

## 1991 No. 312

## FIRE SERVICES

Firemen's Pension Scheme (Amendment) Order  
(Northern Ireland) 1991

Made . . . . . 5th July 1991

Coming into operation . . . . . 1st September 1991

The Department of the Environment, in exercise of the powers conferred on it by Articles 2(2) and 10(1) and (4) of the Fire Services (Northern Ireland) Order 1984(a) and of every other power enabling it in that behalf, with the approval of the Department of Finance and Personnel(b), makes the following Order:

*Citation and commencement*

1. This Order may be cited as the Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1991 and shall come into operation on 1st September 1991.

*Interpretation*

2. In this Order "the Scheme of 1973" means the Firemen's Pension Scheme (Northern Ireland) 1973, set out in Appendix 2 to the Firemen's Pension Scheme Order (Northern Ireland) 1973(c).

*Variation of the Scheme of 1973*

3.—(1) The Schedule to this Order has effect for varying the Scheme of 1973.

(2) Part II of the Schedule, except paragraphs 2 and 14(a), has effect as from 6th April 1988.

(3) A reference in the Schedule to a numbered Article or Schedule is a reference to the Article or Schedule identified by that number in the Scheme of 1973.

*Elections in respect of protected benefits*

4.—(1) This Article applies to a person—

(a) to whom a protected benefit is being paid or may become payable, and

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(a) S.I. 1984/1821 (N.I. 11); See Art. 2(2) for definition of "the Department"

(b) Formerly the Department of Finance. See S.I. 1982/338 (N.I. 6) Art. 3

(c) S.R. & O. (N.I.) 1973 No. 393; the relevant amending Orders are S.R. 1978 No. 24, S.R. 1979 Nos. 88 and 387, S.R. 1980 Nos. 62 and 208, S.R. 1981 Nos. 143 and 320, S.R. 1982 No. 418, S.R. 1983 No. 116, S.R. 1984 No. 99, S.R. 1987 No. 424, S.R. 1988 No. 185 and S.R. 1989 No. 383

(b) who is placed in a worse position than he would have been in if a variation made to the Scheme of 1973 by virtue of Article 4 ("the relevant variation") had not applied in relation to the protected benefit.

(2) A protected benefit is one which is being paid or may become payable by the Authority under the Scheme of 1973, to or in respect of a person who was employed as a regular fireman but ceased to be so employed, or died, before 1st September 1991.

(3) A person to whom this Article applies may, by giving written notice to the Authority within 3 months after 1st September 1991, elect that the relevant variation shall not apply in relation to the protected benefit.

Sealed with the Official Seal of the Department of the Environment on 5th July 1991.

(L.S.)

*Trevor Pearson*

Assistant Secretary

The Department of Finance and Personnel approves this Order.

Sealed with the Official Seal of the Department of Finance and Personnel on 17th July 1991.

(L.S.)

*Doreen Brown*

Assistant Secretary

## PART I

## TRANSFER VALUE PROVISIONS

1. In Article 7 (meaning of certain expressions) insert in the appropriate place—
  - (a) “ “approved scheme” means superannuation arrangements falling within Article 65A(2)(a);”;
  - (b) “ “cash equivalent” means a cash equivalent mentioned in sub-paragraph (1) of paragraph 12 of Schedule 1A to the Social Security Pensions (Northern Ireland) Order 1975(b), and “part cash equivalent” means the cash equivalent of any part of the benefits described in that sub-paragraph which is prescribed under sub-paragraph (2A) (continuation in employment after termination of pensionable service);”;
  - (c) “ “club scheme” means superannuation arrangements falling within Article 65A(2)(a), (b) or (e);”;
  - (d) “ “personal pension scheme” has the meaning given in Article 2(2) of the Social Security (Northern Ireland) Order 1986(c);”.
  
2. In Article 44A(d) (previous service reckonable under current interchange arrangements)—
  - (a) in paragraph (4) for the words after “pensionable service” substitute “calculated—
    - (a) if he became a regular fireman before 1st January 1986 and the former superannuation arrangements were not a club scheme, in accordance with paragraphs 1 to 4 of Part II of Schedule 7(e) and Part III of that Schedule, and
    - (b) in any other case, in accordance with paragraph 5 or 6 of Part II of Schedule 7.”;
  - (b) for paragraph 5(b)(ii) substitute—
    - “(ii) if a transfer value such as is mentioned in paragraph (1)(c) were paid to the Authority its amount would be at least  $A \times B$ , where—
      - A is the annual amount of the pension to which he would in that event be entitled under Article 78A(f), and
      - B is the factor ascertained from the Table by reference to his age at the date on which the Authority is requested to accept the transfer value.

