

Firefighters' Pension Scheme: Protected Pension Age

The proposal for all registered pension schemes to incorporate a normal minimum pension age of 55 by 6th April 2010 was part of the consultation on '*Simplifying the taxation of pensions: increasing choice and flexibility for all*' which was published in December 2002. This proposal was given effect in the Finance Act 2004.

However, paragraph 19 of Schedule 36 to the Act provides for members of certain pension schemes to preserve their full entitlement to benefits before age 55. The schemes, whose members can retain their right to take their pension before age 55, are listed in Regulation 2 of the Registered Pension Schemes (Prescribed Schemes and Occupations) Regulations 2005. The Firefighters' Pension Scheme 1992 is included on this list and therefore members of the FPS who can reckon 25 years' pensionable service retain the right to retire and take their pension from age 50.

We are being asked whether this protected right extends to Chief Fire Officers. The issue is that the Finance Act gives protection against the increase in minimum pension age to those who, under the Rules of their pension scheme, had a prospective right to a pension from age 50 before April 2006. HMRC guidance says that protection is given only to those who had an unqualified right before April 2006. The question therefore is whether Rule B1(2), which states that a CFO requires the permission of the Fire and Rescue Authority to give notice of retirement, qualifies a CFO's right and whether, therefore, CFOs who were appointed on or before 5th April 2006 are caught by the change and are not protected. HMRC are taking the view that CFOs appointed before April 2006 are caught and would have to pay an unauthorised payment charge if they retire before age 55.

This is a matter of interpretation of HMRC legislation and individuals who believe that they may be affected should seek advice from HMRC.

Communities and Local Government
9th November 2009