

1978 No. 1349

FIRE SERVICES

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

Order 1978

Made - - - - 14th September 1978

Laid before Parliament 15th September 1978

Coming into Operation 6th October 1978

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 1978.

2. This Order shall come into operation on 6th October 1978 and shall have effect—

- (a) for the purposes of paragraph (a) of Article 3, as from 1st July 1973;
- (b) for the purposes of paragraph (b) of that Article, as from 6th April 1975;
- (c) for the purposes of paragraph (c) of that Article, as from 6th April 1978.

3. The Firemen's Pension Scheme 1973, set out in Appendix 2 to the Firemen's Pension Scheme Order 1973(e), as amended(f), shall have effect—

- (a) from 1st July 1973 subject to the amendments specified in Part I of the Schedule to this Order;
- (b) from 6th April 1975 subject to the amendments specified in Part II of that Schedule;

(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.

(f) The relevant amending instruments are S.I. 1974/1797; 1976/1273; 1977/1704; 1978/1228.

(c) from 6th April 1978 subject to the amendments specified in Part III of that Schedule and subject to the transitional provisions of Part IV of that Schedule.

Merlyn Rees,
One of Her Majesty's Principal
Secretaries of State.

13th September 1978.

Approval of the Minister for the Civil Service given under his Official Seal
on 14th September 1978.

(L.S.)

T. A. A. Hart,
Authorised by the
Minister for the Civil Service.

Article 3.

SCHEDULE

PART I

AMENDMENTS TO FIREMEN'S PENSION SCHEME 1973 TAKING EFFECT FROM

1ST JULY 1973

After Article 16 there shall be inserted the following provision: —

“Deferred pension where ill-health pension is cancelled

16A.—(1) This regulation shall apply to a regular fireman who—

(a) retired with an ill-health pension the unsecured portion of which is terminated under Article 18(2) on a date (“the date of termination”) falling on or after 1st July 1973 otherwise than on his rejoining his brigade, and

(b) possesses the qualifications required by Article 16B(1).

(2) A regular fireman to whom this Article applies shall, as from the date of termination, be entitled to a deferred pension in accordance with the provisions of Article 16B(2).

Supplementary provisions about deferred pensions

16B.—(1) The qualifications referred to in Article 16A are that the regular fireman has service which satisfies one of the following conditions (such service is hereinafter referred to as qualifying service)—

(a) his pensionable service is five years or more;

(b) his pensionable service is less than five years but he has an earlier period of service as a regular fireman which does not count towards his pensionable service and the aggregate of that service and that period is five years or more;

(c) his pensionable service is less than five years but is reckoned by virtue of service as a regular fireman and some other employment and the aggregate of that service and that employment is five years or more:

Provided that an earlier period of service shall not count as qualifying service for the purposes of sub-paragraph (b) if there is a break of more than one month between it and the later qualifying service.

(2) Where a fireman is entitled to a pension under Article 16A he shall be entitled to a deferred pension calculated in accordance with Part VI of Schedule 1, subject, however, to Parts VII and VIII of that Schedule; but no payment shall be made on account of the pension in respect of the period before he attains the age of 60 years, or, if he sooner becomes permanently disabled, before he becomes so disabled, or in respect of any period if he has relinquished his entitlement for the purpose of Article 48 by written notice to the fire authority.”.

PART II

AMENDMENTS TO FIREMEN'S PENSION SCHEME 1973 TAKING EFFECT FROM

6TH APRIL 1975

1. After Article 16B (inserted by Part I of this Schedule) there shall be inserted the following provision: —

“Pension by way of equivalent benefit for certain regular firemen serving on 5th April 1975

16C.—(1) Subject to paragraph (2), this Article shall apply to a regular fireman who was serving as such on 5th April 1975 and ceases or has ceased to serve in circumstances—

- (a) which do not entitle him to a pension other than such as is mentioned in this Article,
- (b) in which no transfer value is payable or has been paid in respect of him under Article 71, and
- (c) in which no payment in lieu of contributions falls to be made or has been made.

(2) Where a regular fireman who was serving as such on 5th April 1975 ceases or has ceased to serve in circumstances in which a transfer value is payable in respect of him under Article 71A, this Article shall apply to him only if he satisfies the fire authority that he is not entitled under any superannuation arrangements (including this Scheme) to a pension—

- (a) in the calculation of which account is taken of the service which would be taken into account in calculating a pension under this Article, and
- (b) which would be at least as favourable in his case as a pension under this Article.

(3) A regular fireman to whom this Article applies shall, on attaining insured pensionable age and, where appropriate, satisfying the fire authority as mentioned in paragraph (2), be entitled to a pension which equals the graduated retirement benefit mentioned in Article 7(3).”.

2. In Article 17(1), after the words “ill-health pension” there shall be inserted the words “or while entitled to a deferred pension”, and the words “by way of adjustment of the amount of the pension” shall be omitted.

