

1978 No. 1228

FIRE SERVICES

**The Firemen's Pension Scheme (Amendment)
Order 1978**

<i>Made - - - -</i>	<i>17th August 1978</i>
<i>Laid before Parliament</i>	<i>29th August 1978</i>
<i>Coming into Operation</i>	<i>1st October 1978</i>

In exercise of the powers conferred on me by section 26 of the Fire Services Act 1947(a), as amended and extended by section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(b) and sections 12 and 16 of the Superannuation Act 1972(c), I hereby, with the approval of the Minister for the Civil Service(d) and after consultation with the Central Fire Brigades Advisory Council and the Scottish Central Fire Brigades Advisory Council, make the following Order:—

1. This Order may be cited as the Firemen's Pension Scheme (Amendment) Order 1978.

2. The Interpretation Act 1889(e) shall apply for the interpretation of this Order as it applies for the interpretation of an Act of Parliament.

3.—(1) This Order shall come into operation on 1st October 1978 and, subject to the provisions of this Article, shall have effect—

(a) for the purposes of Articles 12, 17(1) and 19(1) thereof, as from 1st July 1973;

(b) for the purposes of Articles 18(3) and 20 thereof, as from 1st October 1978;

(c) for all other purposes, as from 1st January 1974.

(2) Nothing in Articles 13 and 21 shall affect the operation of Article 71 of the principal Scheme and Schedule 9 thereto in relation to a regular fireman in respect of whom a liability to pay a transfer value under the said Article 71 arose before 1st January 1974.

(3) Nothing in Articles 20 and 21 shall affect the operation of Schedules 5 and 9 to the principal Scheme for the purposes of Article 48(5) in relation to a regular fireman who has rejoined or, as the case may be, joined a brigade before 1st October 1978.

(4) Where an award to or in respect of a regular fireman who ceased to be such before 1st October 1978 is, or may become, payable to any person and that person is placed in a worse position than he would have been if this Order had not been made, then, if, before 1st April 1979 notice in writing is given by or on behalf of that person to the fire authority by whom the award is or may become payable, so electing, the principal Scheme shall have effect in relation to that person's award as if this Order had not been made.

(a) 1947 c. 41.

(b) 1951 c. 65.

(c) 1972 c. 11.

(d) Formerly the Treasury; see S.I. 1968/1656.

(e) 1889 c. 63.

4. In this Order any reference to the principal Scheme is a reference to the Firemen's Pension Scheme 1973, set out in Appendix 2 to the Firemen's Pension Scheme Order 1973(a), as amended(b).

5. At the beginning of Article 1(2) of the principal Scheme (old cases) there shall be inserted the words "Save as provided in Article 71A(3)."

6.—(1) Paragraph (2) of Article 44 of the principal Scheme (award not payable in case of transfer) shall be omitted.

(2) For paragraph (4) of the said Article 44 there shall be substituted the following provision:—

"(4) Where an award under Article 16(4) ceases to be payable under paragraph (3) and the transfer value is paid otherwise than in accordance with this Scheme there shall continue to be payable so much of the award as is unpaid which—

(a) represents a return of such additional or further payments by way of contributions or lump sum as are mentioned in Articles 57, 58 and 59, and

(b) would not have been payable had he paid pension contributions at a rate related to 5 per cent. of his pensionable pay."

7.—(1) In paragraph (1)(a) of Article 48 of the Principal Scheme (previous service in a fire brigade) the words "or with a deferred pension which he has relinquished under Article 16(2)" shall be omitted.

(2) At the beginning of paragraphs (4) and (5) respectively of the said Article 48 there shall be inserted the words "Subject to Article 59(4)".

(3) At the end of the said Article 48 there shall be added the following provision:—

"(6) Where a regular fireman retires or has retired from a brigade with a deferred pension which he has relinquished under Article 16(2), paragraph (1) shall have effect as though—

(a) he is retiring or has retired without a pension, and

(b) the words "within twelve months of so retiring and" in subparagraph (b) were omitted,

and where, immediately before retiring he is or, as the case may be, was making such additional or further payments by way of contributions as are mentioned in paragraph (2)(a) the amount paid by way of such contributions shall be repaid to him by the fire authority for the brigade from which he retires, or has retired, as the case may be, and he shall be deemed neither to have paid nor elected to pay such contributions."

8. In Article 51(1) of the principal Scheme (previous local government service) for the words "Article 59(4)" there shall be substituted the words "Articles 52A and 59(4)".

