



Home Office

Firefighters' Pension Scheme

Consultation on amendments to survivors' benefits in the Firefighters' Pension Scheme 1992 and the Firefighters' Compensation Scheme (England) 2006, and minor amendments to the Firefighters' Pension Scheme 2015

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1. Scope of the consultation

<p>Topic of this consultation:</p>	<p>Amendments to the Firemen’s Pension Scheme Order 1992 (S.I. 1992 No. 129) in which is set out the Firefighters’ Pension Scheme 1992 (“the 1992 Scheme”); the Firefighters’ Compensation Scheme (England) 2006 Order (S.I. 2006 No. 1811) (“the Compensation Scheme”); and the Firefighters’ Pension Scheme (England) Regulations 2014 (S.I. 2014 No. 2848) (“the 2014 Regulations”) in which is set out the Firefighters’ Pension Scheme 2015 (“the 2015 Scheme”).</p>
<p>Scope of this consultation:</p>	<p>This consultation seeks responses from interested parties on proposals detailed in the attached draft regulations and order.</p> <p>In particular, the consultation covers:</p> <ul style="list-style-type: none"> • changes to survivors’ benefit arrangements in the 1992 Scheme and the Compensation Scheme, • changes to the 2015 Scheme.
<p>Geographical scope:</p>	<p>This consultation applies to England only.</p>
<p>Impact Assessment:</p>	<p>Since there is no impact on private businesses, the Department does not intend to produce an Impact Assessment in relation to this consultation.</p>
<p>Policy Equality Statement:</p>	<p>Statements have been produced in draft to coincide with this consultation exercise.</p>

Basic information

To:	This consultation is primarily aimed at fire and rescue authorities, members of the firefighters' pension schemes, and key employer and employee representative bodies.
Body responsible for the consultation:	The Home Office ("the Department") Please note that responsibility for firefighters' pensions transferred to the Home Office from the Department for Communities and Local Government (DCLG) in January 2016. Accordingly there are a number of deliberate references to both Home Office and DCLG throughout this paper.
Duration:	This consultation will run for 8 weeks, from 18 March to 13 May 2016.
Enquiries:	For any enquiries, please contact the Firefighters' Pension Team on: FIREPensions@homeoffice.gsi.gov.uk Alternatively, please call Philip Perry – 0303 444 2174 If you have a complaint or comment about the Home Office's approach to this consultation, you should contact the Home Office Consultation Coordinator at the e-mail address: HOConsultations@homeoffice.gsi.gov.uk Alternatively you can write to them at: Consultation Co-ordinator Better Regulation Unit Home Office 3rd Floor, Peel Building 2 Marsham Street London SW1P 4DF
How to respond:	Please respond by email to: FIREPensions@homeoffice.gsi.gov.uk Alternatively, please send postal responses to: Firefighters' Pension Team 6 th Floor Fry Building 2 Marsham Street London SW1P 4DF Responses should be received by 13 May 2016.

<p>Confidentiality and data protection</p>	<p>Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Regulations 2004).</p> <p>If you want the information that you provide to be treated as confidential, please be aware that, under the Freedom of Information Act 2000, there is a statutory code of practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, in itself, be regarded as binding on the department.</p> <p>The Department will process your personal data in accordance with the Data Protection Act 1998 and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.</p>
<p>Additional ways to become involved:</p>	<p>During the consultation period, the Department is willing to consider requests for meetings from key interest groups, including the fire and rescue authorities and relevant unions.</p>
<p>After the Consultation:</p>	<p>A summary of responses to the consultation will be published on the Department's website within three months of the end of the consultation period.</p>
<p>Compliance with the Consultation Principles guidance:</p>	<p>The consultation complies with the Consultation Principles guidance.</p>

Background

Getting to this stage:	<p>Surviving spouses and civil partners ('survivors') of firefighters in the 1992 Scheme are currently required to forgo their survivors' benefits upon remarriage or entering into a new civil partnership. Similar provisions exist in the Compensation Scheme.</p> <p>As part of the March 2015 Budget, the Chancellor announced that survivors of firefighters who are killed on duty would be allowed to retain their survivors' benefits upon remarriage or entering into a new civil partnership. The proposed amendments to the 1992 Scheme and the Compensation Scheme enact this change.</p> <p>In 2015 the Department for Communities and Local Government completed a major reform of the firefighters' pension provisions, introducing the 2015 Scheme. The Home Office have since assumed policy responsibility for firefighters' pensions. A number of minor amendments are now required to ensure that certain limited aspects of the scheme work as originally intended.</p> <p>This consultation seeks the views of interested parties on draft legislation to enact these changes.</p>
Previous engagement:	None.

