

Ill-health pension paid from Compensation Scheme to Retained Firefighters employed before 6 April 2006

Introduction

This factsheet has been prepared to give guidance to Fire and Rescue Authorities (FRAs) on when entitlement to a compensatory 'ill-health' pension payable under The Firefighters' Compensation Scheme (England) Order 2006 ("compensation scheme") arises for a retained firefighter who was employed prior to 6 April 2006 and where the injury occurred before 1 April 2014.

These firefighters were given compensatory provisions under the compensation scheme rules because they could not join the Firefighters' Pension Scheme 1992 (FPS 1992).

Firefighters who joined as a retained firefighter after 1 April 2006 were entitled to join the Firefighters' Pension Scheme 2006 (FPS 2006).

Entitlement to Part 8, Rule 2

A retained firefighter who was employed prior to 6 April 2006 and received an injury prior to [1 April 2014](#) is entitled to an injury and ill health pension under [Part 8, rule 2](#) of the compensation scheme.

A retained firefighter employed prior to 6 April 2006, who didn't subsequently become a '[special member](#)' under the terms of the modified FPS 2006 arrangements, and is retrospectively awarded an injury and ill health pension after [1 April 2014](#), is entitled to an injury and ill health pension under Part 8, rule 2 under the protected right granted in [SI 2014/447](#) [rule 3, paragraph 2], where it has been determined that the injury is a qualifying injury and was sustained before the 1st April 2014.

A retained firefighter who was employed before 6 April 2006 and later became a special member under the terms of the modified FPS 2006 cannot receive a pension paid under Part 8, Rule 2.

Treatment under the scheme rules

Where a compensatory ill-health pension is in payment, FRAs should be mindful of the following points:

1. The pension is non-taxable as it is paid under the compensation scheme¹.
2. A spouse or civil partner's pension should be paid only if they meet the criteria of [Part 3, Rule 1](#) (i.e. the member had died as a result of the qualifying injury).
3. The pension payment must be funded from the FRA operating account, not the top up grant, in line with paragraph 3.25 of the finance guidance².

It is recommended that FRAs undertake a review to ensure that payments are being made correctly.

Regulations

Pre 1 April 2014

Prior to 1 April 2014 if a retained firefighter who was employed before 6 April 2006 and therefore not eligible to join FPS1992, was disabled due to a qualifying injury, they were to be treated as if they were a whole-time firefighter for the purpose of the injury award.

Additionally, under [Part 8 Special Cases, rule 2, paragraph 4](#) [as amended by [SI 2006/3434](#)], an ill health pension was payable under the rules of FPS 1992 as if they were a whole-time firefighter. Regulation 4A requires any ill-health pension paid as a result of being a member of FPS 2006³ or the Firefighters' Pension Scheme 2015⁴ (FPS 2015) to be subtracted from this amount.

Post 1 April 2014

Part 8, rule 2 was [amended](#) in 2014 to remove the above provision. This is because the rules of FPS 2006 were modified to allow a retained firefighter to retrospectively join a scheme which partly reflected the benefits of FPS 1992.

However, under the [transitional provisions](#) [rule 3, paragraph 2], where it is determined that the injury is a qualifying injury **and** was sustained before 1 April 2014, the right to an ill-health pension as a whole-time firefighter based on the FPS 1992 rules would still apply.

¹ <http://www.fpsregs.org/images/admin/Technotes/Technote2.0917.pdf>

² Guidance for FRAs on new financial arrangements for firefighter pensions with effect from April 2006 dated August 2006 - https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/14964/160429.pdf

³ <http://www.legislation.gov.uk/ukxi/2006/3434/schedule/paragraph/8/made>

⁴ <http://www.legislation.gov.uk/ukxi/2015/590/schedule/1/paragraph/7/made>

This factsheet has been prepared by LGA to give some guidance on the rules of the pension scheme using the regulations as they stand at August 2019, however they should be used only as an informal view of the interpretation of the firefighters' pension scheme as only a court can provide a definitive interpretation of legislation. This factsheet should not be interpreted as legal advice

Please address any queries on the content of this factsheet to
bluelight.pensions@local.gov.uk

August 2019