6.—(1) These Regulations may be cited as the Fire Services (Pensionable Employment) (No. 2) Regulations, 1949, and shall come into operation on the thirtieth day of November, 1949.

(2) These Regulations shall not extend to Scotland.

J. Chuter Ede,
One of His Majesty's Principal Secretaries of State.

Home Office,
Whitehall.
28th November, 1949.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

These Regulations provide in the case of a person transferring from the fire service to the civil service for the reckoning of pensionable service as a fireman as service for the purposes of the Superannuation Acts, 1834 to 1949.

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4. PENSION SCHEME

The Firemen's Pension Scheme Order, 1949

1949 No. 396

Made - - - -	*7th March,* 1949
Laid before Parliament	*9th March,* 1949
Coming into Operation	*On the day after the Order is laid before Parliament*

In exercise of the powers conferred on me by section twenty-six of the Fire Services Act, 1947(**a**), and of all other powers enabling me in that behalf, 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.—(1) For sub-paragraph (*a*) of paragraph (2) of Article 6 of the Firemen's Pension Scheme, 1948, set out in the Appendix to the Firemen's Pension Scheme Order, 1948(**b**), there shall be substituted the following sub-paragraph:—

"(*a*) the infirmity of mind or body was occasioned by an injury received without his own default in the execution of his duties—

(i) as a fireman,

(ii) as a professional fireman within the meaning of the Fire Brigade Pensions Act, 1925(**c**), whether or not a member of the London Fire Brigade, or as a member of a police force employed wholetime on fire brigade duties within the meaning of the Fire Brigades Act, 1938(**d**), or

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(**a**) 10 & 11 Geo. 6. c. 41.
(**b**) S.I. 1948 (No. 604) I, p. 1091.
(**c**) 15 & 16 Geo. 5. c. 47.
(**d**) 1 & 2 Geo. 6. c. 72.

(iii) as a whole-time member of the National Fire Service to whom the National Fire Service (Preservation of Pensions) (Act of 1925) Regulations, 1941(a), the National Fire Service (Preservation of Pensions) (London and West Ham) Regulations, 1941(b), the National Fire Service (Preservation of Pensions) (Birmingham and Leicester) Regulations, 1941(c), the National Fire Service (Preservation of Pensions) (Bolton and Derby) Regulations, 1941(d), or the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941(e), applied ; ".

(2) For sub-paragraph (*b*) of paragraph (3) of the said Article there shall be substituted the following sub-paragraph :—

" (*b*) any sickness benefit payable under the National Insurance Act, 1946(f), until the first day after his retirement which is not or is deemed not to be a day of incapacity for work under section eleven of that Act or regulations made thereunder."

2. After Article 18 of the said Scheme there shall be inserted the following Articles :—

"Service before the appointed day in the case of a person becoming a fireman within one year of that day.

18A.—(1) Where a person becomes a fireman within the period of one year beginning with the appointed day and has served as a professional fireman and last so served in such a fire brigade as is mentioned in paragraph (2) of this Article and retired therefrom without a pension, his previous service shall be taken into account in accordance with the provisions of paragraph (3) of this Article, subject to his paying to the fire authority any sum which became payable to him at the end of the period of such service by way of gratuity or return of rateable deductions or contributions.

(2) The fire brigade mentioned in the preceding paragraph is one maintained by an authority whose area is comprised in the area of the fire authority by whom he becomes employed or one maintained by that authority.

(3) The provisions of paragraphs (2), (3) and (6) of Article 15 and the Twelfth Schedule to this Scheme shall apply in the case of such a fireman as is mentioned in paragraph (1) of this Article as though for the words ' the fire authority by whom he is employed on the appointed day ', wherever they occur in the said Article 15 or the Twelfth Schedule, there were substituted the words ' the fire authority by whom he becomes employed ' and as though for the words ' the appointed day ', wherever they otherwise so occur, there were substituted the words ' he last ceased to be a professional fireman or to be a permanent whole-time member of the National Fire Service ' as if the said provisions were contained in this paragraph.

(4) In this Article ' professional fireman ' has the same meaning as in the Fire Brigade Pensions Act, 1925(g), but includes a member of a police force employed whole-time on fire brigade duties within the meaning of the Fire Brigades Act, 1938(h).

(a) S.R. & O. 1941 (No. 1268) I, p. 320.
(b) S.R. & O. 1941 (No. 1272) I, p. 333.
(c) S.R. & O. 1941 (No. 1273) I, p. 337.
(d) S.R. & O. 1941 (No. 1274) I, p. 342.
(e) S.R. & O. 1941 (No. 1271) I, p. 328.
(f) 9 & 10 Geo. 6. c. 67.
(g) 15 & 16 Geo. 5. c. 47.
(h) 1 & 2 Geo. 6. c. 72.

Service of persons who were whole-time members of the National Fire Service immediately before the appointed day.

18B.—(1) The provisions of this Article shall have effect in the case of any person who first becomes a fireman within the period of one year commencing with the appointed day and who was serving immediately before the appointed day as a whole-time member of the National Fire Service.

