
 STATUTORY INSTRUMENTS

1985 No. 318**FIRE SERVICES****The Firemen's Pension Scheme (Amendment) Order 1985**

<i>Made</i> - - - - -	28th February 1985
<i>Laid before Parliament</i>	13th March 1985
<i>Coming into Operation</i>	1st May 1985

In exercise of the powers conferred on me by section 26 of the Fire Services Act 1947(a), I hereby, with the approval of the Treasury 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 1985.

2. This Order shall come into operation on 1st May 1985 and shall have effect—

- (a) for the purposes of Article 5, as from 13th July 1978;
- (b) for all other purposes, as from 8th March 1984.

3.— (1) In this Order “the 1973 Scheme” means the Firemen's Pension Scheme 1973, set out in Appendix 2 to the Firemen's Pension Scheme Order 1973(b).

(2) This Order shall not apply in the case of a member of a fire brigade who last ceased to serve before 8th March 1984.

4. In Article 8(1) of the 1973 Scheme there shall be inserted at the appropriate places the words—

- ““husband” includes wife”
- ““widow” includes widower”
- ““wife” includes husband”

and related expressions in the said Scheme shall be construed accordingly.

(a) 1947 c.41, as amended and extended by section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c.65), and sections 12 and 16 of the Superannuation Act 1972 (c.11).

(b) S.I. 1973/966; the relevant amending instruments are S.I. 1978/1228, 1349, 1979/855, 1980/273.

5. For Article 23(5) of the 1973 Scheme there shall be substituted the following provision:—

“(5) Where the husband was entitled to an injury gratuity under Article 15—

- (a) if it equalled, or exceeded, the gratuity under paragraph (2), the gratuity under paragraph (2) shall not be payable;
- (b) in any other case the gratuity under paragraph (2) shall be reduced by the amount of the husband’s gratuity.”.

6. In Article 43(1) of the 1973 Scheme, in the proviso, after the words “deferred pension” there shall be inserted the words:—

“, or where a person is entitled both to a pension in respect of service as a member of a fire brigade and to a pension as the widow or widower of a member of a fire brigade”.

7. After Article 91A of the 1973 Scheme there shall be inserted the following provision:—

“91B. In its application to the widower of a member of a fire brigade, this Scheme shall have effect subject to the modifications set out in Schedule 10A.”.

8. In Article 96 of the 1973 Scheme—

- (a) in paragraph (1) the word “male” shall be omitted;
- (b) in paragraph (4) the word “male” shall be omitted, and after the words “whole-time member of a brigade” there shall be inserted the words “appointed on terms under which he is or may be required to engage in fire-fighting.”.

9. In Part I of Schedule 9 to the 1973 Scheme—

- (a) in paragraph 1(1)(c), the words “in the case of a man” shall be omitted;
- (b) in paragraph 3(1), the words “in the case of a man” shall be omitted, and at the end there shall be added the words:—
“in the case of a man or by the factor 1.1 in the case of a woman”;
- (c) in paragraph 5, the words “(a) in the case of a man” and “(b) in the case of a woman, equal to the basic element calculated in accordance with paragraph 2” shall be omitted.

10. In paragraph 3(1) of Part II of Schedule 9 to the 1973 Scheme, after the words “in the case of a woman, by”, there shall be inserted the words “a factor 0.55 greater than”.

11. After Schedule 10 to the 1973 Scheme there shall be inserted the following provisions:—

"SCHEDULE 10A

Article 91B

MODIFICATIONS TO SCHEME IN ITS APPLICATION
TO THE WIDOWER OF A MEMBER OF A FIRE BRIGADE

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

"26.—(1) Where a widower is entitled to a pension under this Scheme and the fire authority are satisfied that there are sufficient reasons for granting him a gratuity in lieu thereof, they may, subject to the provisions of Article 40, in their discretion and with his consent, commute the pension for a gratuity of an amount calculated in accordance with Part VI of Schedule 2.

(2) Where the fire authority are precluded by reason of the provisions of Article 40 from exercising their discretion under the preceding paragraph in the manner in which they would, but for those provisions, exercise it, they may, subject to those provisions exercise that discretion in relation to part only of the pension."

2. In Article 27(1) the words "before the end of the tax year preceding that in which he would have attained insured pensionable age" shall be omitted.

3. Articles 27A and 28 shall be omitted.

4. In Article 91A paragraphs (3) and (4)(b) shall be omitted.

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

"PART VI

Article 26

WIDOWER'S GRATUITY BY WAY OF COMMUTED PENSION

A widower's gratuity by way of commuted pension shall be such sum as may be agreed between the fire authority and the widower, not exceeding the capitalised value of the pension or, as the case may be, of that part of the pension which is commuted, calculated in accordance with tables prepared from time to time by the Government Actuary."

Leon Brittan,
One of Her Majesty's Principal
Secretaries of State.

Home Office.
25th February 1985.

We approve,

Donald Thompson,
Ian B. Lang,
Two of the Lords Commissioners
of Her Majesty's Treasury.

28th February 1985.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order, amends the Firemen's Pension Scheme 1973 (hereafter referred to as "the 1973 Scheme") so as to provide benefits for the widowers of female firefighters corresponding to those provided by the 1973 Scheme for widows. The provisions have effect from 8th March 1984, except for Article 5 which has effect from 13th July 1978 (retrospection is authorised by sections 12 and 16 of the Superannuation Act 1972).

Article 4 ensures that expressions connoting a certain gender, which were drafted specifically for the purpose of providing widows' benefits, are to include the opposite gender for the purpose of providing corresponding widowers' benefits.

Article 5 ensures that the increase in the widow's special gratuity introduced with effect from 13th July 1978 by the Firemen's Pension Scheme (Amendment) Order 1979 (S.I. 1979/855), is not lost if the husband was entitled to an injury gratuity which equalled the former maximum widow's special gratuity (under Article 23 of the 1973 Scheme) of 25% of her husband's average pensionable pay.

Article 6 ensures that no-one is prevented from receiving a pension in their own right under the Scheme in addition to a pension as the spouse of a member of a fire brigade.

Articles 7 and 11 make the necessary modifications to the 1973 Scheme for the purpose of ensuring that, where appropriate, widowers' benefits are calculated in the same way as widows' benefits under the Scheme.

Article 8 ensures that the age of compulsory retirement applies equally to female firefighters.

Articles 9 and 10 amend the provisions in the 1973 Scheme for the calculation of transfer values and the reckoning of pensionable service on receipt of a transfer value for firefighters. Article 9 ensures that proper provision is made to include the actual values of potential widower's pension in the calculation of an outward transfer value. Article 10 ensures that, if a female firefighter transfers previous service elsewhere into the 1973 Scheme, the incoming transfer value is translated into pensionable service which reckons fully for widower's pension as well as personal pension.

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