STATUTORY INSTRUMENTS

2013 No. 1392

FIRE AND RESCUE SERVICES, ENGLAND

PENSIONS, ENGLAND

The Firefighters' Pension Scheme (Amendment) (No.2) (England) Order 2013

Made - - - -	*5th June 2013*
Laid before Parliament	*7th June 2013*
Coming into force - -	*1st July 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(**b**) of the Superannuation Act 1972, as applied by section 16(3)(**c**) of that Act, makes the following Order:

Citation and commencement

1.—(1) This Order may be cited as the Firefighters' Pension Scheme (Amendment) (No.2) (England) Order 2013.

(2) This Order shall come into force on 1st July 2013, but the amendment made by article 2 and—

(a) paragraph 12(c) of the Schedule (which relates to rule K4 - withdrawal of pension whilst employed by a fire and rescue authority)

shall have effect from 25th September 2009;

(b) sub-paragraphs (ii), (iii) and (iv) of paragraph 2(f) of the Schedule (which relates to rule B5B - additional pension benefit: long service increment); and

(c) paragraph 2(g) of the Schedule (which substitutes for rule B5C (additional pension benefit: continual professional development) rule B5C(additional pension benefit)) so far as it relates to the increase of the additional pension benefit under paragraph (3) and the

(**a**) 1947 c.41, repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c.21).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).

(**c**) Section 26 continues to have effect, for the purposes of the Firefighters' Pension Scheme, by virtue of S.I. 2004/2306.

definitions of "beginning date" and "following relevant tax year" in paragraph (6) of rule B5C,

shall have effect from 11th April 2011.

Amendment of the Firemen's Pension Scheme Order 1992

2. Schedule 2 to the Firemen's Pension Scheme Order 1992(**a**) (in which is set out the Firefighters' Pension Scheme), as it has effect in England(**b**), shall be amended in accordance with the Schedule to this Order.

Transitional provisions

3.—(1) The amendments made by paragraph 14(a)(iv) of the Schedule so far as they relate to the insertion of paragraph (9) to rule LA2 (special payments and transfers into Firefighters' Pension Fund) shall not have effect in relation to a person who is entitled to the payment of a pension under the Firefighters' Pension Scheme 1992 and is employed by any fire and rescue authority in employment which he took up at a date earlier than the date on which this Order comes into force.

(2) In a case to which paragraph (1) applies, rule LA2 of the Firefighters' Pension Scheme 1992, in the form in which it existed immediately before the coming into force of this Order, shall continue to have effect in relation to such a person.

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

Brandon Lewis
Parliamentary Under Secretary of State
5th June 2013 Department for Communities and Local Government

SCHEDULE

Article 2

Amendment of the Firefighters' Pension Scheme (England Only)

1. In Part A (interpretation)—

(a) in rule A3 (exclusive application to regular firefighters)—

(i) in paragraph (1), for "the Social Security Act 1975" substitute "the 1993 Act";

(ii) omit paragraph (3);

(iii) for paragraph (5) substitute —

"(5) This Scheme applies to a person who took up employment with a fire and rescue authority on or before 5th April 2006 and who remains in continuous pensionable service."; and

(b) omit rules A4 to A8, A12, A14 and A15.

(**a**) S.I. 1992/129; amended by 1997/2309 and 2851, 1998/1010, 2001/3649 and 3691, 2004/1912, 2006/1810 and 3433, 2008/214, 2012/953 and 2013/703. The Scheme was made under section 26 of the Fire Services Act 1947 (c.41). That Act was 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 were continued in force, for the purposes of the scheme established under that section as the Firemen's Pension Scheme, by S.I. 2004/2306. The name of the scheme was changed, in relation to England and Scotland, by article 4(1) of S.I. 2004/2306

(**b**) 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.

2. In Part B (personal awards)—

(a) in rule B1 (ordinary pension), after paragraph (3) add—

"(4) Paragraph (2)(b) shall not apply to a chief fire officer appointed after 1st July 2013.";

(b) in rule B2 (short service award)—

(i) in paragraph (1)(a), for "retires on or after normal pension age" substitute "retires at or after normal pension age"; and

(ii) in paragraph (2)(a), for "Part II of Schedule 2;" substitute "Part 2 of Schedule 2;";

(c) in rule B3 (ill health awards)—

(i) in paragraph (1), for "who is required to retire under rule A15 (compulsory retirement on grounds of disablement)" substitute "who retires by reason of permanent disablement(**a**)";

(ii) for paragraph (2), substitute—

"(2) A regular firefighter who is entitled—

(a) to reckon at least two years but less than five years pensionable service becomes entitled on retiring to a lower tier ill-health pension calculated in accordance with paragraph 2 of Part 3 of Schedule 2; or

(b) to reckon at least five years' pensionable service becomes entitled on retiring—

(i) where paragraph (3) applies, to a lower tier ill-health pension calculated in accordance with paragraph 2 of Part 3 of Schedule 2, or

(ii) where paragraph (4) applies, to the pensions referred to in paragraph (5) ("the higher tier ill-health award").";

(iii) in paragraph (5)(a), omit "or 3 (as the case may be)"; and

(iv) in paragraph (7), for "the issue of his capacity for employment arises" substitute "the question of his disablement arises for decision";

(d) in rule B5 (deferred pension)—

(i) after paragraph (1)(d)(i)(bb), insert—

"(cc) any period of absence from duty without pay, not reckonable as pensionable service under rule F2(3), and"; and

(ii) omit paragraph (5);

(e) in rule B5A (entitlement to two pensions)—

(i) in paragraph (2), for "The amounts" substitute "Subject to paragraph (4A), the amounts"; and

(ii) after paragraph (4) insert—

"(4A) Where a firefighter is entitled to —

(a) a lower tier ill-health pension where rule B3(3) applies,

(b) a higher tier ill-health pension where rule B3(4) applies, or

(c) a deferred pension under rule B5,

the amount of the first and second pension shall be calculated in accordance with Part 3 or Part 6 (as the case may be) of Schedule 2 with the formula in paragraph (4B).

(4B) For the purpose of the calculation in paragraph (4A)—

(a) the amount of the first pension is that found by applying the formula—

$$\left(\frac{A}{B}\right)\times\left(\frac{B}{C}\right)\times G$$

(**a**) Within the meaning of rule A10 (disablement).