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- (a) Article 65A was inserted by paragraph 7 of Part II of Schedule 1 to S.R. 1979 No. 88
  - (b) S.I. 1975/1503 (N.I. 15); Schedule 1A was inserted by the Social Security (Northern Ireland) Order 1985, S.I. 1985/1209 (N.I. 16), Schedule 1, paragraph 3, and sub-paragraph (2A) was inserted by the Social Security (Northern Ireland) Order 1986 S.I. 1986/1888 (N.I. 18), Schedule 9, paragraph 24
  - (c) S.I. 1986/1888 (N.I. 18)
  - (d) Article 44A was inserted by paragraph 4 of Part II of Schedule 1 and amended by paragraph 19 of Part III of Schedule 2 to S.R. 1979 No. 88
  - (e) Schedule 7 was substituted by paragraph 13 of Part II of Schedule 1 and paragraph 33 of Part III of Schedule 2 to S.R. 1979 No. 88
  - (f) Article 78A was inserted by paragraph 25 of Part III of Schedule 2 to S.R. 1979 No. 88

TABLE

| <i>Age</i>  | <i>Factor</i> |
|-------------|---------------|
| 29 or under | 8             |
| 30 to 39    | 9             |
| 40 to 49    | 10            |
| 50 or over  | 12            |

3. In Article 65A (payment of transfer values under interchange arrangements)—

- (a) in paragraph (1) delete the words “subject to paragraph (3),”;
- (b) in paragraph (2) for the words “Parts I and III of Schedule 7” substitute “Part IA of Schedule 7”;
- (c) delete paragraph (3); and
- (d) after paragraph (4)(a) insert—

“(5) Notwithstanding anything in this Article, a transfer value may not be paid if the fireman has acquired a right to a cash equivalent, unless—

- (a) the service to which the cash equivalent relates includes service before 1st September 1991, and
- (b) the right has been exercised by requiring the whole of the cash equivalent to be paid to the person responsible for the management of an approved scheme which is not a club scheme.

(6) Notwithstanding anything in this Article, a transfer value may not be paid if the fireman—

- (a) has acquired a right to a part cash equivalent, and
- (b) would on taking that right remain entitled to a deferred pension.

(7) In this Article references to retirement include references to electing under Article 50AA(1) not to pay pension contributions.”.

4. In Part I of Schedule 7 (transfer value payable by the Authority under Article 65 or 65A)—

- (a) in the heading delete the words “or 65A”;
- (b) in paragraph 1(1) delete the words “or 65A”, and
- (c) delete paragraph 10.

5. After Part I of Schedule 7 insert—

“PART IA

TRANSFER VALUE PAYABLE UNDER ARTICLE 65A

1. A transfer value is calculated on the cash equivalent basis if it is calculated in the manner prescribed under paragraph 14 of Schedule 1A to the Social Security Pensions (Northern Ireland) Order 1975 for the calculation of cash equivalents.

2. Where—

- (a) a transfer value is payable to the person responsible for the management of a club scheme or a personal pension scheme, or

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(a) Paragraph 4 of Article 65A was added by paragraph 24 of Part III of Schedule 2 to S.R. 1979 No. 88

- (b) a transfer value is payable to the person responsible for the management of an approved scheme which is not a club scheme and none of the service to which it relates is service before 1st September 1991,

and no right to a cash equivalent was acquired, the transfer value is to be calculated on the cash equivalent basis.

3. Where—

- (a) a transfer value is payable to the person responsible for the management of an approved scheme which is not a club scheme, and

- (b) the service to which it relates includes service before 1st September 1991, and

- (c) no right to a cash equivalent was acquired,

the amount of the transfer value is the total of A and the greater of B and C, where—

A is a notional transfer value, calculated on the cash equivalent basis, in respect of the person's service after 31st August 1991,

B is a notional transfer value, calculated on the cash equivalent basis, in respect of his service before 1st September 1991, and

C is a notional transfer value, calculated as if Part I had continued after 31st August 1991 to apply to transfer values payable under Article 65A, in respect of his service before 1st September 1991.

