

2005 No. 566

FIRE SERVICES

PENSIONS

**The Firefighters' Pension Scheme Amendment (Scotland)
Order 2005**

Made - - - - *8th November 2005*

Laid before the Scottish Parliament *10th November 2005*

Coming into force - - *4th December 2005*

The Scottish Ministers, in exercise of the powers conferred by section 26(1) to (5) of the Fire Services Act 1947(a), sections 12 and 16 of the Superannuation Act 1972(b) and of all other powers enabling them in that behalf hereby make the following Order:

Citation, commencement and extent

1.—(1) This Order may be cited as the Firefighters' Pension Scheme Amendment (Scotland) Order 2005.

(2) This Order shall come into force on 4th December 2005, but, subject to paragraph (3) the amendments set out in the Schedule to this Order shall have effect from 2nd August 2005.

(3) (a) the following amendments shall have effect from 4th December 2005—

- (i) the amendment made by paragraph 9, in so far as it relates to rule A13 (relating to normal pension age);
- (ii) the amendments made by paragraph 15(d) (relating to deferred pension);
- (iii) the amendment made by paragraph 25 (relating to spouse's requisite benefit and temporary pension); and

(a) 1947 c.41, repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 c.21.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 scheme established under that section as the Firemen's Pension Scheme and set out in the Firemen's Pension Scheme Order 1992 (S.I. 1992/129), by article 3 of S.I. 2004/2306. The name of the scheme was changed to the Firefighters' Pension Scheme by article 4(1) of S.I. 2004/2306. Section 26 of the 1947 Act 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, section 100 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, article 2 of the Social Security (Modification of Fire Services Act 1947) Order 1976 (S.I. 1976/551) and section 1 of the Police and Firemen's Pensions Act 1997 c.52. The functions of the Secretary of State as regards Scotland were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, article 2 and Schedule 1, (S.I. 1999/1750).

(b) 1972 c.11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 c.7. The functions of the Secretary of State as regards Scotland were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, article 2 and Schedule 1 (S.I. 1999/1750). Section 16 applies section 12 with the necessary modifications to orders under section 26 of the Fire Services Act 1997. Section 16 is repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 c.21 but continues to have effect, for the purposes of the Firefighters' Pension Scheme, by virtue of article 3 of S.I. 2004/2306.

- (iv) the amendments made by paragraph 7(a) and (b)(i), paragraph 73(d), in so far as it relates to the insertion of paragraphs (5) and (6) of rule L1, and paragraphs 76, 77 and 89(b) (relating to the prevention of duplication of certain awards); and
 - (b) the amendment made by paragraph 24 (relating to limiting awards to widows) shall have effect from 1st March 1992.
- (4) This Order extends to Scotland only.

Amendment of the Firefighters' Pension Scheme (Scotland only)

2. The Firefighters' Pension Scheme set out in Schedule 2 to the Firemen's Pension Scheme Order 1992(a), as it has effect in Scotland, shall be amended in accordance with the Schedule to this Order.

St Andrew's House,
Edinburgh
8th November 2005

GEORGE LYON
Authorised to sign by Scottish Ministers

(a) S.I. 1992/129, amended by S.I. 1997/2309 and 2851, S.I. 1998/1010, S.I. 2001/3649, S.S.I. 2001/310 and S.S.I. 2004/385. The Scheme was made under section 26 of the Fire Services Act 1947 c.41. That Act was repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 c.21. The Firefighters' Pension Scheme and subsections (1) to (5) of section 26 were continued in force, for the purposes of the scheme established under that section as the Firemen's Pension Scheme, by S.I. 2004/2306. The name of the scheme was changed by article 4(1) of S.I. 2004/2306.

SCHEDULE

Article 2

AMENDMENT OF THE FIREFIGHTERS' PENSION SCHEME

1. In rule A3 (exclusive application to regular firefighters)(a) in paragraph (3), for “a member of a brigade”, substitute “an employee of a fire and rescue authority”.

2. In rule A4 (application to temporary employment connected with fire services)–

(a) in paragraph (2), for “fire services”, substitute “fire and rescue services”; and

(b) for paragraph (3), substitute–

“(3) Where this rule applies the person’s relevant employment shall be treated for the purposes of this Scheme as employment by a fire and rescue authority and this Scheme applies in relation to the relevant employment as if–

(a) he were, and his duties were duties as, a regular firefighter;

(b) his pay and role were the same as they would have been had he not ceased to perform duties as a regular firefighter or, where section 10 of the Fire Services Act 1959(b) applies, the same as his pay and role as an employee of a fire and rescue authority;

(c) any reference to employment with a fire and rescue authority were a reference to the relevant employment;

(d) rules A14, A15 and L2 were omitted; and

(e) any reference to a fire and rescue authority were a reference to the Scottish Ministers.”.

3. In rule A5 (application to permanent employment as instructor)–

(a) in paragraph (2), for “fire services”, substitute “fire and rescue services”; and

(b) in paragraph (3)–

(i) for “as a member of a brigade”, substitute “by a fire and rescue authority”;

(ii) omit sub-paragraph (b);

(iii) in sub-paragraph (c), for “fire authority”, substitute “fire and rescue authority”; and

(iv) in sub-paragraph (d), for “A13 to”, substitute “A14,”.

4. In rule A6 (no application to auxiliary firefighters) for “a member of a brigade who is enrolled for service in the brigade which”, substitute “an employee of a fire and rescue authority whose employment”.

5. In rule A7 (reckoning of service for purposes of awards)(c)–

(a) in paragraph (1), for “a member of a brigade”, substitute “an employee of a fire and rescue authority”;

(b) in paragraph (2)(b), for “fire authority”, substitute “fire and rescue authority”; and

(c) in paragraph (5), for “member of a brigade” (in both places), substitute “employee of a fire and rescue authority”.

6. In rule A8 (aggregate pension contributions for purposes of awards)(d), in paragraph (1)(a), for “fire authority”, substitute “fire and rescue authority”.

(a) Rule A3 was amended by S.S.I. 2001/310, Schedule 2, paragraph 1.

(b) 1959 c.44. Section 10 of the 1959 Act continues to have effect, notwithstanding the repeal of the 1959 Act by the Fire and Rescue Services Act 2004, by virtue of S.I. 2004/2306.

(c) Rule A7 was amended by S.S.I. 2001/310 Schedule 2, paragraph 2 and S.S.I. 2004/385 paragraph 1 of the Schedule, the latter inserting paragraph (5) of that rule.

(d) There is an amendment to rule A8 which is not relevant to this Order.

7. In rule A9 (qualifying injury)(a)–

- (a) in paragraph (1), for “Except in rule J4,”, substitute “Except in rules J4, L1(5) and (6) and L4B(1)(b),”;
- (b) in paragraph (2)–
 - (i) for “In rule J4, unless the context otherwise requires,”, substitute “In rules J4, L1(5) and (6) and L4B(1)(b),”;
 - (ii) for “member of a brigade”, substitute “firefighter”.

8. In rule A10 (disablement)(b)–

- (a) for paragraph (1A), substitute–

“(1A) In determining whether a disablement is permanent, a fire and rescue authority shall have regard to whether the disablement will continue until the person’s normal pension age.”; and
- (b) in paragraph (4), for “fire authority”, substitute “fire and rescue authority”.

9. For rules A13 (compulsory retirement on account of age) and A14 (compulsory retirement on grounds of efficiency of brigade)(c), substitute–

“Normal pension age

A13. The normal pension age of employees of a fire and rescue authority appointed on terms under which they are or may be required to engage in fire-fighting is 55.