(b) the amount of the second pension is that found by applying the formula—

$$\left(\frac{F}{C}\right)\times G$$

(c) in sub-paragraphs (a) and (b) A, B, and C have the same meaning as in paragraph (3), E and F have the same meaning as in paragraph (4) and G is the amount of the single pension that the firefighter would otherwise have been awarded.";

(f) in rule B5B (additional pension benefit: long service increment)—

(i) in paragraph (2), for the words after the formula substitute—

"Where—

A is the number in years (counting part of a year as the appropriate fraction) by which the firefighter's continuous pensionable service in the employment of a fire and rescue authority and subsequent continuous pensionable service in the employment of another fire and rescue authority in England up to and including 30th June 2007, exceeds 15 but does not exceed 20; and

B is the number in years (counting part of a year as the appropriate fraction) by which his continuous pensionable service in the employment of a fire and rescue authority and subsequent continuous pensionable service in the employment of another fire and rescue authority in England up to and including 30th June 2007, exceeds 20 but does not exceed 30.";

(ii) in paragraph (3), for "Where" substitute "Until 11th April 2011, where";

(iii) after paragraph (3), insert—

"(3A) On and after the 11th April 2011, the amount of additional pension benefit (as calculated in accordance with paragraph (2) and paragraph (3) and, if applicable, paragraph (3B) and this paragraph) shall be increased on the first Monday of the following relevant tax year by the same amount as any increase which would have applied if that additional pension benefit were a pension to which the Pensions (Increase) Act 1971(**a**) applied and the beginning date for that pension were the 1st July of the tax year immediately before the relevant tax year.

(3B) For the avoidance of doubt, the increase of additional pension benefit in the tax year 2010/2011 shall be increased by the same percentage as the percentage increase in the Consumer Prices Index in September 2010 with effect from Monday 11th April 2011."; and

(iv) in paragraph (5) for "(3)" substitute "(3) and (3A)" and —

(aa) before the expression "relevant tax year" insert—

""the beginning date" means the date on which the pension is treated as beginning for the purposes of section 8(2) of the Pensions (Increase) Act 1971;

"following relevant tax year" means the tax year after the relevant tax year, in relation to which the member is not in receipt of a pension under this Scheme or entitled to a deferred pension under rule B5;";

(bb) in sub-paragraph (b) of the definition of "relevant tax year", for "rule B3" substitute "rule B5";

(g) for rule B5C (additional pension benefit: continual professional development), substitute—

"**Additional pension benefit**

B5C.—(1) Where a fire and rescue authority determines that the benefits listed in paragraph (1) are pensionable, and in any additional pension benefit year pays any such

(**a**) 1971 c.56.

pensionable benefits to a regular firefighter, the authority shall credit the firefighter with an amount of additional pension benefit in respect of that year.

(2) Subject to paragraph (3), the amount of additional pension benefit in respect of that year shall be determined on 1st July immediately following the year in question in accordance with guidance and tables provided by the Scheme Actuary.

(3) The amount of additional pension benefit determined in accordance with paragraph (2) shall be increased on the first Monday of the following relevant tax year by the same amount as any increase which would have applied if that additional pension benefit were a pension to which the Pensions (Increase) Act 1971 applied and the beginning date for that pension were the 1st July of the tax year immediately before the relevant tax year.

(4) For the avoidance of doubt, the increase of additional pension benefit in the tax year 2010/2011 shall be increased by the same percentage as the percentage increase in the Consumer Prices Index in September 2010 with effect from Monday 11th April 2011.

(5) The benefits referred to in paragraph (1) are —

(a) any allowance or supplement to reward additional skills and responsibilities that are applied and maintained outside the requirements of the firefighter's duties under the contract of employment but are within the wider functions of the job;

(b) the amount (if any) paid in respect of a firefighter's continual professional development;

(c) the difference between the firefighter's basic pay in their day to day role and any pay received whilst on temporary promotion or where he is temporarily required to undertake the duties of a higher role;

(d) any performance related payment which is not consolidated into his standard pay.

(6) In this rule—

"additional pension benefit year" means the period of 12 months beginning with 1st July in which a firefighter is in receipt of any of the benefits listed in paragraph (5).

"the beginning date" means the date on which the pension is treated as beginning for the purposes of section 8(2) of the Pensions (Increase) Act 1971;

"following relevant tax year" means the tax year after the relevant tax year, in relation to which the member is not a pensioner member or entitled to a deferred pension under rule B5;"

"relevant tax year" means a tax year in relation to which—

(a) the amount of a firefighter's pension benefits determined under this rule for the purposes of this Scheme is taken into account for tax purposes, and

(b) the firefighter is not in receipt of a pension under this Scheme or entitled to a deferred pension under rule B5; and

"tax year" means the period of 12 months beginning with 6th April.";

(h) in rule B5D (additional pension benefits: supplementary provisions)—

(i) in paragraph (2) for "paragraphs (4) and (5)" substitute "paragraph (4)"; and

(ii) in paragraph (3) omit "(rule A15)";

(i) in rule B7 (commutation-general provision)—

(i) in paragraph (3), for "Government Actuary" substitute "Scheme Actuary";

(ii) in paragraph (5), for "In the case of" substitute "Subject to paragraph (5A), in the case of";

(iii) after paragraph (5), insert—

"(5A) Subject to paragraph (4) a fire and rescue authority may, having regard to—

(a) the economical, effective and efficient management of their functions, and

(b) the costs likely to be incurred in the particular case,

pay a lump sum in excess of two and a quarter times the full amount of the pension."; and

(iv) in paragraph (11), for "serviceman" substitute "reservist".

(j) in rule B8 (commutation-small pensions)—

(i) in paragraph (2), for "Government Actuary" substitute "Scheme Actuary"; and

(ii) after paragraph (3), add—

"(4) On the day on which the pension is commuted under this rule, all other entitlements to a pension under this Scheme are extinguished.";

(k) in rule B9 (allocation)—

(i) in paragraph (7), for "the date on which he intends to retire" substitute "the day before the pension comes into payment";

(ii) in paragraph (13), for "Government Actuary" substitute "Scheme Actuary";

(iii) in paragraph (16), for "serviceman" substitute "reservist"; and

(l) in rule B12 (pension debit members), in sub-paragraph (a), for "Government Actuary" substitute "Scheme Actuary".

3. In Part C (award on death-spouses)—

(a) in rule C1 (spouse's ordinary pension), for paragraph (2) substitute—

"(2) Where this rule applies the surviving spouse is entitled to an ordinary pension calculated in accordance with Part 1 of Schedule 3.";

(b) in rule C10 (pension debit members) for "Government Actuary" substitute "Scheme Actuary".

