**EXPLANATORY MEMORANDUM TO**

**THE FIREFIGHTERS' PENSION SCHEME (ENGLAND) (AMENDMENT) ORDER 2026**

**2026 No. 281**

## 1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Ministry of Housing, Communities and Local Government and is laid before Parliament by Command of His Majesty.

## 2. Declaration

2.1 Samantha Dixon, Parliamentary Under Secretary of State for Building Safety, Fire at the Ministry of Housing, Communities and Local Government (MHCLG) confirms that this Explanatory Memorandum meets the required standard.

2.2 Michelle Warbis, Deputy Director for Local Tax and Pensions, at MHCLG confirms that this Explanatory Memorandum meets the required standard.

## 3. Contact

3.1 Anthony Mooney at MHCLG can be contacted by email at the following address regarding any queries regarding the instrument: firepensionsteam@communities.gov.uk.

## Part One: Explanation, and context, of the Instrument

## 4. Overview of the Instrument

***What does the legislation do?***

This Order makes amendments to the Firefighters' Pension Scheme (England) Order 2006 (S.I. 2006/2432), which established the Firefighters Pension Scheme 2006 (the '2006 Scheme'). The instrument introduces payments following the death of eligible retained/former retained firefighters which occurred before they were able to purchase service in the Scheme which they were entitled to, amends the eligibility criteria for the purchase of service by retained firefighters who had previously opted-out of the 2006 Scheme and extends the deadline for the purchase of service in the 2006 Scheme for those persons who were employed in England as retained firefighters,

***Where does the legislation extend to, and apply?***

4.1 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is England and Wales.

4.2 The territorial application of this instrument (that is, where the instrument produces a practical effect) is England.

## 5. Policy Context

***What is being done and why?***

5.1 Historically, retained firefighters, who are part-time, on call firefighters, did not have any entitlement to membership of the Firefighters' Pension Scheme 1992 (the '1992 Scheme'). Retained firefighters were first given access to a fire pension scheme when

the 2006 Scheme was introduced on 6 April 2006. The 2006 Scheme was established when the Firefighters' Pension Scheme (England) Order 2006 came into force.

5.2 A group of retained firefighters brought legal proceedings against the government in the case of "Matthews v. Kent and Medway Towns Fire Authority (2006)" ('the Matthews case') under the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 ('the PTWR'). The claims related to the exclusion from the 1992 Scheme, which was then provided solely to full-time regular firefighters.

5.3 Following the Employment Tribunal's determination that the denial of access to pension rights for retained firefighters constituted unfavourable treatment which could not be justified in the Matthews case, a new pension arrangement was introduced through the creation of a modified section in the 2006 Scheme (the 'modified scheme') on 1 April 2014. This allowed all eligible retained/ former retained firefighters to purchase service in the modified scheme (the '2014 options exercise').

5.4 The modified scheme then provided preferential pension terms, similar to those provided by the 1992 Scheme, to retained firefighters who were employed between 7 April 2000 and 5 April 2006 inclusive, known as the 'Matthews remedy'.

5.5 In October 2023, following the Court of Justice of the European Union ruling in the O'Brien v Ministry of Justice case, further amendments were made to the modified scheme that allowed members to purchase pre-7 April 2000 service. Since then, fire and rescue authorities have been undertaking an exercise (the '2023 options exercise') to identify and notify all eligible retained firefighters of their entitlement to join the modified scheme with pre-7 April 2000 service.

5.6 In 2024, it became clear that many of the fire and rescue authorities in England would not be able to fully implement the 2023 options exercise by the 31 March 2025 deadline. This instrument provides an extension to the deadline of 12 months from the date on which it comes into force.

5.7 Some additional technical amendments that were needed to ensure all eligible individuals received their full pension entitlement under the Matthews remedy were also identified. A consultation was carried out by the Home Office, which held responsibility for firefighters' pension policy before it transferred to the Ministry of Housing, Communities and Local Government on 1 April 2025.

5.8 This instrument introduces the following:

5.8.1 the payment of the missed pension benefit and survivors benefit lump sums in respect of a deceased individual who would have been entitled to a pension (or a higher pension) under the Matthews remedy, but they died before having an opportunity to make an election;

5.8.2 the extension of the eligibility criteria for an additional death grant payment, so that it is payable in respect of those individuals who did not join (or did not get an opportunity to join) the modified scheme during the 2014 Options exercise;

5.8.3 the extension of the option to recognise standard 2006 Scheme service as service in the modified scheme for certain member cohorts who were unintentionally omitted in earlier changes;

5.8.4 the option for members who joined the standard 2006 Scheme, and who subsequently opted out of the standard 2006 Scheme prior to 1 April 2015, to purchase periods of opted out service as special service;

5.8.5 the extension of the period for fire and rescue authorities to implement the Matthews remedy in circumstances where they were unable to meet the original 31 March 2025 deadline; and

5.8.6 other minor changes to include flexibilities to provide fire and rescue authorities sufficient time to identify and notify eligible individuals of their pension entitlements under the modified scheme, and to extend the scope of the provisions to cover newly identified cohorts of eligible individuals.

5.9 These changes were introduced in order to provide a full access to the Matthews remedy for all eligible cohorts.

***What was the previous policy, how is this different?***

5.10 The previous policy was that the 2023 Options exercise should be fully implemented by fire and rescue authorities by its closure deadline of 31 March 2025. However, the Home Office, prior to the transfer of responsibility for firefighters' pension policy to the Ministry of Housing, Communities and Local Government, was made aware that most fire and rescue authorities would not meet this deadline due to conflicting priorities.