2. Introduction and background

Survivors' Benefits

- 2.1 In the event of a member's death, the 1992 Scheme provides for the payment of certain benefits and awards to that member's spouse or civil partner ('survivors' benefits'). Separately, the Compensation Scheme, which applies to all members (or those eligible to be members) of the firefighters' pensions schemes, compensates firefighters and specified connected employees¹ who die or sustain injuries in the exercise of their duties, and the spouses, civil partners or dependents of such persons. Specifically, it provides awards (known as Special or Augmented awards) for spouses and civil partners of all firefighters who die in certain circumstances (set out in Part 3 of that scheme).
- 2.2 If a survivor is eligible for awards under both the 1992 Scheme and the Compensation Scheme then, owing to the prevention of duplication measures in both schemes, only one of the pensions or allowances shall be paid in respect of the period in question, and if the amounts are unequal, then it is the largest of them that will be paid.
- 2.3 Survivors of firefighters in the 1992 Scheme are currently required to forgo their survivors' benefits upon remarriage or entering into a new civil partnership. Similar provisions also apply to any benefits paid under the Compensation Scheme to the survivors of 1992 Scheme members (or the survivors of those who were eligible to join the 1992 Scheme but chose not to).
- 2.4 Following the March 2015 Budget announcement, the Department has produced draft legislation to amend the 1992 Scheme and the Compensation Scheme to allow survivors of qualifying firefighters to keep their benefits should they remarry or enter into a new civil partnership. More information on the proposals can be found in Section 4.
- 2.5 Similar changes have been made to certain police pension and compensation schemes, and follow related changes to survivors' benefits already introduced for the armed forces on 1 April 2015. The changes to survivors' benefits for the uniformed services (firefighters, police and the armed forces) reflect the high risks faced as an everyday part of these jobs.

2015 Firefighters' Pension Scheme consequential amendments

- 2.6 In the months since 1 April 2015, the Department and its partners have become aware of a number of necessary minor amendments, as detailed in Section 4 below in relation to the 2014 Regulations, which contains the 2015 Scheme, and the provisions governing the transfer of members from the 1992 Scheme and the 2006 Scheme to the 2015 Scheme. The Firefighters' Pension Scheme (England) (Transitional and Consequential Provisions) Regulations 2015 (S.I. 2015/589) ("the transitional regulations"), in addition to other matters, amended Schedule 2 of the 2014 Regulations with transitional provisions relating to the transfer of members from

¹ For the purposes of the Compensation Scheme, retained firefighters as well as those in connected temporary employment and those permanently employed as an instructor are treated as regular firefighters (Part 1, Rules 3, 4 and 5).

one fire pension scheme to another – such members are identified as “transition members”.

- 2.7 The publication of this document commences a period of statutory consultation on the proposed regulatory amendments. These are attached at Annexes A and B, and supporting draft Equality Statements are included at Annexes C and D.
- 2.8 Comments on the proposals and draft legislation are invited and should preferably be sent by email to FIREPensions@homeoffice.gsi.gov.uk Alternatively, postal replies may be sent to:

The Firefighters’ Pension Team
Sixth Floor
Fry Building
2 Marsham Street
London
SW1P 4DF

- 2.9 The closing date for responses is 13 May.

3. The case for change

Survivors' Benefits

3.1 Survivors of firefighters in the 1992 Scheme are currently required to forgo their benefits (and any benefits awarded under the Compensation Scheme) if they re-marry or form a new civil partnership. This rule does not apply in the 2015 Scheme, or to the Firefighters' Pension Scheme (England) Order 2006 (S.I. 2006/3432) in which is set out the pension scheme commonly known as the 2006 Scheme.

3.2 The Chancellor announced in the March 2015 Budget that:²

The government will ensure that all widows, widowers and civil partners of ... firefighters who are killed on duty will no longer lose their survivor benefits if they remarry ... or form a civil partnership.

3.3 This policy change is designed to recognise the high risk of harm that firefighters face as an everyday part of their jobs, and, in some cases, the ultimate sacrifice made by firefighters. These changes will mean that survivors of qualifying firefighters will no longer be faced with the prospect of losing their pension in the event of remarrying or entering into a new civil partnership.

2015 Firefighters' Pension Scheme consequential amendments

3.4 The Department wishes to ensure that the 2015 Scheme works as originally intended. The areas which require amendment are very limited, as detailed in Section 4.

² HMT Budget March 2015, Section 2.17 Survivors' pensions, available at: https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416330/47881_Budget_2015_Web_Accessible.pdf

4. Proposals for consultation

Survivors' Benefits

- 4.1 Following the Chancellor's announcement in the March 2015 Budget, the Department has drafted regulations to provide that survivors of 1992 Scheme firefighters killed on duty are able to keep their benefits when remarrying or entering into a new civil partnership. These benefits will be retained for life, regardless of any future changes in relationship status. The benefitting survivors will be those whose 1992 Scheme partners are killed:

Type A – as a result of injuries sustained performing their duties, or

Type B – as a result of injuries sustained during journeys necessary to report for duty or return home after duty.