3. In Article 22(1)(b), after the words “deferred pension” there shall be inserted the words “or a pension under Article 16C”.

4. In Article 33(1)(b), after the words “deferred pension” there shall be inserted the words “or a pension under Article 16C”.

PART III

AMENDMENTS TO FIREMEN’S PENSION SCHEME 1973 TAKING EFFECT FROM 6TH APRIL 1978

1. In Article 7, there shall be inserted after paragraph (5) the following provision:—

“(6) In this Scheme the following expressions shall have the meanings respectively which they have for the purposes of the Social Security Pensions Act 1975:—

“contracted-out employment”;

“contracted-out scheme”;

“guaranteed minimum” and “guaranteed minimum pension”;

“contributions equivalent premium”.

(7) In this Scheme any reference to a case in which a contributions equivalent premium has been paid includes a reference to a case in which such a premium is payable but has not been paid by virtue of regulations under Schedule 2 to the Social Security Pensions Act 1975 dispensing with the payment of such a premium where its amount would be inconsiderable.

(8) In this Scheme any reference to insured pensionable age is a reference to the age of 65 years in the case of a man or 60 years in the case of a woman.

(9) In this Scheme any reference to the guaranteed minimum in relation to a pension under a pension scheme at a particular time is a reference to the amount certified by the Department of Health and Social Security as that minimum at that time.”.

2. In Article 8, after paragraph (4) there shall be inserted the following provision: —

“(5) For the purposes of this Scheme, the annual rate of a pension shall be determined as if there were 52½ weeks in each year.”.

3. For Article 16 there shall be substituted the following provision: —

“Deferred pension and award where no transfer value and no other award is payable

16.—(1) This Article shall apply to a regular fireman who ceases or has ceased to be a member of a brigade in circumstances in which no transfer value is payable in respect of him and which do not entitle him to any award other than such as is mentioned in this Article or in Article 16C.

(2) A fireman to whom this Article applies who—

(a) possesses the qualifications required by Article 16B(1), and

(b) has not exercised the right of election under Article 16D

shall, on ceasing to be a member of a brigade, be entitled to a deferred pension in accordance with the provisions of Article 16B(2).

(3) A fireman to whom this Article applies who does not possess the qualifications required by Article 16B(1) and who will not attain insured pensionable age before the end of the tax year in which he ceases or has ceased to be a member of a brigade, shall be entitled to an award by way of repayment of his aggregate contributions.”.

4. In Article 16B (inserted by Part I of this Schedule)—

(a) in paragraph (1) for the words “Article 16A” there shall be substituted the words “Articles 16 and 16A”; and

(b) in paragraph (2) for the words “Article 16A” there shall be inserted the words “Article 16, 16A or 16D”.

5. After Article 16C (inserted by Part II of this Schedule) there shall be inserted the following provision: —

“Transitional award

16D.—(1) This Article applies to a regular fireman who qualifies for a deferred pension by virtue of service partly before 6th April 1978 and partly on or after that date and whose average annual pensionable pay has not exceeded £5,000 in any tax year.

(2) A regular fireman to whom this Article applies may, within three months of ceasing to be a member of a brigade, elect that Article 16 shall not apply in his case by notice in writing to the fire authority.

(3) Where immediately before his death a regular fireman to whom this Article applies enjoyed, but had not exercised, the right of election conferred by paragraph (2) his widow may, by notice in writing given to the fire authority within three months of his death, or within such longer period as the authority may allow in the circumstances of the case, request that this Scheme should have effect as if he had exercised that right of election; and, in such a case, this Scheme shall so have effect.

(4) Where the right of election conferred by paragraph (2) has been exercised by a regular fireman or by his widow, the fireman shall not be granted a deferred pension under Article 16 but shall be entitled to an award under this Article.

(5) An award under this Article shall comprise—

- (a) an award by way of repayment of the fireman's aggregate contributions, excluding such contributions as are specified in paragraph (8), and
- (b) where his period of pensionable service is greater than the appropriate period of service, a deferred pension in accordance with the provisions of Article 16B(2) but disregarding that part of his period of pensionable service which is comprised in the appropriate period of service.

(6) The appropriate period of service referred to in paragraph (5) is—

- (a) in the case of a fireman who ceases to serve before he has attained the age of 26—
 - (i) whose contracted-out employment is less than five years, all his pensionable service, or
 - (ii) in any other case, his pensionable service before 6th April 1978; or
- (b) in the case of a fireman who has attained the age of 26 years when he ceases to serve—
 - (i) whose qualifying service, disregarding service before 6th April 1975, is less than five years, his pensionable service before 6th April 1978, or
 - (ii) in any other case, his pensionable service before 6th April 1975.

(7) Where pensionable service is reckonable by virtue of the receipt of a transfer value by the fire authority, the amount of pensionable service performed before a certain date shall be deemed to be such as bears to the total pensionable service so reckonable the same proportion as the former service performed before that date bears to the total former service.

