

1990 No. 1841

**FIRE SERVICES**

**SUPERANNUATION**

**The Firemen's Pension Scheme (Amendment) Order  
1990**

<i>Made</i> - - - -	<i>7th September 1990</i>
<i>Laid before Parliament</i>	<i>7th September 1990</i>
<i>Coming into force</i>	<i>1st October 1990</i>

In exercise of the powers conferred upon me by section 26 of the Fire Services Act 1947(a), by section 12, as applied by section 16(3), of the Superannuation Act 1972(b), and by section 35(7) and (8) of the Social Security Pensions Act 1975(c), I hereby, with the approval of the Treasury(d) and after consultation with the Central Fire Brigades Advisory Council and the Scottish Central Fire Brigades Advisory Council, make the following Order:

**Citation, commencement and interpretation**

1.—(1) This order may be cited as the Firemen's Pension Scheme (Amendment) Order 1990 and shall come into force on 1st October 1990.

(2) In this Order "the 1973 Scheme" means the scheme set out in Appendix 2 to the Firemen's Pension Scheme Order 1973(e).

**Variation of Scheme**

2.—(1) The Schedule to this Order has effect for varying the 1973 Scheme.

(2) Part II of the Schedule, except paragraphs 2 and 14(a), has effect as from 6th April 1988.

(3) A reference in the Schedule to a numbered article or Schedule is a reference to the article or Schedule identified by that number in the 1973 Scheme.

**Elections in respect of protected benefits**

3.—(1) This article applies to a person—

(a) to whom a protected benefit is being paid or may become payable, and

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(a) 1947 c.41; section 26 was amended and extended by the Fire Services Act 1951 (c.27), section 1; by the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c.65), section 42; and by the Superannuation Act 1972 (c.11), sections 12 and 16.

(b) 1972 c.11.

(c) 1975 c.60; section 35(7) was amended by the Social Security (Miscellaneous Provisions) Act 1977 (c.5), section 22(7), by the Social Security Act 1979 (c.18), Schedule 3, paragraph 18, and by the Social Security Act 1985 (c.53), Schedule 3, paragraph 2; section 35(8) was amended by the Social Security Act 1985, Schedule 3, paragraph 8 and a relevant exception to it was prescribed by the Occupational Pension Schemes (Revaluation) Regulations 1985 (S.I. 1985/1930), regulation 10.

(d) See S.I. 1981/1670.

(e) S.I. 1973/966; relevant amendments to the scheme were made by S.I. 1978/1349, 1980/1615, 1983/1409, 1985/318, 1987/1302, 1989/732.

- (b) who is placed in a worse position than he would have been in if a variation made to the 1973 Scheme by virtue of article 2 ("the relevant variation") had not applied in relation to the protected benefit.

(2) A protected benefit is one which is being paid or may become payable by a fire authority, under the 1973 Scheme, to or in respect of a person who was employed as a regular fireman but ceased to be so employed, or died, before 1st October 1990.

(3) A person to whom this article applies may, by giving written notice to the fire authority within 3 months after 1st October 1990, elect that the relevant variation shall not apply in relation to the protected benefit.

Home Office  
27th August 1990

*David Waddington*  
One of Her Majesty's Principal Secretaries of State

We consent

7th September 1990

*John Major*  
*John Taylor*  
Two of the Lords Commissioners of Her Majesty's Treasury