9. In Article 52(1) of the principal Scheme (previous service other than fire or local government service) for the words "Article 59(4)" there shall be substituted the words "Articles 52A and 59(4)".

10. After Article 52 of the principal Scheme there shall be inserted the Articles set out in Appendix 1 to this Order.

(a) S.I. 1973/966.

(b) The relevant amending instruments are S.I. 1976/1273, 1977/1704.

11. In Article 53(1) of the principal Scheme after the words "Article 48, 49, 51, 52," there shall be inserted the words "52B".

12.—(1) At the end of Article 59(4) of the principal Scheme (additional and further payments by way of lump sum or reduction of pension) there shall be added the following provision:—

"Provided that nothing in this paragraph shall affect the application of Article 48

(i) where the fireman retires or retired as mentioned in Article 44(1), or

(ii) in the case of such a fireman as is mentioned in paragraph (6) of the said Article 48, except to the extent that a repayment would fall to be made to him under the said paragraph (6)".

(2) Any agreement to reduction of pension, given for the purposes of the said Article 59(4) before 1st October 1978 shall be treated for the purposes of the principal Scheme as though it had never been given if it is rendered unnecessary by paragraph (1) above.

13. For Article 71 of the principal Scheme (payment of transfer values) there shall be substituted the Article set out in Appendix 2 to this Order.

14. After the said Article 71 there shall be inserted the Article set out in Appendix 3 to this Order.

15. At the end of paragraph 2 of Part VI of Schedule 1 to the principal Scheme (fireman's deferred pension) there shall be added the words "so, however, that the pension shall not exceed 40 sixtieths of his average pensionable pay."

16.—(1) After paragraph 2(1)(b) of Part VIII of Schedule 1 to the principal Scheme (reduction of pension in specified cases) there shall be inserted the following provision:—

"or

(c) by virtue of Article 52B;"

(2) In paragraph 3(1) of the said Part VIII after the words "1st April 1972" there shall be inserted the words "or by virtue of Article 52B;"

17.—(1) At the end of paragraph 1(2) of Part II of Schedule 2 to the principal Scheme (transitional modifications of Part I of that Schedule) there shall be added the following provision:—

"or

(c) Article 48, in the case of a man who retires or retired otherwise than as mentioned in Article 44(1), where there are satisfied—

(i) on or after 1st July 1973, the conditions specified in Article 48(1) or (5), or

(ii) on or after 1st January 1974, the condition specified in Article 48(1) as it has effect by virtue of paragraph (6) of the said Article 48,

as the case may be."

(2) At the end of the said paragraph 1(2), as amended by paragraph (1) above, there shall be added the following provision:—

"or

(d) Article 52B."

18.—(1) In paragraph 1(1) of Part IV of Schedule 2 to the principal Scheme (widow's accrued pension) after sub-paragraph (a) there shall be inserted the following provision:—

“(aa) his pensionable service reckonable by virtue of Article 52B;”.

(2) In paragraph 1(2)(b) of the said Part IV for the words “sub-paragraph (1)(a) and (b)” there shall be substituted the words “sub-paragraph (1)(a), (aa) and (b)”.

(3) For paragraph 1(3) of the said Part IV there shall be substituted the following provision:—

“(3) The proportion referred to in sub-paragraph (1)(c) or sub-paragraph (2)(c) shall be the proportion which the period for which the husband paid further contributions or, as the case may be, additional contributions, bore to the period by which the pensionable service he was entitled to reckon on the relevant date fell short of 25 years or, where that period is less than 5 years, to a period of 5 years, each period being reckoned in completed years and completed months.

In this sub-paragraph “the relevant date” means—

- (a) where the husband last served as a regular fireman before 1st October 1978, the date on which he made the election referred to in the sub-paragraph in question;
- (b) in any other case, the date from which the further contributions or, as the case may be, additional contributions were payable in pursuance of the election referred to in the sub-paragraph in question.”.

(4) In paragraph 2(1) of the said Part IV for the words “paragraphs 3 and 4” there shall be substituted the words “paragraph 3”.

