



# Fire Services Act 1947

## 1947 CHAPTER 41

*Pensions etc..*

### **26 Firemen's Pension Scheme.**

- (1) The Secretary of State may by order bring into operation a scheme, to be known as the Firemen's Pension Scheme, whereby provision is made, subject to the provisions of this section and of the Scheme, for the payment by fire authorities and such other authorities as may be specified in the Scheme of pensions, allowances and gratuities to persons employed as members of fire brigades maintained in pursuance of this Act who retire from such employment on or after the appointed day or die on or after the appointed day while so employed, and to their widows, children and dependants.
- (2) The Firemen's Pension Scheme (hereafter in this and the next following section referred to as " the Scheme ") may include provision—
  - (a) for defining the classes of persons employed as aforesaid in respect of whose service awards, or awards of any class specified in the Scheme, may be made under the Scheme-, and in particular for excluding in relation to any such awards or class of awards persons who are not wholly and permanently so employed or who are so employed on such ancillary duties as may be specified in the Scheme, and for treating, for all or any of the purposes of the Scheme, employment in Great Britain or elsewhere on duties connected with the provision of fire services, being employment (otherwise than as a member of a fire brigade maintained in pursuance of this Act), of such classes as may be specified in the Scheme, as if it were employment as a member of such a brigade;
  - (b) for reckoning, for all or any of the purposes of the Scheme, such employment, whether before or after the appointed day (other than employment as a member of a fire brigade maintained in pursuance of this Act) as may be specified in the Scheme as if it were employment as a member of such a brigade, either unconditionally or subject to such conditions as may be so specified and either as respects the whole of service in employment so specified or as respects such fraction thereof as may be so specified;

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- (c) for the making by persons in respect of whose service awards may be made under the Scheme of such contributions as may be specified by the Scheme, and, in such circumstances as may be so specified, for the repayment of contributions so made or their application in such manner and for the benefit of such persons as may be so specified;
- (d) for substituting, for all or any of the purposes of the Scheme, the Secretary of State for a fire authority in relation to any employment specified under paragraph (b) of this subsection;
- (e) for the making to a fire authority by the Secretary of State or another fire authority, or by any other authority by which a person has been employed in employment specified under paragraph (b) of this subsection or which has incurred any liability in respect of the payment of a pension in the event of a person's retirement from employment so specified of payments in respect of previous service (whether before or after the appointed day) on a person's entry on employment with the fire brigade maintained by the first-mentioned fire authority, and for the making to the Secretary of State by a fire authority or any such other authority as aforesaid of payments in respect of previous service (whether before or after the appointed day) on a person's entry on employment specified under paragraph (b) of this subsection;
- (f) for the reimbursement of payments under the last foregoing paragraph out of any superannuation fund to which contributions have been made in respect of the previous service to which the payments related;
- (g) for the making, where a person enters on employment with a fire authority in a case where no payment falls to be made under paragraph (e) of this subsection, of payments in respect of previous service with that authority out of any superannuation fund to which contributions have been made in respect of the previous service;
- (h) for the conditions as to evidence or otherwise subject to which any award under the Scheme may be made, for the manner in which any question specified in the Scheme arising under the Scheme is to be determined, and for appeals from determinations of any such question ;
- (i) for excluding or modifying, in the case of an injury in respect of which an award is made under the Scheme, being an injury sustained in the execution of duty in such circumstances as may be specified in the Scheme, any other right against the Crown or other authority in whose employment the injury occurred to compensation or damages in respect of the injury or the consequences thereof, so however that no provision made by virtue of this paragraph shall affect any right under the National Insurance (Industrial Injuries) Act, 1946, or the National Insurance Act, 1946;
- (j) for such incidental and supplemental matters as appear to the Secretary of State expedient for the purposes of the Scheme, including provisions as to funds for defraying liabilities under the Scheme and provision for the like purposes as under the enactments in the Fire Brigade Pensions Act, 1925, specified in the first column of the Third Schedule to this Act (which relate to the matters specified in the second column of that Schedule) was made in relation to awards under the said Act of 1925.

