EXPLANATORY MEMORANDUM TO

The Firefighters' Pension Schemes and Compensation Scheme (Amendment) (No. 2) Regulations (Northern Ireland) 2024

SR 2024 No. 218

1. Introduction

1.1. This Explanatory Memorandum has been prepared by the Department of Health, to accompany the Statutory Rule (detailed above) which is laid before the Northern Ireland Assembly.

1.2. The Statutory Rule is made under powers conferred by sections 1(1), (2)(f), 2(1), 3(1), (2)(a) and (c) and (3) and paragraph 6 of Schedule 2 to the Public Service Pensions Act (Northern Ireland) 2014 and sections 5(1) and (5), 6(1), 7(3), 10(1), 11(5), 18(2), (3), (5) and (6), 19(1), (4) and (5), 21, 22(1) and (6), 24(1), 26(1) and (2) of the Public Service Pensions and Judicial Offices Act 2022.

2. Purpose

2.1. The Statutory Rule makes amendments to the Firefighters' Pensions (Remediable Service) Regulations (Northern Ireland) 2023 ("the Remediable Service Regulations") to correct minor errors in relation to the reassessment for ill-health for members with remediable service.

2.2. The Statutory Rules also makes amendments to the Firefighters' Pension Scheme Regulations (NI) 2015 ("the 2015 Regulations"), the New Firefighters' Pension Scheme Order (NI) 2007 ("NFPS"), the Firefighters' Pension Scheme Order (NI) 2007 ("FPS") and the Firefighters' Compensation Scheme Order (NI) 2007 ("FCS") to address other amendments. The main changes being made are to:

- provide for early retirement (actuarially reduced) for deferred members in the 2015 Regulations;
- remove the provision for the employer to initiate retirement before normal pension age (at or after 55) without early payment reduction in the 2015 Regulations;
- remove the requirement for correspondence relating to an individual's medical appeal to be sent through the Department in the 2015 Regulations, NFPS, FPS and FCS;
- remove the requirement for payments to be made in advance in the compensation scheme.

3. Background and summary of proposals

3.1. This Department has policy responsibility for Firefighters' pensions, which are administered by the Northern Ireland Fire and Rescue Service (NIFRS). Firefighters' pensions have, in line with other public sector pension schemes in Northern Ireland, operated on the basis of parity with their counterparts in England, Scotland and Wales. The majority of the changes in these regulations will align NI with similar changes which have already been introduced to firefighters' pensions in England. Other changes are NI specific as the English provisions are inapplicable in NI or no longer required.

3.2. The Remediable Service Regulations implemented the provisions of the Public Sector Pensions and Judicial Offices Act 2022. The Statutory Rule makes amendments to the Remediable Service Regulations to correct minor errors. Regulation 6(5) amends regulation 50 of the Remediable Service Regulations, which makes provision about the cases in which a member who met the requirements for an ill-health retirement award in one firefighters' pension scheme is to be deemed as meeting the requirements in their alternative firefighters' pension scheme, to include FPS IHR members and NFPS IHR special members. Regulation 6(6) amends regulation 51 of the Remediable Service Regulations, which makes provision about assessing the eligibility of a member for an ill-health award under the reformed 2015 scheme where that member has been granted an ill-health award under their legacy scheme or vice versa, to reflect that the legacy scheme is the NFPS.

3.3. The remainder of the amending provisions are summarised below.

Early Payments Reduction – Deferred Members – 2015 Regulations

3.4. In October 2014 the Department consulted on proposals for a new NI Firefighter's Pension Scheme. This resulted in the 2015 Regulations being made which came into operation on 1 April 2015.

3.5. The consultation provided details of the proposed scheme benefits which included 'retirement from the scheme's Normal Pension Age of 55 for all active members – all other members will have their 2015 scheme benefits actuarially reduced on a cost neutral basis from the scheme's deferred pension age'. The deferred pension age in the 2015 firefighters' pension scheme is the same as a person's state pension age. The policy proposal was to enable deferred members to take their pension from the age of 55 with actuarial reductions, however, while the regulations do allow for a 'request' for an early reduced payment from age 55 for a deferred member there are no provisions as to how it is reduced.