- 4.2 The Department is not proposing to change the eligibility criteria for awards under the Compensation Scheme. However, the proposed amendments ensure that any awards under that scheme to which survivors of 1992 Scheme firefighters (or firefighters eligible to join that scheme) are eligible are not withdrawn upon remarriage or entering into a new civil partnership. The savings provision at paragraph 4 in the attached draft order is designed to give effect to this policy change, while ensuring that the current rules 5(1) and (2) continue to apply. This means that the survivor of a 1992 Scheme member (or the survivor of someone eligible to have joined that scheme) will forgo their survivors' benefits upon remarriage or entering into a new civil partnership before 1 April 2015, and in the event that this marriage or civil partnership subsequently dissolves, the fire and rescue authority retains the discretion to pay the whole or any part of the benefit as they think fit.
- 4.3 It should be noted, then, that this policy change does not introduce a new benefit to those qualifying, but extends a pre-existing benefit, to some individuals in certain circumstances.
- 4.4 The proposed changes will have effect from 1 April 2015. This date follows the March 2015 Budget announcement that all widows, widowers or civil partners of firefighters who are killed on duty will no longer lose their pension if they remarry or form a civil partnership. It also coincides with the implementation date for changes to survivors' benefits that have been introduced by the armed forces, and the date agreed for the police schemes.
- 4.5 The Department would expect that any potentially qualifying individuals who have lost their survivor's pension on account of remarriage or entering into a new civil partnership between 1 April 2015 and the time at which the order comes into force would contact the relevant fire and rescue authority in due course.

- 4.6 The Department expects that the total number of survivors benefiting from the policy change will be very low. This is in part due to the fact that the number of deaths in the fire service has been reducing over time. Workforce statistics compiled by the Department indicate that there have been 13 deaths in the past decade where a survivor might have benefited if the proposed changes to the 1992 Scheme and Compensation Scheme had been in place.
- 4.7 This change will not reinstate survivors' benefits that have already been withdrawn. The implementation date for the policy change is discussed in paragraph 4.4 (above).
- 4.8 The draft regulations (Annex A) are designed to enact the March 2015 Budget announcement. The Department welcomes consultees' views, specifically in relation to the consultation questions at the end of this document.

2015 Firefighters' Pension Scheme consequential amendments

- 4.9 The proposals are for the firefighters' pension schemes to be amended as follows (unless stated otherwise, these fall within **Annex B**):
- 4.10 Regulation 71A of the 2014 Regulations deals with transition members' entitlement to commute part of any lower tier ill-health pension that they may be awarded into a lump sum. As currently framed, the regulation sets out certain provisions relating to the commutation of a lump sum for members who have transitioned from the 2006 Scheme to the 2015 Scheme. The proposed amendment completes the legal provisions for members who have transitioned from the 1992 Scheme.
- 4.11 Paragraphs 37 and 38 of Schedule 2 to the 2014 Regulations include provisions that deal with the position of members who are being considered for ill-health retirement by an independent qualified medical practitioner at the time of their transition date, and who subsequently continue as active members of the 2015 Scheme. Such members join the 2015 Scheme at the time specified under these provisions. The position of members who are being considered for ill-health retirement by an independent qualified medical practitioner at the time of their transition date, who are subsequently granted an ill-health award and consequently retire requires amendment. Under the proposed amendments to paragraphs 37 and 38, such members would remain in their existing pension scheme, avoiding the necessity for a minimal period of membership of the 2015 Scheme.
- 4.12 The formula at Schedule 2, Part 2A in the 1992 Scheme for calculation of "continuous service provision" is being corrected so that the cap is set at 30 years' pensionable service. This amendment is located at **Annex A**.
- 4.13 Very minor amendments are also being made to the following provisions :

Table of Contents – re-wording of reference to Regulation 46

Regulation 21 – the abbreviation for Welfare Reform and Pensions Act 1999

Regulation 59 – correction of wording as regards calculation of the annual rate of retirement pension

Regulation 71 – correction of wording relating to lump sum commutation

Regulation 78 – survivor benefits (amendment being made because, throughout the scheme, three months' service is sufficient to achieve qualification for benefits)

Regulation 92 – correction of wording to make it clear that the bereavement pension is for eligible children

Regulation 154 – update of the wording on appeals against determinations based on medical advice

Schedule 2 – Transitional provisions

Schedule 2, rule B1A(3) of the 1992 Scheme – age for calculation of “continuous service provision” (see draft SI **at Annex A**)

5. Next steps

- 5.1 The Department invites consultees' views and any evidence relating to all aspects of this statutory consultation by 13 May. In particular, comments are welcomed on the following key questions:

Question 1

To what extent do you agree that the Department's draft regulations are an accurate interpretation of the Budget statement on survivors' benefits?

Question 2

Can you foresee any challenges to the administration of the pension schemes with regard to the proposed draft regulations?

Question 3

Are you aware of any Public Sector Equality Duty issues not covered in the Department's draft Policy Equality Statements?