

---

 STATUTORY INSTRUMENTS
 

---

## 1983 No. 1409

## FIRE SERVICES

**The Firemen's Pension Scheme (Amendment) (No. 2) Order 1983**

<i>Made - - - -</i>	19th September 1983
<i>Laid before Parliament</i>	19th September 1983
<i>Coming into Operation</i>	10th October 1983

In exercise of the powers conferred upon 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 Treasury 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) (No. 2) Order 1983.
2. This Order shall come into operation on 10th October 1983 and shall have effect as from 25th November 1982.
3. In this Order "the 1973 Scheme" means the Firemen's Pension Scheme 1973, set out in Appendix 2 to the Firemen's Pension Scheme Order 1973 (d).
4. In Articles 33(2) and 34(2) of the 1973 Scheme there shall in each case before the words "and IV" be inserted the words "IIA".
5. In Article 35(4) of the 1973 Scheme for the words "the father's" there shall be substituted the words "that parent's".
6. For Articles 38 and 39 of the 1973 Scheme there shall be substituted the following provision:—

*"Limitation on child's award*

**38.—(1)** A child's allowance or gratuity (other than a gratuity in lieu of an allowance) shall not be granted—

- (a) to a child born on or after the date on which the fireman ceased to be a regular fireman otherwise than of a marriage which took place before that date (hereinafter referred to as "the relevant date");
- (b) by virtue of his being a step-child, to the child of a spouse whose marriage to the relevant parent took place on or after the relevant date;
- (c) by virtue of his being substantially dependent on the fireman, to a child who was not so dependent before the relevant date;

---

(a) 1947 c.41. (b) 1951 c.65. (c) 1972 c.11.  
 (d) S.I. 1973/966; the relevant amending instruments are S.I. 1973/1814, 1974/1797, 1975/1717, 1976/1273, 1708, 1977/1704, 1978/1228, 1349, 1577, 1979/1286, 1980/1615, 1982/114.

- (d) by virtue only of his being an adopted child, to a child adopted on or after the relevant date;
- (e) except in the case of a legitimate child of the relevant parent, to a child who was not substantially dependent on that parent at the time of his death;

and, without prejudice to the foregoing, a child's gratuity shall not be granted to a child who attained the age of 17 years before the date of the relevant parent's death unless at that date he is—

- (i) undergoing full-time education; or
- (ii) in full-time training of at least one year's duration for a trade, profession or calling (hereinafter referred to as "full-time vocational training"); or
- (iii) both permanently disabled and substantially dependent on that parent.

(2) Subject to paragraph (3) a child's allowance shall not be payable to a child who has attained the age of 16 years and who is in full-time employment, unless he is in full-time vocational training, or to a child who has attained the age of 17 years unless he is—

- (a) undergoing full-time education; or
- (b) in full-time vocational training; or
- (c) permanently disabled, and—
  - (i) was both permanently disabled and substantially dependent on the relevant parent at the time of his death; or
  - (ii) became so disabled while in receipt of a child's allowance; or
  - (iii) the fire authority, having regard to all the circumstances, in their discretion determine to pay a child's allowance to him.

(3) A child's allowance shall not be payable by virtue of sub-paragraph (a) or (b) of paragraph (2) to a child who has attained the age of 19 years unless—

- (a) immediately before the date on which he attained that age he was undergoing education or in training as mentioned therein and has at all times thereafter, without any period of interruption, either been undergoing such education or in such training; or
- (b) the fire authority, having regard to all the circumstances of the case, in their discretion determine that, notwithstanding any such period of interruption as is mentioned in sub-paragraph (a), a child's allowance shall be so payable.

(4) Any reference in this Article to the relevant parent is a reference to the parent in respect of whose death the child's allowance or gratuity would be payable but for the provisions of this Article."

7. In Article 40(2) of the 1973 Scheme for the word "father's" there shall be substituted the word "parent's".

8. In Article 85(1) of the 1973 Scheme sub-paragraph (c) shall be omitted.

9.—(1) Where but for Article 6 a child in whose case this paragraph applies would, by reason of his disability, be entitled to a gratuity or an allowance, he shall continue to be so entitled notwithstanding that Article.

(2) Paragraph (1) applies in the case of a child where the relevant parent ceased to be a regular fireman before 10th October 1983.

(3) In paragraph (2) “relevant parent” has the same meaning as in Article 38(4) of the 1973 Scheme, as substituted by Article 6.