19.—(1) At the end of paragraph 4(2)(b) of Part I of Schedule 3 to the principal Scheme (child's ordinary allowance) there shall be added the following provision:—

“or

- (iii) Article 48, in the case of a man who retires or retired otherwise than as mentioned in Article 44(1), where there are satisfied—
 - (a) on or after 1st July 1973, the conditions specified in Article 48(1) or (5), or
 - (b) on or after 1st January 1974, the condition specified in Article 48(1) as it has effect by virtue of paragraph (6) of the said Article 48,

as the case may be;”.

(2) At the end of the said paragraph 4(2)(b), as amended by paragraph (1) above, there shall be added the following provision:—

“or

- (iv) Article 52B.”.

20. In paragraph 2 of Schedule 5 to the principal Scheme (sums to be paid by firemen in respect of previous service) for the words “paragraphs 3, 4 and 5 of Schedule 9” there shall be substituted the words “paragraph 2(2), (3) and (4) of Part I of Schedule 9”.

21. For Schedule 9 to the principal Scheme (transfer values) there shall be substituted the Schedule set out in Appendix 4 to this Order.

Merlyn Rees,
One of Her Majesty's Principal
Secretaries of State.

3rd August 1978.

Approval of the Minister for the Civil Service given under his Official Seal
on 17th August 1978.

(L.S.)

T. A. A. Hart,
Authorised by the
Minister for the Civil Service.

APPENDIX 1

ARTICLES INSERTED AFTER ARTICLE 52 OF THE PRINCIPAL SCHEME

Limitations on Articles 51 and 52

52A. Nothing in Article 51 or 52 shall apply in the case of a regular fireman who became such as mentioned in paragraph (1) of the Article in question unless he so became a regular fireman before 1st October 1978 and either—

- (a) Article 51(1)(b) or Article 52(1)(c) was satisfied in his case before 1st January 1974, or
- (b) he or his widow elects that the Article in question should apply in his case by notice in writing given before 1st April 1979 to the fire authority maintaining the fire brigade in which the man is serving or by whom his or his widow's pension is payable, except that a widow of a man who has died before the said date may so elect on or after that date if she does so within 6 months of his death.

Previous service reckonable under current interchange arrangements

52B.—(1) Save as provided in paragraph (2), this Article shall apply to a regular fireman—

- (a) subject to paragraph (5) who before becoming a regular fireman was in service or employment by virtue of which he was subject to superannuation arrangements in pursuance of which a transfer value may be paid to the fire authority (such service or employment and such superannuation arrangements are hereafter in this Article and in Schedule 9 referred to, respectively, as “former service” and “former superannuation arrangements”);
- (b) subject to paragraph (3), who last became a regular fireman on or after 1st April 1972, and
- (c) in respect of whom a transfer value relating to his former service has, in pursuance of his former superannuation arrangements, been paid to the fire authority.

(2) This Article shall not apply in the case of a regular fireman who last became such before 1st October 1978 if either—

- (a) he or his widow has elected under Article 52A that Article 51 or 52 should apply in his case, or
- (b) such a transfer value as is mentioned in paragraph (1)(c) was received in his case before 1st January 1974.

(3) If the fire authority so determine in the case of a particular regular fireman who last became such on or after the appointed day but before 1st April 1972, this Article shall have effect as if paragraph (1)(b) were omitted.

(4) There shall be reckonable by a regular fireman to whom this Article applies, in respect of his former service, a period of pensionable service calculated in accordance with Parts II and III of Schedule 9.

(5) Notwithstanding anything in this Article, the provisions thereof shall not apply where the former service was service as a regular fireman and the regular fireman concerned is entitled to reckon pensionable service under Article 48.

APPENDIX 2

ARTICLE SUBSTITUTED FOR ARTICLE 71 OF THE PRINCIPAL SCHEME

Payment of Transfer Values between fire authorities

71.—(1) Where a regular fireman retires or has retired from a brigade and, after again becoming such a fireman in another brigade, becomes entitled under Article 48 to reckon as pensionable service the period of pensionable service he was entitled to reckon on retiring, the fire authority maintaining the first mentioned brigade shall pay to the fire authority maintaining the other brigade a sum by way of transfer value calculated in accordance with Parts I and III of Schedule 9.

(2) Where previous service is reckonable under Article 48(5) and the person concerned last became a regular fireman before 1st October 1978 paragraph (1) shall have effect as if it authorised but did not require the payment of a transfer value.