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## SCHEDULE

Article 2

### PART I

#### TRANSFER VALUE PROVISIONS

1. In article 8 (meaning of expressions) –
  - (a) after the definition of "appointed day" insert:  
"“approved scheme” means superannuation arrangements falling within article 71A(2);”;
  - (b) after the definition of "brigade" insert:  
"“cash equivalent” means a cash equivalent mentioned in sub-paragraph (1) of paragraph 12 of Schedule 1A to the Social Security Pensions Act 1975(a), and “part cash equivalent” means the cash equivalent of any part of the benefits described in that sub-paragraph which is prescribed under sub-paragraph (2A) (continuation in employment after termination of pensionable service);”;
  - (c) after the definition of "child" insert:  
"“club scheme” means superannuation arrangements falling within article 71A(2)(a), (b) or (e);”;
  - (d) after the definition of "injury" insert:  
"“personal pension scheme” has the meaning given in section 84(1) of the Social Security Act 1986;”.
2. In article 52B (previous service reckonable under current interchange arrangements)–
  - (a) in paragraph (4) for the words after "pensionable service" substitute "calculated –
    - (a) if he became a regular fireman before 1st January 1986 and the former superannuation arrangements were not a club scheme, in accordance with paragraphs 1 to 4 of Part II of Schedule 9 and Part III of that Schedule, and
    - (b) in any other case, in accordance with paragraph 5 or 6 of Part II of Schedule 9.”; and

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(a) 1975 c.60; Schedule 1A was inserted by the Social Security Act 1985 (c.53), Schedule 1, paragraph 3, and amended by the Social Security Act 1986 (c.50), Schedule 10, paragraphs 29 and 30.

(b) for paragraph 5(b)(ii) substitute –

“(ii) if a transfer value such as is mentioned in paragraph (1)(c) were paid to the fire authority its amount would be at least  $A \times B$ , where –

A is the annual amount of the pension to which he would in that event be entitled under article 91A, and

B is the factor ascertained from the Table below by reference to his age at the date on which the authority are requested to accept the transfer value.

TABLE

<i>Age</i>	<i>Factor</i>
29 or under	8
30 to 39	9
40 to 49	10
50 or over	12

3. In article 71A (payment of transfer values under interchange arrangements) –

(a) in paragraph (1) delete the words “subject to paragraph (3),”;

(b) in paragraph (2) for the words “Parts I and III of Schedule 9” substitute “Part 1A of Schedule 9”;

(c) delete paragraph (3); and

(d) after paragraph (4) insert:

“(5) Notwithstanding anything in this article, a transfer value may not be paid if the fireman has acquired a right to a cash equivalent, unless –

(a) the service to which the cash equivalent relates includes service before 1st October 1990, and

(b) the right has been exercised by requiring the whole of the cash equivalent to be paid to the person responsible for the management of an approved scheme which is not a club scheme.

(6) Notwithstanding anything in this article, a transfer value may not be paid if the fireman –

(a) has acquired a right to a part cash equivalent, and

(b) would on taking that right remain entitled to a deferred pension.

(7) In this article references to retirement include references to electing under article 56A(1) not to pay pension contributions.”.

4. In Part I of Schedule 9 (transfer values payable by fire authority) –

(a) in the heading delete the words “OR 71A”,

(b) in paragraph 1(1) delete the words “or 71A”, and

(c) delete paragraph 10.

5. After Part I of Schedule 9 insert:

#### “PART 1A

##### TRANSFER VALUE PAYABLE UNDER ARTICLE 71A

1. A transfer value is calculated on the cash equivalent basis if it is calculated in the manner prescribed under paragraph 14 of Schedule 1A to the Social Security Pensions Act 1975 for the calculation of cash equivalents.

2. Where –

(a) a transfer value is payable to the person responsible for the management of a club scheme or a personal pension scheme, or

(b) a transfer value is payable to the person responsible for the management of an approved scheme which is not a club scheme and none of the service to which it relates is service before 1st October 1990,

and no right to a cash equivalent was acquired, the transfer value is to be calculated on the cash equivalent basis.

3. Where –

- (a) a transfer value is payable to the person responsible for the management of an approved scheme which is not a club scheme, and
- (b) the service to which it relates includes service before 1st October 1990, and
- (c) no right to a cash equivalent was acquired,

the amount of the transfer value is the total of A and the greater of B and C, where –

- A is a notional transfer value, calculated on the cash equivalent basis, in respect of the person's service after 30th September 1990,
- B is a notional transfer value, calculated on the cash equivalent basis, in respect of his service before 1st October 1990, and
- C is a notional transfer value, calculated as if Part I of this Schedule had continued after 30th September 1990 to apply to transfer values payable under article 71A, in respect of his service before 1st October 1990.

