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STATUTORY INSTRUMENTS

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**2006 No. 3433**

**FIRE AND RESCUE SERVICES, ENGLAND  
PENSIONS, ENGLAND**

**The Firefighters' Pension Scheme  
(Amendment) (No.2) (England) Order 2006**

*Made* - - - - *19th December 2006*  
*Laid before Parliament* *4th January 2007*  
*Coming into force* - - *25th January 2007*

The Secretary of State for Communities and Local Government, in exercise of the powers conferred by section 26(1) to (5) of the Fire Services Act 1947<sup>(1)</sup> and section 12 of the Superannuation Act 1972<sup>(2)</sup>, as applied by section 16(3) of that Act<sup>(3)</sup>, makes the following Order:

**Citation and commencement**

1.—(1) This Order may be cited as the Firefighters' Pension Scheme (Amendment) (No.2) (England) Order 2006.

(2) This Order shall come into force on 25<sup>th</sup> January 2007, but the amendments made by article 2 and the Schedule shall have effect from 6th April 2006.

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- (1) 1947 c.41, repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c.21). Subsections (1) to (5) of section 26 continue to have effect, in relation to England and Scotland, for the purposes of the scheme established under that section as the Firemen's Pension Scheme and set out in the Firemen's Pension Scheme Order 1992 (S.I. 1992/129), by article 3 of S.I. 2004/2306. The name of the scheme was changed to the Firefighters' Pension Scheme, by article 4(1) of S.I. 2004/2306. Section 26 of the 1947 Act was amended by section 1 of the Fire Services Act 1951 (c.27), section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c.65), section 33 of, and Schedule 3 to, the Theft Act 1968 (c.60), sections 16 and 29 of, and Schedule 8 to, the Superannuation Act 1972 (c.11), section 100 of, and Schedule 27 to, the Social Security Act 1973 (c.38), section 1 of, and Schedule 1 to, the Social Security (Consequential Provisions) Act 1975 (c.18), section 32 of the Magistrates' Courts Act 1980 (c.43), section 1 of the Police and Firemen's Pensions Act 1997 (c.52), and Schedule 25 to the Civil Partnership Act 2004 (c.33), and article 2 of the Social Security (Modification of Fire Services Act 1947) Order 1976 (S.I. 1976/551).
- (2) 1972 c.11; section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c.7).
- (3) Section 16 continues to have effect, for the purposes of the Firefighters' Pension Scheme, by virtue of S.I. 2004/2306.

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## **Amendment of the Firemen’s Pension Scheme Order 1992**

2. Schedule 2 to the Firemen’s Pension Scheme Order 1992(4), (in which is set out the Firefighters’ Pension Scheme), as it has effect in England(5), shall be amended in accordance with the Schedule to this Order.

Signed by authority of the Secretary of State for Communities and Local Government

*Phil Woolas*  
Minister of State,  
Department for Communities and Local  
Government

19th December 2006

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- (4) [S.I. 1992/129](#); amended by [1997/2309](#) and [2851](#), [1998/1010](#), [2001/3649](#) and [3691](#), [2004/1912](#) and [2006/1810](#). The Scheme was made under section 26 of the Fire Services Act 1947 ([c.41](#)). That Act was repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 ([c.21](#)). Subsections (1) to (5) of section 26 were continued in force, for the purposes of the scheme established under that section as the Firemen’s Pension Scheme, by [S.I. 2004/2306](#). The name of the scheme was changed, in relation to England and Scotland, by article 4(1) of [S.I. 2004/2306](#).
- (5) The Secretary of State’s functions under section 26 of the Fire Services Act 1947, in so far as they were exercisable in relation to Scotland, were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 ([c.46](#)) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 ([S.I. 1999/1750](#)). The Secretary of State’s functions under section 3(5) of the Fire Services Act 1947, in so far as they were exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales Transfer of Functions) Order 1999 ([S.I. 1999/672](#)); see the entry for the Fire Services Act 1947 in Schedule 1.

SCHEDULE

Article 2

AMENDMENT OF THE FIREFIGHTERS' PENSION SCHEME (ENGLAND ONLY)

1. In rule B2 (short service award), in paragraph (2), for sub-paragraph (a) substitute—
  - “(a) if—
    - (i) he is entitled to reckon at least two years' pensionable service; or
    - (ii) a transfer value in respect of his rights under a personal pension scheme has been paid to the scheme,to a short service pension calculated in accordance with Part II of Schedule 2; and”.
2. In rule B3 (ill-health awards), in paragraphs (3) and (4), omit “outside the fire and rescue service”.
3. In rule B5 (deferred pension), for paragraph (1) substitute—