Compulsory retirement on grounds of efficiency

A14. A regular firefighter who–

- (a) has attained the age of 50, and
- (b) has, or but for an election under rule G3 or a failure to make an election under rule G2A would have, completed 25 years’ pensionable service,

may be required by the fire and rescue authority to retire on the grounds that his retention in the fire and rescue service would not be in the general interests of its efficiency.”.

10. In rule A15 (compulsory retirement on grounds of disablement)(d), for “fire authority” (in both places), substitute “fire and rescue authority”.

11. In rule A16 (effective date of retirement), for “a member of a brigade”, substitute “an employee of a fire and rescue authority”.

12. In rule B1(ordinary pension)–

- (a) in paragraph (2)(a), for “joining another brigade”, substitute “taking up employment with another fire and rescue authority”; and
- (b) in paragraph (2)(b)–
 - (i) for “fire authority”, substitute “fire and rescue authority”; and
 - (ii) for “chief officer”, substitute “chief fire officer”.

13. In rule B2 (short service awards), for paragraph (1), substitute–

“(1) This rule applies, unless immediately before his retirement an election under rule G3 not to pay pension contributions had effect, to a regular firefighter who–

- (a) retires on or after attaining the age of 65;

(a) Rule A9 was amended by S.S.I. 2004/385, paragraph 3 of the Schedule.

(b) Paragraph (1A) of rule A10 was inserted by S.S.I. 2004/385, paragraph 4 of the Schedule.

(c) Rules A13 and A14 were amended by S.S.I. 2004/385 paragraphs 5 and 6 of the Schedule, respectively.

(d) Rule A15 was amended by S.I. 1997/2309, paragraph 1 of the Schedule.

- (b) is entitled to reckon at least 2 years' pensionable service; and
- (c) is not entitled to any other pension or gratuity under this Part.”.

14. In rule B3 (ill-health award)–

- (a) in paragraph (2)(a) and (b), after “calculated”, insert “subject to paragraph (3)”; and
- (b) after paragraph (2), insert–
 - “(3) Where the person holds the role of Station Manager B or a superior role, the calculation required by paragraph (2)(a) or (b) shall be made as if his normal pension age were 60.”.

15. In rule B5 (deferred pension)(a)–

- (a) in paragraph (2)–
 - (i) for “a member of a brigade”, substitute “an employee of a fire and rescue authority”;
 - (ii) for “joining another brigade”, substitute “taking up employment with another fire and rescue authority”; and
 - (iii) after “calculated”, insert “subject to paragraph (3A)”;
- (b) in paragraph 3–
 - (i) in sub-paragraph (b), for “rejoining his brigade”, substitute “re-employment with his fire and rescue authority”; and
 - (ii) after “calculated”, insert “subject to paragraph (3A)”;
- (c) after paragraph (3), insert–
 - “(3A) Where the person holds the role of Station Manager B or a superior role, the calculation required by paragraph (2) or (3) shall be made as if his normal pension age were 60.”; and
- (d) in paragraph (4)(b), after “he becomes permanently disabled”, insert “for engaging in firefighting or performing any other duties appropriate to his former role as a firefighter”.

16. In rule B6 (repayment of aggregate pension contributions), in paragraph (1)–

- (a) for “a member of a brigade”, substitute “an employee of a fire and rescue authority”; and
- (b) for “joining another brigade”, substitute “taking up employment as a regular firefighter with another fire and rescue authority”.

17. In rule B7 (commutation - general provision)(b)–

- (a) for paragraph (5)(b), substitute “(b) he retires at, or after, normal pension age,”
- (b) omit paragraph (5)(c); and
- (c) in paragraphs (7) to (9) for “fire authority”, substitute “fire and rescue authority”.

18. In rule B8 (commutation – small pensions)(c), in paragraph (1), for “fire authority”, substitute “fire and rescue authority”.

19. In rule B9 (allocation) (d), in paragraphs (2), (6), (8) and (12) for “fire authority” substitute “fire and rescue authority”.

20. In rule B11 (deduction of tax from certain awards), for “fire authority”, substitute “fire and rescue authority”.

21. For rule B13 (part-time members)(e) substitute–

(a) There is an amendment to rule B5 which is not relevant to this Order.
 (b) There are amendments to rule B7 which are not relevant to this Order.
 (c) Rule B8(1) was amended by S.S.I. 2001/310, paragraph 4 of Schedule 2.
 (d) Rule B9 was amended by S.S.I. 2001/310, paragraph 9 of the Schedule and S.S.I. 2004/385 paragraph 5 of Schedule 2.
 (e) Rule B13 was inserted by S.S.I. 2004/385, paragraph 10 of the Schedule.

“B13.—(1) Where a person is entitled to an award under this Part and some or all of his service, by virtue of which his pensionable service is reckonable, was part-time service, his award shall be calculated, subject to paragraph (2), in accordance with Part VIA of Schedule 2.

(2) Where the person holds the role of Station Manager B or a superior role, the calculation required by paragraph (1) shall be made as if his normal pension age were 60.”.

22. In rule C1 (spouse’s ordinary pension), in paragraphs (3), (5) and (6) for “fire authority”, substitute “fire and rescue authority”.

23. In rule C3 (spouse’s augmented award)—

(a) in paragraph (2) for “fire authority” (in both places), substitute “fire and rescue authority”; and

(b) in paragraph (5)—

(i) for “rule C2(3) to (5) does not apply”, substitute “paragraphs (3) to (5) of rule C2 do not apply”; and

(ii) for “holding the rank of firefighter in the brigade maintained by the London Fire and Civil Defence Authority”, substitute “employed as a firefighter by the London Fire and Emergency Planning Authority”.

24. For rule C5 (limitation on award to widow by reference to date of marriage), substitute—

“Limitation on award to spouse by reference to date of marriage

C5.—(1) A surviving spouse is not entitled to an ordinary pension under rule C1, a special award under rule C2, an augmented award under rule C3 or an accrued pension under rule C4 unless he was married to the deceased during a period before the deceased last ceased to be a regular firefighter.

(2) A surviving spouse who, but for paragraph (1), would be entitled to a pension or other award mentioned in that paragraph, is instead entitled to a pension calculated in accordance with Part IV of Schedule 3.”.

25. For rule C6 (widow’s requisite benefit and temporary pension), substitute—

“Spouse’s requisite benefit and temporary pension

C6.—(1) This rule applies where—

(a) a person entitled to reckon less than 2 years’ pensionable service who is or has been a regular firefighter and by whom pension contributions have at any time been payable under rule G2 dies, leaving a surviving spouse, after the beginning of the tax year in which he attained or would have attained state pensionable age, and

(b) neither rule C2 nor rule C4 applies.

(2) Where this rule applies the surviving spouse is entitled—

(a) in respect of the first 13 weeks following the death, to a temporary pension, and

(b) after the last of those 13 weeks, to a requisite benefit pension.

(3) The weekly amount of the temporary pension is A - B, where—

A is the weekly amount, immediately before the deceased died, of his pensionable pay or, as the case may be, his pension or pensions (including any increase under the Pensions (Increase) Act 1971)(a), and

B is the weekly amount of any children’s allowances payable in respect of his death.

(a) 1971 c. 56.

(4) The requisite benefit pension shall be calculated in accordance with Part V of Schedule 3.

(5) If—

(a) the deceased died while serving as a regular firefighter, and

(b) the amount of the capitalised value of the requisite benefit pension, as calculated by the Government Actuary, is less than that of his average pensionable pay,

the surviving spouse is entitled to a gratuity equal to the difference between those amounts.”.

26. In rule C8 (limitations where spouses living apart), in paragraphs (6) and (7) for “fire authority”, substitute “fire and rescue authority”.

