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SCOTTISH STATUTORY INSTRUMENTS

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**2006 No. 342**

**The Firefighters' Pension Scheme  
Amendment (Scotland) Order 2006**

**Transitional provision**

3.—(1) The amendments made by paragraph 6 (ill-health awards), 46 (review of ill health and certain deferred pensions) and 55 (calculation of an ill-health award) of Schedule 1 to this Order shall not have effect in relation to a person in respect of whom a determination or decision relevant to the termination of his or her employment on grounds of ill-health (whether under Part H or Part K of the Pension Scheme) has been made before 1st July 2006.

(2) In a case to which paragraph (1) applies, rules B3 and K1 of the Pension Scheme shall continue to have effect in relation to such a person in the form in which they exist immediately before that date.

(3) Where—

- (a) a provision of this Order applies to a person to whom a protected benefit was being paid or might become payable; and
- (b) by virtue of this Order that person is placed in a worse position than he or she would have been if this Order had not applied to him or her;

he or she may, by giving written notice to the fire and rescue authority liable or prospectively liable for the payment of the benefit, elect that this Order or a provision of this Order shall not apply to him or her.

(4) Notice under paragraph (3) must be given not later than the date 3 months after the coming into force of a scheme, other than the Compensation Scheme<sup>(1)</sup>, under section 34 of the Fire and Rescue Services Act 2004<sup>(2)</sup>.

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

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(1) The Compensation Scheme is brought into operation by the Firefighters' Compensation Scheme (Scotland) Order 2006, [S.S.I. 2006/338](#).  
(2) [2004 c. 21](#). The functions of the Secretary of State in respect of section 34 as regards Scotland were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2005, [S.I.2005/849](#).