

1973 No. 1951

LOCAL GOVERNMENT, ENGLAND AND WALES

**The Fire Services (Retirement of Senior Officers)
Regulations 1973**

Made - - - 19th November 1973

Laid before Parliament 28th November 1973

Coming into Operation 24th December 1973

In exercise of the powers conferred on me by section 260 of the Local Government Act 1972(a), I hereby make the following Regulations:—

Citation and operation

1. These Regulations may be cited as the Fire Services (Retirement of Senior Officers) Regulations 1973 and shall come into operation on 24th December 1973.

Interpretation

2.—(1) In these Regulations the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“the Act” means the Local Government Act 1972;

“the Pension Scheme” means the Firemen’s Pension Scheme 1973 set out in Appendix 2 to the Firemen’s Pension Scheme Order 1973(b);

“a senior officer to whom these Regulations apply” means a chief officer or deputy chief officer of, or an assistant chief officer in, a fire brigade in England and Wales who retires from service as such on or before 1st April 1974 and to whom section 260 of the Act applies by virtue of Regulation 3.

(2) Part I of the Pension Scheme shall apply for the interpretation of these Regulations as it applies for the interpretation of the Pension Scheme.

Application of section 260 of the Act

3.—(1) For the purposes of subsection (1) of section 260 of the Act (which provides that a person who holds a prescribed employment, attains or has attained the age of 50 years on or before 31st March 1974 and fulfills prescribed conditions may by notice given before the prescribed date and in the prescribed manner elect that section 260 shall, and section 259 of the Act

(a) 1972 c. 70.

(b) S.I. 1973/966 (1973 II, p. 2906).

shall not, apply to him) employment as a member of a fire brigade shall be a prescribed employment and in relation to a person in such employment the prescribed conditions shall be that—

- (a) he is, on 1st January 1974—
 - (i) the chief officer or deputy chief officer of a fire brigade in England or Wales, or
 - (ii) an assistant chief officer in such a fire brigade whose annual pensionable pay on the date on which he gives notice under section 260(1) of the Act is not less than two thirds of that of the chief officer of that brigade calculated, however, where either officer is on an incremental scale of pay, by reference to the minimum of his scale;
- (b) where he retires before 1st April 1974, he does so with the agreement of the fire authority and, before the date of his retirement, has or will have attained the age of 50 years;
- (c) he does not, before the date of his retirement, accept an offer of appointment as chief officer or deputy chief officer of, or as an assistant chief officer in, another fire brigade in England or Wales or as firemaster or deputy firemaster of, or as an assistant firemaster in, a fire brigade in Scotland;
- (d) he will not have attained the age of 60 years on or before 31st March 1974, and
- (e) where on retirement he is entitled to an award under Article 16 of the Pension Scheme (deferred pension and award where no other award payable), under paragraph (2) thereof he relinquishes his entitlement to a deferred pension or, as the case may be, he repays to the fire authority any award paid to him under paragraph (4) thereof,

and the notice given by such a person under section 260(1) of the Act shall be given in writing to the fire authority before 28th February 1974.

(2) For the purposes of subsection (2) of the said section 260 (which provides that, unless notice of objection has been given in accordance therewith, where a person has elected under subsection (1) section 260 shall, and section 259 of the Act shall not, apply to him on his retirement within the prescribed period and before attaining the normal retiring age) the prescribed period shall be the period ending on 1st April 1974.

Benefits payable

4.—(1) Subject to the provisions of these Regulations, there shall be payable to or in respect of a senior officer to whom these Regulations apply benefits by way of pension or allowance corresponding in all respects to the pensions or allowances which, subject to paragraph (3), would be payable to or in respect of him under the Pension Scheme were that Scheme subject to the modifications set out in the Schedule to these Regulations.

(2) Where a benefit hereunder by way of pension or allowance is payable to or in respect of a senior officer to whom these Regulations apply and a pension or allowance under the Pension Scheme is also so payable to the same beneficiary, the amount of the pension or allowance hereunder shall be reduced by, subject to paragraph (3), the amount of that under the Pension Scheme.

(3) For the purposes of this Regulation, in determining the pension or allowance which would be, or is, payable under the Pension Scheme, the following provisions thereof shall be disregarded, namely—

- (a) Article 21 (commutation);
- (b) Article 26 (gratuity in lieu of widow's pension);
- (c) Article 37 (gratuity in lieu of child's allowance), and
- (d) Article 41 (allocation).

Application of Pension Scheme

5.—(1) Subject to any necessary adaptations and subject to the modifications set out in the Schedule to these Regulations, the provisions of the Pension Scheme (including, subject to paragraph (2), those mentioned in Regulation 4(3)) shall apply in relation to a benefit payable under these Regulations as though they were set out in these Regulations.

(2) Separate notice of commutation or of allocation shall be given under Article 21 or 41 of the Pension Scheme for the purposes of that Scheme and of these Regulations and, where such a notice has been given for the purposes hereof—

- (a) the said Article 21 or 41 shall have effect in relation to the benefit by way of pension under these Regulations as reduced in accordance with Regulation 4(2); and
- (b) the lump sum or pension provided for in the said Article 21 or 41 shall, subject to the provisions of these Regulations, be payable as benefit thereunder but nothing in Regulation 4(2) shall apply in relation thereto.

Robert Carr,

One of Her Majesty's Principal
Secretaries of State.

Home Office,
Whitehall.

19th November 1973.

SCHEDULE

MODIFICATION OF PENSION SCHEME IN ITS APPLICATION FOR THE PURPOSES OF
THESE REGULATIONS

1. Article 12(2) of the Pension Scheme shall be omitted.
2. There shall be reckonable as pensionable service the period of pensionable service reckonable by the senior officer concerned under Part V of the Pension Scheme together with the period beginning with the date of his retirement and ending with the date on which he would, if he had continued to serve, have become entitled to reckon 30 years' pensionable service or have attained the age of 60 years, whichever is the earlier, except that the total period so reckonable shall not exceed twice the period first mentioned in this paragraph.
3. For the purpose of calculating an award to or in respect of a senior officer to whom these Regulations apply, he shall be deemed to have served as a regular fireman for the period mentioned in the preceding paragraph and to have paid pension contributions accordingly and the additional pensionable service reckonable thereunder shall be deemed to be reckonable by virtue of that service.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

Regulation 3 (read with section 260(1) and (2) of the Local Government Act 1972) provides that a chief officer or deputy chief officer of, or an assistant chief officer in, a fire brigade in England or Wales who will be aged 50 years or over on 31st March 1974 and fulfills the conditions set out in paragraph (1) of the Regulation may, by written notice given to the fire authority before 28th February 1974, elect that section 260 (provision for early retirement) shall, and section 259 (compensation for loss of office) shall not, apply to him; subject, however, to the right of the fire authority to object within a month of their being given the notice.

Where, by virtue of such an election, section 260 applies to such a senior officer, Regulations 4 and 5 provide for the payment to or in respect of him of benefits by way of pension or allowance corresponding, as near as may be, to those which would have so been payable under the Firemen's Pension Scheme 1973 had his pensionable service been that provided for in paragraph 2 of the Schedule (in the case of most senior officers, 30 years' pensionable service). Provision to prevent overlapping benefits is made by paragraph (2) of Regulation 4.

SI 1973/1951
ISBN 0-11-031951-6