27. In rule C9 (effect of remarriage), for “fire authority” (in both places), substitute “fire and rescue authority”.

28. In rule D5 (child’s allowance or special gratuity: limitations), in paragraphs (4)(c) and (5)(b) for “fire authority”, substitute “fire and rescue authority”.

29. In rule E2 (adult dependent relative’s special pension) in paragraphs (3) and (4) for “fire authority”, substitute “fire and rescue authority”.

30. In rule E3 (dependent relative’s gratuity), in paragraph (3), for “fire authority”, substitute “fire and rescue authority”.

31. In rule E4 (payment of balance of contributions to estate)(a), in paragraph (4), for “fire authority”, substitute “fire and rescue authority”.

32. For rule E5 (gratuity in lieu of surviving spouse’s pension), substitute—

“Gratuity in lieu of surviving spouse’s pension

E5.—(1) Where the amount of any pension payable under Part C, together with any increase under the Pensions (Increase) Act 1971, does not exceed £260, or any greater amount prescribed by regulations for the time being in force under section 12C(1) of the Pension Schemes Act 1993(b), the fire and rescue authority may commute the pension for a gratuity.

(2) Where—

(a) a surviving spouse is entitled to a pension under rule C1 or C2, and

(b) the fire and rescue authority are satisfied that there are sufficient reasons, and

(c) the surviving spouse consents,

the fire and rescue authority may commute for a gratuity the pension or so much of it as may be commuted without contravening rule E7.

(3) A fire and rescue authority may under this rule commute a pension for a gratuity only when the pension first becomes payable.

(4) A gratuity under this rule shall be calculated in accordance with such guidance as is provided for the purpose by the Government Actuary.”.

33. In rule E6 (gratuity in lieu of child’s allowance), in paragraph (1) for “fire authority” (in both places), substitute “fire and rescue authority”.

34. In rule E7 (limitation on discretion to commute pension or allowance for gratuity), in paragraph (2), for “fire authority”, substitute “fire and rescue authority”.

(a) There is an amendment to rule E4 which is not relevant to this Order.

(b) 1993 c.48. Section 12C was inserted by the Pensions Act 1995 c.26, section 136(5).

35. In rule E9 (flat-rate awards)–

- (a) in paragraph (2), after “applies”, insert “and the deceased retired before 2nd August 2005,”^(a);
- (b) after paragraph (2), insert–
 - “(2A) Subject to paragraph (3), where paragraph (1)(a) or (b) applies and the deceased retired on or after 2nd August 2005, the amount of the pension is–
 - (a) if his last role was not higher than Watch Manager A (Case A), £379.78;
 - (b) if his last role was higher than Watch Manager A but not higher than Area Manager A (Case B), £494.54; and
 - (c) in any other case (Case C), £594.18,increased, in each case, in accordance with paragraph (7).”;
- (c) in paragraph (3)(b), for the words after “April 1975”, substitute–
 - “and would have become entitled to reckon at least 10 years’ pensionable service had he continued to serve until–
 - (i) he could have been required to retire on account of age; or
 - (ii) if he retired on or after 2nd August 2005, normal pension age,the amount specified in, as the case may be, paragraph (2)(a), (b) or (c) or paragraph (2A)(a), (b) or (c), is increased by £29.91.”; and
- (d) in paragraph (6), for “fire authority”, substitute “fire and rescue authority”.

36. In rule F1 (reckoning of and certificates as to pensionable service)(b)–

- (a) in paragraph (3), for “fire authority”, substitute “fire and rescue authority”; and
- (b) in paragraph (7), for “resumes service in his former brigade”, substitute “resumes employment with his former fire and rescue authority”.

37. In rule F2 (current service)(c)–

- (a) for paragraphs (1) and (2), substitute–
 - “(1) Subject to paragraphs (2) and (3), a person serving as a regular firefighter is entitled to reckon as pensionable service–
 - (a) any period of service after 1st August 2005, as a regular firefighter in the employment of a fire and rescue authority, except a period during which pension contributions were not payable under rule G2, and
 - (b) if he served as a regular firefighter in a brigade after 31st March 1972 and before 2nd August 2005, any period of service in that brigade, except a period during which pension contributions were not payable under rule G2, and
 - (c) if he was serving in a brigade both on and immediately before 1st April 1972, any period he was entitled to reckon immediately before that date.
- (2) A person is not entitled to reckon as pensionable service by virtue of paragraph (1)–
 - (a) if he ceases employment with a fire and rescue authority after 1st August 2005, and again takes up employment with the authority, any period of service before he last took up such employment, or
 - (b) if he left a fire brigade after 31st March 1972 and–
 - (i) rejoined the brigade before 2nd August 2005, or
 - (ii) took up employment with a fire and rescue authority on or after that date,

^(a) Fire and rescue authorities were established on 2nd August 2005 under the Fire (Scotland) Act 2005. Before that date, the provision of fire services was the responsibility of fire authorities under the Fire Services Act 1947 c. 41.
^(b) Rule F1 was amended by S.I. 1997/2851, paragraph 1 of the Schedule and S.S.I. 2004/385, paragraph 12 of the Schedule.
^(c) Rule F2 was amended by S.S.I. 2004/385, paragraph 13 of the Schedule.

any period of service before he last rejoined the brigade or, as the case may be, took up employment with the authority, or

- (c) any period of absence from duty as a regular firefighter as a result of sickness or injury certified by a qualified medical practitioner to be due to his own misconduct, or
 - (d) subject to paragraph (3) and rule F2A, any period of absence from duty without pay, or
 - (e) any period of maternity or adoption leave in respect of which the person has the right to, but does not, pay contributions under rule G2A.”; and
- (b) in paragraph (3), for the words from the beginning to “is serving”, substitute “The fire and rescue authority which employs a person”.

38. In rule F2A (maternity, paternity and adoption leave)(a), for “fire authority” (in both places), substitute “fire and rescue authority”.

39. In rule F3 (previous service reckonable without payment)–

- (a) in paragraph (a) for “a brigade”, substitute “employment by a fire and rescue authority”; and
- (b) in paragraph (b), for “resumed service as a regular firefighter in the brigade”, substitute “again taken up employment with the fire and rescue authority as a regular firefighter”.

40. In rule F4 (previous service reckonable on payment)–

- (a) for paragraph (1), substitute–

“(1) A person who–

- (a) has retired from employment with a fire and rescue authority without a pension and without any transfer value or cash equivalent becoming payable by the authority, and
- (b) has within 12 months, with the written consent, applied for before retiring, of the authority from which he retired, taken up employment as a regular firefighter with another fire and rescue authority, and
- (c) within 6 months of taking up that employment, or such longer period as his employing authority may allow, has undertaken to pay the required amount in accordance with paragraph 1 of Part 1 of Schedule 6,

is entitled to reckon as pensionable service the period he was entitled to reckon when he retired.”;

- (b) for paragraphs (3) and (4), substitute–

“(3) A person who–

- (a) has retired from employment by a fire and rescue authority with no pension other than an ill-health pension the unsecured portion of which has been terminated as mentioned in rule K1(3), and
- (b) has again taken up employment as a regular firefighter with that or another fire and rescue authority, and
- (c) within 6 months of taking up that employment, or such longer period as his employing authority may allow, has undertaken to pay in accordance with paragraph 1 of Part I of Schedule 6 a sum calculated in accordance with paragraph 2 of that Part,

is entitled to reckon as pensionable service the period he was entitled to reckon when he retired.

(a) Rule F2A was inserted by S.S.I. 2004/385, paragraph 14 of the Schedule.

