1988 No. 185

FIRE SERVICES

The Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1988

Made	*20th May 1988*
Coming into operation . .	*1st July 1988*

The Department of the Environment in exercise of the powers conferred on it by Article 10(1) and (4) of the Fire Services (Northern Ireland) Order 1984(**a**) and of every other power enabling it in that behalf, with the approval of the Department of Finance and Personnel, makes the following Order:—

Citation and commencement

1. This Order may be cited as the Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1988 and shall come into operation on 1st July 1988.

Interpretation

2. In this Order "the Scheme of 1973" means the Firemen's Pension Scheme (Northern Ireland) 1973, set out in Appendix 2 to the Firemen's Pension Scheme Order (Northern Ireland) 1973(**b**).

Scheme amended

3. The Scheme of 1973 shall be amended as follows—

(1) Article 34A shall be renumbered Article 35.

(2) After Part IX there shall be inserted the following Part—

"PART IXA

PURCHASE OF INCREASED BENEFITS

Interpretation

73A. In this Part and in Schedule 7A—

"eligible fireman" means a person—

(*a*) with service as a regular fireman on or after 28th October 1981, whether or not he is still so serving;

(**a**) S.I. 1984/1821 (N.I. 11)

(**b**) S.R. & O. (N.I.) 1973 No. 393; the relevant amending Orders are S.R. 1978 No. 24, S.R. 1979 Nos. 88 and 387, S.R. 1980 Nos. 62 and 208, S.R. 1981 Nos. 143 and 320, S.R. 1982 No. 418, S.R. 1983 No. 116, S.R. 1984 No. 99 and S.R. 1987 No. 424

(*b*) whose retirement date is, or was when he ceased so to serve, at least 9 years after the date on which he last became a regular fireman, and

(*c*) who was not when he ceased so to serve, or, but for this Part, would not be on or before his retirement date, entitled to reckon 30 years pensionable service;

"retirement date" means, in relation to a regular fireman and at any particular time, the date on which he could be required to retire on account of age if he continued to serve as such without change of rank, disregarding any extension of service under Article 80(1) effected after that time; and

"sixtieth" means, in relation to the calculation of awards payable to or in respect of a person, a sixtieth of his average pensionable pay.

Election to purchase increased benefits

73B.—(1) Subject to paragraph (2) an eligible fireman may, for the purpose of reckoning an additional number of sixtieths in calculating the awards payable to or in respect of him, by notice in writing to the Authority elect to make payment to the Authority in accordance with this Part.

(2) A fireman shall not so exercise the right to election accorded by paragraph (1) that the aggregate number of sixtieths reckonable by him exceeds or if he continued to serve until his retirement date, would exceed, 40.

(3) When the retirement date of a fireman who has exercised the right of election accorded by paragraph (1) becomes later than it was at the time of his election by reason of his subsequent promotion or the subsequent extension of his service under Article 80(1), then, notwithstanding that he may derive no benefit from his election, his liability to make payment in accordance with this Part shall not be affected and he shall not be entitled to the repayment of any lump sum or contribution so paid.

Lump sum payments

73C.—(1) An eligible fireman who is serving as a regular fireman may, within twelve months from—

(*a*) the date on which he last became a regular fireman, or

(*b*) 1st July 1988,

whichever is the later, elect under Article 73B to make payment by a lump sum calculated in accordance with paragraph 1 (or, in the case of a woman, paragraph 3) of Part I of Schedule 7A.

(2) An eligible fireman—

(*a*) who has ceased to serve as a regular fireman but who was so serving on 1st July 1988, or

(*b*) who, before 1st July 1988 was required to retire on account of age or permanent disablement under Article 80(1) or 81,

may within 12 months of 1st July 1988 elect under Article 73B to make payments by a lump sum calculated in accordance with the said paragraph 1 (or, in the case of a woman, the said paragraph 3).

(3) A lump sum payment under this Article shall be made within three months of the date of election and, if it is not so made, the election shall be deemed for the purposes of this Part never to have been made.

