

## **EXECUTIVE NOTE**

### **THE FIREFIGHTERS' COMPENSATION SCHEME (SCOTLAND) ORDER 2006 SSI 2006/338**

The above instrument is made in exercise of the powers conferred by sections 34(1) to (5) and (8) and 60(2) of the Fire and Rescue Services Act 2004 . These powers have been devolved to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 (S.I. 1999/1750) and the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2005 (S.I. 2005/849). The instrument is subject to the negative resolution procedure.

#### **Policy Objectives**

The Firefighters' Compensation Scheme (Scotland) Order (FCS) provides for a new scheme for compensating firefighters who die or sustain injuries whilst engaged in firefighting duties.

Most of the provisions of the new scheme are taken from the current Firefighters' Pension Scheme ("FPS"). The FPS is being split because of tax changes that came into force on 6th April 2006. The awards for which the new compensation scheme provides are ones to which firefighters do not make contributions. The FPS will continue to provide for ill-health awards to be made to and in respect of firefighters who have to retire from the fire and rescue service on health grounds

The new compensation scheme also contains provisions relating to compensation for death and serious injury on duty that have hitherto been set out in firefighters' conditions of service. Some compensation payments made in accordance with those conditions of service have been questioned by some authorities' auditors on the basis that they are not supported by legislation, notwithstanding that they form part of firefighters' contracts of employment. The making of the new compensation scheme provides the opportunity to include express provision for authorities to pay compensation in these circumstances.

In view of the difficulties referred to above, the FCS, gives retrospective effect to the provisions that enable authorities to make the awards in question. This is done in reliance on sections 34(3) and 60 of the Fire and Rescue Services Act 2004.

#### **Consultation**

The provisions in this Order have been considered by the Firefighters' Pension Committee which is composed and chaired by officials of the Office of the Deputy Prime Minister (ODPM), officials representing the devolved administrations, and national employer and staff and union representatives. In addition, a draft of this Order was issued for consultation to Scottish stakeholders and other interested Government departments. ODPM are also currently in the process of introducing similar changes for England.

## **Financial Implications**

A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on businesses, charities or voluntary bodies.

The placing of the compensation provisions into a separate Compensation Scheme will make clear the distinction between pension benefits (based on pension scheme membership and contributions) and compensation for service-related injury. As a result, serving firefighters will have a clearer understanding of benefits for which they are, or may become, eligible..

**Scottish Public Pensions Agency**

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