- (4) A person who—
- (a) has retired from employment with a fire and rescue authority with a deferred pension, and
 - (b) has by written notice to the authority relinquished the pension, and
 - (c) has again taken up employment as a regular firefighter with that or another fire and rescue authority, and
 - (d) within 6 months of taking up that employment, or such longer period as his employing authority may allow, has undertaken to pay the required amount in accordance with paragraph 1 of Part I of Schedule 6,

is entitled to reckon as pensionable service the period he was entitled to reckon when he retired.”; and

- (c) in paragraph (5), in sub-paragraph (a), for “the fire authority maintaining the brigade from which”, substitute “the fire and rescue authority from whose employment”.

41. In rule F5 (period during which injury pension was payable)—

- (a) for paragraph (1), substitute—

“(1) A person who—

- (a) retired from a brigade before 2nd August 2005, or from employment with a fire and rescue authority on or after that date, and became entitled to an injury pension, and
- (b) resumed service as a regular firefighter in that or another brigade before 2nd August 2005, or took up employment with a fire and rescue authority on or after that date, in the circumstances and within the period mentioned in rule K1(1) to (4), and
- (c) within 6 months of his resuming service, or taking up that employment, or such longer period as the fire authority, or as the case may be, the fire and rescue authority, may allow, has undertaken to pay the required amount in accordance with paragraph 1 of Part I of Schedule 6,

is entitled to reckon as pensionable service the period during which he was entitled to the injury pension (“the pension period”).”; and

- (b) in paragraph (2), after “rank he held”, insert “or, as the case may be, role he had”.

42. In rule F6A (previous service reckonable following actionable loss)(a), for “fire authority” (in each place), substitute “fire and rescue authority”.

43. In rule F6B (calculation of amount of restitution payment)(b), for “fire authority” (in each place), substitute “fire and rescue authority”.

44. In rule F7 (receipt of transfer value)(c)—

- (a) in paragraph (1)

- (i) for “fire authority”, substitute “fire and rescue authority”; and

- (ii) for “has become a regular firefighter in the brigade maintained by them” substitute “has taken up employment with them as a regular firefighter”; and

- (b) in paragraph (4), in the definition of “B”, for “fire authority”, substitute “fire and rescue authority”.

45. In rule F8 (transfer payments between fire authorities)(d), after paragraph (1), insert—

“(1A) Where—

(a) Rule F6A was inserted by S.I. 1997/2851, paragraph 2 of the Schedule.

(b) Rule F6B was inserted by S.I. 1997/2851, paragraph 2 of the Schedule.

(c) Rule F7 was amended by S.S.I. 2001/310, paragraph 10 of Schedule 2.

(d) Rule F8 was amended by S.S.I. 2001/310, paragraph 11 of Schedule 2.

- (a) a person who retired from a brigade before 2nd August 2005 (“the first employment”) takes up employment as a regular firefighter with a fire and rescue authority, or
- (b) a person retires from employment with a fire and rescue authority (“the first FRA”) and takes up employment as a regular firefighter with another fire and rescue authority (“the second FRA”), and
- (c) in either case becomes entitled under rule F4 to reckon as pensionable service the period he was entitled to reckon when he retired,

the authority responsible for the person in the first employment or, as the case may be, the first FRA, shall, subject to paragraph (2), pay to the second FRA a sum calculated in accordance with Part III of Schedule 6.”.

46. In rule F9 (payment of transfer values)(a)–

- (a) in paragraph (1)–
 - (i) for “fire authority”, substitute “fire and rescue authority”; and
 - (ii) in sub-paragraph (a), for “serve as a regular firefighter in the brigade maintained by them”, substitute “be employed by the authority as a regular firefighter”;
- (b) in paragraph (2)
 - (i) for “fire authority”, in the first place those words appear, substitute “fire and rescue authority”; and
 - (ii) for “the fire authority”, in the second place those words appear, substitute “the authority”; and
- (c) in paragraphs (5)(a) and (6)(b), for “fire authority”, substitute “fire and rescue authority”.

47. In rule G1 (pensionable pay and average pensionable pay)(b), for paragraph (1), substitute–

“(1) Subject to paragraph (2), the pensionable pay of a regular firefighter is the amount determined in relation to the performance of the duties of his role (whether as a whole-time or part-time employee).”.

48. In rule G2 (pension contributions), for “fire authority” (in both places), substitute “fire and rescue authority”.

49. In rule G2A (optional pension contributions during maternity and adoption leave)(c)–

- (a) in paragraph (3)–
 - (i) for “fire authority” (in the first place those words appear), substitute “fire and rescue authority”; and
 - (ii) for “fire authority” (in the second and third places those words appear, substitute “authority”;
- (b) in paragraphs (5) and (7), for “fire authority” substitute “fire and rescue authority”.

50. In rule G3 (election not to pay pension contributions)(d), in paragraphs (1), (4), (5) and (6) for “fire authority”, substitute “fire and rescue authority”.

51. In rule G5 (purchase of increased benefits)(e)–

- (a) in paragraph (2)–
 - (i) in sub-paragraph (c), for “retirement date”, substitute “normal pension age”;
 - (ii) in sub-paragraph (d) for “on his retirement date” substitute “at his normal retirement date”;

(a) Rule F9 was amended by S.S.I. 2001/310, paragraph 12 of Schedule 2.
 (b) Rule G1 was amended by S.S.I. 2004/385, paragraph 15 of the Schedule.
 (c) Rule G2A was inserted by S.S.I. 2004/385, paragraph 16 of the Schedule.
 (d) Rule G3 was amended by S.S.I. 1997/2851, paragraph 3 of the Schedule.
 (e) Rule G5 was amended by S.S.I. 2001/310, paragraph 13 of Schedule 2.

(b) omit paragraph (3).

52. In rule G6 (election to purchase increased benefits)(a)–

(a) in paragraph (1), for “fire authority” (in both places), substitute “fire and rescue authority”;

(b) in paragraph (2), for “retirement date”, substitute “normal pension age”;

(c) in paragraph (4)–

(i) for “retirement date”, substitute “normal pension age”;

(ii) for “fire authority” (in both places), substitute “fire and rescue authority”; and

(iii) in sub-paragraph (a), omit “of brigade”; and

(d) for paragraph (5), substitute–

“(5) An election under this rule–

(a) takes effect, subject to paragraph (3)(b), on the day on which the written notice is received by the fire and rescue authority, and

(b) is irrevocable.”.

53. In rule G7 (payment of periodical contributions for increased benefits)(b)–

(a) in paragraphs (1)(a) and (2), for “retirement date”, substitute “normal pension age”; and

(b) in paragraph (4), for “fire authority”, substitute “fire and rescue authority”.

54. In rule G8 (effect of payment for increased benefits)(c)–

(a) in paragraph (2)(c), for “retirement date”, substitute “normal pension age”;

(b) in paragraph (4)(a), for “a member of a brigade”, substitute “an employee of a fire and rescue authority”; and

(c) in paragraph (6), for “retirement date”, substitute “normal pension age”.

55. In rule H1 (determination by fire authority)(d)–

(a) in paragraph (1), for “fire authority”, substitute “fire and rescue authority”;

(b) in paragraph (2), for “fire authority” (in both places), substitute “authority”; and

(c) in paragraph (2A), in sub-paragraph (b), for “the member, the fire authority”, substitute “the employee, the authority”.

56. In rule H2 (appeal against opinion on a medical issue)(e), for “fire authority” (in each place), substitute “fire and rescue authority”.

57. In rule H3 (appeal to Crown Court or Sheriff)(f), in paragraphs (1) to (3), for “fire authority”, substitute “fire and rescue authority”.

