STATUTORY INSTRUMENTS

1986 No. 1663

FIRE SERVICES

The Firemen's Pension Scheme (War Service) (Transferees) Order 1986

Made - - - - -	*23rd September* 1986
Laid before Parliament	*3rd October* 1986
Coming into Operation	*1st November* 1986

In exercise of the powers conferred upon me by section 26 of the Fire Services Act 1947(**a**), I hereby, with the approval of the Treasury(**b**) and after consultation with the Central Fire Brigades Advisory Council and the Scottish Central Fire Brigades Advisory Council, make the following Order:—

PART I

GENERAL

1.— (1) This Order may be cited as the Firemen's Pension Scheme (War Service) (Transferees) Order 1986.

(2) This Order shall come into operation on 1st November 1986 and shall have effect as from 1st April 1978.

2.— (1) In this Order any reference to the appropriate fire authority is a reference—

(a) to the fire authority of the brigade in which the fireman concerned is serving; or

(b) where the fireman is entitled to a pension, to the fire authority liable for that pension; or

(c) in the case of a fireman not falling within either sub-paragraph *(a)* or sub-paragraph *(b)*, and in respect of whom a transfer value is payable, or has at any time been paid, by a fire authority, to the latest fire authority to have paid or to be liable to pay the transfer value.

(2) In this Order any reference to the 1979 Order is a reference to the Firemen's Pension Scheme (War Service) Order 1979(**c**).

(**a**) 1947 c.41, as amended and extended by section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c.65) and sections 12 and 16 of the Superannuation Act 1972 (c.11).

(**b**) Formerly the Minister for the Civil Service; *see* S.I. 1981/1670.

(**c**) S.I. 1979/1360; there are no amending instruments.

(3) Where by virtue of Part II or III of this Order the 1979 Order applies in the case of a fireman—

(a) references in the 1979 Order to Article 8(3) thereof, and to pensionable service as mentioned in that paragraph, shall be construed as references to Parts II to IV of this Order and to the appropriate period of pensionable service reckonable by virtue thereof, and

(b) the 1979 Order shall have effect subject to the modifications set out in Schedule 1.

(4) Subject as aforesaid and except where the context otherwise requires, this Order shall be construed as one with the 1979 Order without prejudice, however, to the provisions of section 23(1) of the Interpretation Act 1978(a) (application of that Act to subordinate legislation).

(5) Without prejudice to paragraph (4), in this Order any reference to a fireman includes a reference to a deceased fireman, and, except where the context otherwise requires, in relation to a deceased fireman, where he died before 1st April 1978, any reference to his age on that date is a reference to the age he would have been on that date had he not so died.

3. The public service pension scheme referred to in Articles 6 and 9 is an occupational pension scheme, other than one relating to service mentioned in Schedule 2, being a scheme which cannot come into force, or be amended, without the scheme or amendment being approved by a Minister of the Crown or government department; and, for the purposes hereof, the Universities Superannuation Scheme shall be treated as if it were such an occupational pension scheme.

PART II

WAR SERVICE RECKONABLE WITHOUT RECEIPT OF ADDITIONAL TRANSFER VALUE

4.— (1) This Part shall apply in the case of a person who—

(a) on 1st April 1978 or, where he died before that date, immediately before his death, was serving as a fireman or, having ceased so to serve, had retired with an entitlement to a pension; and

(b) was on 1st April 1978, or immediately before his retirement or death if earlier, entitled to reckon pensionable service for the purposes of the Firemen's Pension Scheme 1973 by virtue of any such period of service or employment as is mentioned in Schedule 2 ("qualifying service"); and

(c) was not on 1st April 1978, or immediately before his retirement or death if earlier, entitled to reckon pensionable service in respect of qualifying service under the war service provisions of the pension scheme applicable thereto but who would have been so entitled if he had remained in that scheme until 1st April 1978, or the date of his death if earlier;

(a) 1978 c.30.

So, however, that in the case of a fireman with more than one period of qualifying service, any such period other than the first shall be disregarded for the purposes of this Article and references to his qualifying service shall be construed accordingly.