“**B5.**—(1) This rule applies to a regular firefighter—

  - (a) who is entitled to reckon at least 2 years' pensionable service, or
  - (b) in respect of whom a transfer value attributable to his rights under a personal pension scheme has been paid into the scheme, or
  - (c) who is entitled to reckon pensionable service by virtue both of service as a regular firefighter and of a period of other employment which together amount to 2 years or more, or
  - (d) who has an earlier period of service as a regular firefighter which, disregarding breaks in service of not more than a month, is continuous and which after—
    - (i) deducting from it—
      - (aa) any period during which an election under rule G3 not to pay contributions had effect, and
      - (bb) any period of maternity or adoption leave which does not count as pensionable service as a result of rule F2A or G2A, and
    - (ii) aggregating the remainder with his pensionable service,amounts to 2 years or more.”.
4. In rule B7 (commutation: general provision)—
  - (a) in paragraph (2), for “A”, substitute “Subject to paragraph (2A), a”; and
  - (b) after paragraph (2) insert—

“(2A) A person who retires with an ill-health award may not commute any portion of a higher tier ill-health pension.”.
5. In rule E5 (lump sum in lieu of surviving spouse's or civil partner's pension)—
  - (a) in paragraph (1)—
    - (i) after “subject to”, insert “paragraph (2) and”; and
    - (ii) after “commute the”, insert “whole or any part of the”;
  - (b) in paragraph (2), for the words from “for a lump sum” to the end, substitute “the whole or any part of the pension for a lump sum”; and
  - (c) in paragraph (3), after “commute”, insert “the whole or any part of”.
6. For rule E6 (lump sum in lieu of child's allowance), substitute—

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**“Lump sum in lieu of child’s allowance**

**E6.**—(1) Where the amount of a child’s allowance under Part D, together with any increase under the Pensions (Increase) Act 1971, does not exceed the commutation limit for the purposes of Part 2 of Schedule 29 to the Finance Act 2004 (trivial commutation lump sum death benefit)(6), the fire and rescue authority may, subject to the provisions of this rule and rule E7, commute the whole or any part of the allowance for a lump sum.

(2) The allowance may not be commuted unless—

- (a) the fire and rescue authority are satisfied that there are sufficient reasons, and
- (b) a surviving parent or the child’s guardian or, if he has neither, the child himself consents, and
- (c) the deceased died before his 75th birthday.

(3) The payment of a lump sum on the commutation of the whole or any part of an allowance under this rule must be made before the date on which the deceased would have attained the age of 75.

(3) A lump sum under this rule shall be calculated in accordance with Part III of Schedule 5.”.

**7.** In rule F6A (previous service reckonable following actionable loss), in paragraph (7)—

- (a) at the end of sub-paragraph (b), insert “and”; and
- (b) omit sub-paragraph (c).

**8.** In rule LA1 (establishment, maintenance and operation of Firefighters’ Pension Fund, etc)(7), in paragraph (3), omit sub-paragraph (e) and the word “and” immediately preceding that sub-paragraph.

**9.** In Schedule 1 (interpretation)—

- (a) in the second column of the entry for the defined expression “personal pension scheme”, for “in section 84(1) of the Social Security Act 1986”, substitute “by section 1 of the 1993 Act”;
- (b) omit the definitions of the expressions “Retained member” and “Volunteer member of the fire and rescue service”; and
- (c) after the definition of “Relevant service in the armed forces”, insert—

<p>“ “Retained firefighter” and “volunteer firefighter”</p>	<p>A person employed by an authority—</p> <ul style="list-style-type: none"> <li>(a) as a firefighter, but not as a regular firefighter,</li> <li>(b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),</li> </ul>
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(6) As to the lump sum rule, see section 166 of the Finance Act 2004 (c.12).

(7) Rule LA1 was inserted by S.I. 2006/1810.

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	(c) otherwise than in a temporary capacity, and (d) who is obliged to attend at such times as the officer in charge considers necessary. And in accordance with the orders that he receives.”
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### EXPLANATORY NOTE

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

This Order amends the Firefighters’ Pension Scheme (set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992) as it has effect in England (“the Pension Scheme”). The amendments have effect from 6th April 2006. The power to give retrospective effect is conferred by section 12 of the Superannuation Act 1972, as applied by section 16(3) of that Act.

Most of the amendments are for consistency with the new pension scheme for firefighters employed by fire and rescue authorities in England, introduced with effect from 6th April 2006 by [S.I. 2006/3432](#).

The amendment made by paragraph 8 of the Schedule to the Order (omission of sub-paragraph (e) from rule LA1(3)) corrects an error that has come to light since rule LA1 was inserted.

The opportunity has been taken to update the definition of the expression “personal pension Scheme” in Schedule 1 to the Pension Scheme. In consequence, paragraph (7)(c) of rule F6A has been omitted.

Also in Schedule 1 to the Pension Scheme, the expressions “retained member” and “volunteer member of the fire and rescue service” have been replaced with the expressions “retained firefighter” and “volunteer firefighter”, which are defined in the same terms.

The text of the Firefighters’ Pension Scheme, as amended by the provisions of this Order, may be viewed at [www.dclg.gov.uk/firepensions](http://www.dclg.gov.uk/firepensions).

A full regulatory impact assessment has not been produced for this Order, as it has no impact on the costs of business, charities or voluntary bodies.