58. In rule I2 (awards to servicemen), in paragraph (3), for “fire authority” substitute “fire and rescue authority”.

59. In rule I3 (awards on death of servicemen), in paragraph (3), for “fire authority”, substitute “fire and rescue authority”.

60. In rule I4 (servicemen who resume service as regular firefighters), for “fire authority”, substitute “fire and rescue authority”.

61. In rule I5 (servicemen who do not resume service in their former brigade)–

(a) in paragraph (1)–

(a) Rule G6 was amended by S.S.I. 2001/310, paragraph 13 of Schedule 2.

(b) There are amendments to rule G7 which are not relevant to this Order.

(c) There is an amendment to rule G8 which is not relevant to this Order.

(d) Rule H1 was amended by S.S.I. 2004/385, paragraph 18 of the Schedule, which inserted paragraph 2A.

(e) Rule H2 was amended by S.I. 1997/2309, paragraph 2 of the Schedule and 2004/385 paragraph 19 of the Schedule.

(f) There is an amendment to rule H3 which is not relevant to this Order.

- (i) for “service in his former brigade”, substitute “employment with his former fire and rescue authority”; and
- (ii) for “his former brigade” (in the second place where those words appear), substitute “the employment of that authority”; and
- (b) in paragraph (3), for “(former fire authority’s consent to joining new brigade)”, substitute “(former fire and rescue authority’s consent to taking up employment with new fire and rescue authority)”.

62. In rule I6 (pensionable service), for “during his forces period to serve in his former brigade”, substitute “in the employment of his former fire and rescue authority throughout his forces period”.

63. In rule I7 (pension contributions), in paragraph (1), for “to serve in his former brigade”, substitute “in the employment of his former fire and rescue authority”.

64. In rule J1 (guaranteed minimum pensions)(a), in paragraph (3)(b), after “fire authority” insert “or the fire and rescue authority, as the case may be”.

65. In rule J3 (whole-time or part-time member of brigade who is not a regular firefighter)(b)–

- (a) in paragraph (1)–
 - (i) for “member of a brigade”, substitute “employee of a fire and rescue authority”; and
 - (ii) for “a member of the brigade”, substitute “an employee of the authority”;
- (b) in paragraph (2), for “the fire authority”, substitute “the fire and rescue authority”;
- (c) in paragraph (3), for “the brigade, the fire authority”, substitute “that employment, the fire and rescue authority”;
- (d) in paragraph (5)(a), for “fire authority”, substitute “fire and rescue authority”; and
- (e) in paragraph (7)(a), for “a regular firefighter of the rank of, as the case may be, fireman or firewoman”, substitute “employed in the role of firefighter”.

66. In rule J4 (part-time member of brigade)(c)–

- (a) in paragraph (1)–
 - (i) for “This”, substitute “Subject to paragraph (1A), this”; and
 - (ii) for “a retained or volunteer member of a brigade”, substitute “employed by a fire and rescue authority as a retained firefighter or who was a volunteer firefighter”;
- (b) after paragraph (1), insert–

“(1A) Paragraph (1) does not apply where the person was also employed by the authority as a regular firefighter.”;
- (c) in paragraph (3)–
 - (i) for “This”, substitute “Subject to paragraph (3A), this”; and
 - (ii) for “a retained or volunteer member of a brigade”, substitute “employed by a fire and rescue authority as a retained firefighter or who is or has been a volunteer firefighter”;
- (d) after paragraph (3), insert–

“(3A) Paragraph (3) does not apply where the person was also employed by the authority as a regular firefighter.”; and
- (e) in paragraph (7)–
 - (i) for “member of a brigade”, substitute “employee of a fire and rescue authority”; and
 - (ii) for sub-paragraph (a), substitute–

(a) There are amendments to rule J1 which are not relevant to this Order.
 (b) Rule J3 was amended by S.S.I. 2004/385, paragraph 21 of the Schedule.
 (c) Rule J4 was amended by S.S.I. 2004/385, paragraph 22 of the Schedule.

“(a) was employed in the same role as the retained or volunteer firefighter and had the same service in that role”.

67. In rule J5 (members of brigade other than regular firefighters-supplementary), in paragraph (2), for “member of a brigade”, substitute “person”.

68. In rule K1 (cancellation of ill-health and injury pensions)(a)–

(a) in paragraph (1)–

(i) for “the fire authority”, substitute “the fire and rescue authority”; and

(ii) in sub-paragraph (c), for “could not have been required to retire on account of age”, substitute “would not have attained normal pension age”;

(b) in paragraph (2), for “The fire authority”, substitute “The fire and rescue authority”; and

(c) in paragraph (4)–

(i) for “service in the brigade”, substitute “employment with the fire and rescue authority”; and

(ii) for sub-paragraph (a), substitute–

“(a) the fire and rescue authority shall permit him to resume service forthwith in a role at a level equivalent to, or higher than, that which he had when he retired with the pension, and”.

69. In rule K2 (reassessment of injury pension), in paragraphs (1) and (3), for “fire authority”, substitute “fire and rescue authority”.

70. In rule K3 (reduction of award in case of default), in paragraph (1) for “fire authority”, substitute “fire and rescue authority”.

71. In rule K4 (withdrawal of pension during service as a regular firefighter)(b)–

(a) for “fire authority”, substitute “fire and rescue authority”; and

(b) for “serving as a regular firefighter in any brigade”, substitute “employed as a regular firefighter by any fire and rescue authority”.

72. In rule K5 (withdrawal of pension on conviction of certain offences)–

(a) in paragraph (1) for “fire authority”, substitute “fire and rescue authority”;

(b) in paragraph (2)(b) for “a member of a brigade”, substitute “an employee of a fire and rescue authority”; and

(c) in paragraphs (4) and (5), for “fire authority”, substitute “fire and rescue authority”.

73. In rule L1 (authorities responsible for payment of awards)(c)–

(a) in paragraph (1)–

(i) for “fire authority”, substitute “fire and rescue authority”; and

(ii) at the end, insert “or, where his employment ceased before 2nd August 2005, by the fire and rescue authority which inherited the liabilities of the fire authority which last employed him.”;

(b) in paragraph (2)–

(i) for “as a member of a brigade”, substitute “by a fire and rescue authority”; and

(ii) for “the fire authority”, substitute “the authority”;

(c) in paragraph (3), for “fire authority”, substitute “fire and rescue authority”; and

(d) for paragraph (4), substitute–

(a) Rule K1 was amended by S.S.I. 2004/385, paragraph 23 of the Schedule.

(b) Rule K4 was amended by S.S.I. 2001/310, paragraph 14 of Schedule 2 and S.S.I. 2004/385 paragraph 24 of the Schedule.

(c) Rule L1 was amended by S.S.I. 2001/310, paragraph 15 of Schedule 2.

“(4) In this Scheme “the relevant fire and rescue authority”, in relation to a pension credit member, means–

- (a) the fire and rescue authority who employ the pension debit member from whose rights the pension credit member’s pension credit is derived at the time when the pension sharing order takes effect, or
- (b) if he is not then employed by a fire and rescue authority, the fire and rescue authority by whom he was last employed or, where his employment ceased before 1st October 2004, by the fire and rescue authority which inherited the liabilities of the fire authority which last employed him.

(5) Subject to paragraph (6), an award payable in respect of a qualifying injury sustained by a person who is employed as both a regular firefighter and a retained firefighter shall be paid–

- (a) where the injury was sustained in the course of his regular employment, by the fire and rescue authority which employs him as a regular firefighter;
- (b) where the injury was sustained in the course of his retained employment, by the fire and rescue authority which employs him as a retained firefighter;
- (c) where the injury is of such a nature that it cannot be attributed solely to either his regular employment or his retained employment–
 - (i) by such one of his employing authorities as may be agreed; or
 - (ii) by both of them, in such proportion as may be agreed; or
 - (iii) in default of agreement, in equal proportions.