(8) The contributions excluded by paragraph (5)(a) are the contributions or analagous payments which were paid after the end of the appropriate period of service, except those—

- (a) paid to a fire authority for the purpose of increasing benefit payable in respect of that period of service; or

- (b) specified, by the person responsible for the superannuation arrangements applicable to a previous period of service or employment, as having been paid for the purpose of increasing any benefit payable in respect of that part of the previous service or employment by virtue of which the person concerned is entitled to reckon an appropriate period of service.”.

6. In Article 17, for paragraph (2) there shall be substituted the following provision: —

“(2) Where a regular fireman who is not entitled to a deferred pension under Article 16A does not resume service in his brigade before the expiration of a month from the termination, under Article 18, of the unsecured portion of his ill-health pension, then if the aggregate of—

- (a) the sums paid in respect of the pension;
- (b) the actuarial value of a pension beginning at insured pensionable age equal to his guaranteed minimum where, at the end of that month, he had a guaranteed minimum in relation to the pension provided by this Scheme; and
- (c) the actuarial value of the secured portion of the ill-health pension (in so far as it is payable under Article 18(4)),

is less than his aggregate contributions, there shall be paid to him the difference.”.

7. In Article 20—

- (a) the words “or deferred pension” shall be omitted; and
- (b) at the end of the Article there shall be inserted the following provision: —

“Provided that—

where the pension of a regular fireman has been reduced under this Article, then if when he attains the age of 60 years the reduced pension is less than the amount of the deferred pension which would have been payable had he been granted such a pension on the date of his ceasing to serve, it shall be increased to that amount.”.

8. After Article 21 there shall be inserted the following provision: —

“21A.—(1) Where a regular fireman who has attained insured pensionable age is entitled to a pension which, together with any increase under the Pensions (Increase) Act 1971, does not exceed £52 per annum, the fire authority may, at their discretion, commute the pension for a gratuity.

(2) A gratuity under this Article shall be of such amount as is the actuarial equivalent of the pension, calculated from tables prepared by the Government Actuary.

(3) Where a regular fireman is entitled to more than one pension, those pensions shall be treated as one for the purposes of this Article.”.

9. For Article 26 there shall be substituted the following provision: —

“26.—(1) Where a widow is entitled to a pension which, together with any increase under the Pensions (Increase) Act 1971, does not exceed £52 per annum, the fire authority may, at their discretion, commute the pension for a gratuity.

(2) Where a widow is entitled to a pension on the death of her husband before he has attained insured pensionable age and the fire authority are satisfied that there are sufficient reasons for granting her a gratuity in lieu of the part of the pension which exceeds her guaranteed minimum pension, they may, subject to the provisions of Article 40, in their discretion and with her consent, commute for a gratuity that part, or so much thereof as may be commuted without contravening Article 40.

(3) A gratuity under this Article shall be calculated in accordance with Part VI of Schedule 2.”.

10. In Article 27, there shall be inserted at the end of paragraph (1) the following provision—

“before the end of the tax year preceding that in which he would have attained insured pensionable age”.

11. After Article 27 there shall be inserted the following provision—

“27A.—(1) This Article shall apply to a widow of a regular fireman entitled to reckon less than 3 years’ pensionable service who, after the beginning of the tax year in which he attained, or would have attained, insured pensionable age—

(a) dies or has died while serving as such; or

(b) ceases or has ceased to serve as such.

(2) A widow to whom this Article applies shall, unless she is a widow to whom Article 23 applies, be entitled to an award comprising—

(a) in respect of the first 13 weeks following the husband’s death, a temporary pension of such amount as secures that, in respect of each such week, the aggregate amount of the payment under this subparagraph and of any children’s allowances payable in respect of the husband’s death is of the like amount as his pensionable pay or his pension, as the case may be, for a week immediately before he died; and

(b) thereafter a widow’s requisite benefit pension calculated in accordance with Part VIII of Schedule 2.

(3) If the capitalised value of the pension payable under paragraph (2)(b) to a widow whose husband died while serving as a regular fireman, as calculated by the Government Actuary, is less than the husband’s average annual pensionable pay, the widow shall be entitled to a gratuity equal to the amount by which the capitalised value of the pension aforesaid falls short of the husband’s average annual pensionable pay.”.

12. For Article 28 there shall be substituted the following provision: —

“Limitation on award to widow with reference to date of marriage

28.—(1) A woman shall not be entitled to a widow’s award under Article 22, 23, 24, 25 or 27 if she married her husband after he last ceased to serve as a regular fireman.

(2) A woman who but for paragraph (1) would be entitled to a widow's award under Article 22, 23, 24 or 25 shall be entitled instead to a pension calculated in accordance with Part IX of Schedule 2."

13. For Article 29 there shall be substituted the following provision:—

"29.—(1) Subject to Article 91A, where a woman was living apart from her husband at the time of his death, she shall not be entitled to a widow's award under the preceding Articles except as provided in paragraph (3).