4. Where –

- (a) a transfer value is payable to the person responsible for the management of an approved scheme which is not a club scheme, and
- (b) the service to which it relates includes service before 1st October 1990, and
- (c) a right to a cash equivalent was acquired,

the amount of the transfer value is D – E, where –

- D is the transfer value that would have been payable if paragraph 3 had applied, and
- E is the amount of the cash equivalent.

5. Where –

- (a) a transfer value is payable to the person responsible for the management of a personal pension scheme, and
- (b) a right to a part cash equivalent was acquired,

the transfer value is to be calculated on the cash equivalent basis but as if the person's service as a regular fireman had ended with 5th April 1988.”.

6. In Part II of Schedule 9 (service reckonable on receipt of transfer value)–

- (a) in paragraph 1(1) for the words “The period” substitute “Where article 52B(4)(a) applies, the period” and after the words “in accordance with” insert “this paragraph and paragraphs 2, 3 and 4 of ”; and
- (b) after paragraph 4 insert:

“5.—(1) Where article 52B(4)(b) applies and the transfer value was received from the person responsible for the management of a club scheme, the fireman is entitled to reckon as pensionable service a period equal to the period that would enable the fire authority to pay a transfer value, calculated on the cash equivalent basis, of the same amount as the one received.

(2) In calculating the period any sum representing interest that is included in the transfer value received is not to be taken into account.

6.—(1) Where article 52B(4)(b) applies and the transfer value was received from the person responsible for the management of a personal pension scheme or an approved scheme which is not a club scheme, the fireman is entitled to reckon as pensionable service the period specified in sub-paragraph (2).

(2) The period is –

$$\frac{A + B + C}{D + E} \text{ years,}$$

where –

- A is the amount of the transfer value divided by the market level indicator for the month in which the material date occurred,
- B is any amount in respect of graduated National Insurance modification notified by the person paying the transfer value,
- C is 52 times the amount in respect of the fireman's guaranteed minimum multiplied by the minimum pension factor,
- D is 1/45th of the rate of his annual pensionable pay at the material date multiplied by the pension factor, and

E is 1/90th of the rate of his annual pensionable pay at the material date multiplied by the widow's or widower's pension factor.

(3) The market level indicator for a month is to be ascertained from tables provided by the Government Actuary by reference to –

(a) the person's age at the material date, and

(b) the average gross redemption yield on the first working day of the month, ascertained from the FT-Actuaries Share Indices published in the Financial Times newspaper, on British Government index-linked stocks redeemable after 5 years or more, assuming inflation at 5 per cent (interpolating where that yield is not an integral percentage).

(4) The amount in respect of the fireman's guaranteed minimum is F + G, where –

F is so much of his guaranteed minimum as is attributable to service before 6th April 1988, and

G is half of so much of it as is attributable to service after 5th April 1988.

(5) The material date –

(a) if the transfer value was received within 12 months after the date on which the person became a regular fireman, is that date, and

(b) in any other case, is the date on which the transfer value was received.

(6) The factors are to be ascertained from tables provided by the Government Actuary by reference to the person's age on the material date.”.

## PART II

### OTHER PROVISIONS

1. In article 5 (aggregate contributions), in paragraph (1)(a) for the words “he is entitled” substitute “he is, or was immediately before electing under article 56A(1) not to pay pension contributions, entitled”.

2. In article 8 (meaning of expressions), in paragraph (1) after the definition of “service pension” insert:

““tax year” means the 12 months beginning with 6th April in any year;”.

3. In article 12 (fireman's ordinary pension), in paragraph (1) for the words “shall be entitled” substitute “shall, unless immediately before his retirement an election under article 56A(1) not to pay pension contributions had effect, be entitled”.

4. In article 13 (short service award) –

(a) in paragraphs (1) and (4) for the words “shall be entitled” substitute “shall, unless immediately before his retirement an election under article 56A(1) not to pay pension contributions had effect, be entitled”; and

(b) in paragraphs (2) and (4) for the words “5 years’ ” substitute “2 years’ ”.