4. Where—

- (a) a transfer value is payable to the person responsible for the management of an approved scheme which is not a club scheme, and

- (b) the service to which it relates includes service before 1st September 1991, and

- (c) a right to a cash equivalent was acquired,

the amount of the transfer value is  $D - E$ , where—

D is the transfer value that would have been payable if paragraph 3 had applied, and

E is the amount of the cash equivalent.

5. Where—

- (a) a transfer value is payable to the person responsible for the management of a personal pension scheme, and

- (b) a right to a part cash equivalent was acquired,

the transfer value is to be calculated on the cash equivalent basis but as if the person's service as a regular fireman had ended with 5th April 1988."

6. In Part II of Schedule 7 (pensionable service reckonable under Article 44A on receipt of transfer value by the Authority)—

- (a) in paragraph 1(1) for the words "The period" substitute "Where Article 44A applies, the period" and after the words "in accordance with" insert "this paragraph and paragraphs 2, 3 and 4 of"; and

- (b) after paragraph 4 add—

"5.—(1) Where Article 44A applies and the transfer value was received from the person responsible for the management of a club scheme, the fireman is entitled to reckon as pensionable service a period equal to the period that would enable the Authority to pay a transfer value, calculated on the cash equivalent basis, of the same amount as the one received.

(2) In calculating the period any sum representing interest that is included in the transfer value received is not to be taken into account.

6.—(1) Where Article 44A applies and the transfer value was received from the person responsible for the management of a personal pension scheme or an approved scheme which is not a club scheme, the fireman is entitled to reckon as pensionable service the period specified in sub-paragraph (2).

(2) The period is—

$$\frac{A + B + C \text{ years,}}{D + E}$$

where—

- A is the amount of the transfer value divided by the market level indicator for the month in which the material date occurred,
- B is any amount in respect of graduated National Insurance modification notified by the person paying the transfer value,
- C is 52 times the amount in respect of the fireman's guaranteed minimum multiplied by the minimum pension factor,
- D is 1/45th of the rate of his annual pensionable pay at the material date multiplied by the pension factor, and
- E is 1/90th of the rate of his annual pensionable pay at the material date multiplied by the widow's or widower's pension factor.

(3) The market level indicator for a month is to be ascertained from tables provided by the Government Actuary by reference to—

- (a) the person's age at the material date, and
- (b) the average gross redemption yield on the first working day of the month, ascertained from the FT - Actuaries Share Indices published in the Financial Times newspaper, on British Government index-linked stocks redeemable after 5 years or more, assuming inflation at 5 per cent (interpolating where that yield is not an integral percentage).

(4) The amount in respect of the fireman's guaranteed minimum is F + G, where—

- F is so much of his guaranteed minimum as is attributable to service before 6th April 1988, and
- G is half of so much of it as is attributable to service after 5th April 1988, and

(5) The material date—

- (a) if the transfer value was received within 12 months after the date on which the person became a regular fireman, is that date, and
- (b) in any other case, is the date on which the transfer value was received.

(6) The factors are to be ascertained from tables provided by the Government Actuary by reference to the person's age on the material date."

## PART II

### OTHER PROVISIONS

1. In Article 4 (meaning of "aggregate contributions"), for the words "he is entitled" substitute "he is, or was immediately before electing under Article 50AA(1) not to pay pension contributions, entitled".

2. In Article 7 (meaning of certain expressions), in paragraph (1) after the definition of "service pension" insert—

“ “tax year” means the 12 months beginning with 6th April in any year,”.

3. In Article 8 (fireman's ordinary pension), in paragraph (1) for the words "shall be entitled" substitute "shall, unless immediately before his retirement an election under Article 50AA(1) not to pay pension contributions had effect, be entitled".

4. In Article 9 (fireman's short service award)—

(a) in paragraphs (1) and (4) for the words "shall be entitled" substitute "shall unless immediately before his retirement an election under Article 50AA(1) not to pay pension contributions had effect, be entitled"; and

(b) in paragraphs (2) and (4) for the words "5 years" substitute "2 years".