Payment by periodical contributions

73D.—(1) Subject to paragraph (5) an eligible fireman who is serving as a regular fireman whose retirement date falls not less than 2 years after his birthday next following 1st July 1988 may at any time—

(*a*) within twelve months of 1st July 1988, or

(*b*) not later than 2 years immediately preceding his retirement date,

elect under Article 73B to make payment by periodical contributions calculated in accordance with paragraph 2 (or, in the case of a woman, paragraph 3) of Part I of Schedule 7A.

(2) Subject to paragraphs (3) to (5) and to Article 73G, where a fireman so elects the periodical contributions shall be made as from the date of his birthday within the year beginning with the date of his election and shall continue until—

(*a*) his retirement date as at the time of his election, or

(*b*) the date on which he ceases to serve as a regular fireman,

whichever is the earlier.

(3) Where a fireman so elects within 12 months of 1st July 1988 but less than two years before his retirement date the election shall be deemed to have been made on a date two years before the said retirement date provided that any arrears of contributions due by virtue of this paragraph are paid in a lump sum within three months from the date on which he elects.

(4) In the case of a regular fireman who has so elected and who, having retired with an ill-health pension before his retirement date, resumes service as such, the periodical contributions shall again become payable and shall continue as in paragraph (2).

(5) Where a fireman so elects the periodical contributions payable by him for any period shall not, when aggregated with any other pension contributions (including additional and further contributions, if any) payable by him for that period, exceed 15% of his pensionable pay but, where a fireman's periodical contributions are restricted by this paragraph, he shall make a lump sum payment of an amount determined by the Government Actuary to be the actuarial equivalent of the difference between the restricted periodical contributions payable and those which would be payable but for this paragraph.

Elections deemed to have been made on 28th October 1981

73E.—(1) An eligible fireman who is serving as a regular fireman and whose retirement date—

(*a*) is less than two years after his birthday next following 1st July 1988, and

(*b*) was on 28th October 1981, at least two years after his next birthday,

may within three months of 1st July 1988 elect under Article 73B to make

payment in accordance with Article 73D as if this Order had come into operation on 28th October 1981.

(2) Where a fireman elects as mentioned in paragraph (1) the election shall be deemed to have been made on 28th October 1981 and any arrears of contributions due by virtue of this paragraph shall be paid in a lump sum within three months from the date on which he elects.

Conditions relating to the making of an election

73F.—(1) An eligible fireman who is serving as a regular fireman shall not be entitled to elect under Article 73B to make payment by periodical contributions if he has been required to retire under Article 80(3) or 81.

(2) An eligible fireman shall not, if the Authority so resolve, be entitled to elect under Article 73B to make payment by periodical contributions unless he has undergone a medical examination and satisfied the Authority as to his good health, and any fee payable in respect of that examination shall be paid by him.

Effect of election

73G. Subject to articles 73C(3), 73D(3) and 73E, an election made under Article 73B shall take effect as from the date on which the Authority receive notice in writing thereof and shall be irrevocable, save that where the Authority is satisfied that the payment of periodical contributions in accordance with such an election is causing, or is likely to cause, financial hardship it may consent to the discontinuance of such contributions for such period as it thinks fit.

Reckoning of additional benefits

73H.—(1) Where a regular fireman who has made an election under Article 73B and has commenced payment of periodical contributions in accordance with that election dies in service, retires with an ill-health pension, or retires on or after reaching his retirement date, as at the time of his election he shall be entitled to reckon all the additional benefits which he elected to purchase, save that where he had discontinued payment on grounds of financial hardship under Article 73G he shall be entitled to reckon a proportion of such benefits determined in accordance with the formula set out in paragraph (*a*) of Part II of Schedule 7A.

(2) Subject to paragraph (3), where a regular fireman who has made an election under Article 73B and paid a lump sum or commenced payment of periodical contributions in accordance with that election ceases to be a member of the brigade in circumstances other than those mentioned in paragraph (1) and with no entitlement to an award by way of repayment of his aggregate contributions other than an award under Article 12D(**a**), he shall be entitled to reckon—

(*a*) in the case of a lump sum payment, all the additional benefits which he elected to purchase, and

(a) As inserted by paragraph 5 of Part III of Schedule 2 to S.R. 1979 No. 88

(*b*) in the case of payment of periodical contributions, a proportion of such benefits determined in accordance with the formula referred to in paragraph (*b*) of Part II of Schedule 7A.

