

**EXPLANATORY MEMORANDUM TO THE
FIREFIGHTERS' PENSION SCHEME (ENGLAND AND SCOTLAND) ORDER 2004
2004 No. 2306**

1. This explanatory memorandum has been prepared by the Office of the Deputy Prime Minister and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 This Order continues to give effect to the Firemen's Pension Scheme ("the Scheme") and certain enactments connected to the Scheme. The Scheme would otherwise cease to have effect by virtue of the repeal of the Fire Services Act 1947 (c. 41) under which it was made. It also changes the name of the Scheme to the Firefighters' Pension Scheme.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 The Fire and Rescue Services Act 2004 (c. 21) ("the 2004 Act") repeals the Fire Services Act 1947 (c. 41) ("the 1947 Act"). However, section 36 of the 2004 Act enables the Secretary of State to provide for any pension scheme established under section 26 of the 1947 Act to continue in force, despite the repeal by the 2004 Act of that section. The existing pension scheme is set out in the Firemen's Pension Scheme Order 1992 (S.I. 1992/129). Section 36 of the 2004 Act also provides for the Secretary of State to continue in effect any enactment amended or repealed by the 2004 Act in relation to that Scheme and to make new provision for the name of the Scheme. Continuing to give effect to the enactments which are amended or repealed by the 2004 Act will allow changes to be made to the Scheme, for example, to ensure it complies with future legislation and ensure that pension increase provisions continue to apply to it.

5. Extent

5.1 This instrument applies in England and in Scotland only.

5.2 The powers of the Secretary of State in relation to Wales are vested in the National Assembly for Wales by virtue of section 62 of the 2004 Act.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy background

7.1 It is necessary to preserve in operation the existing firefighters' pension scheme for (1) active members of the scheme; (2) persons who may join the Fire and Rescue Service before any new pension arrangements made under the 2004 Act come into operation; (3) persons who are in receipt of benefits under the 1992 scheme; and (4) those who have resigned from the Service but are entitled to deferred pension benefits. This will ensure these groups continue to have access to a pension scheme and the benefits that they have accrued.

7.2 The name of the Scheme is being changed to the Firefighters' Pension Scheme, as this is considered to be a better descriptor of those entitled to be members.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector, as the purpose of this instrument is to preserve the existing Scheme.

9. Contact

Martin Hill at the Office of the Deputy Prime Minister, Tel: 020 7944 8641 or e-mail: martin.hill@odpm.gsi.gov.uk can answer any queries regarding the instrument.