

2016 No. 77

FIRE SERVICES

PENSIONS

**The Firefighters' Compensation and Pension Schemes
(Scotland) Amendment Order 2016**

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

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 34(1) and (2) to (4) and 60(2) of the Fire and Rescue Services Act 2004^(a) and all other powers enabling them to do so.

In accordance with section 34(5) of that Act, they have consulted with such persons as they considered appropriate.

Citation, commencement and effect

1.—(1) This Order may be cited as the Firefighters' Compensation and Pension Schemes (Scotland) Amendment Order 2016.

(2) This Order comes into force on 1st April 2016, but—

- (a) article 5 has effect from 27th October 2008;
- (b) articles 4 and 6 to 9 have effect from 1st April 2015; and
- (c) article 3 has effect from 1st October 2015.

Amendment of the Firefighters' Compensation Scheme (Scotland) Order 2006

2. Schedule 1 to the Firefighters' Compensation Scheme (Scotland) Order 2006^(b) is amended in accordance with articles 3 to 5.

3. In Part 3 (awards on death: spouses and civil partners)—

- (a) omit rule 5 (effect of new relationship); and

(a) 2004 c.21; section 34 was relevantly amended by S.I. 2013/602, Schedule 1, paragraph 7(2); 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 2005 (S.I. 2005/849).
(b) S.S.I. 2006/338; relevant amending instrument is S.S.I. 2015/143.

(b) after rule 5, insert—

“Reinstatement of entitlement to pension and gratuity

5A.—(1) The revocation of rule 5 of this Part by the Firefighters’ Compensation and Pension Schemes (Scotland) Amendment Order 2016 has the effect of reinstating entitlement to—

- (a) a pension under this Part with effect from 1st October 2015; and
- (b) any part of a gratuity under this Part which has not been paid due to operation of that rule.

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

4. In Part 10 (payment of awards and financial provisions), in paragraph (2)(c) of rule 3 (prevention of duplication) for “regulation 166” substitute “regulation 156”.

5. In Part 1 of Schedule 1 (injury awards and duty-related compensation), after paragraph 3(3)(b) insert—

“(ba) any employment and support allowance under Part 1 of the Welfare Reform Act 2007(a) (other than one which is income-related);”.

Amendment of the Firefighters’ Pension Scheme (Scotland) Order 2007

6. Schedule 1 to the Firefighters’ Pension Scheme (Scotland) Order 2007(b) is amended in accordance with articles 7 to 9.

7. In Part 2 (scheme membership, cessation and retirement), in paragraph (11)(b) of rule 1 (scheme membership) for “eligible” substitute “ineligible”.

8. In Part 3 (personal awards)—

- (a) in rule 1B (continued pension), for “NFPS the” substitute “the NFPS”;
- (b) in rule 7 (entitlement to two pensions)—
 - (i) in paragraph (4), omit “his”; and
 - (ii) in paragraph (10), for “he is entitled on the last day of his” substitute “the member is entitled on the last day of”; and
- (c) in paragraph (1A) of rule 9 (commutation: general)—
 - (i) for “of the NFPS” substitute “to the NFPS”; and
 - (ii) omit “may commute a portion of it for a lump sum”.

9. In Part 11 (pensionable pay, pension contributions and purchase of additional service)—

- (a) in rule 1 (pensionable pay)—
 - (i) in paragraph (6), for “paragraph 33” substitute “paragraph 32”;
 - (ii) in paragraph (7), for “paragraph 33(4)” substitute “paragraph 32(4)”;
 - (iii) in paragraph (7), for “paragraph 33” substitute “paragraph 32”; and
 - (iv) in paragraph (8), for “paragraph 33(3)” substitute “paragraph 32(3)”;

(a) 2007 c.5.

(b) S.S.I. 2007/199, amended by S.S.I. 2008/160, S.S.I. 2010/65, S.S.I. 2010/333, S.S.I. 2012/107, S.S.I. 2013/129, S.S.I. 2014/60, S.S.I. 2014/110 and S.S.I. 2015/141.

(b) in paragraph (2A)(b) of rule 2 (final pensionable pay), for “paragraph 33(4)” substitute “paragraph 32(4)”.

St Andrew’s House,
Edinburgh
2nd February 2016

JOHN SWINNEY
A member of the Scottish Government

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Firefighters' Compensation Scheme (Scotland) Order 2006 ("the Compensation Scheme Order") and the Firefighters' Pension Scheme (Scotland) Order 2007.

Article 3 amends the Compensation Scheme Order so as to allow a person entitled to a pension or gratuity under that Order to retain it following remarriage or the forming of a civil partnership. Pensions or gratuities which have been withdrawn due to existing legislation in this connection are reinstated with effect from 1st October 2015.

Article 5 amends the Compensation Scheme so as to authorise a deduction from a payment under the Order where a recipient is also in receipt of employment and support allowance.

Other changes made by the Order involve minor corrections.

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