5. In article 14 (ill-health award) –

(a) in paragraph (1) for the words “shall be entitled” substitute “shall, unless immediately before his retirement an election under article 56A(1) not to pay pension contributions had effect, be entitled”; and

(b) in paragraph (2)(a) for the words “5 years’ ” substitute “2 years’ ”.

6. In article 16 (deferred pension and award where no transfer value and no other award is payable) –

(a) in paragraph (1) after the words “ceased to be a member of a brigade” insert “, or who has elected under article 56A(1) not to pay pension contributions”;

(b) in paragraph (2) after the word “brigade” insert “, or, as the case may be, when the election under article 56A(1) takes effect”; and

(c) in paragraph (3) after the words “ceased to be a member of a brigade” insert “or has, within 3 months of his last becoming a regular fireman, elected under article 56A(1) not to pay pension contributions”.

7. In article 16B (supplementary provisions about deferred pensions) in paragraph (1) –
- (a) for the words “five years”, wherever occurring, substitute “2 years”; and
  - (b) at the end of the proviso insert “nor to the extent, if any, that it comprises a period during which an election under article 56A(1) not to pay pension contributions had effect”.
8. In article 18 (cancellation of ill-health and injury pensions) –
- (a) after paragraph (1) insert:  
“(1A) The fire authority may also consider as mentioned in paragraph (1) in the case of a person who –
    - (a) has elected under article 56A(1) not to pay pension contributions, and
    - (b) is entitled under article 16 to a deferred pension, and
    - (c) has begun to receive payment on account of the pension on being required to retire under article 97 (compulsory retirement on grounds of incapacity).”;  - (b) in paragraph (2) after the words “ill-health pension” insert “or, in a case falling within paragraph (1A), may determine that payment of the deferred pension shall be suspended, that is to say, that the pension shall not be payable in respect of any period before –
    - (a) his 60th birthday, or
    - (b) if sooner, his again becoming permanently disabled”;  - (c) in paragraph (3) after the word “terminated” insert “, or payment of a deferred pension is suspended,”, and after the word “termination”, wherever occurring, insert “or suspension”;
  - (d) in paragraph (4) after the words “pension is terminated” insert “, or payment of a deferred pension is suspended,”, and for the words “that pension” substitute “,an ill-health pension”.
9. In article 22 (widow’s ordinary pension), in paragraph (1)(a) after the word “fireman” insert “, unless an election under article 56A(1) not to pay pension contributions had effect at the time of his death”.
10. In article 27 (widow’s award where no other award payable) –
- (a) in paragraph (1) after the words “regular fireman” insert “by whom pension contributions have at any time been payable under article 56”; and
  - (b) in paragraph (2) for the words “or 23” substitute “, 23 or 25”.
11. In article 27A (widow’s temporary and requisite benefit pensions), in paragraph (1) after the words “regular fireman” insert “by whom pension contributions have at any time been payable under article 56 and who was”.
12. In article 33 (child’s ordinary allowance), in paragraph (1)(a) after the word “fireman” insert “, unless an election under article 56A(1) not to pay pension contributions had effect at the time of his death”.
13. In article 47 (current service), in paragraph (a) after the words “1st April 1972” insert “, except a period during which pension contributions were not payable under article 56”.
14. In article 55 (pensionable pay and average pensionable pay) –
- (a) in the proviso to paragraph (1) –
    - (i) after the words “1st June 1989,” insert “except where regulation 4 of the Retirement Benefits Schemes (Tax Relief on Contributions) (Disapplication of Earnings Cap) Regulations 1990(a) applies”, and
    - (ii) for the words from “that pay” to “£60,000” substitute “, in any tax year, the pay determined in accordance with this paragraph exceeds the figure which is the permitted maximum for that year for the purposes of section 594(2) and (3) of the Income and Corporation Taxes Act 1988(b) (that is to say, the figure specified for the year by an order made by the Treasury under section 590C(6) of that Act)”;
  - (b) in paragraph (5) for the words after “pensionable pay” substitute “is –
    - (a) in the case of an award under article 15 (injury awards), 23 (widow’s special award), 27 (widow’s award where no other award payable), 31 (dependent relative’s special pension), 34 (child’s special allowance) or 35 (child’s special gratuity), the date of his last day of service as a regular fireman, and

(a) S.I. 1990/586.

