

## 1976 No. 1273

## FIRE SERVICES

**The Firemen's Pension Scheme (Amendment) Order 1976**

<i>Made</i> - - - -	<i>4th August 1976</i>
<i>Laid before Parliament</i>	<i>13th August 1976</i>
<i>Coming into Operation</i>	<i>6th September 1976</i>

In exercise of the powers conferred on me by section 26 of the Fire Services Act 1947(a), as amended and extended by section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(b) and sections 12 and 16 of the Superannuation Act 1972(c), I hereby, with the approval of the Minister for the Civil Service(d) and after consultation with the Central Fire Brigades Advisory Council and the Scottish Central Fire Brigades Advisory Council, make the following Order:—

## PART I

## CITATION, OPERATION, ETC.

1. This Order may be cited as the Firemen's Pension Scheme (Amendment) Order 1976.
2. This Order shall come into operation on 6th September 1976 and shall have effect—
  - (a) for the purposes of Part II thereof, as from 1st April 1975;
  - (b) for the purposes of Part III thereof, as from 1st May 1975;
  - (c) for the purposes of Part IV thereof, as from 1st August 1975;
  - (d) for the purposes of Part V thereof, as from 6th September 1977.
3. In this Order references to the principal Scheme are references to the Firemen's Pension Scheme 1973, set out in Appendix 2 to the Firemen's Pension Scheme Order 1973(e), as amended(f).

## PART II

## PROVISIONS HAVING EFFECT FROM 1ST APRIL 1975

- 4.—(1) For paragraph (1) of Article 21 of the principal Scheme (commutation) there shall be substituted the following provision:—

“(1) A regular fireman may, in accordance with this Article commute for a lump sum a portion of any pension, other than an injury pension, to which

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(a) 1947 c. 41. (b) 1951 c. 65. (c) 1972 c. 11.  
(d) Formerly the Treasury; see S.I. 1968/1656 (1968 III, p. 4485).  
(e) S.I. 1973/966 (1973 II, p. 2906).  
(f) The amending instruments are not relevant to the subject matter of this Order.

he is or may become entitled, provided, in the case of an ordinary pension, that—

- (a) he retires when entitled to reckon at least 30 years' pensionable service, or
- (b) he is required to retire on account of age, or
- (c) the notice of commutation referred to in paragraph (3) is given with the consent of the fire authority and he retires on or after attaining the age of 55 years, or
- (d) in any other case, he retires on or after 1st April 1975."

(2) In paragraph (3) of the said Article 21 for the words "limitation contained" there shall be substituted the words "limitations contained in paragraphs (3A) and (6B) and".

(3) After paragraph (3) of the said Article 21 there shall be inserted the following provision:—

"(3A) A regular fireman whose case does not fall within paragraph (1)(a), (b) or (c) shall not commute such a portion of his ordinary pension that the lump sum calculated by reference thereto in accordance with paragraph (6) (disregarding any reduction in accordance with the proviso thereto) exceeds an amount equal to  $2\frac{1}{4}$  times the annual amount of his pension calculated in accordance with Part I of Schedule 1 (disregarding any reduction therein under paragraph (6) or any other provision of this Scheme)."

(4) At the end of paragraph (4) of the said Article 21 there shall be added the following provision:—

"Provided that a person who retired with an ordinary pension on or after 1st April 1975 but before 6th May 1976 whose case does not fall within paragraph (1)(a) or (b) may give such notice at any time before 6th November 1976."

(5) After paragraph (6) of the said Article 21 there shall be inserted the following provisions:—

"(6A) Where the unsecured portion of an ill-health pension is terminated under Article 18 after a notice of commutation in relation to the pension has become effective—

- (a) it is hereby declared that no reduction shall be made under paragraph (6) in the secured portion of the pension, in so far as it is payable under Article 18;
- (b) if thereafter, and after 6th September 1976, the person concerned becomes entitled to a pension, other than an injury pension, and is entitled to reckon for the purposes thereof the period of pensionable service reckonable for the purposes of the ill-health pension first mentioned in this paragraph, the unsecured portion of the other pension shall be reduced by the amount by which the ill-health pension would have been reduced if it had not been terminated as aforesaid.

(6B) Where a person wishes to surrender and commute for a lump sum a portion of a pension which falls to be reduced under paragraph (6A)(b), the portion which, under paragraphs (3) and (3A), he may commute shall be reduced by the amount of the said reduction."

## PART III

## PROVISIONS HAVING EFFECT FROM 1ST MAY 1975

5. After Article 5 of the principal Scheme (meaning of "aggregate contribution") there shall be inserted the following Article:—

*"Reckoning of service etc. for purposes of awards*

5A.—(1) Subject to paragraph (2), for the purpose of calculating an award payable to or in respect of a member of a fire brigade by reference to any period in years (including a period of pensionable or other service)—

(a) that period shall be reckoned in completed years and a fraction of a year;

(b) a part of a year shall be taken to be that fraction of a year whereof the denominator is 365 and the numerator the number of completed days in that part and, accordingly, a part of a year which includes 29th February in a leap year and comprises 365 days shall be treated as a whole year.