10. Part I of Schedule 3 to the 1973 Scheme shall be amended as follows:—

(a) in paragraph 1—

(i) for sub-paragraph (1) there shall be substituted the following provision:—

“(1) Where one of the child’s parents is alive, the child’s ordinary allowance in respect of the death of a regular fireman (in this Part referred to as the “relevant parent”), shall, subject to paragraph 5, be determined in accordance with this paragraph.”;

(ii) in sub-paragraph (4) for the word “father” there shall be substituted the words “relevant parent”;

(b) in paragraph 2(1) for the word “father” there shall be substituted the words “relevant parent” and for the word “mother” there shall be substituted the words “child’s other parent”;

(c) in paragraph 3—

(i) in sub-paragraph (1), for the word “father” there shall be substituted the words “relevant parent”; and

(ii) in sub-paragraph (2), for the word “father’s” there shall be substituted the word “parent’s”;

(d) in paragraph 4(1), for the words “the father was serving” there shall be substituted the words “the relevant parent is the father and he served before 1st April 1972, and was serving”, and for the word “is” there shall be substituted the word “was”.

11. For Part II of Schedule 3 to the 1973 Scheme there shall be substituted the following provision:—

“PART II

Article 34

CHILD’S SPECIAL ALLOWANCE

1.—(1) Where one of the child’s parents is alive, the child’s special allowance in respect of the death of a regular fireman (in this Part referred to as the “relevant parent”) shall be determined in accordance with this paragraph.

(2) Subject to sub-paragraph (3), an allowance determined in accordance herewith shall be of an amount equal to 10% of the relevant parent’s average pensionable pay.

(3) Where 5 or more children’s special allowances are payable in respect of the death of the same person, an allowance determined in accordance herewith shall be of an amount equal to 40% of the relevant parent’s average pensionable pay divided by the total number of allowances so payable.

2.—(1) Where the relevant parent was the child’s only surviving parent or in respect of the period after the death of the child’s other parent, the child’s special allowance shall be determined in accordance with this paragraph.

(2) Subject to sub-paragraph (3), an allowance determined in accordance herewith shall be of an amount equal to 20% of the relevant parent’s average pensionable pay.

(3) Where 5 or more children’s special allowances are payable in respect of the death of the same person, an allowance determined in accordance herewith shall be of an amount equal to 80% of the relevant parent’s average pensionable pay divided by the total number of allowances so payable.

## PART IIA

## Articles 33, 34 and 36

REDUCTION IN CHILD'S ALLOWANCE WHERE CHILD IN FULL-TIME  
REMUNERATED TRAINING

1.—(1) This Part shall apply where an allowance is payable to a child by virtue of Article 33, 34 or 36 (or would be so payable but for the provisions of this Part) and the child is—

- (a) in full-time training for a trade, profession or calling, and
- (b) in receipt of remuneration in respect of that training in excess of the specified annual rate:

Provided that, where the parent in respect of whose death a child's allowance is payable to a child died or ceased to be a regular fireman before 10th October 1983 this Part shall not apply in the case of that child until he has attained the age of 19.

(2) In this Part—

“the relevant child” means a child in whose case this Part applies by virtue of sub-paragraph (1) above;

“the specified annual rate” means an amount rounded up to the nearest £1, equal to £250 a year, increased from time to time by the amount by which a corresponding official pension within the meaning of the Pensions (Increase) Act 1971 (a) of that amount, which began on 1st June 1972, would from time to time be increased under an Order made under section 2 of that Act or section 59 of the Social Security Pensions Act 1975 (b) if such a pension were payable to the relevant child and fell to be paid on the days on which his remuneration fell to be paid;

“the excess remuneration” means the amount by which the relevant child's remuneration exceeds the specified annual rate;

“the relevant provisions” means paragraphs 1(3) and 2(3) of Part I, and paragraphs 1(3) and 2(3) of Part II, of this Schedule; and

references to “allowance” in paragraphs 2(a) and (b) and 4(a) are references to an allowance together with any increase under an Order made under section 2 of the Pensions (Increase) Act 1971, or section 59 of the Social Security Pensions Act 1975.

2. In the case of any relevant child—

- (a) if the annual amount of the allowance is greater than the amount of the excess remuneration, it shall be reduced by the amount of the excess remuneration; and
- (b) if the amount of the excess remuneration is equal to or greater than the annual amount of the allowance which, but for this sub-paragraph, would be payable to him, no allowance shall be so payable to him.

