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Circular: 2023HOC0552MR

Date: 05 December 2023

To: All Members

Dear Brother/Sister

RDS: Second Options Exercise (Form to submit to FRA)

The original legal settlement under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 only allowed certain retained firefighters with service between 1 July 2000 and 5 April 2006 to become members of the pension scheme. Eligible firefighters were asked whether they wanted to join this scheme in an options exercise which took place in 2014-2015. Elections to join had to be received by 30 September 2015. This was the 'first options exercise'.

More recently, this judgment was challenged at the European Court of Justice in relation to fee-paid judges. The Court ruled in that case that service going back to the start of employment could be taken into account. The government accepted that the same principles apply to certain retained firefighters, whether they have made a legal claim or not.

A Memorandum of Understanding (MoU) was agreed by the government, the Fire Brigades Union and Fire and Rescue Authorities (FRAs) on 9 March 2022.

The Second Options Exercise will be open to all RDS firefighters with service before 1 July 2000 which continued after that date without interruption. RDS firefighters with service which began after 1 July 2000, but before 7 April 2006, will also be able to take part if they were not given the opportunity to take part in the first options exercise.

In other words, eligible RDS firefighters (as above) will be given an opportunity to convert their service before 7 April 2006 to pensionable service (as special membership of the NFPS), provided that they pay the contributions that they would have had to pay at the time, and regardless of whether they took part in the First Options Exercise.

The FBU's position is that the MOU provides for those who transferred from RDS to wholetime employment on or before 6 April 2000 to be eligible to participate in the Second Options Exercise. That is not accepted by the Home Office and Fire Service employers, and the current legislation does not make provision for it.

Next Steps

A second options exercise will take place to allow eligible retained firefighters to buy pension service as a special member of the FPS 2006, backdated to the start date of their employment.

What will I be entitled to?

Eligible retained firefighters will be able to buy pension service as a special member for some or all their employment between 7 April 2000 and 5 April 2006, as well as any continuous employment up to 7 April 2000 and/ or any continuous employment from 5 April 2006.

A retained firefighter transferring from one FRA to another without a break in service will be treated as having continuous employment with the second FRA.

New rules providing for this second options exercise came into force on 1 October 2023.

Timeframes

The timeframes currently envisaged for the Second Options Exercise are set out in the legislation, and are as follows:

(i) Fire authorities must use reasonable endeavours to notify by 31 December 2023 those of their current and former RDS firefighters employed between 6 April 2000 and 7 April 2006 who may be entitled to take part in the Second Options Exercise of their ability to do so;

(ii) authorities must also use reasonable endeavours to notify by 31 December 2023 RDS firefighters who commenced service on or after 1 July 2000, and before 7 April 2006, who the authorities say were given an opportunity to take part in the first options exercise;

(iii) if an individual who commenced service on or after 1 July 2000 wishes to contest a determination that they were given an opportunity to take part in the first options exercise, they will have 28 days from the receipt of the notification under (ii) to give written notice to the authority under the Independent Dispute Resolution Procedure;

(iv) within six months of receiving the notification under (i), eligible individuals will be able to apply to their authority for a statement of the service in respect of which they may be able to pay contributions, and the contributions which would be payable;

(v) if eligible employees have not received the notification under (i), they will have until 30 June 2024 to apply to their authority for the statement of service and contributions referred to at paragraph (iv);

(vi) within three months of receiving an individual's notification under (iv) or (v), the authority must provide a statement setting out the service which may be purchased, and the contributions payable; and

(vii) an individual will have six months from the date of receiving the notification to elect in writing to pay the contributions in respect of the service as set out in the statement. No election can take effect after 31 March 2025.

Do I need to do anything now?

If you think you are eligible for the second options exercise, you should complete the attached form and return it to your Fire and Rescue Authority or your former Fire and Rescue Authority by post or email, as soon as possible. This will help your FRA/ former FRA identify who is eligible.

Please note it is likely that receipt of forms will not be acknowledged.

Please make sure that the form is returned to your FRA or former FRA and not your pension scheme administrator. Forms sent to your pension scheme administrator will not be actioned and your FRA may not then have your details to contact you when the options exercise starts.

Your FRA is required to use reasonable endeavours to notify existing and former employees who may be eligible before 31 December 2023.

However, if you believe that you are eligible to take part in the second options exercise, and are interested in doing so, we recommend that you submit the attached form without delay.

Such forms must be received by your FRA(s) by no later than the date six months after you receive the notification above from your FRA(s). If no such notification is received from your FRA(s), your form must be received by your FRA(s) by 30 June 2024.

Once you have submitted your completed form (provided by the FRA), your FRA(s) will have three months in which to provide you with details of the period of service you may purchase, the amount of contributions you would have to pay and the applicable pensionable pay.

If you are no longer employed, please make sure that your contact details remain up to date with your former FRA.

Yours in unity,

A handwritten signature in black ink, appearing to read 'Mark Rowe', with a large, stylized 'M' and 'R'.

Mark Rowe
National Officer

MR/jr

**FORM TO SUBMIT TO CURRENT/FORMER FIRE AND RESCUE SERVICE
AUTHORITY/AUTHORITIES**

Second Options Exercise – Application for a statement of the service in respect of which I may become entitled to pay contributions under the second options exercise for RDS firefighters, and the contributions that I will be required to pay.

Personal details

Name

Date of birth

National Insurance number

Current Address

.....

.....

Telephone number.....

Email.....

Employment details

Name of current/former FRA

Payroll/service number

Start date of RDS service

End date of RDS service

Have you ever taken up employment as a regular (ie wholetime) firefighter? YES/NO

If YES, please give the name of the FRA with which you took up such regular employment, together with the date such regular employment started

.....

(If you have been employed by more than one FRA, please provide the above service details in relation to each FRA by which you have been employed).....

If you joined the Firefighters Pension Scheme 2006 (the '2006 Scheme') as a standard member, and/or you joined the Firefighters Pension Scheme 1992 (the '1992 Scheme'), please give the name(s) of the scheme(s) you joined and the date(s) on which you joined.....

Did you make an election not to pay any pension contributions in respect of your membership(s) of the 2006 Scheme or the 1992 Scheme? YES/NO

If YES, in respect of which scheme(s) did you make that election, and on what date(s)?

.....

(If you have had more than one membership of either the 2006 Scheme or the 1992 Scheme, please give the details above in relation to each such membership)

Have you already joined the 2006 Scheme as a special member? YES/NO

If YES, please give the date on which you elected to join the 2006 Scheme as a special member and the period of service you have previously elected to purchase (i.e. in the first options exercise).....

If YES, please give the date on which you elected to join the 2006 Scheme as a special member and the period of service you have previously elected to purchase (i.e. in the first options exercise).....

Please return completed form to your current/former Fire and Rescue Authority/Authorities