(2) A woman who but for paragraph (1) would be entitled to a widow's award under Article 22, 23, 24 or 25 shall be entitled instead to a widow's requisite benefit pension calculated in accordance with Part VIII of Schedule 2.

(3) Where the husband at the time of his death was—

- (a) making regular contributions for her support or to her for the support of her child, or
- (b) liable to make such contributions by virtue of an agreement or of the order or decree of a competent court,

and the amount of such contributions which he was making or was liable to make was greater than the widow's requisite benefit pension calculated in accordance with Part VIII of Schedule 2, she shall be entitled to a widow's pension calculated in accordance with the relevant provisions of the preceding Articles payable at a rate not exceeding the rate at which the husband was making or was liable to make such contributions.

(4) The fire authority may determine that a pension payable under paragraph (2) or (3) shall be payable for such period as they think fit, at such increased rate as they think fit not exceeding the rate at which it would be payable but for paragraph (1).

(5) Where a woman who was living apart from her husband at the time of his death would, but for paragraph (1), be entitled to a gratuity, the fire authority may decide that the gratuity be paid in whole or in part, as they think fit."

14. In Article 42, for paragraph (1) there shall be substituted the following provision:—

"(1) A regular fireman shall not under Article 21 commute for a lump sum, nor under Article 41 allocate in favour of his wife or other dependant—

- (a) such a portion of his pension that that pension becomes payable at a rate less than 2 thirds of the rate at which it would have been payable but for the provisions of the said Articles and of Part VIII of Schedule 1; or
- (b) where the pension is a deferred pension and at the date on which it becomes payable he has a guaranteed minimum in relation to the pension provided by this Scheme, such a portion of his pension that it becomes payable at a rate which, including any increase under the Pensions (Increase) Act 1971, is less than that minimum."

15. In Article 43, there shall be inserted at the end of the Article the following provision:—

“(2) This Article does not apply to a pension under Article 91A.”.

16. In Article 44(4), for the words “under Article 16(4)” there shall be substituted the words “by way of repayment of a fireman’s aggregate contributions”.

17. For Article 45 there shall be substituted the following provision:—

“Withdrawal of pension on conviction of certain offences

45.—(1) This Article shall apply to a pension payable to or in respect of a member of a brigade.

(2) Subject to paragraph (5), a fire authority responsible for payment of a pension to which this Article applies may withdraw the pension, in whole or in part, and permanently or temporarily as they may specify, if the pensioner has been convicted of an offence mentioned in paragraph (3) and, in the case of a widow’s pension, that offence was committed after the death of the pensioner’s husband.

(3) The offences referred to in paragraph (2) are—

(a) an offence of treason;

(b) one or more offences under the Official Secrets Acts 1911 to 1939 for which the pensioner has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least ten years.

(4) Subject to paragraph (5), a fire authority responsible for payment to a member of a brigade of a pension to which this Article applies, may withdraw the pension in whole or in part, and permanently or temporarily as they may specify, if the pensioner has been convicted of an offence committed in connection with his service as a member of a brigade which is certified by the Secretary of State either to have been gravely injurious to the interests of the State or to be liable to lead to serious loss of confidence in the public service.

(5) In the case of a pension to which this Article applies, other than an injury pension, the fire authority in determining whether withdrawal should be permanent or temporary and affect a pension in whole or in part, may make different determinations in respect of the secured and unsecured portion of the pension; but the secured portion of such a pension shall not be withdrawn permanently and may only be withdrawn temporarily for a period expiring before the pensioner attains insured pensionable age or for a period during which he is imprisoned or otherwise detained in legal custody.

(6) So much of any award as is or has been withdrawn under this Article or the Article which it replaces may, to such extent as the fire authority at any time in their discretion think fit—

(a) be applied by that authority for the benefit of any dependant of the person to whom, but for its withdrawal, it would be payable;

(b) be restored to that person.”.

18. In Article 48(6), for the words “relinquished under Article 16(2)” there shall be substituted the words “relinquished under Article 16B(2)”.

19. In Article 52B, for paragraph (5) there shall be substituted the following provision: —

“(5) Notwithstanding anything in this Article, the provisions thereof shall not apply—

- (a) where the former service was service as a regular fireman and the regular fireman concerned is entitled to reckon pensionable service under Article 48; or
- (b) where the fireman had a guaranteed minimum in relation to the pension provided by the former superannuation arrangements unless—
 - (i) those arrangements are of a kind mentioned in paragraph 1(2) of Part II of Schedule 9, or
 - (ii) that guaranteed minimum is no greater than a notional deferred pension calculated by reference to the pensionable service which, under Part II of Schedule 9, would be reckonable if the transfer value were paid.”.

20. Article 65 shall be omitted.

21. In Article 68(3), for sub-paragraph (a) there shall be substituted the following provision: —

“(a) to make an order or declaration controlling or restricting the exercise of any discretion which by this Scheme is vested in a fire authority, other than the discretion so vested by Article 45;”.

