pensions to be corrected.

The indexation of GMPs for those reaching state pension age after April 2016 is fully paid by the scheme so similar errors will not arise going forward from that date.

A similar exercise was undertaken in 2008/9 which identified GMP related overpayments across the public service schemes. At that time Scottish Ministers chose to allow the pension in payment to remain unadjusted going forward for affected pensioners in the Police, Firefighter and Local Government Pension Schemes. This was achieved by introducing legislation that provided for a new scheme award known as an Increased Pension Entitlement (IPE) which reflected the GMP-related overpayment.

Scottish Ministers have decided that a similar approach should be taken for GMP-related overpayments that arise from the current reconciliation exercise. This means that affected pensioners in the Police, Firefighters' and Local Government schemes will see their existing level of pension maintained by the award of an IPE.

The regulations make amendments to the existing provisions which introduced an IPE in 2009. There are no changes to the approach taken in 2009 and the aim of the amendments is to:

i) Calculate the value of the IPE which is based on the annual GMP related overpayment for 2019/20.

ii) Apply the IPE from 8 April 2019 and reflect the requirements of the Pensions (Increase) Act 1971 in calculating the final level of IPE applicable.

iii) The regulations provide for payments made before 8 April 2019 to be authorised but any overpayments accrued prior to 8 April 2019 will be for the scheme's Accountable Officer to determine.

iv) The net outcome aims to allow the affected member's pension to continue at its current rate.

Consultation

A formal consultation was undertaken from 12 July to 11 October 2018. The consultation was issued to representatives of firefighters, employers and relevant Scottish and UK Government departments.

Impact Assessments

This policy does not impose any additional costs or reduce existing costs for business, third or public sector organisations and on that basis no Business and Regulatory Impact Assessment is required for these Regulations.

Financial Effects

The final costs of introducing the IPE will be finalised once the GMP reconciliation has concluded. Costs will be reflected in scheme valuations which set the employer contribution rate paid to the scheme. The introduction on the IPE will not have a material impact on the costs of the scheme or the employer contribution rate.

Scottish Public Pensions Agency
An Agency of the Scottish Government
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