5. In Article 10 (fireman's ill-health award)—

(a) in paragraph (1) for the words "shall be entitled" substitute "shall, unless immediately before his retirement an election under Article 50AA(1) not to pay pension contributions had effect, be entitled"; and

(b) in paragraph (2)(a) for the words "5 years" substitute "2 years".

6. In Article 12(a) (deferred pension and award where no transfer value and no other award is payable)—

(a) in paragraph (1) after the words "ceased to be a member of a fire brigade" insert ", or who has elected under Article 50AA(1) not to pay pension contributions";

(b) in paragraph (2) after the word "brigade" insert ", or, as the case may be, when the election under Article 50AA(1) takes effect"; and

(c) in paragraph (3) after the words "ceased to be a member of a fire brigade" insert "or has, within 3 months of his last becoming a regular fireman, elected under Article 50AA(1) not to pay pension contributions".

7. In Article 12B(b) (supplementary provisions about deferred pensions) in paragraph (1)—

(a) for the words "five years", wherever occurring, substitute "2 years"; and

(b) at the end of the proviso insert "nor to the extent, if any, that it comprises a period during which an election under Article 50AA(1) not to pay pension contributions had effect".

8. In Article 14 (cancellation of fireman's ill-health and injury pensions on recovery)—

(a) after paragraph (1) insert—

“(1A) The Authority may also consider as mentioned in paragraph (1) in the case of a person who—

(a) has elected under Article 50AA(1) not to pay pension contributions, and

(b) is entitled under Article 12 to a deferred pension, and

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(a) Article 12 was substituted by paragraph 3 of Part III of Schedule 2 to S.R. 1979 No. 88

(b) Article 12B was inserted by Part I of Schedule 2 of S.R. 1979 No. 88

- (c) has begun to receive payment on account of the pension on being required to retire under Article 81 (compulsory retirement on grounds of incapacity).”;
- (b) in paragraph (2) after the words “ill-health pension” add “or, in a case falling within paragraph (1A), may determine that payment of the deferred pension shall be suspended, that is to say, that the pension shall not be payable in respect of any period before—
- (a) his 60th birthday, or
- (b) if sooner, his again becoming permanently disabled”;
- (c) in paragraph (3) after the word “terminated” insert “, or payment of a deferred pension is suspended,” and after the word “termination”, wherever occurring, insert “or suspension”; and
- (d) in paragraph (4) after the words “pension is terminated” insert “, or payment of a deferred pension is suspended,” and for the words “that pension” substitute “an ill-health pension.”.

9. In Article 18 (widow’s ordinary pension), in paragraph (1)(a) after the word “fireman” insert “, unless an election under Article 50AA(1) not to pay pension contributions had effect at the time of his death”.

10. In Article 23 (widow’s award where no other award payable)—

- (a) in paragraph (1) after the words “regular fireman” insert “by whom pension contributions have at any time been payable under Article 50”; and
- (b) in paragraph (2) for the words “or 19” substitute “, 19 or 21”.

11. In Article 23A(a) (widow’s temporary and requisite benefit pensions) in paragraph (1) after the words “regular fireman” insert “by whom pension contributions have at any time been payable under Article 50 and who was”.

12. In Article 29 (child’s ordinary allowance), in paragraph (1)(a) after the word “fireman” insert “, unless an election under Article 50AA(1) not to pay pension contributions had effect at the time of his death”.

13. In Article 43 (current service in the brigade), in paragraph (a) after the words “1st April 1972” insert “, except a period during which pension contributions were not payable under Article 50”.