(3) Where a regular fireman retires with an ordinary pension before his retirement date, as at the time of his election the amount which he is entitled to reckon under paragraph (2)(*a*) or (*b*) shall be reduced by an amount determined by the appropriate actuarial valuation described in paragraph (*c*) of Part II of Schedule 7A.

Modification of the effect of this Scheme

73I. Where a regular fireman has elected under Article 73B to purchase additional sixtieths, this Scheme shall have effect in his case subject to the modifications specified in Part III of Schedule 7A.''.

(3) Paragraph 3(4) of Part IIA(**a**) of Schedule 3 shall be re-numbered paragraph 4.

(4) After Schedule 7 there shall be inserted the following Schedule—

''SCHEDULE 7A Articles 73C and 73D

PART I

PAYMENTS

Lump sum payments by men

1.—(1) Subject to sub-paragraphs (2) and (3) where a man elects under Article 73B to make payments by a lump sum, the amount of such lump sum shall be the product of—

(*a*) his number of additional sixtieths, and

(*b*) an amount equal to the percentage of the aggregate of his pensionable pay during the appropriate period which is specified opposite his age set out in column 2 or 4 of the following Table (whichever applies in his case):

(2) For the purposes of sub-paragraph (1)—

(*a*) where the said aggregate amount is less than the amount it would have been had he not during the said period suffered a reduction of pay during sick leave or a stoppage of pay by way of punishment, it shall be increased by the difference between the two said amounts; and

(*b*) where he was in receipt of pensionable pay for part only of the said period, the said aggregate amount shall be multiplied by the reciprocal of the fraction of the year for which he was in receipt of pensionable pay.

(3) In sub-paragraph (1)(*b*)—

''the appropriate period'' means the period of a year ending on the relevant date;

(**a**) Part IIA was inserted by Article 4(8) of S.R. 1984 No. 99

"his age" in relation to a person means that person's age on his birthday which falls within the year beginning with the relevant date, and

"the relevant date" means—

(*a*) in the case mentioned in Article 73C(1), the date of his election;

(*b*) in the case mentioned in Article 73C(2), the date of his last day of service as a regular fireman.

Payment by men of periodical contributions

2.—(1) Subject to sub-paragraphs (2) and (3) where a man elects under Article 73B to make payment by periodical contributions the amount of such contributions for any period shall be the product of—

(*a*) his number of additional sixtieths; and

(*b*) the percentage of his pensionable pay for that period which is specified opposite his age in column 3 or 5 of the following Table (whichever applies in his case);

(2) For the purposes of sub-paragraph (1)—

(*a*) where for any period his pensionable pay is of an amount less than the amount it would have been had he not suffered a reduction of pay during sick leave or a stoppage of pay by way of punishment, it shall be increased by the difference between the two amounts, and

(*b*) where for any period he is for any reason disentitled to pensionable pay, his pensionable pay for that period shall be deemed to be that which it would have been but for the disentitlement.

(3) In sub-paragraph (1)(*b*) "his age" in relation to any person means that person's age on his birthday which falls within the year beginning with—

(*a*) the date of his election, or

(*b*) where Article 73D(3) or 73E(2) applies, the date on which his election is deemed thereby to have been made.

Payments by women

3. Where a woman elects under Article 73B to make payment either by a lump sum or by periodical contributions, the amount or rate thereof shall be such as the Government Actuary may determine to be the actuarial equivalent of the benefit to her of her election.

