

From the Head of DoH Pensions Unit
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Dear Keith

**NI FIREFIGHTERS' PENSION SCHEME - AMENDMENTS TO THE NEW
FIREFIGHTERS' PENSION SCHEME ORDER (NI) 2007 – REGARDING
THE MATTHEWS REMEDY SECOND OPTIONS EXERCISE**

The Department of Health proposes to make a Statutory Rule under the powers conferred by Article 10 of the Fire Services (NI) Order 1984. The Statutory Rule is subject to the negative resolution procedure before the Assembly and will be made and laid once all the necessary approvals are in place.

Purpose of the Statutory Rule

The Statutory Rule makes amendments to the New Firefighters' Pension Scheme Order (Northern Ireland) 2007 (NFPS). The purpose of the statutory rule is to provide additional remedy and flexibility to those members who were employed as retained firefighters between 7 April 2000 and 5 April 2006 inclusive by providing access to the modified provisions of the (NFPS).

Before 2006, retained firefighters were not eligible to join any fire service pension scheme. This was challenged in court (the Matthews case) and a settlement was reached to provide current and former firefighters who were employed as a retained firefighter between 1 July 2000 and 5 April 2006 to be eligible to join the NFPS and to have special provisions which generally reflect the rules of the Firefighters' Pension Scheme (FPS). The amendment is generally known as the 'Modified Scheme' and came into operation on 1 April 2015.

While the benefits awarded to special members largely mirrored the benefits of the FPS, the NFPS was amended as the FPS was a closed scheme. A time-limited options exercise took place between 2014 and 2015 to allow eligible individuals to join the modified scheme, this was known as the 'first options exercise'.

Following the Matthews case, the European Court ruled separately that retained firefighters could "buy back" pensionable benefits from the start of their employment. It was also identified that the eligibility period in the first options exercise was incorrect and should have been from 7 April 2000 when the Part-Time Workers Directive came into effect, not 1 July 2000.

Remedy for this ruling was to be provided by way of a second options exercise that will allow in-scope individuals the opportunity to purchase pension entitlements as a special member for some or all their service between 7 April 2000 and 5 April 2006 as well as any continuous service up to 7 April 2000 and/or continuous service from 5 April 2006.

The Department implemented the second options exercise through the Firefighters' Pension Schemes (Amendment) Regulations (Northern Ireland) 2023 which came into operation on 31 October 2023. The legislation provides that the Northern Ireland Fire and Rescue Service (NIFRS) were expected to complete the second options exercise by 30 April 2025, 18 months after the legislation came into operation.

The Department had been advised that NIFRS would not be able to complete implementation of the second options exercise by 30 April 2025 (this is in line with the position in England). Additionally, a number of areas that were not covered in the 2015 and 2023 legislation have been identified. Amendments are now necessary to make additional provisions to the modified section of the NFPS to fully implement the Matthews' remedy and provide an extension to the deadline.

Previous Engagement with the Committee

None

Financial Implications

The financial implications of these amendments are not yet known but are likely to be minimal in relation to the totality of Matthews related costs. Whilst the extension to the remedy's closure deadline will apply to all cases that remained unsettled by the end of April 2025, it is not expected that the proposed technical changes will impact many cases. No costs for the Department.

Consultation

The policy proposals were subject to consultation which began on 24 January 2025 and closed on 21 March 2025 and set out the policy proposals to address issues that arose during the implementation of the second options exercise. The consultation sought views from stakeholders on the proposals to amend the NFPS to allow:

- the payment of a missed pension lump sum/survivor's missed pension payment in respect of a deceased individual who would have been entitled to a pension (or a higher pension) under the Matthews remedy. This proposal would provide payment of any lost member pension (precommutation) and survivor pensions to the deceased individual's survivor or estate;
- the extension of the eligibility criteria for an 'additional death grant' payment, so that it is also payable in respect of those individuals who did not join (or did not get an opportunity to join) the modified scheme during the 2014 Options exercise;
- the extension of the option to convert relevant standard service in the NFPS to special service in the modified scheme to include members who joined the modified scheme as special deferred members;
- a minor clarification to the formula for calculating the extended death grant to change the reference from 'additional death grant' to 'extended death grant' to remove any misunderstanding;
- the option for members who joined the standard NFPS, and who subsequently opted out of the standard NFPS prior to 1 April 2015, to purchase period/s of opted out service as special service under the modified scheme;
- the payment of new awards under these changes to be paid after the options exercise closing date in circumstances where the individual has not received a notification from their employer;
- the extension of the period for NIFRS to implement the Matthews remedy in circumstances where they were unable to meet the original 30 April 2025 deadline;
- the option for members who join the modified scheme as special pensioner members, and who are in receipt of a 'member initiated early payment of pension', to convert their standard service to special service. This cohort was missed from the early legislative changes.