14. In Article 49 (pensionable pay and average pensionable pay)—

- (a) in the proviso to paragraph (1)—
- (i) after the words “13th November 1989,” insert “except where regulation 4 of the Retirement Benefits Schemes (Tax Relief on Contributions) (Disapplications of Earnings Cap) Regulations 1990(b) applies”, and
- (ii) for the words from “that pay” to “£60,000” substitute “in any tax year, the pay determined in accordance with this paragraph exceeds the figure which is the permitted maximum for that year for the purposes of section 594(2) and (3) of the Income and Corporation Taxes Act 1988(c) (that is to say, the figure specified for the year by an order made by the Treasury under section 590C(6) of that Act)”;

(a) Article 23A was inserted by paragraph 11 of Part III of Schedule 2 to S.R. 1979 No. 88

(b) S.I. 1990/586

(c) 1988 c. 1; section 590C was inserted, and section 594 amended, by the Finance Act 1988 (c. 26), section 75 and Schedule 6 paragraphs 4 and 6

- (b) in paragraph (5) for the words after “pensionable pay” substitute “is—
- (a) in the case of an award under Article 11 (fireman’s injury awards), 19 (widow’s special award), 23 (widow’s award where no other award payable), 27 (dependent relative’s special pension), 30 (child’s special allowance) or 31 (child’s special gratuity), the date of his last day of service as a regular fireman, and
- (b) in any other case, the date of his last day of service in a period during which pension contributions were payable under Article 50.”.

15. In Article 50 (rate of payment of pension contributions) after the word “shall” insert “, except while an election under Article 50AA(1) has effect,”.

16. After Article 50A(a) (additional contribution — completed years) insert—  
*“Election not to pay pension contributions*

50AA.—(1) Subject to paragraph (8), a regular fireman may at any time, by giving written notice to the Authority, elect that Article 50 is not to apply in his case.

(2) Subject to paragraph (3), an election under paragraph (1) takes effect on the first date after the notice is received on which an instalment of pay falls due.

(3) In the case of a person who—

(a) last became a regular fireman on a date (“the material date”) later than 5th April 1988, and

(b) has given notice under paragraph (1) within 3 months after the material date,

the election shall be treated as having taken effect on the material date.

(4) Where an election is to be treated as having taken effect on the material date—

(a) the Authority shall repay the person the pension contributions paid by him since that date, and

(b) for the purposes of Articles 23 and 23A pension contributions shall be taken not to have been payable by him at any time.

(5) Subject to paragraph (6), a person who has made an election under paragraph (1) may, not later than his 45th birthday, cancel it by giving written notice to the Authority.

(6) The Authority may resolve that a person’s election may not be cancelled unless he has undergone a medical examination, at his own expense, and satisfied it as to his good health.

(7) Where an election is cancelled it ceases to have effect on the first date after the notice is received on which an instalment of pay falls due.

(8) A person who has cancelled an election made under paragraph (1) may not make a further election under that paragraph during the same period of service as a regular fireman.

*Supplementary provision as to elections not to pay pension contributions*

50B.—(1) Any written notification given to the Authority in anticipation of Article 50AA shall be treated as having been a notice given under that Article.

(2) A notification is one given in anticipation of Article 50AA if—

(a) it was given after 5th April 1988 and before 1st September 1991,

- (b) it expressed a wish not to pay, or as the case may be a wish to resume payment of, pension contributions, and
  - (c) it was given on the understanding that if this Scheme were varied so as to contain provisions for the making and cancellation, by notice, of elections not to pay pension contributions it would be treated as having been a notice given under those provisions.
- (3) In the case of a person who—
- (a) was serving as a regular fireman on 6th April 1988,
  - (b) gave a written notification treated by virtue of paragraph (1) as notice of an election under Article 50AA(1) not to pay pension contributions, and
  - (c) attained the age of 45 before 6th April 1989,

a written notification given in anticipation of Article 50AA before 6th April 1989 expressing a wish to resume payment of pension contributions shall be treated as having been an effective notice of cancellation given under Article 50A(5) even if it was not given before his 45th birthday.”.

17. In Article 52 (additional and further payments by way of contributions — current provisions) in paragraph (5)—

- (a) for the words “cease to be payable on retirement” substitute “cease to be payable—
  - (a) on retirement, or
  - (b) if he elects under Article 50AA(1) not to pay pension contributions, on the date on which the election takes effect”; and
- (b) after the words “Schedule 1” add “, and if an election made under Article 50AA(1) is cancelled any contributions that were payable under this Article immediately before the election took effect become payable again from the date on which it ceases to have effect”.

18. In Article 73C(a) (lump sum payments), in paragraph (1) after the words “serving as a regular fireman” insert “and paying pension contributions under Article 50”.