(b) 1988 c.1; section 590C was inserted, and section 594 amended, by the Finance Act 1989 (c.26), section 75 and Schedule 6, paragraphs 4 and 6.

(b) in any other case, the date of his last day of service in a period during which pension contributions were payable under article 56.”.

15. In article 56 (pension contributions) after the word “shall” insert “, except while an election under article 56A(1) has effect,”.

16. After article 56 insert:

**“Election not to pay pension contributions**

**56A.—(1)** Subject to paragraph (8), a regular fireman may at any time, by giving written notice to the fire authority, elect that article 56 is not to apply in his case.

(2) Subject to paragraph (3), an election under paragraph (1) takes effect on the first date after the notice is received on which an instalment of pay falls due.

(3) In the case of a person who –

(a) last became a regular fireman on a date (“the material date”) later than 5th April 1988, and

(b) has given notice under paragraph (1) within 3 months after the material date,

the election shall be treated as having taken effect on the material date.

(4) Where an election is to be treated as having taken effect on the material date –

(a) the fire authority shall repay the person the pension contributions paid by him since that date, and

(b) for the purposes of articles 27 and 27A pension contributions shall be taken not to have been payable by him at any time.

(5) Subject to paragraph (6), a person who has made an election under paragraph (1) may, not later than his 45th birthday, cancel it by giving written notice to the fire authority.

(6) The fire authority may resolve that a person’s election may not be cancelled unless he has undergone a medical examination, at his own expense, and satisfied them as to his good health.

(7) Where an election is cancelled it ceases to have effect on the first date after the notice is received on which an instalment of pay falls due.

(8) A person who has cancelled an election made under paragraph (1) may not make a further election under that paragraph during the same period of service as a regular fireman.

**Supplementary provision as to elections not to pay pension contributions**

**56B.—(1)** Any written notification given to a fire authority in anticipation of article 56A shall be treated as having been a notice given under that article.

(2) A notification is one given in anticipation of article 56A if –

(a) it was given after 5th April 1988 and before 1st October 1990,

(b) it expressed a wish not to pay, or as the case may be a wish to resume payment of, pension contributions, and

(c) it was given on the understanding that if this Scheme were varied so as to contain provisions for the making and cancellation, by notice, of elections not to pay pension contributions it would be treated as having been a notice given under those provisions.

(3) In the case of a person who –

(a) was serving as a regular fireman on 6th April 1988,

(b) gave a written notification treated by virtue of paragraph (1) as notice of an election under article 56A(1) not to pay pension contributions, and

(c) attained the age of 45 before 6th April 1989,

a written notification given in anticipation of article 56A before 6th April 1989 expressing a wish to resume payment of pension contributions shall be treated as having been an effective notice of cancellation given under article 56A(5) even if it was not given before his 45th birthday.”.

17. In article 58 (additional and further payments) in paragraph (5) –

(a) for the words “cease to be payable on retirement” substitute “cease to be payable –

- (a) on retirement, or
- (b) if he elects under Article 56A(1) not to pay pension contributions, on the date on which the election takes effect"; and

- (b) after the words "Schedule 1" insert ", and if an election made under article 56A(1) is cancelled any contributions that were payable under this article immediately before the election took effect become payable again from the date on which it ceases to have effect".

18. In article 80C (purchase of additional benefits by lump sum payment), in paragraph (1) after the words "serving as a regular fireman" insert "and paying pension contributions under article 56".