(2) In relation to such a fireman, in this Order references to the war service provisions of a pension scheme are references to the provisions of the scheme analogous to those of the 1979 Order, and "war service" has the same meaning as in those provisions.

(3) The appropriate fire authority may require that any claim that a fireman satisfies the condition referred to in paragraph (1)*(c)*, and as to the duration of his war service, be supported by a certificate given by or on behalf of the person responsible for the management of the pension scheme appropriate to his qualifying service, and the fire authority shall be entitled to rely upon a certificate so given.

5.— (1) Subject to the following provisions of this Article, the 1979 Order shall apply in the case of a fireman to whom this Part applies as if references in that Order to a qualified fireman were references to a fireman to whom this Part applies.

(2) Where a fireman to whom this Part applies elects only as mentioned in Article 8(1) of the 1979 Order, the Firemen's Pension Scheme 1973 shall have effect as though he had been entitled, immediately before his retirement (or death while serving) to reckon an additional period of pensionable service equal to the following proportion of his war service, namely—

(a) 47.75% thereof, where the qualifying service is police service or Northern Ireland police or fire service;

(b) 35.25% thereof, where the qualifying service is National Health Service or service in health and personal social services in Northern Ireland, or local government service or Northern Ireland local government service; and

(c) 34.875% thereof, where the qualifying service is teaching service or Northern Ireland teaching service.

(3) Where a fireman so elects, his pension shall, notwithstanding the preceding paragraph, be deemed for the purposes excepted in the said Article 8(1) to be the pension to which he would be entitled without his additional period of pensionable service under that paragraph, save that that period shall count for the purposes of Part III of Schedule 1 to the 1979 Order (rate of widow's ordinary pension calculated by reference to the husband's pensionable service).

PART III

WAR SERVICE RECKONABLE ON RECEIPT OF AN ADDITIONAL TRANSFER VALUE

6.— (1) This Part shall apply in the case of a person—

(a) who on 1st April 1978 or, where he died before that date, immediately before his death, was serving as a fireman or, having ceased so to serve, had retired with an entitlement to a pension;

(b) with war service within the meaning of such a public service pension scheme as is mentioned in Article 3;

(c) in respect of whom a transfer value has been paid to the appropriate fire authority which took account of service or employment in the scheme referred to in sub-paragraph *(b)*;

(d) who, by reason of that transfer value, was, on 1st April 1978, or immediately before his retirement or death if earlier, entitled to reckon pensionable service for the purposes of the Firemen's Pension Scheme 1973; and

(e) in respect of whom an additional transfer value calculated by reference to his war service is paid to the appropriate fire authority.

(2) For the purposes of paragraph (1)*(e)* where a transfer value is calculated partly by reference to war service and partly by reference to other service, the amount of the transfer value referable to the war service shall be treated as an additional transfer value as mentioned therein.

7.— (1) Subject to the following provisions of this Article, the 1979 Order shall apply in the case of a fireman to whom this Part applies as if references in that Order to a qualified fireman were references to a fireman to whom this Part applies.

(2) Where a fireman to whom this Part applies elects only as mentioned in Article 8(1) of the 1979 Order, the Firemen's Pension Scheme 1973 shall have effect as though he had been entitled immediately before his retirement (or death while serving) to reckon an additional period of pensionable service calculated as hereinafter provided, namely—

(a) the basic transfer value shall be determined by deducting from the additional transfer value, within the meaning of Article 6(1)*(e)*, such amount, if any, as represents compound interest on the basic amount thereof;

(b) the fireman's adjusted pensionable emoluments shall be determined by multiplying by the factor set opposite his age in completed years on 1st April 1978 in the second column of the Table in Schedule 3 the annual value of the emoluments (including averaged emoluments and any element for pensions increase) in relation to which the transfer value was calculated;

(c) the amount of the adjusted pensionable emoluments shall be multiplied by four-thirds;

(d) the basic transfer value shall be divided by the amount obtained under sub-paragraph *(c)* and the resulting number shall be the number of years comprising the period.