(2) Paragraph (1)(b) shall not apply where the member ceased to serve as such before 1st May 1975 and, in such case, Schedule 11 shall have effect for the purpose mentioned in paragraph (1)."

6. For Part I of Schedule 1 to the principal Scheme (fireman's ordinary pension) there shall be substituted the following provision:—

## "PART I

## Article 12

## FIREMAN'S ORDINARY PENSION

Subject as hereafter in this Schedule provided, an ordinary pension shall be of an amount equal to 30 sixtieths of the fireman's average pensionable pay with the addition, subject to a maximum of 40 sixtieths, of an amount equal to 2 sixtieths of that pay multiplied by the period in years by which his pensionable service exceeds 25 years."

7. For Part II of Schedule 1 to the principal Scheme (fireman's short service pension) there shall be substituted the following Part:—

## "PART II

## Article 13

## FIREMAN'S SHORT SERVICE PENSION

Subject as hereafter in this Schedule provided, a short service pension shall be of an amount which is the aggregate of—

(a) an amount equal to a sixtieth of the fireman's average pensionable pay multiplied by the period in years of his pensionable service up to 20 years, and

(b) an amount equal to 2 sixtieths of that pay multiplied by the period in years by which his pensionable service exceeds 20 years."

8. For paragraphs 2, 3 and 4 of Part III of Schedule 1 to the principal Scheme (fireman's ill-health pension) there shall be substituted the following provisions:—

"2. Where the fireman has less than 5 years' pensionable service, the amount of the pension shall not be less than a sixtieth of his average pensionable pay

and, subject as aforesaid, shall be of an amount equal to a sixtieth of that pay multiplied by the period in years of his pensionable service.

3. Where the fireman has 5 or more years', but not more than 10 years', pensionable service, subject to paragraph 5, the pension shall be of an amount equal to 2 sixtieths of that pay multiplied by the period in years of his pensionable service.

4. Where the fireman has more than 10 years' pensionable service, the pension shall be not less than 20 sixtieths of his average pensionable pay and, subject as aforesaid and to paragraph 5, shall be equal to 7 sixtieths of that pay with the addition—

- (a) of an amount equal to a sixtieth of that pay multiplied by the period in years of his pensionable service up to 20 years, and
- (b) of an amount equal to 2 sixtieths of that pay multiplied by the period in years by which his pensionable service exceeds 20 years."

9. In paragraph 1(a) of Part IV of Schedule 1 to the principal Scheme (fireman's short service or ill-health gratuity) for the words "the number of completed years of pensionable service which he is entitled to reckon;" there shall be substituted the words "the period in years of his pensionable service;"

10.—(1) In paragraph 2 of Part VI of Schedule 1 to the principal Scheme (fireman's deferred pension) for the words following "calculated" there shall be substituted the words "in years".

(2) For paragraph 3 of the said Part VI there shall be substituted the following paragraph:—

"3. The hypothetical pension referred to in paragraph 2 is a pension of an amount which is the aggregate of—

- (a) an amount equal to a sixtieth of his average pensionable pay multiplied by the period in years of his hypothetical service up to 20 years, and
- (b) an amount equal to 2 sixtieths of that pay multiplied by the period in years by which his hypothetical service exceeds 20 years."

11. In paragraph 1(4) of Part VII of Schedule 1 to the principal Scheme (reduction of pension at age 65) for the words "number of complete" there shall be substituted the words "period in".

12.—(1) For paragraph 4(a) of Part II of Schedule 2 to the principal Scheme (transitional modifications of Part I) there shall be substituted the following provision:—

"(a) an amount which is the aggregate of—

- (i) an amount equal to a sixtieth of the husband's average pensionable pay multiplied by the period in years of his pensionable service up to 20 years, and
- (ii) an amount equal to 2 sixtieths of that pay, multiplied by the period in years by which his pensionable service exceeds 20 years;"

(2) For paragraph 5(1) of the said Part II there shall be substituted the following provision:—

"(1) In this paragraph the following expressions have the meanings hereby respectively assigned to them, that is to say:—

“relevant period” means the period (if any) in years by which the fireman’s pre-1972 pensionable service falls short of 20 years;

“relevant pensionable service” means a fireman’s pensionable service reduced by his pre-1972 pensionable service and expressed in years;

“weighted relevant pensionable service” means a fireman’s relevant pensionable service, so much of such service as exceeds the relevant period being counted twice.”.

(3) In paragraph 5(2)(b) of the said Part II for the words “a half year for each completed year of” there shall be substituted the words “a half of his”.