19. In article 80D (purchase by periodical contributions) –

- (a) in paragraph (1) after the words "serving as a regular fireman" insert "and paying pension contributions under article 56";
- (b) after paragraph (2)(b) insert:
  - "or
  - (c) the date on which any election under article 56A(1) not to pay pension contributions takes effect,"; and
- (c) in paragraph (4) for the words from "and who" to "as such, the" substitute "and –
  - (a) having retired with an ill-health pension before his retirement date, resumes service as such, or
  - (b) having elected under article 56A(1) not to pay pension contributions, cancels that election, the".

20. In article 80H (reckoning of additional benefits) –

- (a) in paragraph (1) for the words from "save that where" to "article 80G" substitute "save that where –
  - (a) he had discontinued payment on grounds of financial hardship under article 80G, or
  - (b) he had made an election under article 56A(1) which was subsequently cancelled under article 56A(5),";
- (b) after paragraph (1) insert –
  - "(1A) Paragraph (1) does not have effect in relation to a regular fireman who has at any time made an election under article 56A(1) which has not been cancelled under article 56A(5).";
- (c) in paragraph (2) –
  - (i) after the words "that election" insert "either", and
  - (ii) after the words "article 16D" insert "or elects under article 56A(1) not to pay pension contributions".

21. In article 91A (contracting-out) –

- (a) in paragraph (3) for the words from "a widow" to "birthday, her" substitute "a person entitled to a pension under paragraph (4)(b) or (c) remarries before attaining insured pensionable age, the";
- (b) in paragraph (4)(b) for the word "where" substitute "in the case of a man, where"; and
- (c) after paragraph (4)(b) insert:
  - "and
  - (c) in the case of a woman who has died after 5th April 1988 leaving a widower, then, unless any pension to which she had become entitled has been so withdrawn, the widower is entitled to a pension at a rate equal to one half of that part of her guaranteed minimum which is attributable to earnings factors for the tax year 1988–89 and subsequent tax years."

22. After article 91A insert –

**"Revaluation of guaranteed minimum**

**91AA.—(1) This article applies where a person –**

- (a) has ceased to serve as a regular fireman, or
- (b) has elected under article 56A(1) not to pay pension contributions,



and has taken a right to a cash equivalent by exercising the option conferred by paragraph 13(2) of Schedule 1A to the Social Security Pensions Act 1975(a) ("the Pensions Act") wholly or partly in the way specified in paragraph 13(2)(b) (purchase of annuity).

(2) Where this article applies, to the extent that the person's guaranteed minimum is otherwise appropriately secured within the meaning of section 52C(4) of the Pensions Act(b) –

- (a) for the purposes of section 35(2) of that Act (amount of guaranteed minimum) his earnings factors shall be determined by reference to the last order under section 21 of that Act to come into force before the end of the tax year in which he ceased to serve or, as the case may be, in which his election under article 56A(1) took effect and without reference to any subsequent order, and
- (b) the weekly equivalent mentioned in section 35(2) of that Act shall be increased in accordance with any additional requirements for the time being prescribed for the purposes of section 45(1)(b) (exclusion from liability to pay a limited revaluation premium)."

23. In article 96 (compulsory retirement), in paragraph (4) after the words "50 years and" insert "has, or but for an election under article 56A(1) would have,".

24. In Part V of Schedule 1 (injury awards) –

- (a) in paragraph 2 –
  - (i) for the words "the number of his completed years of pensionable service", and
  - (ii) for the words "his completed years of pensionable service" in the second place in which they occur,  
substitute "the number of years of pensionable service he has, or but for an election under article 56A(1) would have, completed"; and
- (b) in paragraph 3(1) after the words "qualifying injury" insert "or, where an election under article 56A(1) had effect, by the amount of any other pension which would otherwise have been so calculated".

25. In Part VI of Schedule 1 (deferred pension), in paragraph (1)(b) after the words "he would" insert ", or would but for an election under article 56A(1),".

26. In Part IV of Schedule 2 (widow's accrued pension), in the proviso to paragraph 3 –

- (a) after the words "shall not apply" insert "where an election under article 56A(1) had effect at the time of the death, nor shall it apply"; and
- (b) for the words "five years" substitute "2 years".