19. In Article 73D (payment by periodical contributions)—

- (a) in paragraph (1) after the words “serving as a regular fireman” insert “and paying pension contributions under Article 50”;
- (b) after paragraph (2)(b) add—
  - “or
  - (c) the date on which any election under Article 50AA(1) not to pay pension contributions takes effect,”; and
- (c) in paragraph (4) for the words from “and who” to “as such, the” substitute “and—
  - (a) having retired with an ill-health pension before his retirement date, resumes service as such, or
  - (b) having elected under Article 50AA(1) not to pay pension contributions, cancels that election,
 the”.

20. In Article 73H (reckoning of additional benefits)—
- (a) in paragraph (1) for the words from “save that where” to “Article 73G” substitute “save that where—
    - (a) he had discontinued payment on grounds of financial hardship under Article 73G, or
    - (b) he had made an election under Article 50AA(1) which was subsequently cancelled under Article 50AA(5),”;
  - (b) after paragraph (1) insert—
    - “(1A) Paragraph (1) does not have effect in relation to a regular fireman who has at any time made an election under Article 50AA(1) which has not been cancelled under Article 50AA(5).”;
  - (c) in paragraph (2)—
    - (i) after the words “that election” insert “either”, and
    - (ii) after the words “Article 12D” insert “or elects under Article 50AA(1) not to pay pension contributions”.
21. In Article 78A(a) (contracting-out)—
- (a) in paragraph (3) for the words from “a widow” to “birthday, her” substitute “a person entitled to a pension under paragraph (4)(b) or (c) remarries before attaining insured pensionable age, the”;
  - (b) in paragraph (4)(b) for the word “where” substitute “in the case of a man, where”; and
  - (c) after paragraph (4)(b) insert—
    - “and
    - (c) in the case of a woman who has died after 5th April 1988 leaving a widower, then, unless any pension to which she had become entitled has been so withdrawn, the widower is entitled to a pension at a rate equal to one half of that part of her guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years.”.
22. After Article 78A insert—
- “*Revaluation of guaranteed minimum*
- 78AA.—(1) This Article applies where a person—
- (a) has ceased to serve as a regular fireman, or
  - (b) has elected under Article 50AA(1) not to pay pension contributions, and has taken a right to a cash equivalent by exercising the option conferred by paragraph 13(2) of Schedule 1A to the Social Security Pensions (Northern Ireland) Order 1975 (“the Pensions Order”) in the way specified in paragraph 13(2)(b) (purchase of annuity).
- (2) Where this Article applies, to the extent that the person’s guaranteed minimum is otherwise appropriately secured within the meaning of Article 53C(4) of the Pensions Order—
- (a) for the purposes of Article 37(2) of that Order (amount of guaranteed minimum) his earnings factors shall be determined by reference to the last

(a) Article 78A was inserted by paragraph 25 of Part III of Schedule 2 to S.R. 1979 No. 88

(b) Section 53C was inserted by the Social Security (Northern Ireland) Order 1985, Schedule 1, paragraph 2, and amended by the Social Security (Northern Ireland) Order 1986, Schedule 9, paragraph 17

order under Article 23 of that Order to come into force before the end of the tax year in which he ceased to serve or, as the case may be, in which his election under Article 50AA(1) took effect and without reference to any subsequent order, and

- (b) the weekly equivalent mentioned in Article 37(2) of that Order shall be increased in accordance with any additional requirements for the time being prescribed for the purposes of Article 47(1)(b) (exclusion from liability to pay a limited revaluation premium)."

23. In Article 80 (age of compulsory retirement), in paragraph (3) after the words "50 years and" insert "has, or but for an election under Article 50AA(1) would have,".

24. In Part V of Schedule 1 (fireman's injury awards)—

(a) in paragraph 2—

(i) for the words "the number of his completed years of pensionable service", and

(ii) for the words "his completed years of pensionable service" in the second place in which they occur,

substitute "the number of years of pensionable service he has, or but for an election under Article 50AA(1) would have, completed"; and

(b) in paragraph 3(1) after the words "qualifying injury" insert "or, where an election under Article 50AA(1) had effect, by the amount of any other pension which would otherwise have been so calculated".

25. In Part VI of Schedule 1 (fireman's deferred pension), in paragraph (1)(b) after the words "he would" insert " , or would but for an election under Article 50AA(1),".