22. In Article 69—

- (a) in paragraph (6), for the words “and, in particular, of Article 15 (injury pension) and of Article 16 (deferred pension)” there shall be substituted the words “, in particular those provisions relating to injury pensions and deferred pensions”; and
- (b) in paragraph (9), for the words “Article 16(4)” there shall be substituted the words “Article 16(3) or 16D(5)(a)”.

23. In Article 70—

(a) for paragraph (1) there shall be substituted the following provision: —

“(1) Where a loss to the funds of a fire authority has occurred as a result of fraud, theft or negligence committed by a regular fireman in connection with his employment and any sum is due from that authority to him on account of a pension, the authority may withhold that sum in whole or in part and on so doing shall furnish him with a certificate showing the amount withheld and the effect on the pension:

Provided that—

- (a) where the pension is an ordinary, ill-health or short service pension and the sum due on account thereof is in respect of

a period beyond insured pensionable age, only so much of the sum as is due on account of the unsecured portion of the pension may be withheld;

(b) the amount withheld from a pension, including the capital value of the amount withheld from annual payments, shall not exceed the amount of the loss;

(c) no amount shall be withheld from such part of any pension as is attributable to service otherwise than as a member of a fire brigade; and

(d) in the event of any dispute as to the amount of the loss, no amount shall be withheld unless the amount of the loss becomes enforceable under the order of a competent court.”;

(b) in paragraph (5)(a), for the word “relative” there shall be substituted the word “dependant”; and

(c) in paragraph 5(b), for the words “the age of 65 years” there shall be substituted the words “insured pensionable age”.

24. In Article 71A—

(a) after sub-paragraph (a) of paragraph (1) there shall be inserted the following provision:—

“(aa) who has not attained insured pensionable age on the date of retirement;”;

(b) after paragraph (3) there shall be inserted the following provision:—

“(4) Notwithstanding anything in this Article, the provisions thereof shall not apply where a person has a guaranteed minimum in relation to the pension provided by this Scheme, unless—

(a) the new service is in a scheme which is a contracted-out scheme when the transfer value is paid; or

(b) a contributions equivalent premium has been paid in respect of him by the fire authority and not repaid.”.

25. In Part XIII, there shall be inserted before Article 92 the following provision:—

“*Contracting-out*

91A.—(1) This Article shall apply if any employment becomes contracted-out employment by reference to this Scheme.

(2) Any entitlement to a pension under this Article shall not be reduced or extinguished under any other provision of this Scheme save that—

(a) where that pension together with any increase under the Pensions (Increase) Act 1971 does not exceed £52 per annum it may be commuted under Article 21A or 26;

- (b) where the person entitled to that pension has been convicted of—
 - (i) an offence of treason, or
 - (ii) one or more offences under the Official Secrets Acts 1911 to 1939 for which he has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years,the pension may be withdrawn under Article 45(2).
- (3) Where a widow is entitled to a pension under this Article and she remarries before her 60th birthday, her entitlement shall cease.
- (4) Subject to paragraphs (5) and (6), if a person has a guaranteed minimum in relation to the pension provided by this Scheme—
 - (a) he shall, subject to paragraph (8), be entitled from insured pensionable age to a pension equal to his guaranteed minimum, and
 - (b) where he dies at any time and leaves a widow, then, unless his pension has been withdrawn under Article 45(2), she shall be entitled to a pension at a rate equal to one half of his guaranteed minimum.
- (5) Paragraph (4) shall not apply in relation to a person who has retired from service as a regular fireman and has entered other contracted-out employment if a transfer value has been paid under Article 71A in respect of him.
- (6) Where a person is entitled to a pension under any other provision of this Scheme—
 - (a) a pension under paragraph (4) shall not be paid unless that person's pension calculated in accordance with that paragraph is greater than that other pension disregarding any secured portion; and
 - (b) where a pension under paragraph (4) is paid, that person shall receive only the secured portion, if any, of that other pension.
- (7) In paragraph (6), references to a pension include any increase in that pension under the Pensions (Increase) Act 1971 and where that paragraph applies to a person who is entitled to both an injury pension and either an ill-health, ordinary, short service or deferred pension, those pensions shall be treated as one for the purposes of that paragraph.
- (8) No payments shall be made on account of the pension referred to in paragraph (4)(a) in respect of any period within 5 years of the fireman's attaining insured pensionable age during which—
 - (a) he has not ceased to serve as a regular fireman; or
 - (b) his pension is withdrawn, in whole or in part, in consequence of a decision of the fire authority taken under Article 46 before he attained insured pensionable age.”.

26. In Part IV of Schedule 1, after paragraph 2 there shall be inserted the following provision:—

“3. Where the fireman ceased to serve after the beginning of the tax year in which he attains insured pensionable age, the gratuity calculated in

accordance with the preceding provisions of this Part shall be reduced by an amount equal to the capitalised value, as calculated by the Government Actuary, of any pension paid to him under Article 91A.”.