4. In Part D (awards on death–children), for rule D5 (child's allowance or special gratuity-limitations), substitute—

"**Child's allowance: limitations and duration**

D5.—(1) Subject to paragraphs (2) and (3), a child is not eligible if he —

(a) is 18 or older;

(b) has ceased full-time education and is in paid employment; or

(c) is married or has entered into a civil partnership.

(2) A child aged 18 but not more than 23 is eligible if he is in full-time education or attending a course of at least one year's duration.

(3) A child aged 18 or more is eligible if, when the deceased dies, he is dependent on the deceased by reason of permanent disablement.

(4) A child is not eligible if he is convicted of the murder of the deceased, but this is subject to paragraph (6).

(5) Subject to paragraph (7), where the child is convicted of the manslaughter of the deceased, the authority may as they think fit, withhold the child's allowance

(a) in whole or in part, and

(b) permanently or temporarily.

(6) Where a conviction of the description mentioned in paragraph (4) is quashed on appeal—

(a) a child's pension shall be payable from the day after that on which the deceased died, and

(b) the authority shall, as soon as reasonably practicable after the conviction is quashed, pay the arrears of allowance accrued.

(7) Where—

(a) a conviction of the description mentioned in paragraph (5) is quashed on appeal, and

(b) the authority have withheld any part of the child's allowance,

the authority's decision under paragraph (5) shall be treated as revoked and they shall, as soon as reasonably practicable after the conviction is quashed, pay the arrears of allowance accrued from the day after that on which the deceased died.

(8) Nothing in paragraph (6) or (7) shall affect the application of paragraph (4) or (5) if the child whose conviction is quashed is subsequently convicted of the murder or manslaughter of the deceased.

(9) A child's allowance ceases to be payable—

(a) unless paragraph (2) or (3) applies, on his 18th birthday or on the occurrence of the event referred to in paragraph (1)(b) or (c), whichever first occurs;

(b) where paragraph (2) applies, on his 23rd birthday or the day on which his full-time education or course ceases, whichever first occurs;

(c) Where paragraph (3) applies, when the authority are satisfied—

(i) that the child is no longer permanently disabled; or

(ii) that the child's allowance should not have been awarded.

(10) Unless paragraph (9)(c) applies, an allowance for which a child is eligible as mentioned in paragraph (3) is payable for life.".

5. In Part E (awards on death-additional provisions)—

(a) in rule E1 (lump sum death grant)—

(i) in paragraph (2), for "or gratuity" substitute "gratuity or lump sum"; and

(ii) after paragraph (5), add—

"(6) The grant is to be paid before the end of the period of two years beginning with the earlier of the day on which the Scheme administrator knew of the member's death and the day on which the Scheme administrator could first reasonably be expected to have known of it.";

(b) in rule E3 (dependent relative's gratuity), in paragraph (2)(b), after "Scheme" insert "in respect of the same firefighter";

(c) in rule E4 (payment of balance of contributions to estate)—

(i) in paragraph (2)(f), for "Government Actuary" substitute "Scheme Actuary"; and

(ii) for paragraph (4), substitute—

"(4) The fire and rescue authority shall pay a post retirement death grant to the deceased's personal representatives.

(5) In this rule, a "post retirement death grant" is an amount representing the difference between the aggregate of the relevant amounts and the deceased's aggregate pension contributions.";

(d) in rule E5 (lump sum in lieu of surviving spouse's or civil partner's pension)—

(i) in paragraph (1)—

(aa) for "Part 1 of Schedule 29 (lump sum rule)", substitute "Part 2 of Schedule 29 (lump sum death benefit rule)"; and

(bb) omit "whole or part of the";

(ii) in paragraph (2)(a), for "rule C1" substitute "Part C (awards on death-spouses);

(iii) in paragraph (5), for "Government Actuary" substitute "Scheme Actuary"; and

(iv) after paragraph (5), add—

"(6) On the day on which the whole of a pension is commuted under this rule, all other entitlements under the Scheme of the person entitled to the pension are extinguished to the extent that they derive from the deceased member.";

(e) in rule E6 (lump sum in lieu of child's allowance)—

(i) in paragraph (1), omit "whole or any part of the";

(ii) in paragraph (3) for "commutation of the whole or part of an allowance" substitute "commutation of the allowance"; and

(iii) after paragraph (4), add—

"(5) On the day on which a pension is commuted under this rule, all other entitlements under the Scheme of the person entitled to the pension are extinguished to the extent that they derive from the deceased member.";

(f) in rule E7 (limitation on discretion to commute pension or allowance for gratuity)—

(i) in paragraph (2), after "commute" omit "whole or any part of a";

(ii) in paragraph (2)(b), for "Part 1 of Schedule 29", substitute "Part 2 of Schedule 29"; and

(iii) in paragraph (4), for "Government Actuary" substitute "Scheme Actuary";

(g) for rule E8 (increase of pensions and allowances during first 13 weeks), substitute—

"Bereavement pension: survivors

E8.—(1) Subject to paragraph (2), a person entitled to a pension under rule C1 (spouse's ordinary pension) is also entitled in respect of each of the 13 weeks following death, to a bereavement pension of an amount equal to the difference between the weekly rate at which the survivor's pension is paid and—

(a) if the deceased was a firefighter member when he died, the weekly rate of his pensionable pay when he died;

(b) in any other case, the weekly rate of his pension or pensions (including any increase under the Pensions (Increase) Act 1971) when he died.

(2) No entitlement arises under paragraph (1) where—

(a) an election not to make pension contributions under rule G3 has effect at the date of the deceased's death or

(b) the deceased was entitled to a deferred pension that had not come into payment."; and

(h) after rule E8, insert—

"**Bereavement pension: children**

E8A.—(1) This rule applies to a child's ordinary or accrued allowance under this Scheme where the deceased died—

(a) while serving as a regular firefighter, or

(b) while in receipt of a pension and—

(i) there is no surviving spouse or civil partner, or

(ii) a surviving spouse or civil partner did not become entitled to a pension which was payable for a continuous period of 13 weeks.

(2) Subject to paragraphs (3) and (4), a person entitled to an allowance is also entitled in respect of each of the 13 weeks following death, to a bereavement pension of an amount equal to the difference between the weekly rate at which the allowance is paid and—

(a) if the deceased was a firefighter member when he died, the weekly rate of his pensionable pay when he died;

(b) in any other case, the weekly rate of his pension or pensions (including any increase under the Pensions (Increase) Act 1971) when he died.