27. In Part III of Schedule 3 (child's accrued allowance), after paragraph 1 insert:

"1A. Where an election under article 56A(1) had effect at the time of the death, paragraphs 1(4) and 2(4) of Part I of this Schedule (election for flat-rate allowance) do not apply for the determination under this Part of an accrued allowance."

28. In Schedule 10A (modifications to Scheme in its application to widower) delete paragraph 4.

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(a) 1975 c.60; Schedule 1A was inserted by the Social Security Act 1985 (c.53), Schedule 1, paragraph 3, and amended by the Social Security Act 1986 (c.50), Schedule 10, paragraphs 29 and 30.

(b) Section 56C was inserted by the Social Security Act 1985, Schedule 1, paragraph 2, and amended by the Social Security Act 1986, Schedule 10, paragraph 26.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order further varies the Firemen's Pension Scheme brought into operation by the Firemen's Pension Scheme Order 1973 ("the 1973 Scheme").

In the Schedule to the Order, to which effect is given by article 2, Part I varies provisions of the 1973 Scheme concerning the payment and receipt of transfer values. The provisions as varied are compatible with the rights to cash equivalents conferred from 1st January 1986, with direct and overriding effect, by Schedule 1A to the Social Security Pensions Act 1975.

As a general rule, where such a right is acquired there is no right to a transfer value under the 1973 Scheme (article 71A(5) and (6), inserted by paragraph 3). Where there is a right to a transfer value, it is to be calculated in the same way as a cash equivalent except in cases where it is payable to a scheme outside the public-sector "club" and the relevant service includes service before the commencement of the Order; rights in relation to such earlier service are preserved by calculating that element of the transfer value on the previously existing basis if that would produce a more favourable result (Schedule 9, Part IA, inserted by paragraph 5).

On an inward transfer from a "club" scheme, the service credit allowed on receipt of a transfer value is the amount of service that would have allowed a cash equivalent of that value to be paid; where the transfer was from a scheme outside the "club" and occurred after 31st December 1985, the service credit is calculated by a method which includes an adjustment for market conditions; where such a transfer occurred before 1st January 1986, the credit is calculated on the previously existing basis (article 52B(4) as varied by paragraph 2(a); Schedule 9, Part II, as varied by paragraph 6).

Part II of the Schedule to the Order effects miscellaneous variations of the 1973 Scheme. Paragraph 16, which inserts new articles 56A and 56B, reconciles the 1973 Scheme with section 10 of the Social Security Act 1986 (which makes void, inter alia, any rule to the effect that an earner must be a member of a particular occupational pension scheme) by conferring rights to make, and to cancel, an election not to pay pension contributions. Related variations are made by paragraphs 1, 3, 4(a), 5, 6, 7(b), 8 to 13, 14(b), 15, 17 to 20 and 23 to 27.

Paragraphs 4(b) and 7(a) reduce from 5 years to 2 years the period of service giving rise to an entitlement to a deferred pension.

Paragraph 14(a) varies the "earnings cap" imposed on pensionable pay by the proviso to article 55(1): it will now keep pace with the figure specified from time to time for tax purposes, and will not apply in cases where the "cap" is disappplied for those purposes.

Paragraph 21 makes the provision for widower's guaranteed minimum pensions that is required by section 36 of the Social Security Pensions Act 1975, as amended by section 9(3) of the Social Security Act 1986; paragraph 28 makes a consequential variation.

Paragraph 22 inserts a new article 91AA which enables a fireman's guaranteed minimum to be revalued in accordance with the fixed-rate method where he becomes entitled under the Social Security Pensions Act 1975 to a cash equivalent and elects to have it applied to the purchase of an annuity.

Section 12 of the Superannuation Act 1972, as applied by section 16(3), enables an order under section 26 of the Fire Services Act 1947 to be made with retrospective effect. This Order is to a certain extent retrospective, but article 3 makes transitional provision for opting out where rights in relation to ex-employees are adversely affected.

£2.00 net

ISBN 0 11 004841 5

Printed in the United Kingdom for HMSO

790 WO1653 C14 9/90 452 7102 O/N 88174