3.6. Regulation 5(4)(b) of the Statutory Rule inserts a new regulation 69A to address this ambiguity and provide for early retirement (actuarially reduced) for deferred members once they have reached normal pension age and before they have reached deferred pension age.

Employer Initiated Retirement and Employer Additional Contributions – 2015 Regulations

3.7. Regulation 70 of the 2015 Regulations enables the employer to initiate retirement before the normal pension age (NPA) but at or after 55, without early payment reduction. As there would still be a cost to paying the retirement pension before NPA, then under these circumstances, the employer would cover the additional costs rather that the member. Regulation 128 of the 2015 Regulations provides employer additional contributions for employer initiated retirement.

3.8. Regulation 5(4)(c) and (5) of the Statutory Rule remove the provisions, in the 2015 Regulations, for NIFRS to initiate retirement before the normal pension age but at or after 55 (without early payment reduction) and for NIFRS to cover the additional pension costs. These provisions are not required as, unlike in England's equivalent 2015 Regulations where the NPA is 60, under the NI 2015 Regulations a firefighter is entitled to retire at 55.

Medical Appeal Process Papers – 2015 Regulations, NFPS, FPS and FCS

3.9. The firefighters' pensions and compensation scheme legislation require the Department to act as a conduit for medical appeal documentation between both NIFRS and the Departmental appointed Independent Medical Referee. There is no requirement for the Department to have access to these records other than to comply with the legislation.

3.10. Regulations 2, 3(4), 4(3) and 5(6) of the Statutory Rule amend the 2015 Regulations, FPS, NFPS and the FCS to remove the requirement for correspondence relating to an individual's medical appeal to an independent medical referee to be sent through the Department.

Payment of Award - FCS

3.11. The FCS provides for a pension or allowance payable under the scheme to be paid in advance at such reasonable intervals as the NIFRS Board may determine. This process does not align with the provisions across the FPS, NFPS or the 2015 Regulations which allow for payment in arrears. This results in people with awards from the compensation scheme and the pension schemes receiving different elements of their payment at different times.

3.12. Regulation 4(2)(a) of the Statutory Rules amends the FCS by removing the requirement to make advance payments to ensure a much simpler and more efficient process, and to reduce additional expenses and resource requirements for the administrator.

4. Consultation

4.1. The Department ran a statutory consultation between 4 September 2024 and 1 November 2024 seeking views on the policy proposals and draft regulations. A copy of the consultation document and a summary of responses can be found on the DoH website.

Consultation on The Firefighters' Pension Schemes and Compensation Scheme (Amendment) (No. 2) Regulations (NI) 2024 | Department of Health

5. Equality Impact

5.1. The Statutory Rule has been considered under Section 75 of the NI Act 1998 and fully complies with the legislation, with no adverse impact on any of the Section 75 Groups. There are no Human Rights or rural needs implications.

6. Regulatory Impact

6.1. A Regulatory Impact Assessment has not been completed for this Statutory Rule as it has no impact on businesses, charities or the voluntary sector.

7. Financial Implications

7.1. The amendments to the firefighters' pension schemes and compensation scheme are not significant and will have minimal impact on scheme costs.

8. Section 24 of the Northern Ireland Act 1998

8.1. It is the view of the Department that this Order is compatible with section 24 of the Northern Ireland Act 1998.

9. EU Implications

9.1. Not applicable

10. Parity or Replicatory Measure

10.1. While pensions are a devolved matter, to ensure fairness across the UK the NI firefighters' scheme will generally act in parity with our English counterparts. The majority of the changes in these regulations will align NI with similar changes which have already been introduced to firefighters' pensions in England. Other changes are NI specific as the English provisions are inapplicable in NI or no longer required'