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SCOTTISH STATUTORY INSTRUMENTS

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**2016 No. 79**

**FIRE SERVICES  
PENSIONS**

**The Firemen's Pension Scheme  
(Amendment) (Scotland) Order 2016**

*Made* - - - - *2nd February 2016*  
*Laid before the Scottish*  
*Parliament* - - - - *4th February 2016*  
*Coming into force* - - *1st April 2016*

The Scottish Ministers make the following Order in exercise of the powers conferred by section 26(1) to (5) of the Fire Services Act 1947(1) and sections 12 and 16 of the Superannuation Act 1972(2) and all other powers enabling them to do so.

**Citation, commencement, effect and extent**

1.—(1) This Order may be cited as the Firemen's Pension Scheme (Amendment) (Scotland) Order 2016 and comes into force on 1st April 2016.

(2) This Order has effect from 1st April 2015, except that article 4 has effect from 1st October 2015.

(3) This Order extends to Scotland only.

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- (1) [1947 c.41](#); section 26 was repealed by sections 52 and 54 of, and Schedule 2 to, the Fire and Rescue Services Act [2004 \(c.21\)](#). Subsections (1) to (5) of section 26 continue to have effect for the purposes of the Firefighters' Pension Scheme, in relation to England and Scotland by virtue of [S.I. 2004/2306](#) and in relation to Wales by virtue of [S.I. 2004/2917](#). The name of the scheme was changed to the Firefighters' Pension Scheme by [S.I. 2004/2306](#). Section 26 of the Fire Services Act 1947 was amended by section 1 of the Fire Services Act [1951 \(c.27\)](#), section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act [1951 \(c.65\)](#), section 33 of, and Schedule 3 to, the Theft Act [1968 \(c.60\)](#), sections 16 and 29 of, and Schedule 8 to, the Superannuation Act [1972 \(c.11\)](#), sections 100 and 101 of, and Schedule 27 to, the Social Security Act [1973 \(c.38\)](#), section 1 of, and Schedule 1 to, the Social Security (Consequential Provisions) Act [1975 \(c.18\)](#), section 32(2) of the Magistrates' Courts Act [1980 \(c.43\)](#), section 1 of the Police and Firemen's Pensions Act [1997 \(c.52\)](#), section 256 of, and Schedule 25 to, the Civil Partnership Act [2004 \(c.33\)](#), and [S.I. 1976/551](#). The Secretary of State's functions under section 26 of the Fire Services Act 1947, in so far as they were exercisable in relation to Scotland, were devolved to Scottish Ministers by [S.I. 1999/1750](#) and [S.I. 2006/304](#).
- (2) [1972 c.11](#); Section 16 applies section 12 with the necessary modifications to Orders under section 26 of the Fire Services Act 1947. Section 16 is repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004, but continues to have certain effect by virtue of [S.I. 2004/2306](#).

## Amendment of the Firemen’s Pension Scheme Order 1992

2. Schedule 2 to the Firemen’s Pension Scheme Order 1992(3) (in which the Firefighters’ Pension Scheme is set out) is amended as follows.

3. In Part B (personal awards)—

(a) in paragraph (3) of rule B1A (continuous service pension)—

(i) in sub-paragraph (a), for “paragraph (1)(a)” substitute “paragraph (1)(b)”; and

(ii) for sub-paragraph (b), substitute—

“(b) paragraph (1) of this rule applies as if the age ascertained under sub-paragraph (a) above were substituted for “normal pension age.”;

(b) in rule B2A (continued pension)—

(i) for “regulation 65(4)(a)”, substitute “regulation 65(3)(b)”; and

(ii) for “rule B1A(3)(i)”, substitute “rule B1A(3)(a)”; and

(c) in paragraph (1A) of rule B5D (additional pension benefit: supplementary provision), for “paragraph (3)(i)” substitute “paragraph (3)(a)”.

4. In Part C (awards on death – spouses), after paragraph (2) of rule C9 (effect of remarriage) insert—

“(3) Paragraphs (1) and (2) do not apply where the person entitled to a pension under this Part is also entitled to a pension under Part 3 of Schedule 1 to the Firefighters’ Compensation Scheme (Scotland) Order 2006(4).

(4) Where entitlement to a pension or any part of a gratuity under this Part was removed by virtue of paragraph (1) or (2) prior to 1st October 2015 and the person was in receipt of a pension under Part 3 of Schedule 1 to the Firefighters’ Compensation Scheme (Scotland) Order 2006, entitlement to the pension or part of the gratuity under this Part is reinstated with effect from that date.

(5) Nothing in paragraph (4) requires the making of any payment where the person to whom the payment would otherwise have been made has died prior to 1st October 2015.”.

5. In Part F (pensionable service and transfer values)—

(a) in rule F2 (current service), after paragraph (1)(ab) for “or” substitute “and”; and

(b) in paragraph (1B) of rule F9 (payment of transfer values), omit “from the 2015 Scheme”.

6. In Part G (pensionable pay and contributions), in rule G1 (pensionable pay and average pensionable pay)—

(a) in paragraph (9), for “paragraph 34” substitute “paragraph 33”;

(b) in paragraph (10)—

(i) for “paragraph 34(4)”, substitute “paragraph 33(4)”; and

(ii) for “paragraph 34”, substitute “paragraph 33”;

(c) in paragraph (12), for “paragraph 34(3)” substitute “paragraph 33(3)”; and

(d) in paragraph (13)(b), for “which contributions” substitute “which pension contributions”.

7. In Part 2A (continuous service pension) of Schedule 2 (personal awards), in the definition of “C” for “40 years” substitute “30 years”.

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(3) S.I. 1992/129; relevant amending instruments are S.S.I. 2001/310, S.S.I. 2004/385, S.S.I. 2005/566, S.S.I. 2006/342, S.S.I. 2008/161, S.S.I. 2010/332, S.S.I. 2013/185 and S.S.I. 2015/141.

(4) S.S.I. 2006/338.

St Andrew's House,  
Edinburgh  
2nd February 2016

*JOHN SWINNEY*  
A member of the Scottish Government

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Firefighters' Pension Scheme, as set out in Schedule 2 to the Firemen's Pension Scheme Order 1992 ("the 1992 Order").

Article 4 allows a person entitled to a pension under the 1992 Order and also to a pension under the Firefighters' Compensation Scheme (Scotland) Order 2006 to retain the former pension following remarriage or the forming of a civil partnership. Pensions which have been withdrawn due to existing legislation in this connection are reinstated with effect from 1st October 2015.

Other changes made by this Order involve minor corrections to the 1992 Order.