(3) Where a fireman so elects, his pension shall, notwithstanding the preceding paragraph, be deemed for the purposes excepted in the said Article 8(1), to be the pension to which he would be entitled without his additional period of pensionable service under that paragraph, save that that period shall count for the purposes of Part III of Schedule 1 to the 1979 Order (rate of widow's ordinary pension calculated by reference to the husband's pensionable service).

PART IV

ELECTION FOR THE PURPOSES OF WIDOWS' AND CHILDREN'S BENEFITS

8.— (1) Where a fireman to whom Part II or Part III applies elects for the purposes excepted in Article 8(1) of the 1979 Order (calculation of widow's pension and child's allowance) as well as under that paragraph, the Firemen's Pension Scheme 1973 shall have effect as though he had been entitled immediately before his retirement (or death while serving) to reckon an additional amount of pensionable service calculated in accordance with Article 5 or 7, as the case may be, reduced—

(a) in the case of a fireman without pensionable service reckonable by virtue of service as a member of a fire brigade before 1st April 1972, by 10%;

(b) in the case of a fireman with half-rate service (within the meaning of paragraph 1(1) of Part IV of Schedule 2 to the Firemen's Pension Scheme 1973) before 1st April 1972, by 10%; and

(c) in any other case, by 7.5%.

(2) Where the additional period of pensionable service reckonable by a fireman falls to be reduced by reason of paragraph (1)*(a)*—

(a) Article 22(3) and paragraph 4 of Part I of Schedule 3 to the Firemen's Pension Scheme 1973 shall not apply in his case; and

(b) for the purposes of Part IV of Schedule 2 to the Firemen's Pension Scheme 1973 and Article 12 of the 1979 Order, any additional service reckoning by virtue of this Order shall be deemed to be half-rate and mixed rate service.

PART V

ADDITIONAL TRANSFER VALUE PAYABLE IN RESPECT OF WAR SERVICE

9.— (1) Subject to paragraph (2) this Part shall apply in the case of a former fireman who—

(a) on 1st April 1978 or, where he died before that date, immediately before his death, was a serving member of a public service pension scheme such as is mentioned in Article 3 or, having ceased to be such a member, had retired therefrom with an entitlement to a pension; and

(b) satisfies the conditions in paragraph (2),

and in relation to such a person the expression "1978 scheme" means the public service pension scheme referred to in sub-paragraph *(a)*.

(2) The conditions referred to in paragraph (1)*(b)* are—

(a) that if he had not retired before 1st April 1975 without a pension, he would have been a qualified fireman within the meaning of Article 6 of the 1979 Order;

(b) that a transfer value has been paid in respect of him under Article 71A of the Firemen's Pension Scheme 1973 or under the Superannuation (Fire and Specified Services) Interchange Rules 1972(**a**) (or the corresponding provisions of any previous instruments) and

(**a**) S.I. 1972/521; there are no amending instruments.

(c) that, by reason of that transfer value, he was on 1st April 1978, or immediately before his retirement or death, if earlier, entitled to reckon service for the purposes of the 1978 scheme.

(3) In the case of a former fireman who had a period of public service which—

(a) was completed before his fire service, and

(b) reckoned as service for the purposes of the 1978 scheme,

(hereinafter referred to as his earlier service), a transfer value shall not be payable under this Part unless it appears to the appropriate authority that he has not had, and will not have, any opportunity to reckon war service for the purposes of a superannuation scheme applicable to his earlier service.

(4) In paragraph (3), "public service" means public service for the purposes of a public service pension scheme within the meaning of section 51(3)*(b)* of the Social Security Act 1973(**a**).

10.— (1) Where the conditions specified in paragraph (2) are satisfied, the appropriate fire authority shall pay an additional transfer value in respect of a fireman to whom this Part applies to the person responsible for the management of the 1978 scheme ("the 1978 pension authority") and any such transfer value shall be calculated in accordance with Article 11.