27. In Part VII of Schedule 1, for the words “age 65” in the heading and “age of 65 years” in paragraphs 1(1), 3(2) and 4(2), there shall be substituted the words “insured pensionable age”.

28. In Part I of Schedule 2, for paragraph 1 there shall be substituted the following provision:—

“1. Subject to paragraph 2, a widow’s ordinary pension shall be whichever is the greater of the two following pensions—

- (a) a pension equal to one half of her husband’s pension or notional pension referred to in paragraph 3,
- (b) a widow’s requisite benefit pension calculated in accordance with Part VIII of this Schedule.”.

29. In Part IV of Schedule 2, for paragraph 3 there shall be substituted the following provision:—

“3.—(1) Where in respect of any period a widow so elects, then the annual rate of her accrued pension in respect of that period shall be, if her husband at the time when he ceased to be a regular fireman—

- (a) held a rank not higher than that of sub-officer, £353.69 a year;
- (b) held a rank higher than that of sub-officer but not higher than that of divisional officer (Grade I), £460.63 a year;
- (c) held a rank higher than that of divisional officer (Grade I), £552.97 a year:

Provided that this sub-paragraph shall not apply to the widow of a regular fireman where the pensionable service which reckoned for the purpose of calculating his deferred pension was less than 5 years, unless he was entitled to reckon pensionable service by virtue of the whole of his qualifying service.

(2) In the case of a widow of a regular fireman who ceased to serve on or after 6th April 1975 and would, had he continued to serve until the age of compulsory retirement specified in Article 96 in relation to his rank at the time when he ceased to serve, have become entitled to reckon at least 10 years’ pensionable service, the preceding sub-paragraph shall have effect as if for the rates of £353.69, £460.63 and £552.97 a year there were substituted respectively, the rates of £380.82, £487.76 and £580.10 a year.”.

30. For Part VI of Schedule 2 there shall be substituted the following provision:—

“PART VI**WIDOW’S GRATUITY BY WAY OF COMMUTED PENSION**

A widow’s gratuity by way of commuted pension shall be a sum equal to 11 times the annual amount of the pension or, as the case may be, of that part of the pension which is commuted, or such greater sum as may be agreed between the fire authority and the widow, not exceeding the capitalised value of the said pension or part of the pension, calculated in accordance with tables prepared from time to time by the Government Actuary.”.

31. After Part VII of Schedule 2 there shall be inserted the following provision:—

“PART VIII**WIDOW’S REQUISITE BENEFIT PENSION**

The amount of a widow’s requisite benefit pension shall be an amount equal to her husband’s average pensionable pay divided by 160 and multiplied by the period in years of his pensionable service after 5th April 1978.

PART IX**WIDOW’S PENSION WHERE FIREMAN MARRIES AFTER RETIREMENT**

1. A pension under Article 28(2) shall be the greater of the two following amounts, namely:—

- (a) one half of her husband’s notional pension referred to in paragraph 2, or
- (b) her husband’s average pensionable pay divided by 160 and multiplied by the period in years of his pensionable service after 5th April 1978.

2. The notional pension referred to in paragraph 1 shall be the pension referred to in paragraph 3(1)(a) of Part I of Schedule 2 (read as if that paragraph included also a reference to a deferred pension) multiplied by the fraction of which the numerator is the period in years of his pensionable service after 5th April 1978 and the denominator is the period in years of his total pensionable service, subject in each case to a maximum of 30 years.

3.—(1) This paragraph shall apply where the husband was in receipt of a pension.

(2) Where this paragraph applies, the widow’s pension under Article 28(2) shall, so far as necessary, be increased in respect of the first thirteen weeks for which it is payable so as to secure that, in respect of each such week, the aggregate amount of the pension and of any children’s allowances payable in respect of the husband’s death is no less than the weekly amount of his pension immediately before he died.

(3) For the purposes of this paragraph there shall be disregarded any reduction in the husband's pension in consequence of—

- (a) Part VIII of Schedule 1; or
- (b) his entitlement to any additional benefit within the meaning of paragraph 4 of Part V of Schedule 1.”.

