1959 No. 1495

The Firemen's Pension Scheme (No. 2) Order, 1959

Made - - - -	21*st August*, 1959
Laid before Parliament	26*th August*, 1959
Coming into Operation	14*th September*, 1959

In exercise of the powers conferred on me by section twenty-six of the Fire Services Act, 1947(a), and subsections (1) to (3) of section eight of the Fire Services Act, 1959(b), 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:—

PART I

AMENDMENTS TO THE FIREMEN'S PENSION SCHEME, 1956

1. In sub-paragraph (*c*) of paragraph (1) of Article 6 of the Firemen's Pension Scheme, 1956, set out in the Appendix to the Firemen's Pension Scheme Order, 1956(c), (which relates to the cancellation of ill-health pensions) for the words "his conditions of service" there shall be substituted the words "this Scheme".

2. In sub-paragraph (*b*) of paragraph (3) of Article 9A of the said Scheme of 1956, as set out in Article 2 of the Firemen's Pension Scheme Order, 1959(d), (which relates to the commutation of pensions) for the words "his conditions of service" there shall be substituted the words "this Scheme".

3.—(1) Paragraph (1) of Article 19 of the said Scheme of 1956, as amended by Article 1 of the Firemen's Pension Scheme Order, 1958(e), (which relates to the duration of a child's allowance) shall be omitted.

(2) In paragraph (2) of the said Article 19 for the words "granted on or after the fourteenth day of March, 1958" there shall be substituted the words "including an allowance granted before the fourteenth day of September, 1959".

4. For paragraph (1) of Article 35 of the said Scheme of 1956 (which relates to pensionable pay) there shall be substituted the following paragraph:—

"(1) In this Scheme the expression "pensionable pay" means the pay of a regular fireman as determined in relation to his rank or, in the case of a chief officer or an assistant chief officer or, in Scotland, a firemaster or an assistant firemaster, his pay as determined for the post.".

5.—(1) For sub-paragraph (*a*) of paragraph (1) of Article 59 of the said Scheme of 1956 (which relates to temporary employment in connection with the provision of fire services) there shall be substituted the following sub-paragraph:—

"(*a*) employment as an instructor at the central training institution or any training centre maintained by the Secretary of State;".

(a) 10 & 11 Geo. 6. c. 41. (b) 7 & 8 Eliz. 2. c. 44.
(c) S.I. 1956/1022 (1956 I, p. 953). (d) S.I. 1959/802 (Pt. I, p. 1282, of this vol).
(e) S.I. 1958/370 (1958 I, p. 1153).

(2) In paragraph (2) of the said Article 59—

(*a*) at the end of sub-paragraph (*b*) there shall be added the following words:—

" or, where section ten of the Fire Services Act, 1959, applies in his case, the same as his pay and rank as a member of a fire brigade; ";

(*b*) in sub-paragraph (*g*) for the words " Article 44 " there shall be substituted the words " Articles 44, 62B and 62C ".

6. After Article 62A of the said Scheme of 1956 there shall be inserted the following Articles:—

" *Age of compulsory retirement*

62B.—(1) Retirement shall be compulsory for a male whole-time member of a brigade appointed on terms under which he is or may be required to engage in fire fighting—

(*a*) in the case of a member of the rank of assistant divisional officer or any higher rank, on attaining the age of sixty years; and

(*b*) in the case of a member of the rank of station officer or any lower rank, on attaining the age of fifty-five years,

except that in special cases the fire authority may extend any such member's service for a further period on being satisfied that such extension would be in the interests of efficiency:

Provided that nothing in this paragraph shall apply to a member in whose case any regulations made for the purposes set out in paragraph 7 of the Schedule to the Fire Services (Emergency Provisions) Act, 1941(**a**), had effect immediately before the first day of April, 1948, until he is entitled without a medical certificate to retire and receive a pension at the rate of two-thirds of his average pensionable pay.

(2) Retirement shall also be compulsory for any male whole-time member of a brigade who has attained the age of fifty years and completed twenty-five years' pensionable service if he is required to retire by the fire authority on the grounds that his retention in the brigade would not be in the general interests of its efficiency:

Provided that nothing in this paragraph shall apply to a member of the brigade in whose case the National Fire Service (Preservation of Pensions) (Police Firemen) Regulations, 1941(**b**), the National Fire Service (Preservation of Pensions) (Birmingham and Leicester) Regulations, 1941(**c**), or the National Fire Service (Preservation of Pensions) (Bolton and Derby) Regulations, 1941(**d**), had effect immediately before the first day of April, 1948, or to a member who immediately before the eighteenth day of August, 1941, was a professional fireman within the meaning of the Fire Brigade Pensions Act, 1925(**e**), as amended by the Fire Brigades Act, 1938(**f**), and in whose case the National Fire Service (Preservation of Pensions) (General Pension Funds) Regulations, 1941(**g**), had effect immediately before the first day of April, 1948.