(3) Where there is more than one eligible child, the amount paid in respect of each bereavement pension shall not be less than the amounts payable under paragraph (2)(a) or (b) divided by the number of the allowances.

(4) No entitlement arises under paragraph (1) where—

(a) an election not to make pension contributions under rule G3 has effect at the date of the deceased's death; or

(b) the deceased was entitled to a deferred pension that had not come into payment.".

6. In Part F (pensionable service and transfer values)—

(a) in rule F1 (reckoning of and certificates as to pensionable service)—

(i) in paragraphs (1), and (7), for "serviceman" substitute "reservist";

(ii) in paragraph (3), omit "F6";

(iii) in paragraph (6), in both places where it occurs, for "or gratuity" substitute "lump sum, or gratuity";

(b) After rule F1, insert—

"Reckoning of service for purposes of awards

F1A.—(1) Subject to paragraph (3), for the purpose of calculating an award payable to or in respect of an employee of a fire and rescue authority by reference to any period in years (including a period of pensionable or other service) the period shall be reckoned as—

$$A + \frac{B}{365} \, years$$

where—

A is the number of completed years in the period, and

B is the number of completed days in any remaining part of a year,

and accordingly a part of a year which includes 29th February in a leap year and comprises 365 days shall be treated as a whole year.

(2) Where, for the purpose of calculating an award payable to or in respect of a regular firefighter—

(a) it is necessary to determine his pensionable service reckonable by reason of service or employment before or after a particular date ("the material date"), and

(b) by virtue of the receipt by a fire and rescue authority of a transfer value, he is entitled to reckon a period of pensionable service ("the credited period") by reason of service or employment for a period ("the previous employment period") which includes the material date,

the credited period counts as pensionable service reckonable by reason of service or employment before and after the material date in the same proportion as that between the parts of the previous employment period falling before and after the material date;

(3) Subject to rule B13 and Part 6A of Schedule 2, any period of service as a part-time employee of a fire and rescue authority shall be treated as service as a whole-time employee of a fire and rescue authority when calculating a person's pensionable service.";

(c) in rule F2 (current service) in paragraph (4)(a), omit "(including any such additional or further contributions as are mentioned in rule G4)";

(d) in rule F4 (previous service reckonable on payment), omit paragraphs (1), (2), (4) and (5);

(e) omit rule F6 (war service);

(f) in rule F6A (previous service reckonable following actionable loss)—

(i) in each paragraph where it occurs, for "reckonable service" substitute "pensionable service";

(ii) in paragraph (1)(b), for "section 62 of the Financial Services Act 1986" substitute "section 150 of the Financial Services and Markets Act 2000(a)";

(g) in rule F6B (calculation of amount of restitution payment), in paragraphs (2)(b)(i) and (3), for "Government Actuary" substitute "Scheme Actuary";

(h) in rule F8 (transfer payments to Scottish and Welsh fire and rescue authorities), in paragraph (1), in both places where it occurs, for "Scottish or Welsh fire and rescue authority" substitute "Welsh fire and rescue authority, the Scottish Fire and Rescue Service or the Northern Ireland Fire and Rescue Services Board"; and

(i) in rule F9 (payment of transfer values)—

(i) in paragraphs (1)(b), for "an approved scheme" substitute "a registered scheme or a qualifying recognised overseas pension scheme within the meaning of section 169 (recognised transfers) of the 2004 Act" ("an overseas pension scheme"); and

(ii) in paragraph 7(b), for "an approved scheme" substitute "a registered scheme or an overseas pension scheme".

7. In part G (pensionable pay and contributions)—

(a) in rule G1 (pensionable pay and average pensionable pay)—

(i) in paragraph (1)—

(aa) for "Subject to paragraph (2)" substitute "Subject to paragraphs (2) and (9)";

(bb) in paragraph (a) for "part-time employee)" substitute "part-time employee) other than those amounts payable to him in respect of the benefits within rule B5C(4); and";

(cc) for sub-paragraph (b) substitute—

"(b) the amount (if any) of any benefits which are pensionable under rule B5C(1).";

(ii) for paragraph (4), substitute—

"(4) The relevant date—

(a) for the purposes of rule C7 (spouse's or civil partner's award where no other award payable), and the Compensation Scheme, is the date of the person's last day of service as a regular firefighter, and

(b) for all other purposes of this Scheme, is the date of the person's last day of service in a period during which contributions were payable under rule G2.";

(iii) in paragraph (7C), omit ": continual professional development"; and

(iv) after paragraph (8), add—

"(9) Where before 1st July 2013 and after that date, any allowance or supplement is being paid to a firefighter which a fire and rescue authority treats as pensionable, but is not—

(a) pensionable pay within the meaning of paragraph (1)(a);

(b) additional pension benefit under rule B5B (long service increment); or

(c) a payment in respect of a firefighter's continual professional development under rule B5C,

that allowance or supplement shall continue to be treated as pensionable for so long as the firefighter receives it without any break in payment.".

(b) in rule G2 (pension contributions) after paragraph (4), insert—

(**a**) 2000 c.8; section 150 was amended by S.I. 2005/381 and by the Financial Services Act 2010 (c.28), section 24 and Schedule 2.

"(4A) The Secretary of State shall consult with the Scheme Actuary before making a notification under paragraph (4).";

(c) in rule G2A (optional pension contributions during maternity and adoption leave), after paragraph (2), insert—

"(2A) But in calculating the pay on which the contributions are made, any amount the firefighter receives on account of a day's work carried out under regulation 12A of the Maternity and Parental Leave etc. Regulations 1991(**a**) or regulation 21A of the Paternity and Adoption Leave Regulations 2002(**b**) that exceeds any maternity, paternity or parental leave pay due for that day, shall be disregarded.";

(d) after rule G2A insert—

"Aggregate pension contributions for the purposes of awards

G2B.—(1) A regular firefighter's aggregate pension contributions comprise—

(a) all payments made by him to a fire and rescue authority that fall within paragraph (2),

(b) all payments made by him in accordance with a notice under rule F2 (current service),

(c) all payments made by him in accordance with an election under rule G2A,

(d) all payments made by him in accordance with an election under rule G6, and

(e) if paragraph (3) applies, the amount of the notional award described in paragraph (4).

(2) The payments that fall within this paragraph are payments under this Scheme or a previous Scheme that relate to a period of service which the regular firefighter is, or was immediately before electing under rule G3 not to pay pension contributions, entitled to reckon as pensionable service and have not been refunded to him, including payments made—

(a) by way of rateable deductions from pay,

(b) by way of such additional and further payments as were mentioned in articles 57 to 59 of the 1973 Scheme, or

(c) in accordance with such an undertaking as is mentioned in Part 1 of Schedule 6.

