

1970 No. 250

FIRE SERVICES**The Firemen's Pension Scheme (Amendment) Order 1970**

Made - - - - 17th February 1970
Laid before Parliament 26th February 1970
Coming into Operation 1st March 1970

In exercise of the powers conferred upon me by section 26 of the Fire Services Act 1947(a) (read with Article 2(1) of the Minister for the Civil Service Order 1968(b)), as amended and extended by sections 1 and 2(1) of the Fire Services Act 1951(c), section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(d) and section 8 of the Fire Services Act 1959(e), I hereby, with the approval of the Minister for the Civil Service, 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) Order 1970 and shall come into operation on 1st March 1970.

2. In this Order the expression "the principal Scheme" means the Firemen's Pension Scheme 1966 set out in Appendix 2 to the Firemen's Pension Scheme Order 1966(f), as amended (g).

3.—(1) At the beginning of paragraph (2) of Article 51 of the principal Scheme (expenses and receipts of fire authorities) there shall be inserted the words "So long as the fire authority maintain a pension reserve account in accordance with paragraph (3)".

(2) For paragraphs (3) and (4) of the said Article 51 there shall be substituted the following paragraphs :—

"(3) A fire authority which maintain a pension reserve account immediately before 1st March 1970 shall continue to maintain such an account on and after that day until it is exhausted in accordance with paragraph (4).

(4) Where in any year the payments debited to the account mentioned in paragraph (1) exceed the receipts credited thereto, and the fire authority maintain a pension reserve account, the balance shall be met out of the pension reserve account to the extent thereof."

4. For Article 66 of the principal Scheme (temporary employment in connection with the provision of fire services) there shall be substituted the following Article :—

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| (a) 1947 c. 41. | (b) S.I. 1968/1656 (1968 III, p. 4485). |
| (c) 1951 c. 27. | (d) 1951 c. 65. |
| (e) 1959 c. 44. | (f) S.I. 1966/1045 (1966 II, p. 2504). |
| (g) The relevant amending instrument is S.I. 1968/397 (1968 I, p. 1076). | |

Temporary employment in connection with the provision of fire services

66.—(1) This Article shall apply in the case of a person who ceases or has ceased to perform duties as a regular fireman in order to enter temporary employment on duties connected with the provision of fire services, being—

- (a) employment as an instructor at the central training institution or any training centre maintained by the Secretary of State ;
- (b) employment as an inspector, assistant inspector or other officer appointed under section 24 of the principal Act ;
- (c) employment entered upon in pursuance of arrangements made by the Secretary of State in connection with the training in fire-fighting of members of the armed forces of the Crown ; or
- (d) employment entered upon in pursuance of arrangements made by the Secretary of State or the Minister of Overseas Development in connection with the training and organisation of fire-fighting forces in such an overseas territory as is mentioned in paragraph (8) ;

(hereafter in this Article referred to as “the relevant employment”).

(2) In the case of a person to whom this Article applies the relevant employment shall be treated for the purposes of this Scheme as employment as a member of a fire brigade and, without prejudice to the following provisions of this Article, this Scheme shall apply in relation thereto as if—

- (a) he were a regular fireman and his duties were his duties as such ;
- (b) his pay and rank were the same as they would have been had he not ceased to perform duties as such a fireman or, where section 10 of the Fire Services Act 1959 applies in his case, the same as his pay and rank as a member of a fire brigade ;
- (c) any reference to a brigade were a reference to the relevant employment ;
- (d) Articles 51, 73 and 74 were omitted ; and
- (e) any reference to a fire authority were a reference to the Secretary of State or, where the relevant employment is such as is mentioned in paragraph (1)(d), to the Secretary of State or the Minister of Overseas Development.

(3) Where the relevant employment is such as is mentioned in paragraph (1)(d), this Scheme shall apply as aforesaid as if any reference in Article 46 or Schedule 8 to the Secretary of State were a reference to the Secretary of State or the Minister of Overseas Development.