(2) The conditions referred to in paragraph (1) are that the 1978 pension authority applies for the transfer value and furnishes the relevant fire authority with a statement—

(a) certifying that, subject to the payment of the transfer value, the fireman will be entitled to reckon service for the purposes of the 1978 scheme by reason of his war service;

(b) certifying—

(i) if the fireman was on 1st April 1978 a serving member of the 1978 scheme, the pensionable emoluments by reference to which a transfer value in respect of him which fell to be paid on that date would have been calculated under that scheme, or

(ii) if he was on 1st April 1978 or, where he died before that date, immediately before his death, entitled to a pension under the 1978 scheme, the pensionable emoluments by reference to which the pension was calculated (or, if the pension was not in payment, would have been calculated had it been put into payment on that date) increased by the pensions increase factor that was appropriate to that pension on that date (or that would have been appropriate if the pension had been in payment on that date); and

(c) certifying that he was alive on 1st April 1975;

and the fire authority shall be entitled to rely upon any such statement so furnished.

(3) In paragraph (2)*(b)*(ii) "the pensions increase factor" means the rate by which a pension was increased (or would have been increased if the pension had been in payment and had qualified to be so increased) by virtue of orders

(**a**) 1973 c.38; section 51(3) was amended by section 4(1) of the Social Security Act 1980 (c.30).

made under section 2 of the Pensions (Increase) Act 1971(**a**) or section 59 of the Social Security Pensions Act 1975(**b**).

11. The additional transfer value shall be calculated as hereinafter provided, namely—

(a) the fireman's emoluments (as certified under Article 10) shall be multiplied by 47.75% of the period of his war service (expressed in years and a fraction of a year);

(b) the resulting amount shall be multiplied by the factor set opposite his age in completed years on 1st April 1978 in the second column of the Table in Schedule 3, and the resulting product shall be multiplied by four-thirds;

(c) to the amount obtained in accordance with the foregoing paragraphs there shall be added an amount equal to compound interest thereon calculated at the same rate in respect of such periods between 1st April 1978 and the day on which the transfer payment is made as would be applicable under the provisions of paragraph 8(2) of Part I of Schedule 9 to the Firemen's Pension Scheme 1973, and for the purposes of this Article, Article 3(3) of the 1979 Order shall have no effect.

Douglas Hurd,
One of Her Majesty's Principal Secretaries of State

Home Office.
1st September 1986.

We approve

Michael Neubert,
Tristan Garel-Jones,
Two of the Lords Commissioners of Her Majesty's Treasury.

23rd September 1986.

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

(**b**) 1975 c.60.

SCHEDULE 1 Article 2(3)(*b*)

APPLICATION OF 1979 ORDER

The modifications referred to in Article 2(3)(*b*) are as follows—

(a) in Article 7(1), for the words "1st April 1975" there shall be substituted the words "1st April 1978";

(b) no provision of that Order relating to payment conditions shall have any application to additional pensionable service reckonable under Part II or III;

(c) in Article 10(1) and (7) and in Article 14(3) there shall in each case for the words "1st December 1979" be substituted the words "1st November 1986".

(d) in Article 10(2) the words after "so elected" shall be omitted;

(e) Article 10(8) shall be omitted; and

(f) for Article 8 there shall be substituted the following:—

"8.— (1) A qualified fireman may, in accordance with this Article, by notice elect to reckon pensionable service by virtue of his war service for all the purposes of the Firemen's Pension Scheme 1973 except for the purposes of the calculation of a widow's pension or child's allowance (whether or not by reference to his own pension or notional pension).

(2) A qualified fireman who elects under paragraph (1) may also elect to reckon pensionable service for the purposes excepted in paragraph (1).

(3) Notice for the purposes of paragraphs (1) or (2) shall be given by a qualified fireman not later than three months, or such longer period as the fire authority may allow in the circumstances of his case, after 1st November 1986.

