STATUTORY RULES OF NORTHERN IRELAND

# 2015 No. 11

# FIRE AND RESCUE SERVICES

## PENSIONS

# The Firefighters' Pension Scheme (Amendment) (No. 2) Order (Northern Ireland) 2015

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| *Made - - - -* | *19th January 2015* |
| *Coming into operation -* | *12th February 2015* |

The Department of Health, Social Services and Public Safety, in exercise of the powers conferred on it by article 10(1), (3), (4) and (5) of the Fire Services (Northern Ireland) Order 1984(**a**) and now vested in it(**b**) and with the approval of the Department of Finance and Personnel(**c**), in accordance with article 10(1) of that Order, makes the following Order:

### Citation, commencement and effect

**1.** This Order may be cited as the Firefighters' Pension Scheme (Amendment) (No. 2) Order (Northern Ireland) 2015 and shall come into operation on 12 February 2015 and shall have effect from 1 July 2014.

### Amendment of the Firefighters' Pension Scheme Order (Northern Ireland) 2007

**2.** The Annex to the Firefighters' Pension Scheme Order (Northern Ireland) 2007(**d**) (which sets out the Firefighters' Pension Scheme), shall be amended in accordance with the Schedule.

(**a**) S.I. 1984/1821 (N.I. 11) Article 10(5) was amended by S.I. 1998/1549 (N.I. 11) Article 4. Article 10 was continued by S.I. 2006/1254 (N.I. 9) Article 60(1) and (2)
(**b**) See S.R. 1999 No. 481 Article 6 (c) and Schedule 4, Part III
(**c**) Formerly the Department of Finance. See S.I. 1982/338 (N.I. 6) Article 3
(**d**) S.R. 2007 No. 144, amended by SR 2008 No. 382, SR 2012 No. 161, SR 2013 No 85, SR 2014 Nos. 56 and 169.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 19th January 2015

L.S.

*Linda Devlin*
A senior officer of the
Department of Health, Social Services and Public Safety

The Department of Finance and Personnel approves this Order

Sealed with the Official Seal of the Department of Finance and Personnel on 19th January 2015

L.S.

*Anthony Simpson*
A senior officer of the
Department of Finance and Personnel

# SCHEDULE

## Amendment of the Firefighters' Pension Scheme Order (Northern Ireland) 2007

**1.** In Part H (determination of questions and appeals)—

(1) Article 65A(**a**) (review of medical opinion) is revoked.

(2) For article 66 (appeal against opinion on a medical issue) substitute—

"**66.**—(1) Where—

(a) an opinion of the kind mentioned in article 65(2) has been obtained; and

(b) within 14 days of his being notified of the Board's decision on the issue the person concerned applies to it for a copy of the opinion,

the Board shall supply him with a copy, together with a statement informing the person concerned that, if he wishes to appeal against the opinion, he must give the Board written notice of his grounds of appeal, together with his name and address, within 14 days of the date on which he is so supplied.

(2) If the person concerned is dissatisfied with the opinion which has been supplied to him under paragraph (1), he may appeal against it by giving notice to the Board in accordance with paragraph 1 of Schedule 8.

(3) The Board shall be bound by any decision on a medical issue duly given on an appeal under this article. A decision given under this article overrules that of the medical practitioner selected by the Board under article 65.

(4) In this article, "medical issue" means any issue referred to in article 65(2).

(5) Further provisions as to appeals under this article are contained in Schedule 8.";

(3) For article 67 (appeals on other issues) substitute—

**"Appeal against decision of the Board**

**67.**—(1) Where a person claims that he is entitled to an award or to any payment in respect of an award and the Board—

(a) does not admit the claim at all; or

(b) does not admit the claim to its full extent,

the Board shall reconsider the case if he applies to it to do so.

(2) If he is dissatisfied with any determination given by the Board on reconsidering the case he may, within 2 months of being informed by the Board of the decision, appeal to the Department against the decision of the Board.

(3) The Department shall, unless it appears to it that the case is of such a nature that it can properly be determined without taking oral evidence, arrange for the hearing of the appeal, and at any such hearing the appellant shall be entitled to have an opportunity of submitting statements relating to the subject matter of the appeal, calling witnesses, giving evidence and making such representations as he desires, and shall be entitled to have the assistance in presenting his case of a person selected by himself.

(4) After considering in accordance with the foregoing provisions of this article all the circumstances of the case the Department shall either allow the claim to such extent as it thinks fit or dismiss the appeal.

(5) Nothing in this paragraph shall authorise the Department to:-

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(**a**) Article 65A was inserted by SR 2014 No 169.

(a) control or restrict the exercise of any discretion which is by this Scheme vested in the Board other than the discretion so vested by article 84;

(b) reopen any medical issue decided on appeal under article 66; or

(c) question any certificate as to pensionable service which has become conclusive under article 45(5).

(6) The decision of the Department on an appeal under paragraph (2) shall be final and binding on both parties.".

**2.** In Part L (Revision and withdrawal of awards), for article 83 (withdrawal of pension during service as a regular firefighter) substitute—

"**83.** The Board may withdraw the whole or any part of the pension, except a pension under Part C (awards on death – spouses and civil partners), for any period during which the person entitled to it is serving as a regular firefighter employed by the Board, or by any fire authority in England, Scotland or Wales.".

**3.** In Schedule 8 (appeal to independent medical referee)—

(1) For paragraph 1(1) substitute—

"**1.**—(1) Subject to sub-paragraph (2), written notice of appeal against an opinion of the kind mentioned in article 66(2) stating—

(a) the grounds of the appeal; and

(b) the appellant's name and his address,

must be given to the Board within 14 days beginning with the date on which he is supplied by it with a copy of the opinion.".

(2) For paragraph 2 substitute—

"**2.**—(1) On receiving a notice of appeal the Board shall supply the Department with two copies of the notice and two copies of the opinion.

(2) The Department shall refer an appeal to an independent medical referee and shall supply him with a copy of the notice and a copy of the opinion.".

(3) Paragraph 2A(**a**) is revoked.

(4) In paragraph 3 for "Where an appeal is to be pursued, the independent medical referee shall secure" substitute "The independent medical referee shall secure".

(5) In paragraph 4, in sub-paragraph (2)(b) for "not less than two months' notice of" substitute "not less than 21 days' notice of".

(6) Paragraph 6A is revoked.

(7) In paragraph 8(2)(a) omit the words "an appeal".

(8) For paragraph 8(3) substitute—

"(3) Where the appellant gives notice to the independent medical referee of withdrawing the appeal within 21 working days of the date appointed for an interview by the independent medical referee under paragraph 4(2), the Board may require the appellant to pay it such sum, not exceeding the total amount of fees and allowances payable to the independent medical referee under paragraph 7(1) as it thinks fit.".

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(**a**) Paragraphs 2A and 6A were inserted by SR 2014 No 169.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Firefighters' Pension Scheme Order (Northern Ireland) 2007. Some of the amendments correct minor drafting errors. Others revokes article 65A (review of medical opinion), substitutes article 66 (appeal against opinion on a medical issue), article 67 (appeals on other issues), article 83 (withdrawal of pension during service as a regular firefighter) and paragraphs 1 and 2 of Schedule 8 (appeal to independent medical referee) so as to revoke changes made earlier this year and revert to the previous provisions.

The Order has effect from 1st July 2014. Powers to give the Order retrospective effect is conferred by article 10(4) of the Fire Services (Northern Ireland) Order 1984 as continued by article 60 of the Fire and Rescue Service (Northern Ireland) Order 2006.

A full impact assessment has not been produced for this Order as no impact on the private or voluntary sectors is foreseen.

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