

1979 No. 387

FIRE SERVICES**Firemen's Pension Scheme (Amendment No. 3) Order
(Northern Ireland) 1979***Made* 8th November 1979*Coming into operation* 21st December 1979

The Department of the Environment in exercise of the powers conferred by Section 17 of the Fire Services Act (Northern Ireland) 1969(a) and now vested in it(b) and of every other power enabling it in that behalf and with the approval of the Department of the Civil Service(c) hereby makes the following Order:

PART I**CITATION, OPERATION AND INTERPRETATION***Citation, commencement and effect*

1. This Order may be cited as the Firemen's Pension Scheme (Amendment No. 3) Order (Northern Ireland) 1979 and shall come into operation on 21st December 1979 and shall have effect—

- (a) for the purposes of Article 3 as from 1st April 1972;
- (b) for the purposes of Article 4 as from 1st January 1974;
- (c) for the purposes of Article 5 as from 6th April 1978;
- (d) for the purposes of Article 6 as from 13th July 1978; and
- (e) for the purposes of Article 7 as from 1st April 1979.

Interpretation

2. In this Order "Scheme of 1973" means the Firemen's Pension Scheme (Northern Ireland) 1973 as set out in Appendix 2 to the Firemen's Pension Scheme Order (Northern Ireland) 1973(d).

PART II**GENERAL AMENDMENTS***Provision having effect from 1st April 1972*

3. In the Scheme of 1973 for paragraph (2) of Article 3 there shall be substituted the following paragraph—

"(2) Infirmity of mind or body shall be deemed for the purposes of this Scheme to be occasioned by a particular injury if it appears that the injury has so substantially aggravated the infirmity of mind or body that, if the person had not received the injury—

(a) 1969 c. 13 (N.I.) as amended by S.I. 1973/601 (N.I. 9) Article 7

(b) S.R. & O. (N.I.) 1973 No. 504 Article 5(b) (II, p. 2992)

(c) Formerly a function of the Department of Finance S.R. 1976 No. 281 (II, p. 1339)

(d) S.R. & O. (N.I.) 1973 No. 393 (II, p. 2187) as amended by S.R. 1975 No. 358 (II, p. 1767), 1976 No. 216 (I, p. 997), 1978 Nos. 24 and 100 and 1979 Nos. 88 and 310.

- (a) he would not have died at the time he in fact died, or
- (b) he would not have become permanently disabled at the time he in fact became so disabled.”.

Provisions having effect from 1st January 1974

4. In the Scheme of 1973—

- (a) In Article 44(8) for the words “neither to have paid or elected” there shall be substituted the words “to have neither paid nor elected”;
- (b) For Article 65 there shall be substituted the following Article—

“65.—Where a regular fireman retires or has retired from the brigade and after again becoming such a fireman in a brigade maintained under the Fire Services Act 1947(e) the provisions of Article 65A shall apply.”; and
- (c) In Part I of Schedule 7—
 - (i) in paragraph 1(1)(d) all words after “brigade” shall be omitted;
 - (ii) after paragraph 1(1)(f) there shall be inserted the following—

“and any reference in this Part to the fireman’s notional deferred pension or widow’s notional accrued pension shall be construed accordingly.”;
 - (iii) paragraph 9 shall be omitted;
 - (iv) in paragraph 10(2)(c)(i) for the word “Order” where it first occurs there shall be substituted the word “Scheme” and where it occurs the second time it shall be omitted.

Provisions having effect from 6th April 1978

5. In the Scheme of 1973—

- (a) In Article 6(9) for the word “Security” there shall be substituted the word “Services”; and
- (b) In paragraph 1 of Part IX of Schedule 2 the word “or” shall be omitted between sub-paragraphs 1(a) and 1(b).

Provisions having effect from 13th July 1978

6. In the Scheme of 1973—

- (a) the following Article shall be inserted after Article 18—

“Widow’s lump sum option

18A.—(1) Where a widow is entitled to an ordinary pension under Article 18(2) in respect of the death of her husband on or after 13th July 1978 while serving as a regular fireman, she may, in accordance with the following provisions of this Article, by notice elect to have instead of that pension a reduced pension calculated in accordance with paragraph (3) together with a gratuity equal to whichever is the greater of the following amounts—

- (a) six times the annual rate of that reduced pension;
- (b) her husband’s average annual pensionable pay.

(2) Notice for the purposes of paragraph (1) shall be given to the Authority not later than three months after the date of her husband’s death or, if he died before 21st December 1979, within three months of that date:

(e) 1947 c. 41.