(6) An award payable to a person in respect of both a qualifying injury sustained in the course of his regular employment and a different qualifying injury sustained in the course of his retained employment, shall be paid–

- (a) by such one of his employing authorities as may be agreed; or
- (b) by both of them, in such proportion as may be agreed; or
- (c) in default of agreement, in equal proportions.”.

74. For rule L2 (expenses and receipts of fire authorities), substitute–

“Expenses and receipts of fire and rescue authorities

L2. Each fire and rescue authority shall maintain an account showing all sums received or paid by them under or for the purposes of this Scheme, or in consequence of rights acquired and obligations incurred by them under this Scheme, the 1973 Scheme or previous Firemen’s Pension Schemes.”.

75. In rule L3 (payment of awards)–

- (a) in paragraph (1)–
 - (i) for “fire authority” (in the first place those words appear), substitute “fire and rescue authority”; and
 - (ii) for “the fire authority” (in the second place those words appear), substitute “the authority”; and
- (b) in paragraphs (7), (8) and (9), for “fire authority”, substitute “fire and rescue authority”.

76. In rule L4 (prevention of duplication)(a),

- (a) omit paragraph (2)(c);
- (b) in paragraph (3) after “paragraph (4)” insert “and rule L4B”;
- (c) in paragraph (4)–

(a) Rule L4 was amended by S.S.I. 2001/310, paragraph 16 of Schedule 2 and S.S.I. 2004/385, paragraph 25 of the Schedule.

- (i) for “service as a member of a brigade” substitute “employment with a fire and rescue authority”;
 - (ii) for “such a member”, substitute “an employee of a fire and rescue authority”; and
 - (iii) for “served as members of a brigade” substitute “were employed by a fire and rescue authority”; and
- (d) after paragraph (4), insert–
- “(5) Where–
 - (a) a person who is employed as a retained firefighter by more than one fire and rescue authority sustains a qualifying injury; and
 - (b) it cannot be established that the injury is attributable to only one of those employments,
- a single award shall be paid under J4; and the award shall be payable by the fire and rescue authorities by whom the person is so employed in such proportion as may be agreed or, in default of agreement, in equal shares.”.

77. After rule L4, insert–

“Prevention of duplication: other injury awards for persons who are both regular and retained firefighters

L4A.—(1) This rule applies in relation to a person employed as both a regular firefighter and a retained firefighter who is entitled to both–

- (a) an ill-health award under rule B3, an injury award under rule B4, or award under both of those rules from the fire and rescue authority which employs him as a regular firefighter; and
- (b) an ill-health and injury award under rules B3 and B4, as they have effect as mentioned in rule J4(2) (“the rule J4 award”), from the fire and rescue authority which employs him as a retained firefighter.

(2) The fire and rescue authority which employs the person as a regular firefighter shall pay the award under rule B3 in full and, subject to paragraph (3), the authority which employs him as a retained firefighter shall pay only the injury element of the rule J4 award.

(3) Where the amount awarded under rule B3 is less than the amount which, but for paragraph (2), would have been paid to the person as the ill-health element of the rule J4 award, the fire and rescue authority which employs him as a retained firefighter shall pay him an amount equal to the amount of the difference.

(4) A firefighter who is entitled to both an award under rule B4 and the rule J4 award, shall receive a single award of an amount equal to the greater of the award under rule B4 and the J4 award; and rule L1(6) shall apply in respect of the payment of that single award.

Prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters

L4B.—(1) This rule applies where–

- (a) a person employed as both a regular firefighter and a retained firefighter dies (whether during or after such employment); and
- (b) a qualifying injury sustained in the course of such employment is certified by an independent qualified medical practitioner as the cause of death; and
- (c) in consequence of the person’s death, another person becomes entitled not only to an award of a description mentioned in paragraph (2), but also to an award of a description mentioned in paragraph (3).

(2) The descriptions mentioned in this paragraph are–

- (a) a spouse’s ordinary pension under rule C1,

- (b) a spouse's accrued pension under rule C4,
- (c) a spouse's requisite benefit and temporary pension under rule C6,
- (d) a spouse's award under rule C7 (award where no other award is payable),
- (e) a child's ordinary allowance under rule D1, and
- (f) a child's accrued allowance under rule D4.

(3) The descriptions mentioned in this paragraph are–

- (a) a spouse's special award under rule C2 (whether or not by virtue of rule J4(4)),
- (b) a spouse's augmented award under rule C3 (whether or not by virtue of rule J4(4)),
- (c) a child's special allowance under rule D2 (whether or not by virtue of rule J4(5)),
and
- (d) a child's special gratuity under rule D3 (whether or not by virtue of rule J4(5)).

(4) The award of the description in paragraph (2) shall be paid in full, and the award of the description in paragraph (3) shall not be paid.

(5) Where the amount of the award paid to a person in accordance with paragraph (4) is less than the amount which, but for that paragraph, would have been paid to him by way of an award of a description in paragraph (3), the fire and rescue authority which employed the deceased as a retained firefighter shall pay an amount equal to the amount of the difference.”.

78. In rule L5 (payments of awards – supplementary)–

- (a) in paragraphs (1) to (3) and (6), for “fire authority” substitute “fire and rescue authority”;
- (b) in paragraph (8)(b), for “a member of a brigade”, substitute “an employee of a fire and rescue authority”; and
- (c) in paragraph (9), for “fire authority”, substitute “fire and rescue authority”.

79. In rule N4 (calculation of appropriate amount)(a), in paragraph (5), for “fire authority”, substitute “fire and rescue authority”.

80. In rule N7 (discharge of pension credit liability)(b), in paragraph (1), for “fire authority” substitute “fire and rescue authority”.

81. In rule N8 (adjustment to the amount of the pension credit-payments made without knowledge of the pension debit)(c), in paragraph (b) for “fire authority” substitute “fire and rescue authority”.

82. In rule N9 (implementation period for discharge of pension credit)(d), in paragraph (1) for “fire authority” (in both places) substitute “fire and rescue authority”.

83. In rule N10 (failure to discharge liability in respect of pension credit within the implementation period and death of ex-spouse before implementation has taken place)(e) in paragraphs (1) (in both places), (2), (3) and (5) for “fire authority” substitute “fire and rescue authority”.

84. In rule N11 (appropriate rights and pension credit benefits under this Scheme)(f), in paragraphs (7), (8)(a) and (9) for “fire authority” substitute “fire and rescue authority”.

85. In rule N14 (pension transfers)(g), in paragraphs (1) and (2) for “fire authority” substitute “fire and rescue authority”.

(a) Inserted by article 3 of S.S.I. 2001/310.

(b) Inserted by article 3 of S.S.I. 2001/310.

(c) Inserted by article 3 of S.S.I. 2001/310.

(d) Inserted by article 3 of S.S.I. 2001/310.

(e) Inserted by article 3 of S.S.I. 2001/310.

(f) Inserted by article 3 of S.S.I. 2001/310.

(g) Inserted by article 3 of S.S.I. 2001/310.

86. In rule N15 (charges in respect of pension sharing costs)(a), in paragraphs (1), (2) and (4) for “fire authority” substitute “fire and rescue authority”.

87. In rule N19 (application of rules of this Scheme to pension credit members etc.)(b), for “rule L2 (expenses and receipts of fire authorities)” substitute “rule LA2 (expenses and receipts of fire and rescue authorities)”.

