

## ANNEX

### The Firefighters' Compensation Scheme (Northern Ireland) 2007

## PART 3

### AWARDS ON DEATH: SPOUSES AND CIVIL PARTNERS

#### **Special award for spouse or civil partner**

1.—(1) This rule applies where a person who is or has been a regular firefighter dies from the effects—

- (a) of a qualifying injury; or
- (b) of infirmity of mind or body occasioned by a qualifying injury,

leaving a surviving spouse or civil partner.

(2) Subject to rules 3 and 4, the surviving spouse or civil partner is entitled—

- (a) to a special pension calculated in accordance with Part 1 of Schedule 2; and
- (b) subject to paragraph (5), to a gratuity.

(3) Where the deceased died while serving as a regular firefighter, the amount of the gratuity is the total of 25% of his average pensionable pay and the greater of—

- (a) as regards a surviving spouse—
  - (i) his average pensionable pay; and
  - (ii) two and a quarter times the amount of the pension that would have been payable under article 17 of the Pension Scheme (ill-health award) if on the date of his death he had retired on the ground of permanent disablement;
- (b) as regards a surviving civil partner—

- (i) his average pensionable pay; and
- (ii) two and a quarter times such amount as bears to the amount of the pension referred to in sub-paragraph (a)(ii) to which he would have been entitled had he been the deceased's surviving spouse, the same proportion that the deceased's service after 5th April 1988 bears to the whole of his pensionable service.

(4) In any other case the amount of the gratuity is 25% of the deceased's average pensionable pay.

(5) Where the deceased was entitled to an injury gratuity under rule 1 of Part 2 (injury award)—

- (a) if it was of the same or a larger amount, no gratuity is payable under this rule; and
- (b) if it was of a smaller amount, the gratuity under this rule shall be reduced by that amount.

#### **Augmented award for spouse or civil partner**

2.—(1) This rule applies where a person who is or has been a regular firefighter dies from the effects—

- (a) of a qualifying injury; or
- (b) of infirmity of mind or body occasioned by a qualifying injury,

leaving a surviving spouse or civil partner, and one of the conditions in paragraph (2) is satisfied.

(2) The conditions are—

*Status: This is the original version (as it was originally made).*

- (a) that the injury was received in the execution of duties performed, in circumstances in which there was an intrinsic likelihood of his receiving a fatal injury, for the immediate purpose of saving the life of another person or of preventing loss of human life; or
  - (b) that the Board is of the opinion that the preceding condition may be satisfied and that this rule should apply; or
  - (c) that the Board is of the opinion that the injury was received in such circumstances that it would be inequitable if this rule were not to apply.
- (3) Where this rule applies, rule 1 of this Part applies with the modifications set out in paragraphs (4) and (5).
- (4) For the purpose of calculating the special pension, Part 1 of Schedule 2 has effect with the substitution for “45%” of “50%”.
- (5) Unless they produce a more favourable result, paragraphs (3) to (5) of rule 1 do not apply, and the amount of the gratuity is twice the annual pensionable pay, at the date of the death, of a regular firefighter employed in the role of firefighter and entitled to reckon 30 years’ service for the purposes of pay.

**Limitation on award to spouse or civil partner by reference to date of marriage or formation of partnership**

- 3.—(1) A surviving spouse or civil partner is not entitled to a special pension under rule 1 or an augmented pension under rule 2 unless he was married to, or had a civil partnership with, the deceased during a period before the deceased last ceased to be a regular firefighter.
- (2) A surviving spouse who, but for paragraph (1), would be entitled to a pension mentioned in that paragraph, is instead entitled to a pension calculated in accordance with Part 2 of Schedule 2.
- (3) A surviving civil partner who, but for paragraph (1), would be entitled to a pension mentioned in that paragraph, is instead entitled to a pension of such amount as bears to the pension to which, under paragraph (2), he would have been entitled had he been the deceased’s surviving spouse, the same proportion of that the deceased service after 5th April 1988 bears to the whole of his pensionable service.

**Limitation where spouse or civil partner is living apart**

- 4.—(1) A surviving spouse or civil partner who at the time of the death was living apart from the deceased is not entitled to any award under rule 1 or 2.
- (2) Except where paragraph (3) applies, a surviving spouse or civil partner who, but for paragraph (1), would be entitled to an award under rule 1 or 2, is entitled instead to a pension calculated—
- (a) in the case of a surviving spouse, in accordance with Part IV of Schedule 3 to the Pension Scheme; and
  - (b) in the case of a surviving civil partner, in accordance with that Part subject to the substitution, in paragraphs 1 and 3, of “5th April 1988” for “5th April 1978”.
- (3) Where—
- (a) the surviving spouse or civil partner would, but for paragraph (1), be entitled to an award under rule 1 or 2; and
  - (b) at the time of the death the deceased was making relevant contributions, or was liable to do so by virtue of an agreement or of an order or decree of a competent court,
- the surviving spouse or civil partner is entitled to a pension of the appropriate amount.
- (4) Relevant contributions are contributions paid or payable—

(a) for the support of the spouse or civil partner; or  
(b) to the spouse or civil partner for the support of a child of the spouse or civil partner,  
the amount of which exceeds that of the pension that would otherwise be payable under  
paragraph (2).

(5) The appropriate amount is the lesser of—

- (a) the amount of a pension calculated in accordance with rule 1 or 2; and
- (b) the amount of the relevant contributions.

(6) The Board may determine that, for such period as it thinks fit, a pension under paragraph (2)  
or (3) shall be paid at such increased rate, not exceeding that of the pension which would have been  
payable but for paragraph (1), as it thinks fit.

(7) Where, but for paragraph (1), the surviving spouse or civil partner would be entitled to a  
gratuity, the Board may decide that the gratuity be paid in whole or part, as it thinks fit.

### **Effect of new relationship**

5.—(1) A person entitled to a pension under this Part who marries, remarries, forms a civil  
partnership or a subsequent civil partnership is not entitled to receive any payment on account of the  
pension in respect of any subsequent period; but if the marriage or civil partnership is dissolved or  
the other party to it dies, the Board may pay the whole or any part of the pension for such period  
after the dissolution or death as it thinks fit.

(2) Where a person entitled to a gratuity under this Part marries, remarries, forms a civil  
partnership or a subsequent civil partnership, any part of the gratuity that has not already been paid  
("the outstanding amount") ceases to be payable; but if the marriage or civil partnership is dissolved  
or the other party to it dies the Board may pay the person the whole or any part of the outstanding  
amount.