APPENDIX 3

ARTICLE INSERTED AFTER ARTICLE 71 OF THE PRINCIPAL SCHEME

Payment of transfer values under interchange arrangements

71A.—(1) This Article shall apply to a regular fireman—

(a) subject to paragraph (3), who retires or who has retired on or after 1st April 1972:

Provided that where he retired before 1st October 1978 a transfer value, calculated otherwise than in accordance with this Scheme, has not been paid before that date;

(b) who subsequently enters or entered service or employment, otherwise than as a regular fireman, by virtue of which he is subject to superannuation arrangements hereafter in this Article referred to as “new service”;

(c) who—

(i) was not entitled to a pension on retiring from service as a regular fireman, or

(ii) if so entitled, has not received any payment in respect of the pension;

(d) who—

(i) has not received a return of pension contributions or a gratuity on retiring from his former brigade, or

(ii) if he has received such an award on retiring has entered the new service within 12 months of retiring or within such longer period as the fire authority maintaining his former brigade may allow in the circumstances and has, within the period mentioned in sub-paragraph (e) below paid to that authority an amount equal to the said award;

(e) who, within six months of his entering the new service or within six months of 1st October 1978, whichever period last expires, or within such longer period as the fire authority may allow in the circumstances of a particular case, has given notice in writing to the fire authority maintaining his former brigade of his desire that this Article should apply in his case; and

(f) who in his new service is, or subject to the payment of a transfer value would be, entitled to reckon service for superannuation purposes by virtue of his service as a member of a fire brigade.

(2) Where this Article applies the fire authority may pay a transfer value calculated in accordance with Parts I and III of Schedule 9 to the authority or person empowered to receive such payments for the purposes of the superannuation arrangements applicable to the new service and shall so pay such a transfer value where those superannuation arrangements—

(a) are contained in a public general Act of Parliament or are made under such an Act by a Minister of the Crown; or

(b) are contained in a public general Act of the Parliament of Northern Ireland or Measure of the Northern Ireland Assembly or are made under such an Act or Measure by a Minister of the Crown (including a Northern Ireland Minister) or by a Northern Ireland ministry, department or head of department; or

(c) are contained in a retirement benefits scheme approved under Chapter II of Part II of the Finance Act 1970(a) or section 222 of the Income and Corporation Taxes Act 1970(b); or

(d) provide for the purposes thereof for a superannuation fund which is wholly approved under section 208 of the Income and Corporation Taxes Act 1970; or

(e) provide, in the event of the regular fireman again becoming such in his former brigade, for the payment of a transfer value which the fire authority

(a) 1970 c. 24.

(b) 1970 c. 10.

are satisfied would be calculated in like manner as under any superannuation arrangements contained in, or made by a Minister of the Crown under, a public general Act of Parliament.

(3) If the fire authority so determine in the case of a particular regular fireman—

(a) who retired on or after the appointed day but before 1st April 1972, and

(b) in whose case a transfer value has not been paid,

this Article shall have effect as if paragraph (1)(a) were omitted and the amounts required to be paid under paragraph (1)(d)(ii) were increased by an amount equal to compound interest thereon at the rate of 6 per cent per annum, calculated with yearly rests, in respect of the period before 1st January 1974 beginning with the date the fireman received his gratuity or award by way of repayment of aggregate contributions.

APPENDIX 4

SCHEDULE SUBSTITUTED FOR SCHEDULE 9 TO THE PRINCIPAL SCHEME

SCHEDULE 9

TRANSFER AND INTERCHANGE ARRANGEMENTS

PART I

TRANSFER VALUE PAYABLE BY FIRE AUTHORITY UNDER ARTICLE 71 OR 71A

1.—(1) A transfer value payable by a fire authority under Article 71 or 71A in respect of a regular fireman shall be calculated in accordance with this Part of this Schedule and the Table set out in Part III thereof by reference to—

- (a) his age in years on ceasing to be a member of his former brigade;
- (b) his notional deferred pension, that is to say the deferred pension to which he would have been entitled had he, on so ceasing, been entitled to such a pension, and any reduction therein in accordance with Part VII of Schedule 1;
- (c) in the case of a man, his widow's notional accrued pension, that is to say the widow's accrued pension to which, on the assumption aforesaid, his widow would become entitled were he to die while entitled to the deferred pension leaving a widow entitled to an accrued pension, and
- (d) in the case of a regular fireman who had undertaken to make payments by way of regular instalments in accordance with Schedule 4, the payments not completed before he ceased to be a member of his former brigade,

and any reference in this Part to the fireman's notional deferred pension or widow's notional accrued pension shall be construed accordingly.