32. In Part I of Schedule 9—

- (a) in paragraph 1—
 - (i) the word “and” shall be omitted between sub-paragraph (1)(c) and sub-paragraph (1)(d);
 - (ii) after sub-paragraph (1)(d) there shall be inserted the following provision:—
 - “(e) in the case of a regular fireman who, at the time of his ceasing to be a member of his former brigade, has a guaranteed minimum in relation to the pension provided by this Scheme, the amount of that guaranteed minimum, and
 - (f) the amount of any contributions equivalent premium in respect of him which has been paid by the fire authority and not repaid.”
- (b) in paragraph 2(1) for the word “fourth” there shall be substituted the word “fifth”;
- (c) in paragraph 2(3) for the word “fifth” there shall be substituted the word “sixth”;
- (d) in paragraph 5 for the words “paragraph 6” there shall be substituted the words “paragraphs 6 and 6A”; and
- (e) after paragraph 6 there shall be inserted the following provision—
 - “6A. Where a regular fireman at the time of his ceasing to be a member of his former brigade has a guaranteed minimum in relation to the pension provided by this Scheme, the transfer value shall be reduced by the amount of that guaranteed minimum, expressed as an annual pension, multiplied by the appropriate factor specified in the fourth column of the Table or, in the case of a woman, in the seventh column thereof.
 - 6B. Where a contributions equivalent premium has been paid in respect of the fireman and has not been repaid, the transfer value shall be reduced by the amount of that premium.”.

33. In Part II of Schedule 9—

- (a) in paragraph 1—
 - (i) the word “and” shall be omitted between sub-paragraph (1)(c) and sub-paragraph (1)(d);
 - (ii) after sub-paragraph (1)(d) there shall be inserted the following provision:—
 - “(e) where he, on ceasing to be in his former service, had a guaranteed minimum in relation to the pension provided by the superannuation arrangements to which he was then subject, the amount of that guaranteed minimum.”;
- (b) in paragraph 2(2), for the word “fifth” there shall be substituted the word “sixth”;

(c) at the end of paragraph 2(2) there shall be inserted the following provision:—

“(2A) Where on the date that the fireman ceased to be in his former service he had a guaranteed minimum in relation to the pension provided by the superannuation arrangements to which he was then subject, the amount of that guaranteed minimum, expressed as an annual pension, shall be multiplied by the appropriate factor specified in the fourth column of the Table, or in the case of a woman, in the seventh column thereof, and the transfer value shall be adjusted by the addition of that product.”;

(d) in paragraph 2(3), after the word “adjustment” there shall be inserted the words “or adjustments”;

(e) in paragraph 3(1), for the word “fourth” there shall be substituted the word “fifth”; and

(f) in paragraph 3(3), for the word “fifth” there shall be substituted the word “sixth”.

34. In Schedule 9, for Part III there shall be substituted the following provision:—

“PART III

TABLE

| Age last birthday before date of cessation | Men | | | Women | | |
|--|--------------|-------------|------------|--------------|-------------|------------|
| | Basic factor | N.I. factor | GMP factor | Basic factor | N.I. factor | GMP factor |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) |
| Less than 20 | 5.00 | 0.25 | 1.47 | 7.00 | 0.50 | 2.20 |
| 20 | 5.05 | 0.25 | 1.50 | 7.05 | 0.50 | 2.24 |
| 21 | 5.10 | 0.25 | 1.53 | 7.10 | 0.55 | 2.28 |
| 22 | 5.15 | 0.30 | 1.56 | 7.15 | 0.60 | 2.32 |
| 23 | 5.20 | 0.30 | 1.59 | 7.20 | 0.65 | 2.36 |
| 24 | 5.25 | 0.30 | 1.62 | 7.25 | 0.70 | 2.40 |
| 25 | 5.30 | 0.35 | 1.65 | 7.35 | 0.75 | 2.45 |
| 26 | 5.35 | 0.40 | 1.68 | 7.40 | 0.80 | 2.50 |
| 27 | 5.40 | 0.40 | 1.71 | 7.45 | 0.85 | 2.55 |
| 28 | 5.45 | 0.45 | 1.74 | 7.50 | 0.90 | 2.60 |
| 29 | 5.50 | 0.50 | 1.78 | 7.55 | 0.95 | 2.66 |
| 30 | 5.55 | 0.50 | 1.81 | 7.65 | 1.05 | 2.71 |
| 31 | 5.60 | 0.55 | 1.85 | 7.70 | 1.15 | 2.77 |
| 32 | 5.65 | 0.60 | 1.88 | 7.80 | 1.25 | 2.82 |
| 33 | 5.70 | 0.65 | 1.92 | 7.90 | 1.35 | 2.88 |
| 34 | 5.75 | 0.70 | 1.95 | 7.95 | 1.45 | 2.93 |
| 35 | 5.80 | 0.80 | 1.99 | 8.05 | 1.55 | 2.99 |
| 36 | 5.85 | 0.90 | 2.02 | 8.15 | 1.65 | 3.05 |
| 37 | 5.90 | 1.00 | 2.06 | 8.25 | 1.75 | 3.11 |
| 38 | 5.95 | 1.10 | 2.10 | 8.35 | 1.85 | 3.17 |
| 39 | 6.00 | 1.20 | 2.14 | 8.45 | 1.95 | 3.24 |