3.—(1) Where as well as any relevant child there are other children to whom allowances are payable in respect of the same death, in circumstances to which any of the relevant provisions applies (or would but for this paragraph apply), the allowances payable to those other children (hereinafter called “the other allowances”) shall be calculated in accordance with the following provisions of this Part.

(2) If paragraph 2(a) applies to any child, then, subject to sub-paragraphs (3) and (4), the other allowances shall be increased by dividing the excess remuneration in his case amongst those other allowances.

(3) If paragraph 2(b) applies to any child, then, subject to sub-paragraphs (2) and (4), the other allowances shall be recalculated as if he were not a child of the fireman.

---

(a) 1971 c.56.

(b) 1975 c.60.

(4) Notwithstanding the preceding provisions of this Part—

- (a) no child shall by virtue of those provisions receive an allowance greater than that to which he would be entitled if the relevant provision in question did not apply to his case; and
- (b) the total amount to be paid under each of the relevant provisions together with any increase in that amount under an Order made under section 2 of the Pensions (Increase) Act 1971, or section 59 of the Social Security Pensions Act 1975 shall not by virtue of the preceding provisions of this Part exceed the maximum amount which otherwise would be paid under the relevant provision in question, together with any such increase in that amount required as aforesaid.”.

12. Part III of Schedule 3 to the 1973 Scheme shall be amended as follows:—

- (a) in paragraph 1, for the words “Part I” there shall be substituted the words “Parts I and IIA”;
- (b) for paragraph 2 there shall be substituted the following provision:—

“2. Except where the parent in respect of whose death the allowance is payable (in this Part referred to as the “relevant parent”) is such a person as is referred to in paragraph 3, the specified amount, for the purposes of paragraph 1 or 2 of the said Part I as applied hereby, shall be the amount of the relevant parent’s deferred pension and not the amount specified in the said Part I.”;
- (c) in paragraph 3, for the word “father” there shall be substituted the words “relevant parent is the father and he”; and
- (d) in paragraph 4, for the word “father’s” there shall be substituted the words “relevant parent’s”.

*Leon Brittan,*  
One of Her Majesty’s Principal  
Secretaries of State.

Home Office.  
13th September 1983.

We consent,

*Nigel Lawson,*  
*D. J. F. Hunt,*  
Two of the Lords Commissioners  
of Her Majesty’s Treasury.

19th September 1983.

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

1. This Order amends the Firemen's Pension Scheme Order 1973 (the 1973 Scheme) with effect from 25th November 1982 (retrospection is authorised by sections 12 and 16 of the Superannuation Act 1972).

2. Articles 5 and 7 amend the references to a father's death (in Article 35 of the 1973 Scheme) and retirement (in Article 40 of the 1973 Scheme) to take account of the possibility that benefits for children may in future be payable in respect of a mother who was a regular fireman.

3. Article 6 amends Articles 38 and 39 of the 1973 Scheme. The amendments raise the lower age limit for the automatic payment of child allowances or gratuities from 16 to 17; provide, subject to certain conditions, that allowances or gratuities for children over the lower age limit, who are in full-time education or training or permanently disabled, will be payable to children aged 19 or over as well as to those aged under 19; replace the reference to an apprentice with a reference to a child who is in full-time training of at least one year's duration for a trade, profession or calling; and ensure that a child allowance for a permanently disabled child is not payable to an older person who has become financially independent of his parent before that parent's death. Article 8 makes a consequential amendment in Article 85 of the 1973 Scheme. Article 9 preserves the existing rights of children whose parents have already died or ceased to serve at the coming into effect of Article 6.

4. Articles 10, 11 and 12 amend Schedule 3 to the 1973 Scheme. Article 10 amends Part I, Article 11 substitutes an amended Part II, and Article 12 amends Part III, to take account of the possibility that benefits for children may in future be payable in respect of a mother who was a regular fireman. Article 11 also inserts a new Part IIA in Schedule 3 providing that an allowance payable to a child in full-time vocational training shall be reduced by the amount by which his remuneration exceeds a specified annual rate. Provision is made for appropriate adjustments to any other child allowances payable. The new Part IIA preserves the existing rights of children whose parents have already died or ceased to serve at the date of its coming into effect and who may have a potential entitlement to a full allowance while in such training under age 19. Article 4 makes consequential amendments in Articles 33 and 34 of the 1973 Scheme.

SI 1983/1409  
ISBN 0-11-037409-6