In this section the expression " employment " includes engagement in any service.

- (3) The maximum pension under the Scheme shall not be provided for a person unless he has been engaged in service which is to be reckoned for the purpose of his pension

under the Scheme for a period of not less than thirty years, and no pension shall be provided under the Scheme for any person on retirement unless—

- (a) he has been engaged in such service as aforesaid for a period of not less than twenty-five years; or
- (b) his retirement is caused by such incapacity or infirmity of mind or body (occasioned otherwise than as mentioned in the next following paragraph) as may be specified in the Scheme, and he has been engaged in such service for a period of not less than ten years; or
- (c) his retirement is caused through incapacity of mind or body occasioned by an injury received in the execution of his duty without his own default or in such circumstances that the Scheme applies in like manner as if it had been occasioned by an injury so received; or
- (d) he is compelled to retire on the ground of age.

(4) If a person obtains or attempts to obtain for himself or any other person—

- (a) any award under the Scheme, or
- (b) any sum in respect of the repayment or application of contributions made under the Scheme,

by means of any false declaration, false certificate, false representation, false evidence or personation or by malingering or feigning disease or infirmity or by maiming or injuring himself, or causing himself to be maimed or injured, or otherwise producing disease or infirmity, or by any other fraudulent conduct, he shall be liable on conviction on indictment to imprisonment for a term not exceeding two years, or on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding twenty-five pounds, and (without prejudice to the provisions of paragraph (j) of subsection (2) of this section) the Scheme may authorise, in the case of a person who has been convicted of an offence under this subsection, the forfeiture, in whole or in part, of any award or sum so obtained.

(5) The Scheme may be varied by a subsequent order of the Secretary of State under this section.

(6) Any order under this section shall be made with the approval of the Treasury, and after consultation with the Central Fire Brigades Advisory Council.

## **27 Firemen's Pension Scheme to supersede other statutory schemes.**

(1) As respects any person retiring on or after the appointed day from employment as, or employment which for the purposes of the Scheme is to be treated as employment as, a member of a fire brigade maintained in pursuance of this Act, or dying on or after the appointed day while in such employment, the Scheme shall, subject to the provisions of this section, have effect to the exclusion of any other provision for pension, allowance or gratuity in respect of such employment contained in or in force under any enactment.

(2) Where—

- (a) immediately before the appointed day there are in operation by virtue of any enactment (other than an enactment contained in the Fire Brigade Pensions Act, 1925), any arrangements for the grant of pensions, allowances or gratuities in respect of members of a fire brigade maintained in pursuance of the Fire Brigades Act, 1938 (in this subsection referred to as the former brigade " "); and

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- (b) the Government Actuary certifies that the Scheme, if modified by reference to the arrangements so as to have effect subject to such modifications as are mentioned in the next following subsection, would be on the whole not less favourable than the Scheme not so modified,

then if any person—

- (i) who was a member of the former brigade immediately before the eighteenth day of August, nineteen hundred and forty-one; or
- (ii) who by virtue of having been a member of the former brigade was designated under paragraph (1)(b) of regulation 3 of the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941, as a person in whose case those regulations should have effect; or
- (iii) who immediately before the said eighteenth day of August was engaged in service or work in such circumstances that under the Police and Firemen (War Service) Act, 1939, his service or work fell to be treated as a period of approved service in the former brigade; and
- (iv) who in any case becomes on the appointed day or on the termination thereafter of such service or work as aforesaid a member of the former brigade,

gives notice in that behalf to such authority and within such period as may be specified by the Scheme, the Scheme shall have effect in his case, so long as he remains a member of the former brigade, subject to the said modifications.