| Age last birthday before date of cessation | Men | | | Women | | |
|--|--------------|-------------|------------|--------------|-------------|------------|
| | Basic factor | N.I. factor | GMP factor | Basic factor | N.I. factor | GMP factor |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) |
| 40 | 6.05 | 1.30 | 2.18 | 8.55 | 2.10 | 3.31 |
| 41 | 6.10 | 1.40 | 2.22 | 8.65 | 2.25 | 3.38 |
| 42 | 6.15 | 1.50 | 2.26 | 8.75 | 2.45 | 3.45 |
| 43 | 6.20 | 1.60 | 2.30 | 8.85 | 2.65 | 3.52 |
| 44 | 6.25 | 1.70 | 2.34 | 8.95 | 2.90 | 3.59 |
| 45 | 6.30 | 1.80 | 2.39 | 9.05 | 3.15 | 3.66 |
| 46 | 6.40 | 1.90 | 2.44 | 9.15 | 3.40 | 3.74 |
| 47 | 6.50 | 2.00 | 2.48 | 9.25 | 3.70 | 3.82 |
| 48 | 6.60 | 2.20 | 2.53 | 9.35 | 4.00 | 3.90 |
| 49 | 6.70 | 2.40 | 2.58 | 9.45 | 4.35 | 3.98 |
| 50 | 6.80 | 2.60 | 2.62 | 9.55 | 4.75 | 4.06 |
| 51 | 6.90 | 2.90 | 2.67 | 9.65 | 5.15 | 4.15 |
| 52 | 7.10 | 3.20 | 2.72 | 9.80 | 5.60 | 4.24 |
| 53 | 7.30 | 3.50 | 2.78 | 9.95 | 6.10 | 4.33 |
| 54 | 7.50 | 3.80 | 2.84 | 10.10 | 6.65 | 4.43 |
| 55 | 7.70 | 4.20 | 2.90 | 10.30 | 7.25 | 4.53 |
| 56 | 8.00 | 4.60 | 2.97 | 10.50 | 7.95 | 4.63 |
| 57 | 8.30 | 5.00 | 3.04 | 10.75 | 8.75 | 4.74 |
| 58 | 8.60 | 5.40 | 3.12 | 11.05 | 9.65 | 4.85 |
| 59 | 9.00 | 5.80 | 3.20 | 11.40 | 10.65 | 4.97 |
| 60 | 9.50 | 6.30 | 3.28 | 11.75 | 11.75 | — |
| 61 | 9.50 | 6.80 | 3.36 | 11.75 | 11.75 | — |
| 62 | 9.50 | 7.40 | 3.44 | 11.75 | 11.75 | — |
| 63 | 9.50 | 8.10 | 3.53 | 11.75 | 11.75 | — |
| 64 | 9.50 | 9.00 | 3.64 | 11.75 | 11.75 | — |
| 65 | 9.50 | 9.50 | — | 11.75 | 11.75 | — ” |

35. In Schedule 10—

- (a) in paragraph 1, after the words “wherever they occur” there shall be inserted the words “otherwise than in Part VIII of Schedule 2”;
- (b) in paragraph 6, for the words “Article 16(1)” there shall be substituted the words “Article 16B(2)”;
- (c) after paragraph 10 there shall be inserted the following provision:—

“10A. In Article 27A(2), the words from “(a) in respect of” to “(b) thereafter” shall be omitted”.

11. For Article 28(2) there shall be substituted the following provision:—

“(2) A woman who but for paragraph (1) would be entitled to an award under Article 22, 23, 24 or 25, shall be entitled to an award calculated in accordance with Part VIII of Schedule 2.”; and
- (d) in paragraph 22, in Part I of Schedule 2, as set out therein—
 - (i) for the words “the two Schemes set out below” there shall be substituted the words “the three Schemes set out below”, and

- (ii) at the end of the said Part I, there shall be inserted the following provision: —

“SCHEME III

The pension shall be a widow's requisite benefit pension calculated in accordance with Part VIII of this Schedule.”.

PART IV

TRANSITIONAL PROVISIONS

1. Where a regular fireman retired before 6th April 1978, Articles 16 and 16D of the Scheme of 1973 as set out in Part III of this Schedule shall not have effect in relation to him but Article 16 of the Scheme of 1973 as originally made shall continue so to have effect.
2. Where before 6th October 1978 the fire authority have determined under Article 45 of the Scheme of 1973 as originally made that an award be withdrawn, that determination shall continue to have effect notwithstanding the amendment of that Scheme made by Part III of this Schedule.

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).

The principal changes to the Scheme are those made by Part III of the Schedule to the Order which takes effect from 6th April 1978. These changes enable the Scheme to satisfy the requirements for the issue of a contracting-out certificate under section 31 of the Social Security Pensions Act 1975.

Part I of the Schedule, which takes effect from 1st July 1973, adds to the Scheme provisions conferring a right to a deferred pension where an ill-health pension is cancelled in certain circumstances.

Part II of the Schedule, which takes effect from 6th April 1975, adds to the Scheme provisions conferring a right to a pension (equal to the graduated retirement benefit) on certain regular firemen serving on that date who would not otherwise be entitled to a pension under the Scheme.

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