(3) This paragraph applies where the regular firefighter is, or was immediately before electing under rule G3 not to pay pension contributions, entitled to reckon pensionable service by reason of a period of service or employment otherwise than as a regular firefighter ("the previous employment period").

(4) The notional award mentioned in paragraph (1)(e) is the award by way of return of contributions or analogous payment that would have been paid to him if, at the end of the previous employment period, he had voluntarily retired in circumstances entitling him to such an award under the applicable superannuation arrangements.";

(e) in rule G3 (election not to pay pension contributions)—

(i) in paragraph (1), for "Subject to paragraphs (1A) and (8) substitute "Subject to paragraph (1A)";

(ii) in paragraph (1A), omit "continual professional development";

(iii) in paragraph (2), for "Subject to paragraphs (3) and (3A), an election" substitute "An election"; and

(iv) omit paragraphs (3) to (8);

(f) omit rule G4 (continued payment of additional and further contributions); and

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(**a**) S.I. 1999/3312; regulation 12A was inserted by S.I. 2006/2014.
(**b**) S.I. 2002/2788; regulation 21A was inserted by S.I. 2006/2014.

(g) in rule G6 (election to purchase increased benefits), for paragraph (4) substitute—

"(4) An election to pay periodical contributions must be made at least 2 years before the person's normal pension age, but no such election may be made if the fire and rescue authority so resolve, unless the person has at their own expense undergone a medical examination and satisfied the authority as to his or her good health.".

8. In Part H (determination of questions and appeals)—

(a) after rule H1 (determination by fire authority) insert—

"**Review of medical opinion**

H1A.—(1) Where—

(a) new evidence on an issue wholly or partly of a medical nature is presented to the authority by a person (P) in respect of whom a decision has been made under rule H1,

(b) the authority receive that evidence—

(i) where a copy of an opinion was supplied in accordance with paragraph (2) of rule H2 within 28 days of the receipt by P of that copy, and

(ii) in any other case, within 28 days of the receipt by P of notice of the authority's decision, and

(c) the authority and the person concerned agree that the IQMP should be given the opportunity of reviewing his opinion in the light of the new evidence,

the authority shall send a copy of the new evidence to the IQMP and invite him to reconsider his opinion.

(2) An IQMP's response to an invitation under paragraph (1) shall be in writing ("rule H1A response").

(3) An IQMP's rule H1A response shall be binding on the authority unless it is superseded by the outcome of an appeal under rule H2.

(4) As soon as reasonably practicable after receiving a rule H1A response, the authority shall reconsider their decision.

(5) Within 14 days of that reconsideration, the authority shall—

(a) give written notice to the person concerned that they have confirmed their decision or revised their decision (as the case may be), and

(b) if they have revised their decision, supply the person concerned with written notice of the revised decision, and

supply the person concerned with a copy of the rule H1A response.";

(b) for rule H2 (appeal to medical referee), substitute—

"**H2.**—(1) A person who wishes to appeal against an authority's decision on an issue of a medical nature may appeal to a board of medical referees in accordance with paragraph (1) of Part 1 of Schedule 9 (appeal to board of medical referees).

(2) Subject to paragraph (3), where a decision—

(a) is made with regard to an opinion obtained pursuant to rule H1(2) or medical evidence relied on as mentioned in rule H1(3), or

(b) is reconsidered under rule H1A(4) with regard to a rule H1A response,

the authority shall within 14 days of making, confirming or revising the decision (as the case may be), send to the person concerned the documents mentioned in paragraph (4).

(3) Nothing in paragraph (2) requires the supply of documents that have already been supplied under rule H1A(5).

(4) The documents are—

(a) a copy of the opinion, response or evidence (as the case may be);

(b) an explanation of the procedure for appeals under this rule, and

(c) a statement that, if the person wishes to appeal against an authority's decision on an issue of a medical nature, the person must give written notice to the authority, stating his name and address and the grounds of his appeal, not later than 28 days after the person receives the last of the documents required to be supplied to him under this paragraph, or within such longer period as the authority may allow.

(5) A fire and rescue authority shall be bound by any decision duly given on an appeal under this rule.

(6) Further provisions as to appeals under this rule are contained in Part 1 of Schedule 9."
;

(c) for rule H3 (appeal to Crown Court or Sheriff), substitute—

"**Appeals on other issues**

H3. Where —

(a) a person disagrees with an authority's determination under rule H1, and

(b) the person's disagreement does not involve an issue of a medical nature,

he may, by written notice given to the authority within 28 days of receipt of the determination, require the authority to deal with the disagreement by means of the arrangements implemented by them pursuant to the requirements of section 50 of the Pensions Act 1995(**a**) (requirement for dispute resolution arrangements) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008(**b**).".

9. In Part I (servicemen)—

(a) in this Part, in each place where it occurs, for "serviceman" or "servicemen" substitute "reservist" or "reservists" as the case may be;

(b) in rule I1 (preliminary), in paragraph 1, for "the armed forces" substitute "the reserve forces";

(c) for rule I2 (awards to servicemen), substitute—

"**Awards on permanent disablement**

I2. A reservist who, at the end of his or her forces period, is permanently disabled for performing the duties of a firefighter by reason of an infirmity that—

(a) is unrelated to any injury received during his forces period; and

(b) is not a qualifying injury,

is entitled to an award under rule B3 (ill health awards).";

(d) in rule I3 (awards on death of servicemen), in paragraph (2) for "paragraphs (3) and" substitute "paragraph" and omit paragraph (3);

(e) in rule I5 (servicemen who do not resume service in their former brigade), in paragraph (1) omit "Subject to paragraph (3)," and omit paragraph (3); and

(f) in rule I7 (pension contributions), for paragraph (2) substitute—

"(2) A reservist shall for those purposes be treated as having received no pensionable pay (and accordingly is not liable to pay contributions) in respect of any period during which his service pay is less than the pensionable pay described in paragraph (1)";

(**a**) 1995 c.26; section 50 was substituted by section 273 of the Pensions Act 2004 (c.35) and amended by the Pensions Act 2007 (c.22).

(**b**) S.I. 2008/649.