(4) Where under paragraph (3) the fire authority allow notice to be given more than three months after 1st November 1986 then, unless the fire authority are satisfied that the delay was due to circumstances beyond his control,—

(a) he shall not be entitled to any payment under this Order in respect of the period before his application is received by the fire authority; and

(b) Article 14 shall not apply to him.".

Article 4(1)

SCHEDULE 2

QUALIFYING SERVICE

1. Police service, that is to say, service pensionable in pursuance of the Police Pensions Regulations from time to time in force under sections 1, 3 and 4 of the Police Pensions Act 1976(**a**).

2. Teaching service, that is to say, service pensionable in pursuance of regulations from time to time in force under section 9 of the Superannuation Act 1972(**b**), the Teachers' Superannuation (Scotland) Act 1968(**c**), the Teachers' Superannuation Act 1967(**d**), the Teachers' Superannuation Act 1965(**e**), section 102 of the Education (Scotland) Act 1962(**f**) or under the Teachers' (Superannuation) Act 1925(**g**), or under a scheme comprised in a Teachers' Superannuation Scheme (within the meaning of section 145(47) of the said Act of 1962) from time to time in force.

3. National Health Service, that is to say, service pensionable in pursuance of regulations from time to time in force under section 10 of the Superannuation Act 1972, section 67 of the National Health Service Act 1946(**h**), or section 66 of the National Health Service (Scotland) Act 1947(**i**).

4. Local Government service, that is to say, service pensionable:—

(a) under the Local Government Superannuation Act 1937(**j**) ("the 1937 Act") or the Local Government Superannuation (Scotland) Act 1937(**k**) or in pursuance of regulations from time to time in force under the Local Government Superannuation Act 1953(**l**) or section 7 of the Superannuation Act 1972(**m**) (the 1972 Act); or

(b) under a local Act scheme within the meaning of the 1937 Act or the 1972 Act.

5. Northern Ireland fire service, that is to say, service pensionable in pursuance of the Firemen's Pension Scheme from time to time in force under section 10 of the Fire Services (Amendment) Act (Northern Ireland) 1950(**n**) or section 17 of the Fire Services Act (Northern Ireland) 1969(**o**) or, as respects the Belfast fire brigade, the scheme so in force under section 13 of the said Act of 1950 or section 26 of the said Act of 1969.

6. Northern Ireland police service, that is to say, service pensionable in pursuance of an order or regulations from time to time in force under the Constabulary Acts (Northern Ireland) 1922 to 1949(**p**) or section 25 of the Police Act (Northern Ireland) 1970(**q**).

7. Service in health and personal social services in Northern Ireland, that is to say, service pensionable in pursuance of regulations from time to time in force under section

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(**a**) 1976 c.35. (**b**) 1972 c.11. (**c**) 1968 c.12.
(**d**) 1967 c.12. (**e**) 1965 c.83. (**f**) 1962 c.47.
(**g**) 1925 c.59. (**h**) 1946 c.81. (**i**) 1947 c.27.
(**j**) 1937 c.68. (**k**) 1937 c.69. (**l**) 1953 c.25.
(**m**) 1972 c.11. (**n**) 1950 c.4 (N.I.). (**o**) 1969 c.13 (N.I.).
(**p**) 1922 c.8 (N.I.); 1924 c.17 (N.I.); 1928 c.4 (N.I.); 1930 c.18 (N.I.); 1933 c.27 (N.I.); 1934 c.10 (N.I.); 1949 c.9 (N.I.). (**q**) 1970 c.9 (N.I.).

61 of the Health Services Act (Northern Ireland) 1948(**a**), section 67 of the Health Services Act (Northern Ireland) 1971(**b**) and Schedule 8 thereto, or Article 12 of the Superannuation (Northern Ireland) Order 1972(**c**).

8. Northern Ireland teaching service, that is to say, service pensionable in pursuance of a scheme comprised in, or in regulations or rules from time to time in force under, Article 11 of the Superannuation (Northern Ireland) Order 1972 or the Teachers' Superannuation Acts (Northern Ireland) 1950 to 1967(**d**) or a 1923 Act Scheme (within the meaning of the Teachers' Superannuation Act (Northern Ireland) 1950(**e**).

