
STATUTORY INSTRUMENTS

2012 No. 2988

**FIRE AND RESCUE SERVICES, ENGLAND
PENSIONS, ENGLAND**

**The Firefighters' Pension Scheme
(England) (Amendment) (No. 2) Order 2012**

Made - - - - 29th November 2012
Laid before Parliament 5th December 2012
Coming into force - - 31st December 2012

This Order is made in exercise of the powers conferred by sections 34 and 60 of the Fire and Rescue Services Act 2004⁽¹⁾.

In accordance with section 34(5) of that Act, the Secretary of State for Communities and Local Government has consulted such persons as he considers appropriate before making the Order.

The Secretary of State for Communities and Local Government makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Firefighters' Pension Scheme (England) (Amendment) (No. 2) Order 2012.

(2) This Order comes into force on 31st December 2012.

(3) This Order applies in relation to England only⁽²⁾.

Amendment of the Firefighters' Pension Scheme (England) Order 2006

2. Schedule 1 to the Firefighters' Pension Scheme (England) Order 2006⁽³⁾ (in which the New Firefighters' Pension Scheme (England) is set out) is amended in accordance with the Schedule to this Order.

(1) 2004 c. 21.

(2) Powers under sections 34 and 60 of the Fire and Rescue Services Act 2004 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by section 62 of the Fire and Rescue Services Act 2004. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers. Powers under sections 34 and 60 of the Fire and Rescue Services Act 2004 are now vested in Scottish Ministers so far as they are exercisable in relation to Scotland (S.I. 2005/849).

(3) S.I. 2006/3432 (as amended by S.I. 2008/213 and S.I. 2012/954).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Signed by authority of the Secretary of State for Communities and Local Government

Brandon Lewis
Parliamentary Under Secretary of State
Department for Communities and Local
Government

29th November 2012

SCHEDULE

Article 2

Amendment of Schedule 1 to the Firefighters' Pension Scheme (England) Order 2006

1. In Part 1 (citation and interpretation), in rule (2) (interpretation), in paragraph (1), insert the following definitions at the appropriate places—

““the Automatic Enrolment Regulations” mean the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010;”(4);

““automatic enrolment date” has the meaning given by section 3(7) (automatic enrolment) of the Pensions Act 2008;”;

““automatic re-enrolment date” means the date determined in accordance with regulation 12(5) of the Automatic Enrolment Regulations;”;

““automatically enrolled” means becoming a firefighter member of the Scheme on the automatic enrolment date;”;

““automatically re-enrolled” means becoming a firefighter member of the Scheme on the automatic re-enrolment date;”;

““opt in” means becoming a firefighter member of the Scheme pursuant to the right in section 7(3) of the Pensions Act 2008 and in accordance with the arrangements prescribed by the Automatic Enrolment Regulations, and similar expressions are to be construed accordingly;”.

2. In Part 2 (scheme membership, cessation and retirement)—

(a) In rule 1 (scheme membership)(6)—

(i) in paragraph (2), for “rule 6(4)” substitute “rule 6”; and

(ii) after paragraph (2) insert—

“(2A) Where a person who has made an election not to pay pension contributions under the 1992 Scheme is automatically enrolled in this Scheme, that enrolment shall constitute an election to become a firefighter member of this Scheme.”;

(b) in rule 5 (election not to make pension contributions) after paragraph (1) insert—

“(Z1) A written notice given under paragraph (1) of this rule should be signed by the firefighter member or, where the notice is in electronic format, it must include a statement confirming that that person personally submitted the notice.”; and

(c) in rule 6 (rejoining the Scheme)—

(i) for paragraph (1), substitute—

“(1) A person who has made a contributions election may cancel it by giving a signed written notice to the authority or, where the notice is in electronic format, it must include a statement confirming that that person personally submitted the notice.”

(ii) after paragraph 1, insert—

“(1A) Where a person who has made a contributions election is subsequently automatically enrolled or re-enrolled in the Scheme, that enrolment or re-enrolment shall constitute a cancellation of their contributions election.”;

(iii) omit paragraphs (2) and (3); and

(iv) in paragraph (4), after “is received” insert—

(4) [S.I. 2010/772](#).

(5) As amended by [S.I. 2012/215](#).

(6) As amended by [S.I. 2008/213](#).

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“or, in the case of a firefighter member who has been automatically enrolled or re-enrolled, with effect from the automatic enrolment or re-enrolment date (as the case may be)”.

3. In Part 3 (personal awards), in rule 8 (refund of aggregate pension contributions)—
 - (a) before paragraph (1), insert—

“(Z1) Paragraphs 1 and 2 are subject to paragraph (3).”; and
 - (b) after paragraph (2) insert—

“(3) In the case of a firefighter member who makes a contributions election subsequent to being automatically enrolled or re-enrolled in the Scheme, or having opted in to the Scheme, paragraphs (1) and (2) apply with the following modifications—

 - (a) “three months’ qualifying service” means three months’ qualifying service since being automatically enrolled or re-enrolled, or opting in (as the case may be), on that occasion; and
 - (b) “aggregate pension contributions” means the payments made by the firefighter member to his employing authority by way of pension contributions since being automatically enrolled or re-enrolled, or opting in (as the case may be), on that occasion.”.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 1 to the Firefighters’ Pension Scheme (England) Order 2006. The amendments ensure that the New Firefighters’ Pension Scheme (England) (‘the Scheme’) complies with the requirements prescribed by the Pensions Act 2008 and the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 (‘the 2010 Regulations’) with regard to arrangements the employer must make in respect of automatic enrolment and automatic re-enrolment of a jobholder in a qualifying scheme. The amendments also ensure the Scheme complies with other arrangements prescribed by the Pensions Act 2008 and the 2010 Regulations by which a jobholder or a worker may join and/or leave a qualifying pension scheme.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.