TABLE

(1) *Age on relevant birthday*	*Regular fireman whose retirement date, as at the date of his election, falls on or after his attaining the age of 60 years*		*Regular fireman whose retirement date, as at the date of his election, falls before his attaining the age of 60 years*	
	(2) *Percentage for calculating lump sum payment*	(3) *Percentage for calculating periodical contributions*	(4) *Percentage for calculating lump sum payment*	(5) *Percentage for calculating periodical contributions*
26			33·90	1·24
27			33·90	1·29
28			33·80	1·35
29			33·80	1·41
30			33·70	1·41
31	27·30	0·96	33·70	1·56
32	26·70	1·00	33·60	1·64
33	26·30	1·04	33·60	1·73
34	26·10	1·08	33·50	1·82
35	26·00	1·12	33·40	1·92
36	26·00	1·16	33·20	2·03
37	26·00	1·21	32·90	2·15
38	25·90	1·27	32·50	2·28
39	25·90	1·33	32·10	2·42
40	25·90	1·40	31·60	2·57
41	25·90	1·48	31·00	2·74
42	25·90	1·57	30·20	2·94
43	25·90	1·67	29·20	3·18
44	25·90	1·77	28·20	3·48
45	25·90	1·88	27·30	3·85
46	25·90	2·00	26·70	4·30
47	25·90	2·14	26·30	4·84
48	25·80	2·31	26·30	5·49
49	25·80	2·52	26·60	6·28
50	25·80	2·78	27·00	7·34
51	25·80	3·10	27·50	8·91
52	25·80	3·50	28·10	11·45
53	25·80	4·02	28·70	16·44
54	25·70	4·70	29·20	
55	25·70	5·60	29·60	
56	25·70	6·86		
57	25·80	9·05		
58	25·80	13·43		
59	25·90			
60	26·00			

RECKONING OF ADDITIONAL BENEFITS

In Article 73H—

(*a*) the formula mentioned in paragraph (1) is—

$$\frac{A \times B}{C}$$

where—

A is the fireman's number of additional sixtieths;

B is the length of the period or, as the case may be, the aggregate lengths of the periods during which payment was made;

C is the period for which, if payment had been continuous to the date of death or retirement, payment would have been made;

(*b*) the formula mentioned in paragraph (2)(*b*) is as set out in paragraph (*a*) save the C is the period for which, if payment had been continuous to the retirement date as at the time of election, payment would have been made; and

(*c*) the appropriate actuarial valuation mentioned in paragraph (3) is the assessment by the Government Actuary of the extent to which the value of the benefits is increased on account of being paid before the retirement date as at the time of election.

PART III Article 73I

MODIFICATIONS OF THE EFFECT OF THE SCHEME

The modifications referred to in Article 73I, subject to which this Scheme is to have effect in the case of a regular fireman who has made an election under Article 73B, are as follows:

(*a*) if he is entitled to any pension, other than an injury pension, the amount thereof as calculated under the appropriate part of Schedule 1 shall be increased by the number of sixtieths which he is entitled to reckon under Article 73H(1) or (2);

(*b*) references to a regular fireman's pension, however expressed, in the following provisions, namely—

Article 17 (commutation of pension),

Schedule 2,	Part I (widow's ordinary pension), Part V (increase in widow's pension during first 13 weeks) and Part IX (widow's pension where fireman marries after retirement),(**a**)
Schedule 3,	Part I (child's ordinary allowance) paragraphs 3 and 5, Part III (child's accrued allowance) and Part IV (increase in child's allowance in certain cases during first 13 weeks); and

(**a**) As inserted by paragraph 31 of Part III of Schedule 2 to S.R. 1979 No. 88

Schedule 7, Part I (payment of transfer values)(**a**) shall be construed as references to that pension as increased under Part IXA of this Scheme;

(*c*) references to a pension or allowance payable in respect of a regular fireman, however expressed, in the following provisions namely—

Article 22, (widow's gratuity by way of commuted pension);

Schedule 2, Part V (increase in widow's pension during first 13 weeks) and Part VII, paragraph 3 (dependent relative's special pension);

Schedule 3, Part I, paragraph 5 (child's ordinary allowance); Part III, paragraph 5 (child's accrued allowance); Parts IV (increase in child's allowance in certain cases during first 13 weeks) and V (child's gratuity by way of commuted allowance); and

Schedule 7, Part I, paragraph 3(1),

shall be construed as references to that pension or allowance as increased by virtue of the operation of Part IXA of this Scheme;