(g) after rule I7, add—

"**Interpretation of Part**

I8. In this Part—

"the 1996 Act" means the Reserve Forces Act 1996(**a**);

"qualifying injury" means an injury, received by a person in the performance of his duties as a firefighter, which is not wholly or mainly due to his own culpable negligence or misconduct;

"relevant service in the reserve forces" means service in the forces specified in section 1(2) of the 1996 Act—

(a) in pursuance of a training obligation under Part 3 of that Act, or

(b) by virtue of a call out for permanent service or a recall under Part 2 of the Reserve Forces Act 1980(**b**) or Part 6 or Part 7 of the 1996 Act; and

"reservist" means a person who, immediately before a forces period, was a firefighter.".

10. In Part IA (pension credit members)—

(a) in rule IA1 (pension credit member's entitlement to pension), in paragraph (1), for "Government Actuary" substitute "Scheme Actuary";

(b) in rule IA2 (commutation of the pension credit benefits) in paragraph (4), for "Government Actuary" substitute "Scheme Actuary";

(c) in rule IA3 (death grants where pension credit member dies before pension credit benefits payable), for "Government Actuary" substitute "Scheme Actuary".

11. In Part J (special cases), in rule J1 (guaranteed minimum pensions), for paragraph (2)(d) substitute—

"(d) in the case of a person who dies at any time after 4th December 2005 and leaves a civil partner, the civil partner is entitled to a pension at a weekly rate equal to half of that part of the deceased's guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years up to and including the tax year1996-97.".

12. In Part K (revision and withdrawal of awards)—

(a) in rule K1 (review of ill-health and certain deferred pensions), in paragraph (3)(a) for "rule B5" substitute "rule B5(4)(b)";

(b) in rule K1A (consequences of review), after paragraph (4) add—

"(5) If, on such consideration as is mentioned in rule K1(3), it is found that a person whose deferred pension is being paid early has become capable of undertaking regular employment, his entitlement to early payment of the deferred pension shall cease with immediate effect.";

(c) for rule K4 (withdrawal of pension during service as a regular firefighter) substitute—

"**Withdrawal of pension whilst employed by a fire and rescue authority**

K4. The fire and rescue authority by whom a pension is payable may, in their discretion, withdraw the whole or any part of the pension, except a pension under Part C (awards on death–spouses and civil partners), for any period during which the person entitled to it is employed by any fire and rescue authority in whatever capacity.".

13. In Part L (payment of awards and financial provisions)—

(**a**) 1996 c.14.
(**b**) 1980 c.9; prospectively repealed by the 1996 Act as from a date to be appointed.

(a) in rule L3 (payment of awards)—

(i) in paragraph (1)(b), omit "in advance";

(ii) in paragraphs (7) and (8), in each place where it occurs, for "gratuity" substitute "gratuity or lump sum";

(b) in rule L4 (prevention of duplication)—

(i) in paragraph (1), for "or the Compensation Scheme" substitute "and the Compensation Scheme"; and

(ii) in paragraph (3), omit "and rule L4B".

14. In Part LA (Firefighters' Pension Fund)—

(a) in rule LA2 (special payments and transfers into Firefighters' Pension Fund)—

(i) in paragraph (1), for "paragraphs (2) to (8)" substitute "paragraphs (2) to (10)";

(ii) in paragraph (4)—

(aa) in sub-paragraph (b) for "ill-health award," substitute "ill-health award; or"; and

(bb) after sub-paragraph (b), insert—

"(c) with an entitlement to payment of a deferred pension under rule B5(4)(b),";

(iii) in paragraph (6)—

(aa) in sub-paragraph (a), omit "or";

(bb) in sub-paragraph (b), for "comes into force." substitute "comes into force; or"; and

(cc) after sub-paragraph (b), insert—

"(c) on the date on which a deferred pension under rule B5(4)(b) comes into payment."; and

(iv) after paragraph (8), insert—

"(9) Where an authority exercises its discretion not to withdraw the payment in whole or in part of any pension under rule K4 (withdrawal of pension whilst employed by a fire and rescue authority), the authority shall in the financial year in which payment is not withdrawn, transfer into the FPF an amount equal to the amount of pension paid during that financial year to that person which could have been abated or withdrawn.

(10) Where an authority pays an increased lump sum under rule B7(5A) (commutation–general provision), in respect of a firefighter, the authority shall in the financial year in which payment is made transfer into the FPF an amount equal to the difference between the actual commuted portion of the pension and the commuted lump sum of two and a quarter times the full amount of the pension paid during that financial year to that firefighter."; and

(b) in rule LA3 (transfer from firefighters' pension fund), for paragraph (5)(a) substitute—

"(a) a higher tier ill-health pension or a lower tier ill-health pension, or a deferred pension under rule B5(4)(b) is wholly and permanently withdrawn under rule K5 (withdrawal of pension on conviction of certain offences); and".

15. In Schedule 1 (interpretation), in Part 1 (glossary of expressions)—

(a) after the expression "The 1999 Act", insert—

""The 2004 Act"	"The Finance Act 2004(**a**)."";

(b) in the meaning of the expression "Aggregate pension contributions", for "rule A8" substitute "rule G2B (aggregate pension contributions for the purposes of awards)";

(c) omit the expression "Approved scheme";

(**a**) 2004 c.12.

(d) for the meaning of the expressions "Cash equivalent", "part cash equivalent", substitute "The first expression means a cash equivalent mentioned in section 94(1)(a) of the 1993 Act; the second expression means a variation of rights mentioned in section 98(1) of the 1993 Act.";

(e) for the meaning of the expression "Club scheme", substitute "A scheme providing reciprocal arrangements for the payment and receipt of transfer values between the Scheme and other occupational pension schemes under the public sector transfer arrangements.";

(f) after the expression "Principal Act", insert—

""Registered scheme"	Construe in accordance with Part 1 of Schedule 36 to the 2004 Act.";

(g) omit the expression "Relevant service in the armed forces";

(h) after the expression "Relevant fire and rescue authority" insert—

""Reservist"	The meaning given in rule I8.";

(i) after the expression "Reservist", insert—

""Scheme Actuary"	The actuary appointed by the Secretary of State.";

(j) omit the expression "War service".

16. In Schedule 2 (personal awards), in Part 6A (calculation of awards for part-time service), in paragraph (2)(1), for the meaning of A substitute—

"A is the amount of that award calculated under the relevant Part that the person would have received had he been a whole time employee of a fire and rescue authority".

17. In Schedule 3 (awards on death-spouses)—

(a) in Part1 (spouse's ordinary pension), in paragraph 1(2)(a), for "pension" substitute "award" and for "a pension" substitute "an award"; and

(b) in Part 3 (spouse's accrued pension), omit paragraph 1(1)(f) and (2)(e).