(2) One half of the period during which, on or after the third day of September, nineteen hundred and thirty-nine, he was employed in whole-time service in a fire brigade maintained by a local authority under the Fire Brigades Act, 1938, or in the Auxiliary Fire Service or in the National Fire Service, shall be treated as a period of pensionable service for the purposes of this Scheme if he pays to the fire authority by whom he is first employed as a fireman such sum as is prescribed in his case by the Eleventh Schedule to this Scheme.

(3) One half of his period of temporary whole-time employment as a member of a fire brigade maintained under the principal Act shall be treated as a period of pensionable service for the purposes of this Scheme if he pays to the fire authority by whom he is first employed as a fireman a sum equal to two-and-a-half per cent. of the aggregate of his pay for the whole of the said period as prescribed in relation to his rank by regulations made under the principal Act.

(4) For the purposes of this Article no account shall be taken of any period during which a person has been employed before attaining the age of twenty years."

3. In paragraph (2) of Article 41 of the said Scheme after the words " this Scheme " there shall be inserted the words " or by virtue of paragraph (2) of Article 18B of this Scheme ".

4. For Article 44 of the said Scheme there shall be substituted the following Article :—

" 44.—(1) Where a period during which a person has served as a fireman is brought to an end by his death, retirement or dismissal his aggregate contributions for the purposes of the Scheme shall be—

(*a*) in respect of any period of service included in a fireman's pensionable service, all sums which he has paid under this Scheme.

(*b*) in respect of any period of service included in a fireman's pensionable service by virtue of paragraph (4) or (5) of Article 15, Article 16, Article 17, Article 18, Article 18A or Article 18B of this Scheme or by virtue of the Twelfth Schedule to this Scheme, all sums paid by him to the fire authority for the purpose of securing that the said period shall be so included.

(2) Where a period during which a person has served as a fireman is brought to an end by his death or retirement and a period of service is included in his pensionable service for the purposes of this Scheme by virtue of paragraph (2), (3), (6) or (8) of Article 15 of this Scheme his aggregate contributions for the purposes of this Scheme shall also include a sum equal to the amount of any award by way of return of contributions to which he would have been entitled, under the superannuation arrangements by virtue of which the said period is so included, if he had voluntarily retired immediately before the appointed day in circumstances entitling him to such an award.

(3) In this Article the expression 'award by way of return of contributions' shall include—

(*a*) a payment under section eighteen of the Fire Brigade Pensions Act, 1925(**a**),

(*b*) a payment under section ten of the Local Government Superannuation Act, 1937(**b**),

(*c*) a payment under section ten of the Local Government Superannuation (Scotland) Act, 1937(**c**),

(*d*) a payment under section twelve of the Teachers (Superannuation) Act, 1925(**d**),

(*e*) any analogous payment."

5. At the end of Article 45 of the said Scheme there shall be added the following paragraph:—

"(2) For the purposes of this Article a person shall be treated as incapable of earning any money in any employment, notwithstanding that the infirmity of mind or body is not such as to prevent him being capable of work, if it is likely to prevent his earnings exceeding fifty-two pounds in a year."

6.—(1) For paragraph (1) of Article 46 of the said Scheme there shall be substituted the following paragraph:—

"(1) In this Scheme the expression 'pensionable pay' means the pay of a fireman as prescribed in relation to his rank by regulations made under the principal Act or, in the case of a chief officer or an assistant chief officer or, in Scotland, a firemaster, his pay as approved for the post by the Secretary of State."

(2) For paragraph (4) of the said Article there shall be substituted the following paragraphs:—

"(4) Where a person who, immediately before the appointed day, was a member of the National Fire Service pensionable as such by virtue of regulations made under the Fire Services (Emergency Provisions) Act, 1941(**e**), dies or retires within the period of three years commencing with the appointed day, paragraphs (2) and (3) of this Article shall not apply.

(5) For the purpose of determining the benefits payable under this Scheme on the death or retirement of such a person as is mentioned in paragraph (4) of this Article—

(*a*) the expression 'pensionable pay' means the average of his pensionable pay and pensionable National Fire Service pay over the period of three years preceding his death or retirement:

Provided that where such a person has not been promoted since the appointed day, his pensionable pay for the said purpose shall not be less than it would be if paragraph (2) of this Article applied:

(*b*) the expression 'annual pensionable pay' means the annual value of his pensionable pay for the said purpose.

In this paragraph 'pensionable National Fire Service pay' means pay in respect of which a person was liable to make contributions or suffer deductions by virtue of regulations made under the Fire Services (Emergency Provisions) Act, 1941."

(a) 15 & 16 Geo. 5. c. 47. (b) 1 Edw. 8 & 1 Geo. 6. c. 68.
(c) 1 Edw. 8 & 1 Geo. 6. c. 69. (d) 15 & 16 Geo. 5. c. 59.
(e) 4 & 5 Geo. 6. c. 22.