26. In Part IV of Schedule 2 (widow's accrued pension), in the proviso to paragraph 3(a)—

(a) after the words "shall not apply" insert "where an election under Article 50AA(1) had effect at the time of the death, nor shall it apply"; and

(b) for the words "five years" substitute "2 years".

27. In Part III of Schedule 3 (child's accrued allowance), after paragraph 1 insert—

"1A. Where an election under Article 50AA(1) had effect at the time of the death, paragraphs 1(4) and 2(4) of Part I (child's ordinary allowance) do not apply for the determination under this Part of an accrued allowance."

28. In Schedule 11(b) (modifications to scheme in its application to the widower of a member of the fire brigade) paragraph 4 shall cease to have effect.

## EXPLANATORY NOTE

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

This Order further varies the Firemen's Pension Scheme brought into operation by the Firemen's Pension Scheme Order 1973 ("the Scheme of 1973").

Part I of the Schedule varies provisions of the Scheme of 1973 concerning the payment and receipt of transfer values. The provisions as varied are compatible with the rights to cash equivalents conferred from 1st January 1986, with direct and overriding effect, by Schedule 1A to the Social Security Pensions (Northern Ireland) Order 1975 (as inserted by Part II of Schedule 1 of the Social Security (Northern Ireland) Order 1985).

As a general rule, where such a right is acquired there is no right to a transfer value under the Scheme of 1973 (Article 65A(5) and (6), inserted by paragraph 3 of Part I of the Schedule). Where there is a right to a transfer value, it is to be calculated in the same way as a cash equivalent except in cases where it is payable to a scheme outside the public-sector "club" and the relevant service includes service before the commencement of the Order; rights in relation to such earlier service are preserved by calculating that element of the transfer value on the previously existing basis if that would produce a more favourable result (Schedule 7, Part IA, inserted by paragraph 5 of Part I of the Schedule).

On an inward transfer from a "club" scheme, the service credit allowed on receipt of a transfer value is the amount of service that would have allowed a cash equivalent of that value to be paid; where the transfer was from a scheme outside the "club" and occurred after 31st December 1985, the service credit is calculated by a method which includes an adjustment for market conditions; where such a transfer occurred before 1st January 1986, the credit is calculated on the previously existing basis (Article 44A(4) as varied by paragraph 2(a) of Part I of the Schedule; Schedule 7, paragraphs 1 to 4 of Part II, as varied by paragraph 6 of the Schedule).

Part II of the Schedule to the Order effects miscellaneous variations of the Scheme of 1973. Paragraph 16, which inserts new Articles 50AA and 50B, reconciles the Scheme of 1973 with Article 12 of the Social Security (Northern Ireland) Order 1986 (which makes void, inter alia, any rule to the effect that an earner must be a member of a particular occupational pension scheme) by conferring rights to make, and to cancel, an election not to pay pension contributions. Related variations are made by paragraphs 1, 3, 4(a), 5(b), 6, 7(b), 8 to 13, 14(b), 15, 17 to 20 and 23 to 27.

Paragraphs 4(b) and 7(a) of Part II of the Schedule reduce from 5 years to 2 years the period of service giving rise to an entitlement to a deferred pension.

Paragraph 14(a) varies the "earnings cap" imposed on pensionable pay by the proviso to Article 49(1): it will now keep pace with the figure specified

from time to time for tax purposes, and will not apply in cases where the "cap" is disappplied for those purposes.

Paragraph 21 of Part II of the Schedule makes the provision for widower's guaranteed minimum pensions that is required by Article 38 of the Social Security Pensions (Northern Ireland) Order 1975, as amended by section 11(3) of the Social Security (Northern Ireland) Order 1986; paragraph 28 makes a consequential variation.

Paragraph 22 of Part II of the Schedule inserts a new Article 78AA which enables a fireman's guaranteed minimum to be revalued in accordance with the fixed-rate method where he becomes entitled under the Social Security Pensions (Northern Ireland) Order 1975 to a cash equivalent and elects to have it applied to the purchase of an annuity.

Article 10(4) of the Fire Services Order 1984 enables an order to be made with retrospective effect. This Order is to a certain extent retrospective, but Article 3 makes transitional provision for opting out where rights in relation to ex-employees are adversely affected.