18. In Schedule 4 (awards on death-children)—

(a) in Part 1 (child's ordinary allowance), in paragraph 1(4)(a),for "pension" substitute "award" and for "a pension" substitute "an award"; and

(b) omit Part 4 (reduction in child's allowance during full-time remunerated training).

19. In Schedule 5 (awards on death-additional provisions), in Part 3 (gratuity in lieu of child's allowance), in paragraph 2, for "Government Actuary" substitute "Scheme Actuary".

20. In Schedule 6 (pensionable service and transfer values), in Part 2 (service reckonable on receipt of transfer value)), in Part 3 (transfer payments between fire authorities) and in Part 4 (amount of transfer value), in each place where it occurs, for "Government Actuary" substitute "Scheme Actuary".

21. Omit Schedule 7 (war service).

22.—(1) In Schedule 8 (purchase of increased benefits), in Part 1 (payments)—

(a) in paragraph 1(1), omit "subject to sub-paragraph (2)(c)," and for "normal pension age" substitute "role";

(b) in paragraph 1(2)(b), for "represents; and" substitute "represents.";

(c) omit paragraph 1(2)(c);

(d) in paragraph 3(1), omit "subject to sub-paragraph (2)(c)," and for "normal pension age" substitute "role";

(e) in paragraph 3(2)(b), for "disentitlement; and" substitute "disentitlement.";

(f) omit paragraph 3(2)(c); and

(g) in paragraphs 2 and 4, for "Government Actuary" substitute "Scheme Actuary".

(2) In Part 2 (calculation of appropriate amount), in paragraph 3, for "Government Actuary" substitute "Scheme Actuary".

23.—(1) In Schedule 9 (appeals), in Part 1 (appeal to board of medical referees)—

(a) for paragraph 1(1) substitute—

"**1.**—(1) Subject to sub-paragraph (2), written notice of appeal against a decision on an issue of a medical nature stating—

(a) the appellant's name and address, and

(b) the grounds of the appeal,

must be given to the authority within 28 days of the date on which the appellant receives the documents referred to in rule H2(4); and where the appellant receives those documents on different dates, they shall be treated for this purpose as received on the later or latest of those dates.";

(b) for paragraph 2 substitute—

"**2.**—(1) On receiving a notice of appeal, the authority shall supply the Secretary of State with three copies of—

(a) the notice of appeal,

(b) the notice of the relevant decision,

(c) the opinion, response or evidence (as the case may be) supplied to the appellant, and

(d) every other document in their possession or under their control which appears to them to be relevant to the issue that is the subject of the appeal.

(2) The Secretary of State shall refer an appeal to a board of medical referees ("the board").";

(c) after paragraph 2A insert—

"**2B.**—(1) As soon as reasonably practicable after referring an appeal to the board, the Secretary of State shall supply the board's administrator with three copies of every document supplied under paragraph 2(1).

(2) The board shall arrange for one of their number to review those documents ("the reviewing member").

(3) As soon as reasonably practicable after concluding the review, the reviewing member shall give written notice to the Secretary of State—

(a) of any other information which the reviewing member considers would be desirable so as to provide the board with sufficient information for the purpose of enabling the board to determine the appeal, and

(b) if it be the case, that it is his opinion that the board may regard the appeal as frivolous, vexatious or manifestly ill-founded.

(4) On receipt of the reviewing member's notice the Secretary of State shall—

(a) where the reviewing member has notified the Secretary of State of the desirability of obtaining other information, require the authority to use their best endeavours to obtain that information, and

(b) where the notice contains an opinion of the description mentioned in sub-paragraph (3)(b), send a copy of it to the authority.

(5) An authority which receives a copy of a reviewing member's opinion shall, as soon as reasonably practicable—

(a) send a copy of it to the appellant, and

(b) by written notice to the appellant—

(i) advise him that, if his appeal is unsuccessful, he may be required to pay the authority's costs, and

(ii) require him to notify them, within 14 days of the date of their notice, whether he intends to pursue or withdraw the appeal.

(6) An authority which notifies an appellant under sub-paragraph (5)(b) shall inform the Secretary of State of the appellant's response to their request under sub-paragraph (b)(ii); and the Secretary of State shall notify the board accordingly.";

(d) in paragraph 3, for "The board shall secure", substitute "Where an appeal is to be pursued, the board shall secure";

(e) in paragraph 4, in sub-paragraph (2)(b) for "not less than 21 days' notice of", substitute "not less than two months' notice of";

(f) after paragraph 6, insert—

"**6A.**—(1) Where the appellant and the fire and rescue authority have received a copy of the report supplied under paragraph 6 and—

(a) the appellant and the authority ("the parties") agree that the board has made an error of fact which materially affects the board's decision;

(b) the authority shall within 28 days of receipt of the report, supply the Secretary of State with two copies of a statement agreed between the parties setting out—

(i) the error of fact;

(ii) the correct fact, and

invite the board to reconsider its decision.

(2) The Secretary of State shall within 14 days of receipt of the statement supply a copy of it to the board.

(3) As soon as reasonably practicable after receiving the statement, the board shall reconsider its decision.

(4) Within 14 days of that reconsideration the board shall—

(a) give written notice to the Secretary of State that it has confirmed its decision, or revised its decision (as the case may be), and

(b) if it has revised its decision, supply the Secretary of State with a written report of its revised decision.

(5) The Secretary of State shall supply to the appellant and the authority a copy of the written notice confirming the board's decision, or a copy of the written report of the board's revised decision (as the case may be).";

(g) in paragraph 8—

(i) for sub-paragraph (2) substitute—

"(2) Where the board—

(a) decides an appeal in favour of the fire and rescue authority, and

(b) reports that in its opinion the appeal was frivolous, vexatious or manifestly ill-founded,

the fire and rescue authority may require the appellant to pay them such sum, not exceeding the total amount of the fees and allowances payable to the board under paragraph 7(1), as the authority think fit."; and

(ii) for sub-paragraph (2A) substitute—

"(2A) Where—

(a) the appellant gives notice to the board —

(i) withdrawing the appeal;

(ii) requesting cancellation of, postponement of, or adjournment of the date appointed for an interview or medical examination under paragraph 4(2), and

the notice is given less than 22 working days before the date appointed under paragraph 4(2); or

(b) the appellant's acts or omissions cause the board to cancel, postpone or otherwise adjourn the date appointed under paragraph 4(2) less than 22 working days before the date so appointed,

the authority may require the appellant to pay them such sum, not exceeding the total amount of the fees and allowances payable to the board under paragraph 7(1), as the authority think fit."; and

(h) Omit Part 2 (appeal tribunals).