(2) For the purposes of calculating a widow's notional accrued pension in a case in which the proportion mentioned in paragraph 1(4) of Part IV of Schedule 2 exceeds the whole, that proportion shall be taken to be the whole.

(3) In this Part any reference to the Table is a reference to the Table set out in Part III of this Schedule and any reference to the appropriate factor specified in a column of that Table is a reference to the factor specified in the column in question in relation to the fireman's age within the meaning of sub-paragraph (1)(a).

(4) In this Part any reference to a fireman's former brigade is a reference to the brigade maintained by the fire authority by whom the transfer value is payable.

2.—(1) The annual amount of the fireman's notional deferred pension, disregarding any reduction therein at insured pensionable age, shall be multiplied by the appropriate factor specified in the second column of the Table or, in the case of a woman, in the fourth column thereof.

(2) The said product shall be reduced in accordance with sub-paragraph (3)—

- (a) in the case of a fireman other than one who, immediately before he ceased to be a member of his former brigade, was paying pension contributions at the rate of 1p less than the appropriate percentage of his pensionable pay;
- (b) in the case of a fireman entitled to reckon pensionable service, immediately before he ceased to be a member of his former brigade by virtue of a participating period of relevant employment.

(3) The annual amount by which the fireman's notional deferred pension would fall to be reduced—

- (a) under paragraph 1 of Part VII of Schedule 1 in a case in which sub-paragraph (2)(a) applies, and
- (b) under paragraphs 2 and 3 of the said Part VII, in a case in which sub-paragraph (2)(b) applies,

shall be multiplied by the appropriate factor specified in the third column of the Table or, in the case of a woman, in the fifth column thereof; and the product under sub-paragraph (1) shall be reduced by the resulting product.

(4) For the purposes of sub-paragraph (2)(b) and of the provisions applied by sub-paragraph (3)(b) a period shall be treated as a participating period of relevant employment notwithstanding that a payment in lieu of contributions only fell to be made after the fireman ceased to be a member of his former brigade.

(5) The product under sub-paragraph (1), subject to any reduction under sub-paragraphs (2) and (3), is in paragraph 5 referred to as the basic element of the transfer value.

3.—(1) In the case of a man the annual amount of the fireman's widow's notional accrued pension, disregarding

(a) paragraph 3 of Part IV of Schedule 2, or

(b) where Schedule 10 applies, Scheme II in Part I of Schedule 2 as substituted by that Schedule,

shall be multiplied by the factor 4.

(2) The said product is in paragraph 5 referred to as the widow's element of the transfer value.

4. For the purpose of calculating a transfer value payable as mentioned in paragraph 1, paragraph 1 of Part VI of Schedule 1 shall apply as if references to the fireman's average pensionable pay are references to his average pensionable pay immediately before he ceased to serve except that in the case of a transfer value which falls to be paid under Articles 71 or 71A(2)(a) or (b) no account shall be taken of any increase in pay granted after the transfer value has been paid.

5. Subject to paragraphs 6, 7, 8 and 9 the transfer value shall be of an amount—

(a) in the case of a man, equal to the sum of the basic element calculated in accordance with paragraph 2 and the widow's element calculated in accordance with paragraph 3;

(b) in the case of a woman, equal to the basic element calculated in accordance with paragraph 2.

6.—(1) This paragraph shall apply in the case of a fireman who had undertaken to make payments by regular instalments in accordance with Schedule 4 but had not completed those payments before he ceased to be a member of his former brigade and the payments not completed before he so ceased are, in this paragraph, referred to as the outstanding instalments.

(2) The transfer value shall be reduced by the actuarial equivalent of the outstanding instalments calculated, in accordance with tables prepared by the Government Actuary, by reference to the amount of each instalment, the interval at which instalments were payable and the number of outstanding instalments.

7.—(1) This paragraph shall apply where a transfer value is payable in respect of a fireman—

(a) in whose case Schedule 11 has effect by reason that he ceased to serve as a member of his former brigade before 1st May 1975, and

(b) who was entitled to reckon less than a year's pensionable service immediately before he ceased so to serve.

(2) There shall be calculated the transfer value which would be payable if the fireman were so entitled to reckon a year's pensionable service and the transfer value payable shall be calculated proportionately by reference to the proportion of a year which he was so entitled to reckon as pensionable service.