Provided that—

- (a) the Authority may, in their discretion, accept a notice given after the expiry of the relevant period of three months, and
 - (b) where before the notice is received by the Authority the widow has received pension payments greater than those to which she would have been entitled under paragraph (3), the Authority shall recover the overpayment by reducing her gratuity.
- (3) A reduced pension under this Article shall be equal to 75 per cent of an ordinary pension calculated in accordance with Part I (excluding paragraph 2) and Part II of Schedule 2 by reference to the widow's circumstances, and the amount so calculated shall, so far as necessary, be increased in accordance with Part V of that Schedule in respect of the first 13 weeks following the husband's death."; and
- (b) For paragraph (4) of Article 19 there shall be substituted the following paragraph—
- "(4) Without prejudice to Article 20(3), a gratuity under paragraph (2) shall be of an amount, subject to paragraph (5), equal to 25 per cent of the husband's average annual pensionable pay, together with, in the case of a widow whose husband died while serving as a regular fireman, an amount equal to whichever is the greater of the following amounts—
- (a) her husband's average annual pensionable pay;
 - (b) $2\frac{1}{4}$ times the annual rate of the pension which would have been payable under Part III of Schedule 1 to the husband if he had retired on account of permanent disability on the day on which he died."

Provision having effect from 1st April 1979

7. In the Scheme of 1973 for paragraph 8 of Part I of Schedule 7 there shall be substituted the following paragraph—

"8.—(1) This paragraph shall apply where a transfer value is not paid within six months of the fireman ceasing to be a member of his former brigade.

(2) Subject to sub-paragraphs (3) and (4), the transfer value shall be increased by an amount equal to compound interest thereon at the rate of $2\frac{1}{4}$ per cent for each completed three months of the period beginning with the date he ceased to be a member of his former brigade and ending with the date of payment of the transfer value (disregarding any residual period of less than three months).

(3) Where the fireman ceased to be a member of his former brigade before 1st April 1979 but the transfer value is paid on or after that date, the period beginning with the date he ceased to be a member of his former brigade and ending with 31st March 1979 shall count for the purposes of computing the period referred to in sub-paragraph (2).

(4) Where the fireman ceased to be a member of his former brigade before 1st April 1977 but the transfer value is paid on or after 1st April 1979—

- (a) the transfer value shall be increased by an amount equal to compound interest thereon at the rate of 6 per cent for each completed year in the period beginning with the date he ceased to be a member of his former brigade and ending with 31st March 1977 (disregarding any fraction of a year); and

- (b) sub-paragraph (2) shall apply further to increase the transfer value as if the reference therein to the transfer value were a reference to the transfer value plus the amount (if any) of the increase under the preceding provisions of this sub-paragraph and as if he had ceased to be a member of his former brigade on 1st April 1977.”

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 8th November 1979.

(L.S.)

E. A. Simpson

Assistant Secretary

The Department of the Civil Service hereby approves the foregoing Order.

Sealed with the Official Seal of the Department of the Civil Service for Northern Ireland on 8th November 1979.

{L.S.}

J. Armstrong

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Order but is intended to indicate its general purport.)

Part II amends the Firemen's Pension Scheme Order (Northern Ireland) 1973.

Article 3 extends with effect from 1st April 1972, the definition of infirmity occasioned by a particular injury in the Scheme of 1973 to include cases where an injury which became apparent only after retirement so aggravated an infirmity as to result in death or disablement.

Articles 4 and 5 correct drafting errors in the Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1979 [SR 1979 No. 88] with effect from 1st January 1974 and 6th April 1978 respectively, the effective dates of the original amendments.

Article 6(a) gives the widows of firemen an option to take a smaller pension and a lump sum in lieu of the pension currently provided by the Scheme of 1973. Article 6(b) provides, in addition to the present benefits, for the payment of lump sums to widows of firemen who die in service as the result of injuries sustained on duty. Article 6 has effect from 13th July 1978.

Article 7 increases, with effect from 1st April 1979, the rate of interest payable by the Authority on a transfer value in respect of a fireman who has ceased to be a member of the Authority's brigade. Interest is only payable where the transfer value is not paid within six months of the fireman ceasing to be a member of the brigade. Transfer values are paid to the new employer where the fireman takes employment with an employer with whom there exists interchange arrangements such as are described in Article 65A of the Scheme of 1973.

Retrospection is authorised by Section 17(3B) of the Fire Services Act (Northern Ireland) 1969.