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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 338**

**The Firefighters' Compensation Scheme (Scotland) Order 2006**

**Citation, commencement, application, extent and interpretation**

1.—(1) This Order may be cited as the Firefighters' Compensation Scheme (Scotland) Order 2006 and shall come into force on 1st July 2006; but—

- (a) rule 3 of Part 2 of the Compensation Scheme (compensation for death or permanent incapacity while on duty), and so much of that Scheme as relates to that rule, shall have effect from 1st April 2000; and
  - (b) the remainder of the Compensation Scheme shall have effect from 6th April 2006.
- (2) This Order extends to Scotland only.
- (3) In this Order—

“the Compensation Scheme” means the Firefighters' Compensation Scheme (Scotland), set out in Schedule 1 to this Order; and

“the Pension Scheme” means the Scheme set out in Schedule 2 to the Firemen's Pension Scheme Order 1992(1).

**New compensation scheme for firefighters**

2.—(1) Subject to articles 3 and 4, the Compensation Scheme (which makes provision for the payment of pensions, allowances and gratuities to and in respect of persons who die or are permanently disabled as the result of an injury sustained or disease contracted while employed by a fire and rescue authority) shall have effect; and the corresponding provisions of the Pension Scheme shall cease to have effect.

(2) The corresponding provisions of the Pension Scheme and the provisions of the Compensation Scheme to which they correspond are set out in Schedule 2 to this Order.

**General transitional provision**

3.—(1) Where—

- (a) a provision of the Compensation Scheme (“the new provision”) re-enacts a provision of the Pension Scheme (“the old provision”) with any modification; and
- (b) a person to whom a protected benefit was being paid or might become payable is placed in a worse position than the person would have been in if the old provision had continued to have effect,

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(1) [S.I. 1992/129](#), amended, by [S.I. 1997/2309](#) and [2851](#), [1998/1010](#) and [2005/3228](#) (Schedule 1) and [S.S.I. 2001/310](#), [2004/385](#), [2005/566](#) and [2006/342](#). 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 That Act was repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c. 21).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 the Firefighters' Pension Scheme (England and Scotland) Order 2004 ([S.I. 2004/2306](#)). The name of the scheme was changed to the Firefighters' Pension Scheme, by article 4(1) of that Order. The functions of the Secretary of State as regards to Scotland were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999 article 2 and Schedule 1 ([S.I. 1999/1750](#)) and the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2006, article 2 and the Schedule.

he or she may, by giving written notice to the fire and rescue authority liable or prospectively liable for payment of the benefit, elect that the new provision is to apply in relation to the benefit as if the old provision had been re-enacted without modification.

(2) Notice under paragraph (1) must be given not later than 30th September 2006.

(3) For the purposes of paragraph (1), a protected benefit is one paid, or capable of becoming payable, to or in respect of a person who, before 6th April 2006, ceased to be a member of the fire and rescue service or died.

**Transitional provision: decisions and determinations made before 1st April 2006**

4.—(1) With the exception of rule 3 of Part 2, the Compensation Scheme shall not have effect in relation to a person in respect of whom a determination or decision under the Pension Scheme relevant to whether permanent disablement has been occasioned by a qualifying injury (within the meaning of rule A9 of the Pension Scheme) has been made before 6th April 2006.

(2) In a case to which paragraph (1) applies, the provisions of the Pension Scheme, in the form in which they exist immediately before 6th April 2006, shall continue to have effect in relation to such a person.

St Andrew's House,  
Edinburgh  
8th June 2006

*GEORGE LYON*  
Authorised to sign by Scottish Ministers