5.11 Additionally, due to the passage of time, there are eligible individuals who died prior to having an opportunity to benefit from Matthews remedy. Under the previous policy, their families did not receive any of the deceased's pension entitlement.

## 6. Legislative and Legal Context

***How has the law changed?***

6.1 This Order amends the Firefighters' Pension Scheme (England) Order 2006 in order to ensure that the Matthews remedy is properly implemented and to ensure that the 2018 ruling by the Court of Justice of the European Union is properly given effect ensuring the entitlement of retained firefighters to access the 2006 Scheme. The Firefighters' Pension Scheme (England) (Amendment) Order 2014 (S.I. 2014/445) and The Firefighters Pension Scheme (England) (Amendment) Order 2023 (S.I. 2023/986) amended the 2006 Scheme, to provide those eligible retained firefighters with access to the 2006 Scheme under the Matthews remedy.

6.2 This Order further amends the 2006 Scheme to give effect to the policy proposals set out at paragraph 5.8 above, ensuring all those entitled to benefit under the Matthews remedy do so, and ensuring that where the eligible member has deceased prior to being able to benefit under the Matthews remedy, their family can now do so.

***Why was this approach taken to change the law?***

6.3 The rules of the 2006 Scheme are set out in statute and therefore this is the only possible approach to make the necessary changes.

## 7. Consultation

***Summary of consultation outcome and methodology***

7.1 A public consultation was published by the Home Office on 23 December 2024 and closed on 17 February 2025[1]. The consultation proposed amendments to the modified scheme to include extending the 2023 options exercise, and to introduce the technical amendments that had been identified. Responses to the consultation were received

[1] Amendments to the Firefighters' Pension Scheme: retained firefighters - GOV.UK

from fire and rescue authorities, employee representative Unions, the Local Government Association, the Fire Scheme Advisory Board (England), and individual firefighters/former firefighters.

7.2 The consultation sought views on proposals to amend the modified scheme, as well as the extended deadline. The proposals provided for the payment of lump sum payments in respect of deceased retained/former retained firefighters who died prior to being able to access their full pension entitlement under the Matthews remedy, and technical changes to ensure all eligible retained firefighters can fully benefit from the remedy.

7.3 After considering the responses, the Ministry of Housing, Communities and Local Government (responsibility for firefighters' pension policy transferred from Home Office to the Ministry of Housing, Communities and Local Government on 1 April 2025) has introduced the following changes:

- The payment of a missed lump sum payment/survivor's missed lump sum payment in respect of a deceased individual who would have been entitled to a pension (or a higher pension) under the Matthews remedy.
- The extension of the eligibility criteria for an additional death grant payment, so that it is payable in respect of those individuals who did not join (or did not get an opportunity to join) the modified scheme during the 2014 Options exercise.
- Wider choices for individuals who joined the standard 2006 Scheme to convert the standard service accrued to special service in the modified scheme.
- The extension of the option to recognise standard 2006 Scheme service as service in the modified scheme for certain member cohorts who were unintentionally omitted in earlier changes.
- The option for members who joined the standard 2006 Scheme, and who subsequently opted out of the standard 2006 Scheme prior to 1 April 2015, to purchase period/s of opted out service as special service.
- The payment of new awards under these changes after the options exercise closing date in circumstances where the individual has not received a notification from their employer.
- The extension of the period for fire and rescue authorities to implement the Matthews remedy in circumstances where they were unable to meet the original 31 March 2025 deadline.
- Other minor changes to include flexibilities to provide fire and rescue authorities sufficient time to identify and notify eligible individuals of their pension entitlements under the modified scheme, and to extend the scope of the provisions to cover newly identified cohorts of eligible individuals.

7.4 A copy of the published Government response to the consultation was published on 4 December 2025[2].

## 8. Applicable Guidance

8.1 No guidance will be issued by the Ministry of Communities and Local Government on this SI. Guidance for administering authorities and employers will be drafted and published by the Local Government Association on implementing the changes.

[2] Amendments to the Firefighters' Pension Scheme (England): retained firefighters – Government response - GOV.UK

## Part Two: Impact and the Better Regulation Framework

### 9. Impact Assessment

9.1 An Impact Assessment has not been prepared for this instrument as the Better Regulation Framework states this is not required. There is no, or no significant, impact on the private or voluntary sectors is anticipated. The impact of any change falls on the Fire and Rescue Authorities.

***Impact on businesses, charities and voluntary bodies***

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the legislation does not impact on them.

9.3 The legislation does not impact small or micro businesses.

9.4 The impact on fire and rescue authorities is relatively significant but, if these changes were not being introduced, trying to rectify and settle all the subsequent employment tribunal claims that would be brought on the same basis would cost the sector much more in time and resources. The fire sector has known for some time that these changes will need to be implemented by April 2027.

### 10. Monitoring and review

***What is the approach to monitoring and reviewing this legislation?***

10.1 There are no proposals to actively monitor or review the outcome of the changes made by this instrument. Although, the Department will review the effectiveness of these regulations through its continuing engagement with the sector and members.

10.2 The instrument does not include a statutory review clause as section 28(1) of the Small Business, Enterprise and Employment Act 2015 does not apply.

## Part Three: Statements and Matters of Particular Interest to Parliament

### 11. Matters of special interest to Parliament

11.1 None.

### 12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation no statement is required.

### 13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 (“relevant European Union Acts”).