- (3) The modifications referred to in the last foregoing subsection are such modifications as will secure that subject to the following provisions of this section—
- (a) as respects superannuation awards, the Scheme contains the like provisions in respect of the persons entitled to awards, the conditions entitling persons to awards, and the amounts of awards, as the arrangements mentioned in paragraph (a) of the last foregoing subsection;
  - (b) as respects injury awards, an authority making an award under the Scheme may, in any case in which it appears to them that an award under the said arrangements would have exceeded the award under the Scheme, increase the award under the Scheme by an amount not greater than the excess, as estimated by the authority;
  - (c) as respects the rates of contributions to be made by persons in respect of whose service awards may be made, the rates shall be the same as under the said arrangements, subject to such abatement as may be provided by the Scheme for off setting any provisions of the Scheme having effect by virtue of subsection (5) or (6) of this section in cases where those provisions apply.

In this subsection the expression "injury award" means a pension, allowance or gratuity in respect of death or incapacity of mind or body occasioned either by an injury received in the execution of duty without the default of the person injured or in such circumstances that the Scheme, apart from the foregoing modifications, applies in like manner as if it had been occasioned by an injury so received; and "superannuation award" means a pension, allowance or gratuity other than an injury award.

- (4) For the purposes of subsection (2) of this section, a fire brigade maintained in pursuance of the Fire Brigades Act, 1938, for any area and a fire brigade maintained in pursuance of this Act for that area, or an area including that area, shall be treated as one.

- (5) Nothing in subsection (1) of this section shall affect the operation of the National Insurance (Industrial Injuries) Act, 1946, or the National Insurance Act, 1946, but the Scheme may provide for the reduction or withholding of awards under the Scheme in cases where awards are provided for in respect of the same matters under either of the said Acts.
- (6) The Secretary of State may by regulations provide, in the event of the appointed day for the purposes of the National Insurance (Industrial Injuries) Act, 1946, falling earlier than the appointed day for the purposes of this Act, for the reduction or withholding of awards under the Fire Brigade Pensions Act, 1925, or any such arrangements as are mentioned in paragraph (a) of subsection (2) of this section in cases where awards are provided for in respect of the same matters under the said Act of 1946.

## **28 Supplementary provisions as to preservation of pensions etc..**

- (1) The Secretary of State may by regulations, applying to such classes of persons as may be specified in the regulations.—
  - (a) being pensionable members of fire brigades who whether before or after the passing of this Act entered or enter on employment in the civil service of the Crown or other pensionable employment under a local authority or any police authority not being a local authority, or
  - (b) being persons (other than pensionable members of fire brigades) employed in the National Fire Service who on the appointed day enter on employment in the civil service of the Crown or, otherwise than as members of fire brigades, on pensionable employment under a local authority or any such police authority as aforesaid,make provision for securing that their former employment shall, to such extent and subject to such conditions as may be specified in the regulations, be treated for pension purposes as if it were the employment on which they entered or enter as mentioned in either of the two foregoing paragraphs.
- (2) In the case of persons transferring from one employment to another in such circumstances that under the last foregoing subsection service in the former employment is treated for pension purposes as if it were service in the latter employment, regulations under this section may provide for the making of payments in respect of previous service—
  - (a) by the authority by whom any such person was employed in the former employment, to the authority to whose employment he was transferred or to a pension fund out of which awards may be made to him in respect of his service in the employment to which he was transferred; or
  - (b) out of a pension fund from which, apart from the transfer, awards might have been made to him in respect of his service in the former employment, to the authority to whose employment he was transferred or to such a fund as is mentioned in paragraph (a) of this subsection.
- (3) In this section—
  - the expression " pensionable members of fire brigades " means persons in whose case provision for pension purposes is made by or under any enactment in respect of their employment as members of fire brigades, including employment which for pension purposes is treated as employment as members of fire brigades;

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the expression " pensionable employment " means employment in service in respect of which provision for pension purposes is made by or under any enactment;

the expression " pension purposes ", in relation to any employment, means the purposes of authorising pensions, gratuities or other awards in respect of that employment.