88. In Schedule 1 (interpretation), in Part I (glossary of expressions)(c)–

- (a) insert, after the entry for the expression “eligible person”–
 - (i) in the first column “fire and rescue authority”; and
 - (ii) in the second column, “A relevant authority under the Fire (Scotland) Act 2005”;
- (b) after the entry for the expression “Mixed-rate service”, insert–
 - (i) in the first column, “Normal pension age”; and
 - (ii) in the second column, “Construe in accordance with rule A13”;
- (c) omit the entry (both columns) for the expression “Rank”;
- (d) in the entry for the expression of “Regular firefighter”, in the second column–
 - (i) after “after 1st October 2004”, insert “and before 2nd August 2005”; and
 - (ii) at the end insert “In relation to any time on or after 2nd August 2005, the expression means a person who is employed–
 - (a) by a fire and rescue authority as a firefighter (whether whole-time or part-time), other than as a retained or volunteer firefighter, and
 - (b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting) and whose employment is not temporary.”;
- (e) after the entry for the expression “Regular firefighter”, insert–
 - (i) in the first column, “Relevant fire and rescue authority”; and
 - (ii) in the second column, “Construe in accordance with rule L1(4)”;
- (f) for the entry for the expression “Retained member of a brigade”, substitute–
 - (i) in the first column, for ““Retained member””; and
 - (ii) in the second column, “A member of the fire and rescue service who is obliged to attend–
 - (a) at the station to which he is attached for training, development and maintenance duties for an average of 2 hours each week and, promptly, at any time, in response to a call; and
 - (b) at any incident or other occurrence, or at any other station for standby duties during the employee’s period of availability.”;
- (g) omit the entry (both columns) for the expression “Retirement date”; and
- (h) in the entry for the expression “Volunteer member of a brigade”,
 - (i) in the first column, for “of a brigade”, substitute “of the fire and rescue service”.
 - (ii) in the second column–
 - (a) for “of a brigade”, in the first place where those words appear, substitute “of the fire and rescue service”; and
 - (b) omit “of a brigade” in the second place where those words appear.

(a) Inserted by article 3 of S.S.I. 2001/310.

(b) Inserted by article 3 of S.S.I. 2001/310.

(c) Part 1 of Schedule 1 was amended by S.S.I. 2004/385, paragraph 26 of the Schedule.

89. In Schedule 2 (personal awards)(a)–

- (a) in Part III (ill-health pension), in paragraph 5(1)(a), for “could be required to retire on account of age”, substitute “reached normal pension age”;
- (b) in Part V (injury awards), for paragraph 2, substitute–

“**2.**—(1) The amount of a person’s injury pension under rule J4 shall be reduced by three quarters of the amount of any other pension referable to his service as a firefighter (including, if rule L4A applies in his case, the aggregate of the pension to which he is entitled under rule B3 and the amount of the difference referred to in rule L4A (3)).

(2) The amount of a person’s injury pension calculated in accordance with paragraph 1 shall be reduced by three quarters of the amount of any other pension calculated by reference to pensionable service reckonable by virtue of the period of service during which he received the qualifying injury or, where an election under rule G3 had effect or the person failed to make an election under rule G2A, by the amount of any other pension which would otherwise have been so calculated.

(3) For the purposes of sub-paragraphs (1) and (2), any reduction of the other pension–

- (a) under rule B7 (commutation) or B9 (allocation),
- (b) under Part VIII of this Schedule, or
- (c) by virtue of a pension debit,

shall be disregarded.”;

- (c) in Part VI (deferred pension), in paragraph 2(3)–
 - (i) omit “he could”;
 - (ii) at the beginning of sub-paragraph (a), insert “he could”; and
 - (iii) for sub-paragraph (b), substitute “(b) he reached normal pension age”;
- (d) in Part VIA (calculation of awards for part-time service), in paragraph 2, for “member of a brigade” (in each place), substitute “employee of a fire and rescue authority”; and
- (e) in Part VII (reduction of pension at state pensionable age), in paragraph 2(4), for “fire authority”, substitute “fire and rescue authority”.

90. In Schedule 3 (awards on death - spouses)(b)–

- (a) in Part II (spouse’s special pension), in paragraph 2(2), for “member of a brigade”, substitute “employee of a fire and rescue authority”;
- (b) for Part IV (pension for widow of post-retirement marriage), substitute–

“PART IV

PENSION FOR SURVIVING SPOUSE OF POST-RETIREMENT MARRIAGE

1.—(1) Where the surviving spouse would otherwise have been entitled to an ordinary pension under rule C1 or a special award under rule C2 or an augmented award under rule C3, the amount of his pension under rule C5 shall, subject to sub-paragraph (2), be calculated in accordance with paragraph 1 of Part I of this Schedule in the same way as that of an ordinary pension.

(2) For the purposes of this paragraph, paragraph 1 of Part I has effect–

- (a) as if the reference in sub-paragraph (1)(a) to the base pension were a reference to the appropriate proportion of the base pension, and

(a) Amended by S.S.I. 2004/385, paragraphs 27 to 30 of the Schedule.

(b) Amended by S.S.I. 2001/310, paragraph 18 of Schedule 2 and S.S.I. 2004/385, paragraph 31 to 35 of the Schedule.

- (b) where the surviving spouse would otherwise have been entitled to a special award under rule C2 or an augmented award under rule C3, as if the base pension were the ill-health pension to which the deceased would have been entitled if he had, when he ceased to serve, retired because he was disabled in circumstances entitling him to such a pension.

2.—(1) Where the surviving spouse would otherwise have been entitled to an accrued pension under rule C4, the amount of his pension under rule C5 shall, subject to sub-paragraph (2), be calculated in accordance with Part III of this Schedule in the same way as that of an accrued pension.

(2) For the purposes of this paragraph, paragraph 2 of Part III has effect as if references to the deceased's deferred pension were references to the greater of—

- (a) the appropriate proportion of the deferred pension, and
- (b) subject to sub-paragraph (3), 1/160th of the deceased's average pensionable pay multiplied by the period in years of so much of his pensionable service as is reckonable by virtue of service or employment after 5th April 1978 ("relevant pensionable service").

(3) Where some or all of the deceased's service, which is reckonable as pensionable service, was part-time service, the amount at sub-paragraph (2)(b) shall be calculated using the formula in paragraph 2 of Part VIA of Schedule 2.

(4) In making the calculation mentioned in sub-paragraph (3)—

- (a) for the value of A there shall be substituted "A is the amount calculated under paragraph 2(2)(b) of Part IV of Schedule 3 if the average pensionable pay was the pay the deceased would have received had he been a whole-time employee of a fire and rescue authority" and
- (b) in relation to B, C and D only pensionable service after 5th April 1978 shall be counted.

3. The appropriate proportion mentioned in paragraphs 1 and 2 is the proportion which the deceased's relevant pensionable service bears to his total pensionable service."; and

- (c) in Part V (spouse's requisite benefit pension), in paragraph 3, for "member of a brigade", substitute "employee of a fire and rescue authority".

91. In Schedule 4 (awards on death - children)(a), in Part II (child's special allowance), in paragraph 4(2), for "member of a brigade", substitute "employee of a fire and rescue authority".

92. In Schedule 5 (awards on death-additional provisions)(b)—

- (a) in Part I (adult dependent relative special pension)—
 - (i) in paragraph 2(2) for "widow's" substitute "surviving spouse's"; and
 - (ii) in paragraph 3(2), for "member of a brigade", substitute "employee of a fire and rescue authority";
- (b) omit Part II (gratuity in lieu of surviving spouse's pension); and
- (c) in Part III (gratuity in lieu of child's allowance), in paragraph 1, for "fire authority", substitute "fire and rescue authority".