(4) Except where the relevant employment is such as is mentioned in paragraph (1)(d) and the person has served therein on or after 1st March 1970, this Scheme shall have effect as aforesaid as if—

- (a) the reference to a court of quarter sessions in Article 47(1) were a reference to the court of quarter sessions for any county or borough which constitutes or is wholly or partly included in the area of the fire authority by whom he was employed immediately before entering the relevant employment, and
- (b) the reference to the sheriff in Article 47(5) were a reference to the sheriff having jurisdiction in the place where he served as a fireman immediately before entering the relevant employment.

(5) Where the relevant employment is such as is mentioned in paragraph (1)(d) and the person has served therein on or after 1st March 1970 this Scheme shall have effect as aforesaid as if a reference in Article 47 to a court

of quarter sessions were a reference to an appeal tribunal appointed by the Secretary of State or the Minister of Overseas Development and consisting of three persons including—

- (a) a retired member of a fire brigade who before he retired held a rank not lower than that of Divisional Officer (Grade I), and
- (b) a barrister or solicitor of seven years' standing or, where the person ceased to perform duties in a Scottish fire brigade in order to enter the relevant employment, an advocate or a solicitor of seven years' standing,

and paragraphs (4) and (5) were omitted from the said Article.

(6) In the case of an appeal to such a tribunal as is mentioned in paragraph (5)—

- (a) the time and place for the hearing, or the postponed or adjourned hearing, shall be determined by the tribunal, which shall give reasonable notice thereof to the appellant and to the Minister whose decision is appealed against, that is to say the Secretary of State or the Minister of Overseas Development (hereinafter described as “the parties”);
- (b) either party may be represented before the tribunal by counsel or by solicitor or by some other person approved by the tribunal, adduce evidence and cross-examine witnesses;
- (c) the tribunal shall apply the rules of evidence applicable in the case of an appeal to quarter sessions under Article 47 or, where the person ceased to perform duties in a Scottish fire brigade in order to enter the relevant employment, in the case of such an appeal to the sheriff, and
- (d) subject to the preceding provisions of this paragraph, the tribunal shall determine its own procedure.

(7) Subject to and in accordance with rules of court, an appeal on a point of law from a decision of such a tribunal as is mentioned in paragraph (5) shall lie to the High Court or, where the person ceased to perform duties in a Scottish fire brigade in order to enter the relevant employment, to the Court of Session.

(8) The overseas territory referred to in paragraph (1)(d) is any territory or country outside the United Kingdom, being a colony (including an associated state), protectorate or protected state within the meaning of the British Nationality Act 1948(a), or a country mentioned in section 1(3) of that Act, or, where appropriate, the territory or country wherein such a territory or country was incorporated after the inception of the employment.⁷

5. In Schedule 10 to the principal Scheme (modifications to the Scheme in its application to certain firemen serving on 10th July 1956) for the proviso to Article 38(3) (pensionable pay and average pensionable pay), as modified and set out in paragraph 4 of the said Schedule, there shall be substituted the following proviso :—

“Provided that where during the relevant period—

- (a) he reverted to a rank from which he had been temporarily promoted (whether before or during that period), or
- (b) the last change of rank was a promotion,

(a) 1948 c. 56.

and the said average is less than his pensionable pay would have been, immediately before the death or retirement, had he continued to hold the rank he held before the promotion until he reverted thereto or, as the case may be, until his death or retirement, then, paragraph (2) shall have effect in his case as though he had so continued to hold that rank.”.

James Callaghan,
One of Her Majesty's Principal
Secretaries of State.

14th February 1970.

Approval of the Minister for the Civil Service given under his Official Seal on 17th February 1970.

(L.S.)

K. H. McNeill,
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 1966.

Article 3 relaxes the obligation of fire authorities to keep separate pensions accounts and to maintain pension reserve accounts.

Article 4 restates Article 66 of the Scheme of 1966 with amendments which provide that a pensions appeal by a fireman who has been serving overseas shall lie to a specially constituted tribunal instead of to quarter sessions (or, in Scotland, the sheriff).

In certain circumstances, the pension of a fireman to whom the Scheme of 1966 applies subject to the modifications set out in Schedule 10 may be adversely affected by his temporary promotion, if he reverts to his substantive rank in his last years of service. Article 5 provides that, in such case, his pension shall be calculated as if he had, at all material times, held his substantive rank.

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