(4) In paragraph 6 of the said Part II the words “completed years of” shall be omitted in each of the four places where they occur and for the word “exceed” there shall be substituted the word “exceeds”.

13. In paragraph 2(2) of Part IV of Schedule 2 to the principal Scheme (widow’s accrued pension) the words following “reckonable by him” shall be omitted.

14.—(1) For paragraph 4(2)(a) of Part I of Schedule 3 to the principal Scheme (child’s ordinary allowance) there shall be substituted the following provision:—

“(a) an amount which is the aggregate of—

(i) an amount equal to a sixtieth of the father’s average pensionable pay multiplied by the period in years of his pensionable service up to 20 years, and

(ii) an amount equal to 2 sixtieths of that pay multiplied by the period in years by which his pensionable service exceeds 20 years;”.

(2) In paragraph 4(3) of the said Part I the words “completed years of” shall be omitted in each of the three places where they occur and for the word “exceed” there shall be substituted the word “exceeds”.

15. In paragraph 3(2) of Part III of Schedule 3 to the principal Scheme (child’s accrued allowance) the words “each period being reckoned in completed years up to 20 years and in completed half years in so far as it exceeds 20 years” shall be omitted.

16.—(1) In paragraph 18 of Schedule 10 to the principal Scheme (modifications to Scheme in its application to firemen serving on 10th July 1956) for the words “2 sixtieths for each completed year by which his pensionable service exceeds 25 years” there shall be substituted the words “an amount equal to 2 sixtieths of that pay multiplied by the period in years by which his pensionable service exceeds 25 years”.

(2) For paragraph 19 of the said Schedule 10 there shall be substituted the following provision:—

“19. For Parts II and III of Schedule I there shall be substituted the following Part:—

## “PART II

### FIREMAN’S SHORT SERVICE OR ILL-HEALTH PENSION

Subject as hereafter in this Schedule provided, a short service or ill-health pension shall not be less than a sixtieth nor more than 40 sixtieths of the

fireman's pensionable pay and, subject as aforesaid, shall be of an amount which is the aggregate of—

- (a) an amount equal to a sixtieth of that pay multiplied by the period in years of his pensionable service up to 20 years, and
- (b) an amount equal to 2 sixtieths of that pay multiplied by the period in years by which his pensionable service exceeds 20 years.” ”.

(3) Paragraph 20 of the said Schedule 10 is hereby revoked.

17. After Schedule 10 to the principal Scheme there shall be added the Schedule set out in Appendix 1 to this Order.

#### PART IV

##### PROVISIONS HAVING EFFECT FROM 1ST AUGUST 1975

18. After Article 94 of the principal Scheme (application of Scheme to persons affected by local government reorganisation or in a combination scheme) there shall be inserted the Article set out in Appendix 2 to this Order.

#### PART V

##### PROVISIONS HAVING EFFECT FROM 6TH SEPTEMBER 1977

19.—(1) Subject to paragraph (2) below, the provisions of Article 96(2) of the principal Scheme and of paragraph 17 of Schedule 10 thereto (extension of service beyond age 55) are hereby revoked.

(2) The said provisions shall continue to have effect in the case of a regular fireman who, before 6th September 1977 both—

- (a) exercised the right of election accorded thereby, and
- (b) attained the age of 55 years.

*Roy Jenkins,*  
One of Her Majesty's Principal  
Secretaries of State.

3rd August 1976.

Approval of the Minister for the Civil Service given under his Official Seal on 4th August 1976.

(L.S.)

*Shepherd,*  
Authorised by the Minister for  
the Civil Service.

## APPENDIX 1

SCHEDULE INSERTED AFTER SCHEDULE 10  
TO THE PRINCIPAL SCHEME

## SCHEDULE 11

Article 5A(2).

RECKONING OF SERVICE ETC. FOR THE PURPOSES OF AWARDS TO OR IN RESPECT OF  
FIREMEN WHO CEASED TO SERVE BEFORE 1ST MAY 1975

1.—(1) This Schedule shall apply for the purposes of the calculation of an award payable to or in respect of a member of a fire brigade who ceased to serve as such before 1st May 1975.

(2) In this Schedule a reference to a Part XII case is a reference to the case of a fireman to whom Part XII of this Scheme applies.

2.—(1) This paragraph shall apply for the purposes of Part I of Schedule 1, except in a Part XII case.

(2) For the purposes mentioned in sub-paragraph (1) the period in years by which a period exceeds 25 years shall be computed in completed half-years and, accordingly—

- (a) a part of a year less than a half shall be ignored, and
- (b) a part of a year exceeding a half shall be treated as a half.