8.—(1) This paragraph shall apply where a transfer value is not paid within 12 months of the fireman ceasing to be a member of his former brigade.

(2) The transfer value shall be increased by an amount equal to compound interest thereon at the rate of 6 per cent. per annum, with yearly rests, in respect 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, reckoned in completed years.

9.—(1) This paragraph shall apply where a transfer value payable under Article 71 is so payable in respect of previous service reckonable under Article 48.

(2) Where this paragraph applies—

- (a) the widow's notional accrued pension referred to in paragraph 1(1)(c) shall be calculated in accordance with this Scheme as if the following provisions were omitted from paragraph 1 of Part IV of Schedule 2, namely, sub-paragraphs (1)(c) and (d) and (2)(c) and (d) except that, in the case of such a regular fireman as is mentioned in Article 48(6) to whom a repayment falls to be made under that provision sub-paragraphs (1)(d) and (2)(d) shall not be omitted;
- (b) the transfer value shall be reduced by an amount equal to the sum payable under paragraph (1) of Article 48, if any, or, as the case may be, under paragraph (5) of the said Article except that where a sum which is payable under the said paragraph (1) would have been of a greater amount but for Article 69(10) the transfer value shall be reduced by that greater amount.

10.—(1) This paragraph shall apply where a transfer value payable under Article 71A is so payable by virtue of paragraph (3) of that Article in respect of a regular fireman who retired before 1st April 1972.

(2) Where this paragraph applies—

- (a) the notional pensions referred to in paragraph 1(1)(b) and (c) shall be calculated in accordance with this Scheme but by reference to the regular fireman's average pensionable pay (or, where he retired before 10th July 1956, pensionable pay) within the meaning of the previous Scheme in force at the time of his retirement;
- (b) where immediately before his retirement the fireman was paying pension contributions at a rate related to 5 per cent. of his pensionable pay his widow's notional accrued pension shall not be less than would have been the widow's ordinary pension which would have been payable to his widow under the previous Scheme in force at the time of his retirement had he died when he retired in circumstances entitling her to such an award calculated however at the flat rate specified in Scheme I of the appropriate provision of that Scheme (as then in force);
- (c) where immediately before his retirement the fireman was paying pension contributions at a rate related to 6 per cent. of his pensionable pay his widow's notional accrued pension shall be calculated as if, at the time of his retirement—
 - (i) Article 57 of this Order was in force in place of Article 40 of the Firemen's Pension Scheme Order 1966(a), and
 - (ii) paragraph 2 of Part VIII of Schedule 1 was in force in place of the corresponding provisions of the previous Scheme in force at the time of his retirement,and accordingly any additional contributions that he may have paid or any deduction that may have fallen to be made under the said Article 40 or corresponding provisions shall be deemed to have been paid or fall to be made under the said Article 57 or paragraph 2, as the case may be;
- (d) the reference in paragraph 6 to Schedule 4 shall be construed as a reference to the corresponding provision of that previous Scheme,

and, without prejudice to the foregoing provisions of this paragraph, this Schedule shall have effect subject to any necessary modifications.

PART II

PENSIONABLE SERVICE RECKONABLE UNDER ARTICLE 52B ON RECEIPT OF
TRANSFER VALUE BY FIRE AUTHORITY

1.—(1) The period of pensionable service reckonable by a regular fireman under Article 52B by virtue of the receipt of a transfer value by the fire authority shall be calculated in accordance with this Part of this Schedule and the Table set out in Part III thereof by reference to—

- (a) the amount of the transfer value and of any increase therein by way of interest subject, however, to sub-paragraph (4);
- (b) his age in years at the date mentioned in sub-paragraph (2), (3) or (4), whichever applies in his case;
- (c) his pensionable emoluments within the meaning of the sub-paragraph in question; and
- (d) the provisions of this Scheme relating to reduction of pension at insured pensionable age,

and any reference in this Part to the fireman's age or pensionable emoluments shall be construed accordingly.