93. In Schedule 6 (pensionable service and transfer values)(c)—

- (a) in Part 1 (payments in respect of previous service)—
 - (i) in paragraph 1(1)—
 - (aa) for "he could be required to retire on grounds of age", substitute "reaches normal pension age"; and

(a) Amended by S.S.I. 2004/385, paragraph 37 of the Schedule inserting paragraph 4(2).

(b) Amended by S.S.I. 2004/385, paragraph 39 of the Schedule inserting paragraph 3(2).

(c) Amended by S.S.I. 2004/385, paragraph 40 and 41 of the Schedule inserting paragraph 4(a).

- (bb) for “fire authority”, substitute “fire and rescue authority”;
 - (ii) in paragraph 1(2), for “fire authority”, substitute “fire and rescue authority”;
 - (iii) in paragraph 1(4), for “fire authority”, substitute “fire and rescue authority”; and
 - (iv) in paragraph 2(1), in the definition of “A”–
 - (aa) for “member of a brigade”, substitute “employee of a fire and rescue authority”; and
 - (bb) for “whole-time member”, substitute “whole-time employee”;
 - (b) in Part II (service reckonable on receipt of transfer value)–
 - (i) in paragraph 1(1), for “fire authority”, substitute “fire and rescue authority”; and
 - (ii) in paragraph 4(a) for “member of a brigade” (in both places), substitute “employee of a fire and rescue authority”; and
 - (c) in Part III (transfer payments between fire authorities) in paragraphs 2, 4(1), 5(b) and 6, after “brigade”, insert “or fire and rescue authority (as the case may be)”.
- 94. In Schedule 8 (purchase of increased benefits)–**
- (a) in Part I (payments)–
 - (i) in paragraph 1(1), in the definition of B, for “on his retirement date”, substitute “subject to sub-paragraph (2)(c), his normal pension age”;
 - (ii) in paragraph 1(2), at the end of paragraph (b) insert–
 - “; and
 - (c) if he has the role of Station Manager B or a superior role, the definition of B shall have effect as if his normal pension age were 60”;
 - (iii) in paragraph 3(1), in the definition of C for “on his retirement date” substitute “subject to sub-paragraph (2)(c) his normal pension age”;
 - (iv) in paragraph 3(2), at the end of paragraph (b) insert–
 - “; and
 - (c) if he has the role of Station Manager B or a superior role, the definition of C shall have effect as if his normal pension age were 60”; and
 - (v) in paragraph 5–
 - (aa) in the second column of the Table, for “*Age on retirement date 60 or over*”, substitute “*Station Manager B or superior role*”; and
 - (bb) in the third column of the Table for “*Under 60*”, substitute “*Roles below Station Manager B*”;
 - (b) in Part II (calculation of appropriate amount)–
 - (i) in paragraph 1, in the definition of C, for “retirement date within the meaning of rule G5(3)”, substitute “normal pension age”; and
 - (ii) in paragraphs 2 and 3, for “retirement date”, substitute “normal pension age”; and
 - (c) in Part III (increases by reference to appropriate amount), in paragraph 2(2)(c), for “widow”, substitute “surviving spouse”.
- 95. In Schedule 9 (appeals)(a)–**
- (a) in Part I (appeal to board of medical referees)–
 - (i) for “fire authority” (in each place), substitute “fire and rescue authority”; and
 - (ii) for “fire authority’s”, substitute “fire and rescue authority’s”; and
 - (b) in Part II (appeal tribunals), in paragraph 1, after “divisional officer (Grade 1), insert “or a retired employee of a fire and rescue authority, other than the authority by whom the

(a) Schedule 9 was amended by S.I. 1997/2309, paragraph 3 to 12 of the Schedule and S.S.I. 2004/385 paragraph 42 and 43 of the Schedule.

appellant is or was employed, who immediately before his retirement had a role not lower than Area Manager A.”.

96. In Schedule 11 (special cases), in Part IV (modification for persons serving on 10 July 1956)–

- (a) in paragraph 9(a) for “widow”, substitute “surviving spouse”; and
- (b) in paragraph 19, in paragraph 3 (Scheme II) of the substituted Part I of Schedule 3, for “widow’s”, substitute “surviving spouse’s”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Firefighters' Pension Scheme, set out in Schedule 2 to the Firemen's Pension Scheme Order 1992, as it has effect in Scotland ("the Scheme"). Except as mentioned below, the amendments have effect from 2nd August 2005. The power to give amendments retrospective effect is conferred by section 12 of the Superannuation Act 1972, as applied by s16 of that Act.

Many of the amendments specified in the Schedule to this Order are consequential on the revocation of the Fire Services Act 1947 and its replacement in Scotland by the Fire (Scotland) Act 2005 ("the 2005 Act"). For example, references to fire authorities (unless retained for transitional purposes) have been amended to references to fire and rescue authorities and references to brigades have been amended to references to fire and rescue services or, depending on the particular context, to fire and rescue authorities.

The amendments which are not consequential on the 2005 Act are:

- (a) the replacement of rule A13, which provided for compulsory retirement at 55 for those of Station Officer or lower rank, and at 60 for those of Assistant Divisional Officer rank or higher rank, with a rule providing for a normal pension age of 55, whatever the individual's role. This amendment has effect from 4th December 2005;
- (b) the correction of an anomaly in the operation of rule B5(4)(b), which allowed an individual who was found to be unfit for fire-fighting, but able to carry out other duties, to resign with a deferred pension prior to re-deployment, and immediately request early payment of that pension on the ground that he was permanently unfit for fire-fighting;
- (c) the substitution of rules C5 and C6 to reflect the fact that the surviving spouse of a deceased firefighter may be either a widow or a widower. The opportunity has been taken to correct an error in rule C5, which limited by reference to the date of the marriage awards payable to widows. That correction removes the reference to rule C7 (spouse's award where no other award payable). The substitution of C5 has effect from 1st March 1992 (the date on which the Scheme came into force). The substitution of C6 reduces from 3 to 2 years the pensionable service required in relation to spouse's requisite benefit and temporary pension and has effect from 4th December 2005;
- (d) the substitution of rule E5, which relates to the payment to a surviving spouse of a gratuity instead of a pension. The former paragraphs (2) and (3), which applied in relation to widows and widower, respectively, have been amalgamated, and minor drafting changes have been made;
- (e) the amendment to rule G1, which relates to the way in which firefighters' pensions are calculated, enables fire and rescue authorities which have introduced "salary sacrifice" schemes (schemes in which an employer allows employees certain benefits, such as childcare, in return for giving up part of their salary) to collect pension contributions based on the amount of pay before reduction for the sacrifice;
- (f) the amendment of rule L4, which prevents the duplication of certain injury awards. The main change of substance is to prevent duplicate injury awards in cases where the individual is employed both as a regular firefighter and as a retained firefighter (whether by the same fire and rescue authority or by different fire and rescue authorities). New rules L4A and L4B are introduced to deal expressly with the prevention of duplication in those cases. Consequential amendments are made to rules A9 (qualifying injury) and L1 (authorities responsible for payment of awards), and to Part V of Schedule 2 to the Scheme (adjustments where two fire and rescue authorities are responsible for pension payments);
- (g) the substitution of Part IV of Schedule 3, which reflects the substitution of rule C5; and

- (h) the amendment of references to members of brigades by rank to references to employees of fire and rescue authorities by role. These amendments reflect a new grading structure introduced by the Fire Service Appointments and Promotion (Scotland) Regulations 2004 (S.S.I. 2004/527).

A regulatory impact assessment has not been produced for this Order, as it has no impact on the costs of business, charities or voluntary bodies.

£4.00

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