24.—(1) In Schedule 11 (special cases)—

(a) omit Part 3 (calculation of pensionable service where person ceased to serve before 1st May 1975); and

(b) omit Part 4 (modification for persons serving on 10th July 1956);

(c) in Part 5 (application to persons affected by local government reorganisation or combination scheme) in each place where it occurs, for "brigade" substitute "fire and rescue authority"; —

(i) in paragraph 2(2), omit "and" and sub-paragraph (b);

(ii) omit paragraph 4.

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 ("the Scheme"). Some of the amendments introduce new provisions. Other amendments make corrections.

Except as mentioned below the Order has effect from 1st July 2013. Power to give the Order retrospective effect is conferred by section 12 of the Superannuation Act 1972, as applied by section 16(3) of that Act.

Paragraph 1 of the Schedule omits rule A14 (compulsory retirement on grounds of efficiency) and rule A15 (compulsory retirement on grounds of disablement). Rules A4 to A8 and A12 are also omitted.

Paragraph 2(a) of the Schedule amends rule B1 so that a chief fire officer, who is appointed after the date on which the order comes into force, is no longer required to obtain the permission of the fire and rescue authority before retiring. Paragraph 2(e) amends the formula for the calculation of pension where a person is entitled to an ill-health award or deferred pension and benefits from the entitlement to two pensions.

The amendment made by sub-paragraph f(i) of paragraph 2 is to make minor corrections so that it is clear which pensionable service can count for the long service increment additional pension benefit . The amendment only include services with an English Fire and Rescue Authority.

Paragraph 2(g) of the Schedule inserts a new rule B5C which extends additional pension benefit so that it covers—

– payments to reward additional skills and responsibilities outside the requirements of the firefighter member's duties under the contract of employment but which are within the wider functions of the job;

–any additional pay received whilst on temporary promotion or whilst temporarily carrying out the duties of a higher role;

–any non-consolidated performance related payment.

Any payments in respect of a firefighter member's continuing professional development continue to be covered by additional pension benefit.

The amendments made by sub-paragraphs (ii), (iii) and (iv) of paragraphs 2(f)) and 2(g) in relation to paragraph (3) and (4) of the new rule B5C amend the method of uprating additional pension benefit for the long service increment (rule B5B) and continuing professional development (rule B5C) from a specific index, retail price index, to an index in accordance with the Pensions (Increase) Act 1971. There is a specific provision to provide that the consumer price index is used for the tax year 2010/2011. These amendments have effect from 11th April 2011.

The amendments made by paragraph 2(i) to rule B7 (commutation general provision) confer a discretion on a fire and rescue authority to permit the commutation of a pension for a lump sum in excess of two and quarter times the full amount of the pension in all cases where they have had regard to the economical, effective and efficient management of their functions and the costs likely to be incurred in the particular case. Where the authority exercises this discretion an amendment by paragraph 14(iv) to rule LA2 inserting new paragraph (10) requires the authority to make a transfer into the Firefighters' Pension Fund of an amount equal to the increase in the commuted lump sum.

Paragraph 4 of the Schedule substitutes a new rule D5 (child's allowance: limitations and duration). Paragraph 5 of the Schedule makes various amendments to Part E (awards on death-additional provisions).

Paragraph 6 of the Schedule amends Part F (pensionable service and transfer values) and in particular inserts new rule F1A (reckoning of service for purposes of awards) which repeats most of the provisions of the omitted rule A7.

Paragraph 7(a) of the Schedule amends the definition of pensionable pay in rule G1(1) to include payments which are pensionable under additional pension benefit (new rule B5C(1)) and provide that average pensionable pay is calculated without including any additional pension benefit payable under rule B5C. Rule G1 is also amended by the insertion of a new paragraph (9) to provide that payments which are not within the definition of pensionable pay in rule G1(1)(a) as amended, other than additional pension benefits payable for long service or in respect of a firefighter's continual professional development, should remain pensionable only whilst the firefighter continues to receive them.

Paragraph 7(d) inserts rule G2B (aggregate pension contributions for the purposes of awards) which repeats most of omitted rule A8 (aggregate pension contributions for purposes of awards) with some amendments.

Paragraph 8 inserts a new rule and substitutes 2 new rules in Part H (determination of questions and appeals). These enable—

– the review of medical opinion where there is new evidence (rule H1A: review of medical opinion);

– improve the procedure of an appeal new rule H2 (appeal to medical referee);

– remove the right of appeal to the Crown Court or Sheriff and replace it with arrangements implemented for dispute resolution by the fire and rescue authority under section 50 of the Pensions Act 1995 (rule H3: appeals on other issues).

Paragraph 9 amends the provisions in Part I (servicemen) to reflect changes in the relevant legislation.

Paragraph 12(b) amends rule K1A to remove a deferred member's entitlement to the early payment of a deferred pension where he has become capable of undertaking regular employment. Paragraph 12(c) of the Schedule substitutes a new rule K4 which extends the fire and rescue authority's power to abate pension so this applies when a pensioner takes up employment in any role with an authority. This amendment has effect from 25th September 2009.

Paragraph 14(a)(iv) of the Schedule inserts a new paragraph (9) in rule LA2 (special payments and transfers into Firefighters' Pension Fund). This requires a fire and rescue authority to transfer into the Firefighters' Pension Fund an amount equal to the amount of pension paid to a person in respect of whom the authority choose not to exercise its discretion to withdraw or abate the permitted amount of the individual's pension under rule K4 (withdrawal of pension whilst employed by a fire and rescue authority). This amendment does not have effect in relation to a pensioner who took up employment before the date on which this order comes into force.

Paragraph 23 amends Part 1 (appeal to board of medical referees) of Schedule 9 (appeals) by the substitution of new paragraphs for paragraphs (1)(1), paragraph 2, 8(2), 8(2A) and the insertion of a new paragraph 2B and 6A. These amendments to procedures of the board enable the board to review its decision where there has been a material error of fact, to appoint a reviewing member to ensure it has all documents required before a hearing and also to increase the grounds on which the authority can require the appellant to pay some or all of the board's costs. Paragraph 23(2) omits Part 2 (appeal tribunals) which is consequential on the amendment of rule H3 (Appeals on other issues).

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

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