7. In paragraph 1 of Part II of the Fifth Schedule to the said Scheme after the words " National Insurance Act, 1946 " there shall be inserted the words " or of a widow's allowance, which is increased under section twenty-three of the said Act or a retirement pension which is so increased ".

8.—(1) In paragraph 1 of Part II of the Eighth Schedule to the said Scheme for the words " a widow's allowance or widowed mother's allowance under the National Insurance Act, 1946," there shall be substituted the words " a widowed mother's allowance under the National Insurance Act, 1946, or of a widow's allowance, which is increased under section twenty-three of the said Act or a retirement pension which is so increased ".

(2) After paragraph 4 of the said Part of the said Schedule there shall be inserted the following paragraph:—

" 4A. Where a guardian's allowance is payable in respect of a child under the National Insurance Act, 1946(a), his child's special allowance, as ascertained in accordance with Part I of this Schedule, shall be reduced to such an extent as is necessary to reduce the increased allowance by 12s. a week."

9. In sub-paragraph (1) of paragraph 4 of the Tenth Schedule to the said Scheme after the words " under this Scheme " there shall be inserted the words " otherwise than under Article 13 ".

10.—(1) For the side-note to the Eleventh Schedule to the said Scheme there shall be substituted the following side-note:—

" Articles 15, 16 and 18B."

(2) In paragraph 3 of the said Schedule after the words " Article 16 of this Scheme " there shall be inserted the words " or by virtue of paragraph (2) of Article 18B of this Scheme ".

11. In paragraph 1 of the Twelfth Schedule to the said Scheme for the words " a sum equivalent to the said amount " there shall be substituted the words " such sum as that fire authority may fix, not exceeding the amount of the rateable deductions which would have been made from his pay during the period of past pensionable service, which was not contributing service, if the Fire Brigade Pensions Act, 1925(b), had been in force during such non-contributing service and had been applicable thereto ".

12. In the proviso to paragraph 3 of the Twelfth Schedule to the said Scheme after the words " in the case of " there shall be inserted the following words:—

" (i) any person in respect of whom a local authority would have had a discretion to pass a resolution in accordance with the provision of paragraph (i) of the proviso to paragraph (*b*) of subsection (2) of section eight of the said Act of 1937, had he in fact retired and become entitled to a superannuation allowance immediately before the appointed day, if the said authority resolve that the preceding provisions of this paragraph shall not have effect in his case;

(ii) "

13. At the end of the proviso to paragraph 3 of the Fourteenth Schedule to the said Scheme there shall be added the words " and provided that no account shall be taken of any service which does not count as pensionable service ".

(a) 9 & 10 Geo. 6. c. 67. (b) 15 & 16 Geo. 5. c. 47.

14. At the end of paragraph 4 of the Fourteenth Schedule to the said Scheme there shall be added the following proviso:—

"Provided that the rate of reduction shall not in the case of any such person exceed £51 a year and provided that no account shall be taken of any service which does not count as pensionable service."

15. This Order may be cited as the Firemen's Pension Scheme Order, 1949, and shall come into operation on the day after the day on which it shall have been laid before both Houses of Parliament.

J. Chuter Ede,
One of His Majesty's Principal Secretaries of State.

We approve,

Wm. Hannan,
Richard Adams,
Two of the Lords Commissioners of His Majesty's Treasury.

7th March, 1949.

EXPLANATORY NOTE

(This Note is not part of the Regulations, but is intended to indicate their general purport.)

Article 1 extends a fireman's entitlement to a special pension to certain cases where his infirmity is the result of an injury received before the appointed day and restricts the occasions on which such a pension shall be reduced. Articles 2, 3 and 10 make further provision for the inclusion in a fireman's period of pensionable service of a period of service in a capacity other than that of a fireman. Article 4 amends the definition of "aggregate contributions". Article 5 provides that for the purpose of determining the degree of a person's incapacity he shall be treated as incapable of earning any money if he is unlikely to earn more than £52 a year. Article 6 is an amendment of the definition of pensionable pay and, in particular, changes the provisions relating to averaging. Articles 7 and 8 make additional provision for the reduction in the amount of an allowance to a child where a widowed mother's allowance or a guardian's allowance under the National Insurance Act, 1946, or widow's allowance or a retirement pension which is increased under section twenty-three of that Act, is payable. Article 9 provides that a widow in receipt of a pension under Article 13 of the Firemen's Pension Scheme, 1948, shall not lose her entitlement on remarriage. Article 11 gives the fire authority a discretion to reduce the sum payable by a fireman who wishes to count a period of past pensionable service, which was not contributing service, as though it were approved service under the Fire Brigade Pensions Act, 1925. Article 12 relates to the counting of non-contributing service under the Local Government Superannuation Act, 1937, for the purposes of paragraph (6) of Article 15 of the Firemen's Pension Scheme, 1948. Articles 14 and 15 provide that a pension shall never be reduced under the Fourteenth Schedule to the Firemen's Pension Scheme, 1948, by more than £51 a year and that for the purposes of that Schedule service which does not count as pensionable service shall be ignored.