(*d*) a widow's pension calculated under Part II or IV of Schedule 2, (except the pension for which she may elect under paragraph 2(**b**) of Part I (by virtue of Part II) or paragraph 3 of Part IV) shall be increased by an amount equal to n/120ths of her husband's average pensionable pay (n being the number of sixtieths which he was entitled to reckon at the time of his death under Article 73H(1) or (2));

(*e*) a child's ordinary allowance under Part I of Schedule 3 shall be calculated as if the amounts in paragraph 4(2)(*a*) of that Part were increased by the number of sixtieths which the father was entitled to reckon at the time of his death under Article 73H(1) or (2); and

(*f*) a child's accrued allowance under Part III of Schedule 3 shall be calculated as if the length of the father's half rate service and pensionable service mentioned in paragraph 3(2) of that Part were increased by a period in years or fractions of a year equal to the number of sixtieths which he was entitled to reckon at the time of his death under Article 73H(1) or (2).''.

Sealed with the Official Seal of the Department of the Environment on 20th May 1988.

(L.S.) *Trevor Pearson*
Assistant Secretary

(**a**) As substituted by paragraph 13 of Part II of Schedule 1 to S.R. 1979 No. 88
(**b**) As substituted by S.R. 1981 No. 143 Article 6

The Department of Finance and Personnel approves this Order.

Sealed with the Official Seal of the Department of Finance and Personnel on 20th May 1988.

(L.S.) *Joan O. M. Frame*
Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the Order.)

This Order, which comes into force on 1st July 1988, amends the Firemen's Pension Scheme Order 1973 so as to provide that regular firemen, where eligible, may elect to purchase increases in the personal and dependents' benefits payable by the Fire Authority for Northern Ireland (''the Authority'') under the Scheme set out in Appendix 2 to that Order (''the Scheme of 1973'') up to the limit allowed by that Scheme. Payment may be made by lump sum or periodical contributions.

Article 3 of this Order inserts a new Part IXA and Schedule 7A in the Scheme of 1973 and references in this note to numbered Articles, to Part IXA and to Schedule 7A should be construed accordingly.

By virtue of Article 73A a regular fireman is eligible to elect to purchase increased benefits if he was serving on or after 28th October 1981, has (or had when he ceased to serve) at least 9 years remaining service, and would not otherwise qualify for the maximum ordinary pension payable under the Scheme of 1973.

Article 73B provides that an eligible fireman may elect to purchase such increase as will secure benefits up to the maximum payable under the Scheme of 1973.

Article 73C provides for payment by lump sum within 12 months of 1st July 1988 or, if the fireman is still serving, the date on which he commenced serving. The lump sum is calculated in accordance with paragraph 1 or 3 of Part I of Schedule 7A and is payable within 3 months of the date of election.

Under Article 73D payment may be made by periodical contributions if the fireman has at least 2 years from his next birthday to serve before retirement. An election to pay by this method must be made within 12 months of 1st July 1988 or not less than two years before retirement is due. Where an election is made within 12 months of 1st July 1988 but less than 2 years before the due date of retirement it is deemed to have taken place 2 years before that date. Periodical contributions are calculated in accordance with paragraph 2 or 3 of Part I of Schedule 7A. Under Article 73E a fireman with less than 2

years to serve before retirement, but who was serving on 28th October 1981, may elect to make payment by periodical contributions and his election is deemed to have taken place on that date. (Retrospection is authorised by Article 10(4) of the Fire Services (Northern Ireland) Order 1984).

Article 73F stipulates that a fireman may not elect to make payment by periodical contributions if he is under notice of retirement or, where the Authority so resolve, without a medical examination.

By virtue of Article 73G an election to purchase increased benefits is irrevocable where payment is by periodical contributions except where the Authority is satisfied that financial hardship is being caused thereby and accordingly consents to discontinuance of contributions for such period as it thinks fit.

Article 73H and Part II of Schedule 7A govern the reckoning of additional benefits which a fireman has elected to purchase.

Article 73I and Part III of Schedule 7A provide that references in the Scheme of 1973 to various personal and dependants' benefits are to be construed, where appropriate, as including increases in those benefits under or by virtue of Part IXA.

The opportunity has been taken to make minor drafting amendments.