

**2016 No. 431**

**FIRE SERVICES**

**PENSIONS**

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

*Made* - - - - 20th December 2016

*Laid before the Scottish Parliament* 22nd December 2016

*Coming into force* - - 6th February 2017

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

**Citation, commencement, effect and extent**

1.—(1) This Order may be cited as the Firemen's Pension Scheme (Amendment and Transitional Provisions) (Scotland) Order 2016.

(2) This Order comes into force on 6th February 2017, but article 2 has effect from 1st December 2006.

(3) This Order extends to Scotland only.

**Amendment of the Firemen's Pension Scheme Order 1992**

2.—(1) Schedule 2 of the Firemen's Pension Scheme Order 1992(c) (in which the Firefighters' Pension Scheme is set out) is amended as follows.

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- (a) 1947 c.41 ("the 1947 Act"); section 26 was repealed by sections 52 and 54 and schedule 2 of the Fire and Rescue Services Act 2004 (c.21). Subsections (1) to (5) of section 26 continue to have effect for the purposes of the Firefighters' Pension Scheme, in relation to England and Scotland by virtue of S.I. 2004/2306 and in relation to Wales by virtue of S.I. 2004/2917. The name of the scheme was changed to the Firefighters' Pension Scheme by S.I. 2004/2306. Section 26 of the 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 and schedule 3 of the Theft Act 1968 (c.60), sections 16 and 29 and schedule 8 of the Superannuation Act 1972 (c.11), sections 100 and 101 and schedule 27 of the Social Security Act 1973 (c.38), section 1 and schedule 1 of the Social Security (Consequential Provisions) Act 1975 (c.18), section 32 of the Magistrates' Courts Act 1980 (c.43), section 1 of the Police and Firemen's Pensions Act 1997 (c.52), section 256 and schedule 25 of the Civil Partnership Act 2004 (c.33), and S.I. 1976/551. The Secretary of State's functions under section 26 of the 1947 Act, in so far as they were exercisable in relation to Scotland, were transferred to Scottish Ministers by S.I. 1999/1750 and S.I. 2006/304.
- (b) 1972 c.11; section 16 applies section 12 with the necessary modifications to orders under section 26 of the Fire Services Act 1947. Section 16 is repealed by section 52 and schedule 2 of the Fire and Rescue Services Act 2004, but continues to have certain effect by virtue of S.I. 2004/2306.
- (c) S.I. 1992/129; relevant amending instruments are S.S.I. 2005/566, S.S.I. 2006/342, S.S.I. 2008/161, S.S.I. 2012/106 and S.S.I. 2015/140.

(2) In rule G1 (pensionable pay and average pensionable pay), at the end of paragraph (4)(b) insert “(or would have been payable but for paragraph (1B) of that rule)”.

(3) In rule G2 (pension contributions)—

(a) in paragraph (1), for “A regular firefighter shall” substitute “Subject to paragraphs (1B) to (1D), a regular firefighter shall”; and

(b) before paragraph (2) insert—

“(1B) Paragraph (1) does not apply to a firefighter below the age of 50 who has reckoned 30 years or more pensionable service.

(1C) A firefighter who is—

(a) below the age of 50 and has reckoned 30 years pensionable service; and

(b) entitled to be credited with additional pension benefit under rule B5B or B5C,

is, until that person attains the age of 50, to pay pension contributions to the fire and rescue authority only in relation to that additional pension benefit.

(1D) Contributions under paragraph (1C) are payable—

(a) at the rate of 11% in the period beginning on 1st December 2006 and ending on 31st March 2012; and

(b) on and after 1st April 2012 at the rate specified in the Table in paragraph 3 of Part 1A of schedule 8.”.

### **Transitional provision**

**3.—**(1) The Scottish Fire and Rescue Service must pay the required amount as described in paragraph (3) to a firefighter who falls within paragraph (2).

(2) A firefighter falls within this paragraph if in the period beginning on 1st December 2006 and ending on 5th February 2017, the firefighter paid pensions contributions pursuant to rule G2(1) of the Scheme set out in schedule 2 of the Firemen’s Pension Scheme Order 1992 which, as a consequence of article 2 of this Order, did not fall to be payable.

(3) The required amount is a lump sum equal to—

$$(A + B) \times C$$

where—

A is the total value of each contribution, net of any tax which would have been payable by the firefighter had the contribution not been paid;

B is the interest calculated on A in accordance with paragraph (4); and

C is 100/60.

(4) Interest must be—

(a) calculated separately in relation to each contribution paid; and

(b) applied on a compound basis at the past interest rate on a day to day basis for the period specified in paragraph (5).

(5) The period specified for the purposes of paragraph (4)(b) begins with the first day of the month in which each contribution was paid and ends with the last day of the month before the month in which the payment of the required amount is made.

(6) Where a payment is required to be made under paragraph (1) in respect of a person who died before 6th February 2017 or who dies on or after that date but before the payment is made, the Scottish Fire and Rescue Service must pay the sum due to the person’s executor.

(7) In this article—

“Bank of England base rate” means—

- (a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets; or
- (b) where an order under section 19 of the Bank of England Act 1998 (reserve powers)(a) is in force, any equivalent rate determined by the Treasury under that section;

“past interest rate” is a rate equivalent to the Bank of England base rate applicable on each day of the period mentioned in paragraph (5).

*DEREK MACKAY*

A member of the Scottish Government

St Andrew’s House,  
Edinburgh  
20th December 2016

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(a) 1998 c.11.

## EXPLANATORY NOTE

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

This Order amends the Firefighters' Pension Scheme, as set out in schedule 2 of the Firemen's Pension Scheme Order 1992.

Article 2 removes the obligation on firefighters to pay contributions for the period after they have reckoned the maximum permissible pension entitlement until they reach age 50, the minimum age to draw benefits. The change takes effect from 1st December 2006 and does not affect contributions in relation to additional pension benefit.

Article 3 makes provision for the repayment of any relevant contributions that have been paid between 1st December 2006 and the date this Order comes into force.

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