As part of governance arrangements for the Firefighters' Pension Scheme, the consultation document was also provided to members of the Firefighters' Pension Scheme Advisory Board (SAB). The SAB comprises of firefighters' employer representatives (Northern Ireland Fire and Rescue Service (NIFRS)) and employee representatives (Fire Brigade Union (FBU)).

The Department welcomed any comments or views on the proposals and draft regulations. The Department received two responses to the consultation from NIFRS and the FBU. In general, both respondents agreed with the proposed amendments but highlighted a few areas that required further consideration. The Department considered both responses and intends to proceed with implementing the proposals consulted on as set out above, with the following changes:

- The calculation of the proposed lump sum payment has been modified and now assumes that the deceased individual would have commuted the maximum of their annual pension for a retirement lump sum. This better reflects the scheme experience and, in most cases, will result in a higher lump sum payment. Flexibilities have also been introduced to allow NIFRS to determine the deceased's pay and service where no, or limited, information is available.
- The beneficiaries of the proposed survivors missed lump sum payment has been changed to restrict payment to living survivor beneficiaries only, in line with the policy intention.
- The formula for calculating the additional death grant has been modified to provide for the calculation of the grant for deceased individuals who had not previously joined the modified scheme.
- The consultation originally proposed a 12 month extension to 30 April 2026. Due to ongoing delays in finalising the amending legislation the proposal has been amended to extend the deadline by 12 months from when the associated amending legislation comes into operation.
- Flexibilities have been introduced to provide NIFRS sufficient time to identify and notify eligible individuals of their pension entitlements under the modified scheme and to extend the scope of the provision to cover newly identified cohorts of eligible individuals.

The consultation response report providing a summary of the Department's position to the points raised will be published on the Department's website. The delay in the consultation response has been due to waiting for the outcome of the English consultation as we generally remain in parity.

[New Firefighters Pension Scheme - Consultation - Retained Firefighters | Department of Health](#)

Compliance with Section 24 of the Northern Ireland Act 1998

The proposals relate solely to providing additional remedy and flexibility to those members who were employed as retained firefighters between 7 April 2000 and 5 April

2006 inclusive by providing access to the modified provisions of the (NFPS) and do not impose restrictions on individual's rights. As such, the Department has concluded that the proposals are compatible with Convention Rights and Section 24 of the Northern Ireland Act 1998. In addition, the changes are administrative and financial in nature and do not alter rights or equality of opportunity, so do not engage Article 2(1) of the Windsor Framework. Engagement with the Equality Commission for Northern Ireland or the Northern Ireland Human Rights Commission was not deemed necessary given the scope of the proposals.

Consideration by the Executive

The SL1 and draft Statutory Rule have not been considered by the Executive as there was no requirement to do so.

Equality Impact

An Equality Screening was carried out by the Department and will be published on the Department's website. The policy proposals have 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.

Regulatory Impact

These Regulations will only affect eligible members of the firefighters' pension scheme. As it will not impose any additional costs on businesses, charities or the voluntary sector, a Regulatory Impact Assessment has not been considered necessary.

Rural Needs Impact Assessment

The policy does not change or impact disproportionately anything in relation to persons living in rural areas. The regulations impact firefighters equally, regardless of geographical location.

Data Protection Impact

The proposals do not involve or change the collection, processing or sharing of personal data therefore, a Data Impact Assessment is not necessary.

Child Rights Impact

The proposals do not involve any direct impact on children's rights therefore, a Child Rights Impact Assessment is not necessary.

Position in Great Britain

Similar legislation has been introduced to the Firefighters Pension Scheme in England effective from 1 April 2026. 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.

Any other information

None

Proposed timing of consideration of the SL1

The SL1 has been submitted to the Committee in accordance with the minimum fourweek timeframe and the Department would propose that the Committee considers it at their next scheduled meeting to ensure that the statutory rule comes into operation as soon as possible.

Proposed Operational Date

This Order must be in operation as soon as possible so it is proposed that the Statutory Rule will be made and laid as soon as all necessary approvals are received. A draft of the proposed Statutory Rule is attached.

When the finalised Statutory Rule together with the Explanatory Memorandum has been laid at the Assembly Business Office, the Business Office will submit copies to the Committee.

I would be grateful if you would bring this matter to the attention of the Committee for Health at your earliest convenience.

Yours sincerely

A solid black rectangular box redacting the signature of Siobhán McKelvey.

Siobhán McKelvey

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