(2) Subject to sub-paragraph (4), this sub-paragraph shall apply where—

- (a) by virtue of his former service the fireman was subject to superannuation arrangements which—
 - (i) were contained in a public general Act of Parliament or were made under such an Act by a Minister of the Crown, or
 - (ii) were contained in a public general Act of the Parliament of Northern Ireland or Measure of the Northern Ireland Assembly or were made under such an Act or Measure by a Minister of the Crown (including a Northern Ireland Minister) or by a Northern Ireland ministry, department or head of department, or

(b) the fire authority are satisfied that the transfer value was calculated in like manner as under some such superannuation arrangements as aforesaid,

and, in such case, the fireman's age for the purposes of sub-paragraph (1)(b) shall be his age on ceasing to be in his former service and his pensionable emoluments for the purposes of sub-paragraph (1)(c) shall be the annual value of the emoluments (including averaged emoluments) in relation to which the transfer value was calculated or would have been calculated if part thereof had not been disregarded on account of provisions included in the superannuation arrangements in connection with retirement pension under section 28 of the Social Security Act 1975(a) or section 30 of the National Insurance Act 1965(b).

(3) Subject to sub-paragraph (4), in a case in which sub-paragraph (2) does not apply, the fireman's age for the purposes of sub-paragraph (1)(b) and his pensionable emoluments for the purposes of sub-paragraph (1)(c) shall be, respectively, his age and his annual pensionable pay as a regular fireman—

- (a) on his becoming such, where the transfer value is received within 12 months of his ceasing to be in his former service, or
- (b) on the date the transfer value is received, where it is received later.

(4) Where pensionable service reckonable under Article 52B is so reckonable by virtue of paragraph (3) of that Article in the case of a regular fireman who became such before 1st April 1972, then, notwithstanding the preceding provisions of this paragraph—

- (a) if, before or within 3 months of receiving the transfer value the fire authority are notified that, inclusive of any increase by way of interest, it would have been of a different amount, specified by the payor thereof, had it been calculated and paid on 1st January 1974, then, for the purposes of this Schedule the transfer value shall be treated as though it were of the amount so specified;

(a) 1975 c. 14.

(b) 1965 c. 51.

- (b) the fireman's age for the purposes of sub-paragraph (1)(b) shall be his age on 1st January 1974, and
- (c) his pensionable emoluments for the purposes of sub-paragraph (1)(c) shall be his annual pensionable pay as a regular fireman on 1st January 1974 or, if he was not serving as such on that date, on the date on which he first thereafter became a regular fireman.

(5) In this Part any reference to the Table is a reference to the Table set out in Part III of this Schedule and any reference to the appropriate factor specified in a column of that Table is a reference to the factor specified in the column in question in relation to the fireman's age within the meaning of sub-paragraph (1)(b).

(6) In this Part any reference to a fireman's former service is a reference to the service in respect of which the transfer value is paid.

2.—(1) Where in a case to which paragraph 1(2) applies the transfer value was increased by the inclusion therein of interest calculated from the date when the fireman ceased to be in his former service, it shall be adjusted by the deduction of that interest.

(2) Where in any case any such pension as is mentioned in paragraph 2 of Part VII of Schedule 1 as may become payable to the fireman would fall to be abated in accordance with that paragraph, the annual amount of that abatement shall be calculated and multiplied by the appropriate factor specified in the third column of the Table or, in the case of a woman, in the fifth column thereof; and the transfer value shall be adjusted by the addition of that product.

(3) The transfer value, subject to any such adjustment as aforesaid, is in paragraph 4 referred to as the adjusted transfer value.

3.—(1) The fireman's pensionable emoluments shall be multiplied by a factor 2.00 greater than the appropriate factor specified in the second column of the Table or, in the case of a woman, by the appropriate factor specified in the fourth column thereof.

(2) The said product shall be divided by 45.

(3) Where any such pension as is mentioned in paragraph 1 of Part VII of Schedule 1 as may become payable to the fireman would fall to be reduced in accordance with that paragraph and sub-paragraph (5) thereof applies, the amount of the reduction for each year of service relevant for the purposes of that paragraph shall be multiplied by the appropriate factor specified in the third column of the Table or, in the case of a woman, in the fifth column thereof; and the quotient under sub-paragraph (2) shall be adjusted by the deduction of the said product.

(4) The quotient under sub-paragraph (2), subject to any such adjustment as aforesaid, is in paragraph 4 referred to as the divisor.

4. The adjusted transfer value calculated in accordance with paragraph 2 shall be divided by the divisor calculated in accordance with paragraph 3 and the quotient (including any fraction) shall be the number of years reckonable as pensionable service.

