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Circular: 2024HOC0435MR

Date: 26 November 2024

To: All Members

Dear Brother/Sister

Retained Duty System (RDS) Employment Tribunal Pension Claims

This circular provides an update on the RDS pension claims – including ‘aggregation claims’, pre- 6 April 2000 transfers to wholetime, consequential loss claims and Claimants who are deceased.

Further details of the background are contained in Circular 2024HOCO264MR

1. Second Options Exercise

The resolution for most RDS and former RDS members comes in the form of the legislation now in force in England, Wales, Scotland and Northern Ireland as a result of the FBU’s legal campaign. That leaves four ‘Exceptional Circumstances’ categories, which are discussed below.

You are eligible to buy back pension in the Second Options Exercise if your employment as an RDS firefighter:

- (i) started before 1 July 2000, and continued without interruption after that date; OR
- (ii) started on or after 1 July 2000, but you were not given the opportunity to buy back pension in the First Options Exercise.

This applies whether you brought an Employment Tribunal claim through the FBU in 2000 or not.

Eligible members should by now have been notified of entitlement by the Fire Authority that employed them as an RDS firefighter. Important deadlines were explained in Circular 2024HOCO264MR.

If there are any eligible members who wish to take part in the Second Options Exercise and who have not so far (i) replied to express an interest to the Fire Authority and complied with the Fire Authority’s subsequent instructions; or (ii) submitted their own application to the Fire Authority, then they should apply to the Fire Authority without delay. As matters stand, the very last dates when elections can be out into effect are set below, However, any outstanding applications would need to be made well in advance of those dates, which are:

England and Scotland: 31 March 2025
Northern Ireland: 30 April 2025
Wales: 30 July 2025

As advised previously:

- 1. The responsibility for taking up pension in the Second Options Exercise, and for taking the necessary steps, rests with members and neither the FBU nor Thompsons are able to take any of the steps for you. If you wish to take part in the Second Options Exercise, it is very important that you comply with relevant timescales as previously advised; and**
- 2. If you have any questions concerning the Second Options exercise, and how to take up your entitlement to a backdated pension, please direct these to your Fire Authority. Thompsons will not be able to assist with how to take part in the Second Options exercise.**

2. Second Options exercise: tax related issues

Backdating pension under the Second Options exercise has led to the identification of various tax-related issues. These include the tax treatment of arrears of pension for those who have already retired; the tax treatment of interest on arrears of pension and additional lump sum payments; and the tax treatment of interest on additional lump sum payments. These issues have all been raised in detail with Government and Fire Service lawyers in an attempt to resolve them. Their response is awaited.

3. Thompsons representation ending for those who have not given authority to withdraw their claims, or notified one of the exceptional circumstances (see further below)

Thompsons have now written to all Original Claimants from 2000 who have not either (i) authorised withdrawal of their claim; or (ii) notified of one of the designated exceptional circumstances and provided sufficient details (see further below), to notify them that they are ceasing to represent them. This continues to be a mammoth exercise with further correspondence generating very high volumes of enquiries.

4. Outstanding issues

Claims were notified to Government and Fire service lawyers in relation to (i) aggregation issues; and (ii) consequential loss.

Aggregation claims

The issue mainly concerns those who transferred from RDS to wholetime employment and who expect to accrue more than 20 years' service. This applies to members who transferred to wholetime employment either before or after 5 April 2006. It covers both original Claimants and approximately 600 claims issued in the meantime. The figures for these claims continue to rise as members in this category have continued to come forward, not least from the final letter sent by Thompsons to original Claimants recently.

The original Employment Tribunal claims from 2000 continue to be case managed with these aggregation claims. The Tribunal has ordered a stay in these claims until 15 January 2025. The FBU's position, and lists of affected Claimants, were notified to relevant parties some months ago. There was initially some progress with government and fire service lawyers on principles, but detailed responses to the lists submitted by Thompsons in April 2024 are still outstanding.

Consequential loss claims

These claims are brought by Original Claimants. Since the claims were submitted in England and Wales at the end of April 2024, further original Claimants have indicated that they wish to pursue claims. Thompsons will be notifying these additional claims to government lawyers. No response to the substance of the claims has been received from government lawyers. Claims already notified to Thompsons in Scotland and Northern Ireland are still under consideration.

Other issues

Government lawyers' response is still awaited in relation to the position of estates of original Claimants who have died since retirement. Government's response on the issues is awaited. Further claims also continue to be lodged for members who transferred to wholetime before 6 April 2006.

The FBU remains optimistic that all outstanding issues can be resolved by the negotiation of a legislative solution on all outstanding issues with the Home Office and Fire Service employers – in the same way that it has been possible to resolve issues relating to this matter previously. Successful negotiation would be likely to resolve these issues most quickly and effectively. However, detailed responses from the Home Office and Fire Service employers have now been awaited for some time, and if progress towards resolution of all issues cannot be made, it may be necessary for the Tribunal process to be advanced.

Yours in unity,

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

Mark Rowe
National Officer

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