

1979 No. 855

FIRE SERVICES

The Firemen's Pension Scheme (Amendment) (No. 2)

Order 1979

<i>Made - - - -</i>	17th July 1979
<i>Laid before Parliament</i>	26th July 1979
<i>Coming into Operation</i>	20th August 1979

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:—

1. This Order may be cited as the Firemen's Pension Scheme (Amendment) (No. 2) Order 1979.

2. This Order shall come into operation on 20th August 1979 and shall have effect—

- (a) for the purposes of paragraph (2) of Article 3, as from 1st April 1972;
- (b) for the purposes of paragraphs (3), (4) and (5) of that Article, as from 13th July 1978.

3.—(1) The Firemen's Pension Scheme 1973, set out in Appendix 2 to the Firemen's Pension Scheme Order 1973(e), shall be amended in accordance with the following provisions of this Article.

(2) For paragraph (2) of Article 4 there shall be substituted the following paragraph:—

“(2) Infirmity of mind or body shall be deemed for the purposes of this Scheme to be occasioned by a particular injury if it appears that the injury has so substantially aggravated the infirmity of mind or body that, if the person had not received the injury—

- (a) he would not have died at the time he in fact died, or
- (b) he would not have become permanently disabled at the time he in fact became so disabled.”.

(3) After Article 22 there shall be inserted the following Article:—

“*Widow's lump sum option*

22A.—(1) Where a widow is entitled to an ordinary pension under Article 22(2) in respect of the death of her husband on or after 13th July 1978 while serving as a regular fireman, she may, in accordance with the

(a) 1947 c. 41. (b) 1951 c. 65. (c) 1972 c. 11.

(d) Formerly the Treasury; see S.I. 1968/1656.

(e) S.I. 1973/966; there is no relevant amending instrument.

following provisions of this Article, by notice elect to have instead of that pension a reduced pension calculated in accordance with paragraph (3) together with a gratuity equal to whichever is the greater of the following amounts—

- (a) six times the annual rate of that reduced pension;
- (b) her husband's average annual pensionable pay.

(2) Notice for the purposes of paragraph (1) shall be given to the fire authority not later than three months after the date of her husband's death or, if he died before 20th August 1979, within three months of that date:

Provided that—

- (a) the fire authority may, in their discretion, accept a notice given after the expiry of the relevant period of three months, and
- (b) where before the notice is received by the fire authority the widow has received pension payments greater than those to which she would have been entitled under the following paragraph, the fire authority shall recover the overpayment by reducing her gratuity.

(3) A reduced pension under this Article shall be equal to 75 per cent of an ordinary pension calculated in accordance with Part I (excluding paragraph 2) and Part II of Schedule 2 by reference to the widow's circumstances, and the amount so calculated shall, so far as necessary, be increased in accordance with Part V of that Schedule in respect of the first 13 weeks following the husband's death."

(4) For paragraph (4) of Article 23 there shall be substituted the following paragraph:—

"(4) Without prejudice to Article 24(3), a gratuity under paragraph (2) shall be of an amount, subject to paragraph (5), equal to 25 per cent of the husband's average annual pensionable pay, together with, in the case of a widow whose husband died while serving as a regular fireman, an amount equal to whichever is the greater of the following amounts—

- (a) her husband's average annual pensionable pay;
- (b) $2\frac{1}{4}$ times the annual rate of the pension which would have been payable under Part III of Schedule 1 to the husband if he had retired on account of permanent disability on the day on which he died."

(5) After paragraph 7 of Schedule 10 there shall be inserted the following paragraph:—

"7A. Article 22A shall be omitted."

W. S. I. Whitelaw,
One of Her Majesty's Principal
Secretaries of State.

11th July 1979.

Approval of the Minister for the Civil Service given under his Official Seal on 17th July 1979.

(L.S.)

W. G. Bristow,
Authorised by the Minister for
the Civil Service.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order amends the Firemen's Pension Scheme 1973 with effect, as provided by Article 2, from the dates mentioned below (retrospection is authorised by sections 12 and 16 of the Superannuation Act 1972). Paragraph (2) of Article 3 extends, with effect from 1st April 1972, the definition of infirmity occasioned by a particular injury to include cases where an injury which became apparent only after retirement so aggravated an infirmity as to result in death or disablement. Paragraphs (3) and (5) amend the Scheme, with effect from 13th July 1978, to give the widows of firemen an option to take a smaller pension and a lump sum in lieu of the pension currently provided by the Scheme. Paragraph (4) amends the Scheme, with effect from 13th July 1978, to provide, in addition to the present benefits, for the payment of lump sums to widows of firemen who die in service as the result of injuries sustained on duty.

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