PART III

TABLE

Age last birthday before date of cessation	Men		Women	
	Basic factor	N.I. factor	Basic factor	N.I. factor
Less than 20	5.00	.25	7.00	.50
20	5.05	.25	7.05	.50
21	5.10	.25	7.10	.55
22	5.15	.30	7.15	.60
23	5.20	.30	7.20	.65
24	5.25	.30	7.25	.70
25	5.30	.35	7.35	.75
26	5.35	.40	7.40	.80
27	5.40	.40	7.45	.85
28	5.45	.45	7.50	.90
29	5.50	.50	7.55	.95
30	5.55	.50	7.65	1.05
31	5.60	.55	7.70	1.15
32	5.65	.60	7.80	1.25
33	5.70	.65	7.90	1.35
34	5.75	.70	7.95	1.45
35	5.80	.80	8.05	1.55
36	5.85	.90	8.15	1.65
37	5.90	1.00	8.25	1.75
38	5.95	1.10	8.35	1.85
39	6.00	1.20	8.45	1.95
40	6.05	1.30	8.55	2.10
41	6.10	1.40	8.65	2.25
42	6.15	1.50	8.75	2.45
43	6.20	1.60	8.85	2.65
44	6.25	1.70	8.95	2.90
45	6.30	1.80	9.05	3.15
46	6.40	1.90	9.15	3.40
47	6.50	2.00	9.25	3.70
48	6.60	2.20	9.35	4.00
49	6.70	2.40	9.45	4.35
50	6.80	2.60	9.55	4.75
51	6.90	2.90	9.65	5.15
52	7.10	3.20	9.80	5.60
53	7.30	3.50	9.95	6.10
54	7.50	3.80	10.10	6.65
55	7.70	4.20	10.30	7.25
56	8.00	4.60	10.50	7.95
57	8.30	5.00	10.75	8.75
58	8.60	5.40	11.05	9.65
59	9.00	5.80	11.40	10.65
60	9.50	6.30	11.75	11.75
61	9.50	6.80	11.75	11.75
62	9.50	7.40	11.75	11.75
63	9.50	8.10	11.75	11.75
64	9.50	9.00	11.75	11.75
65	9.50	9.50	11.75	11.75

EXPLANATORY NOTE

(This Note is not part of the Order.)

Save as otherwise mentioned, this Order, which amends the Firemen's Pension Scheme Order 1973, provides a new method for transferring superannuation rights where a person enters a fire brigade from certain other forms of pensionable employment or enters such employment after leaving a fire brigade. The existing provisions, which are contained in the 1973 Order, provide for the transfer of rights which have accrued to the benefit of that person alone, and then only where the pension schemes of both a fire brigade and such other employment are broadly similar, in particular where a specified number of years' service produces similar benefits. The Order provides a method by which a person's superannuation rights together with those of his dependants may be transferred where the two schemes do not provide similar benefits. Rights which have accrued under the one scheme can be converted into a sum, referred to in the Order as a transfer value, which is the actuarial equivalent of such rights, and which can then be reconverted to indicate the appropriate entitlement under the other scheme. For the purpose of introducing this new method the Order has effect as from 1st January 1974, but, subject to certain conditions, superannuation rights in respect of a person who changed employment before that date can be transferred in accordance with the new method. Retrospective effect in this case, as in the others mentioned below, is authorised by sections 12 and 16 of the Superannuation Act 1972.

Articles 12, 17(1) and 19(1) amend the 1973 Order in respect of a fireman who, having previously ceased to serve as a fireman, again becomes a fireman. Under the 1973 Order where such a fireman's previous service is to count towards a widow's pension it must be uprated by way of a reduction in his own pension rather than by payment in the form of contributions or a lump sum. Article 12 ensures that any such payments made during previous service for this purpose will, if they were returned to him on his leaving that service without a pension, be retained by the fireman or, where his former brigade itself retained such payments for the purpose of paying a deferred pension, be returned to him to the extent that payment was by contribution, any lump sum being set against the reduction in the fireman's own pension. Articles 17(1) and 19(1) make consequential amendments in the provisions dealing with widow's pension and child's allowance. Articles 12, 17(1) and 19(1) have effect as from 1st July 1973, the date on which the provisions that they amend came into operation.

Article 18(3), which has effect as from the date that this Order comes into operation, ensures that where a fireman elected to uprate his previous service for the purposes of a widow's pension by paying additional or further contributions, but left before completing the payments due, the proportion of his previous service to be taken into account in calculating his widow's pension is the same as the proportion of payments due for that purpose which he has paid.

SI 1978/1228
ISBN 0-11-084228-6