(3) This Article shall apply to a member of a Scottish fire brigade as if the proviso to paragraph (1) and the proviso to paragraph (2) of this Article were omitted, but nothing in this Article shall apply to such a member in whose case any regulations made for the purposes set out in paragraph 7 of the Schedule to the Fire Services (Emergency Provisions) Act, 1941, had

(**a**) 4 & 5 Geo. 6. c. 22.
(**b**) S.R. & O. 1941/1271 (1941 I, p. 328).
(**c**) S.R. & O. 1941/1273 (1941 I, p. 337).
(**d**) S.R. & O. 1941/1274 (1941 I, p. 342).
(**e**) 15 & 16 Geo. 5. c. 47.
(**f**) 1 & 2 Geo. 6. c. 72.
(**g**) S.R. & O. 1941/1270 (1941 I, p. 325).

effect immediately before the sixteenth day of May, 1948, until he could have been compelled to retire under the statutory provisions or regulations applicable to him immediately before the eighteenth day of August, 1941.

Compulsory retirement on grounds of incapacity

62C. A regular fireman may be required to retire on the date on which the fire authority determine he ought to retire on the ground that he is incapacitated for the performance of his duty by infirmity of mind or body and that the incapacity is likely to be permanent:

Provided that a retirement in accordance with this Article shall be void if after the said date, on an appeal against the medical opinion on which the fire authority acted in determining that he ought to retire, the medical referee decides that the appellant is not incapacitated as aforesaid.".

7. In sub-paragraph (*b*) of paragraph (1) of Article 67 of the said Scheme of 1956 (which defines the expression " aggregate contributions ") the words " save where he is dismissed " shall be omitted.

8. In Article 69 of the said Scheme of 1956 (which relates to interpretation) after the definition of the expression " principal Act " there shall be inserted the following definition:—

" ' rank ' includes the post of chief officer or, in Scotland, of firemaster ; ".

9. After paragraph 5 of the Eighth Schedule to the said Scheme of 1956 (which relates to modifications to the Scheme in its application to certain firemen) there shall be inserted the following paragraph :—

" 5A. In Article 62B in paragraph (2) the words " attained the age of fifty years and " shall be omitted.".

PART II

AMENDMENT TO THE FIREMEN'S PENSION SCHEME, 1952, IN SO FAR AS IT CONTINUES TO HAVE EFFECT UNDER ARTICLE 2 OF THE FIREMEN'S PENSION SCHEME ORDER, 1956

10. For paragraph 6 of the Tenth Schedule to the Firemen's Pension Scheme, 1952, set out in the First Appendix to the Firemen's Pension Scheme Order, 1952(**a**), (which relates to the duration of a child's allowance) there shall be substituted the following paragraph:—

" 6. A child's allowance which was granted under this Scheme shall be payable only if and so long as the child has not attained the age of sixteen years or if and so long as he has not attained the age of eighteen years and either is undergoing full-time instruction in a school or is an apprentice.".

PART III

AMENDMENT TO THE FIREMEN'S PENSION SCHEME, 1948, IN SO FAR AS IT CONTINUES TO HAVE EFFECT UNDER ARTICLE 2 OF THE FIREMEN'S PENSION SCHEME ORDER, 1952

11. For paragraph 6 of the Tenth Schedule to the Firemen's Pension Scheme, 1948, set out in the Appendix to the Firemen's Pension Scheme Order, 1948(**b**), (which relates to the duration of a child's allowance) there shall be substituted the following paragraph :—

" 6. A child's allowance which was granted under this Scheme shall be payable only if and so long as the child has not attained the age of sixteen years or if and so long as he has not attained the age of eighteen years and either is undergoing full-time instruction in a school or is an apprentice.".

(**a**) S.I. 1952/944 (1952 I, p. 1003). (**b**) S.I. 1948/604 (Rev. VII, p. 776: 1948 I, p. 1091).

PART IV

CITATION AND COMMENCEMENT

12. This Order may be cited as the Firemen's Pension Scheme (No. 2) Order, 1959, and shall come into operation on the fourteenth day of September, 1959.

R. A. Butler,
One of Her Majesty's Principal Secretaries of State.

17th August, 1959.

We approve,

P. E. O. Bryan,
Michael Hughes-Young,
Two of the Lords Commissioners of Her Majesty's Treasury.

21st August, 1959.

EXPLANATORY NOTE

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

Part I of this Order (which is made under section 26 of the Fire Services Act, 1947, and section 8 of the Fire Services Act, 1959) amends the Firemen's Pension Scheme, 1956, which applies to serving firemen and to awards made on or after 10th July, 1956; Part II amends the Firemen's Pension Scheme, 1952, which applies to awards made between 16th May, 1952 and 9th July, 1956 (inclusive); and Part III amends the Firemen's Pension Scheme, 1948, which applies to awards made before 16th May, 1952.

The principal amendments are described below.

Articles 3, 10 and 11 extend the period for which a child's allowance granted before 14th March, 1958, is payable by making it payable (as is an allowance granted since that date), where the child is receiving full-time education or is an apprentice, up to the time the child attains the age of eighteen years.

Article 4 amends the definition of the expression "pensionable pay" by omitting the reference to regulations made under the Fire Services Act, 1947, the relevant provision of which (in section 17) is repealed by section 5 of the Fire Services Act, 1959.

Article 6 makes provision for compulsory retirement on grounds of age and incapacity, corresponding to that previously made by regulations under section 17 of the Fire Services Act, 1947, which lapse on the coming into operation of section 5 of the Fire Services Act, 1959.

Article 7 amends the definition of the expression "aggregate contributions" by omitting a limitation applicable in relation to a fireman who is dismissed.