9. Northern Ireland local government service, that is to say, service pensionable in pursuance of regulations from time to time in force under section 2 of the Local Government (Superannuation) Act (Northern Ireland) 1950(**f**) or Article 9 of the Superannuation (Northern Ireland) Order 1972.

(**a**) 1948 c.3 (N.I.). (**b**) 1971 c.1 (N.I.). (**c**) S.I. 1972/1073 (N.I.10).
(**d**) 1950 c.33 (N.I.); 1951 c.28 (N.I.) (in part); 1956 c.22 (N.I.); 1963 c.7 (N.I.); 1967 c.3 (N.I.), partially repealed with savings by Article 23 of the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I.10)).
(**e**) 1950 c.33 (N.I.). (**f**) 1950 c.10 (N.I.).

Articles 7(2)*(b)* and 11*(b)*

SCHEDULE 3

AGE FACTOR

Age in completed years on 1st April 1978	Factor
40	0.1009
41	0.1018
42	0.1024
43	0.1031
44	0.1038
45	0.1045
46	0.1058
47	0.1073
48	0.1085
49	0.1099
50	0.1111
51	0.1125
52	0.1150
53	0.1176
54	0.1203
55	0.1229
56	0.1267
57	0.1306
58	0.1345
59	0.1397
60	0.1463
61	0.1465
62	0.1469
63	0.1473
64	0.1478
65	0.1480
66	0.1436
67	0.1392
68	0.1355
69	0.1311
70	0.1267
71	0.1230
72	0.1190
73	0.1144
74	0.1106
75	0.1063
76	0.1019
77	0.0981
78	0.0938
79	0.0900
80	0.0854
81	0.0815
82	0.0775
83	0.0735
84	0.0698
85	0.0661
86	0.0623
87	0.0585
88	0.0554
89	0.0525
90	0.0496
91	0.0467
92	0.0440
93	0.0419

SCHEDULE 3 *(continued)*

Age in completed years on 1st April 1978	Factor
94	0.0398
95	0.0377
96	0.0356
97	0.0342
98	0.0321
99	0.0306

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order supplements the Firemen's Pension Scheme 1973 and the Firemen's Pension Scheme (War Service) Order 1979 ("the 1979 Order"). The Order makes provision for firemen and former firemen who have been unable to reckon their war service for pension purposes under the 1979 Order solely because they have transferred between the firemen's pension scheme and other pension schemes of the kinds referred to in Article 3 of and Schedule 2 to the Order.

Article 3 identifies those public service pension schemes in respect of which fire authorities can pay or receive additional transfer values to enable war service to be reckoned.

Article 4 identifies by reference to the kinds of service mentioned in Schedule 2 those firemen who are qualified to elect to count war service without the receipt by the fire authority of a transfer value.

Article 5 provides for the reckoning of war service in the case of personal benefits only by firemen to whom Article 4 applies. Article 6 identifies those firemen who are eligible to reckon war service by virtue of the payment of a transfer value. Article 7 provides for the reckoning of war service in the case of personal benefits only by firemen to whom Article 6 applies.

Article 8 makes provision in the case of an election to reckon war service for widows' and children's benefits as well as for personal benefits.

Article 9 identifies those firemen in respect of whom, on receipt of the information specified in Article 10, a fire authority may pay an additional transfer value to permit their war service to reckon in another scheme. Article 10 provides for the payment of an additional transfer value, calculated in accordance with Article 11.

Schedule 1 modifies the 1979 Order in its application to firemen by virtue of this Order. Schedule 2 sets out the categories of qualifying service for the purposes of Article 4. Schedule 3 lists the age factors referred to in Articles 7(2)*(b)* and 11*(b)* for the purpose of calculating respectively the amount of war service reckonable under Article 7 and the additional transfer value payable under Article 10(1).

The Order has effect from 1st April 1978 (retrospection is authorised by sections 12 and 16 of the Superannuation Act 1972).

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