3.—(1) This paragraph shall apply—

(a) for the purposes of—

Part I of Schedule 1 in a Part XII case,  
Part II of Schedule 1 in a Part XII case,  
paragraphs 2 and 3 of Part III of Schedule 1,  
Part IV of Schedule 1,  
Part VI of Schedule 1 in a Part XII case,  
paragraph 1(4) of Part VII of Schedule 1,  
paragraph 6 of Part II of Schedule 2;

(b) subject to paragraph 4, for the purposes of—  
Part II of Schedule 1, except in a Part XII case,  
paragraph 4 of Part III of Schedule 1,  
Part VI of Schedule I, except in a Part XII case,  
paragraph 4 of Part II of Schedule 2,  
paragraph 4 of Part I of Schedule 3;

(c) subject to paragraphs 5 and 6, for the purposes of paragraph 5 of Part II of Schedule 2;

(d) subject to paragraph 7, for the purposes of—  
paragraph 2 of Part IV of Schedule 2,  
paragraph 3 of Part III of Schedule 3.

(2) Save as otherwise provided in paragraphs 4, 5, 6 and 7, for the purposes mentioned in sub-paragraph (1) a period shall be computed in completed years and, accordingly, a part of a year shall be ignored.

4.—(1) This paragraph shall apply for the purposes mentioned in paragraph 3(1)(b).

(2) For the purposes so mentioned the period in years by which a period exceeds 20 years shall be computed in completed half years as mentioned in paragraph 2(2).

5.—(1) This paragraph shall apply for the purposes of the definition of the expression “weighted relevant pensionable service” in paragraph 5(1) of Part II of Schedule 2.

(2) For the purposes aforesaid the period in years by which a period exceeds the relevant period (as defined in paragraph 5(1) of the said Part II) shall be computed in completed half-years as mentioned in paragraph 2(2).

6.—(1) This paragraph shall apply for the purposes of paragraph 5(2)(b) of Part II of Schedule 2.

(2) For the purposes aforesaid a half of a person's pre-1972 pensionable service shall be computed in completed half years as mentioned in paragraph 2(2).

7.—(1) This paragraph shall apply for the purposes mentioned in paragraph 3(1)(d).

(2) For the purposes aforesaid, in so far as a period exceeds 20 years it shall be computed in completed half-years as provided in paragraph 2(2).

#### APPENDIX 2

##### ARTICLE INSERTED AFTER ARTICLE 94 OF THE PRINCIPAL SCHEME

*Application of Scheme to certain regular firemen with service on or after 1st August 1975.*

94A.—(1) This Article shall apply in the case of a regular fireman who, during a period beginning on or after 1st August 1975 ("the relevant period"), has served as such and held the post of chief officer, assistant chief officer or deputy assistant chief officer or, in Scotland, of firemaster or assistant firemaster.

(2) Notwithstanding anything in this Scheme, an award to or in respect of a regular fireman to whom this Article applies shall not be less than it would have been had his pay as a member of a fire brigade (determined as mentioned in Article 55(1)), in respect of the relevant period, fallen to be calculated in accordance with the scale of pay in force immediately before 1st August 1975 for a member of that brigade holding the post held by him during the relevant period:

Provided that where the award is an ordinary pension which falls to be reduced in accordance with paragraph 6 of Part VIII of Schedule 1, the reduction shall be calculated without regard to this paragraph."



## EXPLANATORY NOTE

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

This Order amends the Firemen's Pension Scheme 1973 with effect, as provided in Article 2, from the dates mentioned below (retrospection is authorised by sections 12 and 16 of the Superannuation Act 1972).

Part II relates to the commutation of a portion of a pension for a lump sum. Under the Scheme of 1973 a member of a fire brigade cannot commute an ordinary pension (save in specified circumstances) unless he has 30 years' pensionable service. Part II provides with effect from 1st April 1975 that a member with less than this service may commute an ordinary pension subject, however, to a new restriction on the portion which may be commuted.

Parts III and V of the present Order relate to the calculation of awards by reference to periods of pensionable service and other periods and related matters. Under the Scheme of 1973 only completed years, or in certain cases completed half-years, are taken into account; but the service of a member of a fire brigade of a rank not higher than that of station officer may be extended beyond the normal age for compulsory retirement to enable him to reckon an additional completed year, or half-year, of pensionable service. Part III provides that any fraction of a year shall be taken into account except that the existing position is preserved in the case of persons who ceased to be members of a fire brigade before 1st May 1975, from which date Part III has effect. Part V revokes the provision for the extension of service, mentioned above, with effect (subject to transitional provisions) from 6th September 1977.

Part IV, with effect from 1st August 1975 (the date of commencement of the Remuneration, Charges and Grants Act 1975 (c. 57)), provides that an award under the Scheme of 1973 to or in respect of a chief officer, assistant chief officer or deputy assistant chief officer of a fire brigade (in Scotland, a firemaster or assistant firemaster), with service on or after that date, shall not be less than it would have been had his scale of pay in respect of that service been the scale in force immediately before that date.

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