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STATUTORY INSTRUMENTS

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**2013 No. 2125**

**FIRE AND RESCUE SERVICES, ENGLAND**

**PENSIONS, ENGLAND**

**The Firefighters' Pension Scheme (Amendment) (No. 3)  
(England) Order 2013**

*Made* - - - - *28th August 2013*

*Laid before Parliament* *2nd September 2013*

*Coming into force* - - *1st October 2013*

The Secretary of State, in exercise of the powers conferred by section 26(1) to (5) of the Fire Services Act 1947(a) and section 12 of the Superannuation Act 1972(b), as applied by section 16(3) of that Act, makes the following Order:

**Citation, commencement, application and interpretation**

**1.**—(1) This Order may be cited as the Firefighters' Pension Scheme (Amendment) (No. 3) (England) Order 2013 and shall come into force on 1st October 2013.

(2) This Order applies in relation to England only(c).

(3) In this Order—

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- (a) 1947 c.41, repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c.21).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 continue to have effect, in relation to England and Scotland, for the purposes of the scheme established under that section as the Firemen's Pension Scheme and set out in the Firemen's Pension Scheme Order 1992 (S.I. 1992/129), by article 3 of S.I. 2004/2306. The name of the scheme was changed to the Firefighters' Pension Scheme, by article 4(1) of S.I. 2004/2306. Section 26 of the 1947 Act was amended by section 1 of the Fire Services Act 1951 (c.27), section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c.65), section 33 of, and Schedule 3 to, the Theft Act 1968 (c.60), sections 16 and 29 of, and Schedule 8 to, the Superannuation Act 1972 (c.11), section 100 of, and Schedule 27 to, the Social Security Act 1973 (c.38), section 1 of, and Schedule 1 to, the Social Security (Consequential Provisions) Act 1975 (c.18), section 32 of the Magistrates' Courts Act 1980 (c.43), section 1 of the Police and Firemen's Pensions Act 1997 (c.52), and Schedule 25 to the Civil Partnership Act 2004 (c.33), and article 2 of the Social Security (Modification of Fire Services Act 1947) Order 1976 (S.I. 1976/551).
- (b) 1972 c. 11; section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7). Section 16 was repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 but continues to have effect, in relation to England and Scotland, for the purposes of the scheme set out in the Firemen's Pension Scheme Order 1992.
- (c) The Secretary of State's functions under section 26 of the Fire Services Act 1947, in so far as they were exercisable in relation to Scotland, were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (c.46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 (S.I. 1999/1750). The Secretary of State's functions under section 3(5) of the Fire Services Act 1947 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry for the Fire Services Act 1947 in Schedule 1 to that Order. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers.

“the 1992 Order” means the Firemen’s Pension Scheme Order 1992(a);

“the 2013 Order” means the Firefighters’ Pension Scheme (Amendment) (No. 2) (England) Order 2013(b);

“relevant fire and rescue authority” in relation to a person entitled to a pension, or in respect of whom a pension is payable, means—

- (a) the fire and rescue authority by whom that person was last so employed; or,
- (b) where his or her employment ceased before 1st October 2004, the fire and rescue authority which inherited the liabilities of the fire authority which last employed that person; and

“the Scheme” means the Firefighters’ Pension Scheme as set out in Schedule 2 to the 1992 Order.

### **Amendment of the Firemen’s Pension Scheme Order 1992**

2.—(1) Schedule 2 to the 1992 Order is amended as follows.

(2) In part G—

- (a) in rule G1(1)(a) (pensionable pay and average pensionable pay) for “rule B5C(4)” substitute “rule B5C(5)”;
- (b) in rule G2A(2A) (optional pension contribution during maternity and adoption leave) for “1991” substitute “1999”.

(3) In part LA, in rule LA2(10) (special payments and transfers into Firefighters’ Pension Fund) for “portion of the pension” substitute “lump sum”.

### **Transitional provision**

3.—(1) This article applies to an amendment made to Schedule 2 to the 1992 Order by article 2 of and the Schedule to the 2013 Order which applies in relation to the pensions which are being paid or may become payable under the Scheme to or in respect of persons who, having served in an employment, service in which qualifies persons to participate in the benefits for which the Scheme provides, have ceased to serve therein before 1st July 2013(c) (whether or not they have subsequently recommenced any such service) or have died before that date.

(2) Any person who is placed in a worse position than he or she would have been in if an amendment to which this article applies had not been made in relation to any pension which is being paid or may become payable to that person may elect that the amendment shall not apply in relation to that pension(d).

(3) Any such election shall be made by giving written notice to the relevant fire and rescue authority within the period of 12 months starting with the date on which this Order comes into force.

Signed by authority of the Secretary of State for Communities and Local Government

*Brandon Lewis*

Parliamentary Under Secretary of State

Department for Communities and Local Government

28th August 2013

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(a) S.I. 1992/129; amended by S.I. 1997/2309, 1997/2851, 1998/1010, 2001/3649, 2001/3691, 2004/1912, 2006/1810, 2006/3433, 2008/214, 2012/953, 2013/1392. The Scheme was made under section 26 of the Fire Services Act 1947 (c.41).

(b) S.I. 2013/1392.

(c) The date on which the Firefighters’ Pension Scheme (Amendment) (No. 2) (England) Order 2013 (S.I. 2013/1392) came into force.

(d) See section 12(4A) of the Superannuation Act 1972 which limits the effect of any such election in certain circumstances.

## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Firefighters' Pension Scheme 1992 (set out in Schedule 2 to the Firemen's Pension Scheme Order 1992) as it has effect in England. Article 2 corrects errors made in the Firefighters' Pension Scheme (England) (Amendment) (No. 2) Order 2013 (S.I. 2013/1393). Article 3 provides a right for certain persons in respect of pensions in payment, and pensions which may become payable in respect of persons who have ceased to be in service or have died, to elect that any amendments in S.I. 2013/1393 which place them in a worse position shall not apply to them. Any such election must be made within 12 months of the coming into force of this Order.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen and the impact on the public sector is minimal.

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