

**2005 No. \***

**PENSIONS**

**The Firefighter's Pension Scheme (Scotland) Amendment Order  
2005**

<i>Made - - - -</i>	<i>*2005</i>
<i>Laid before Parliament</i>	<i>*2005</i>
<i>Coming into force - -</i>	<i>* 2005</i>

The Scottish Ministers, in exercise of the powers conferred by section 26 of the Fire Services Act 1947(a), sections 12 and 16 of the Superannuation Act 1972 (b) and of all other powers enabling them in that behalf hereby make the following Order:

**Citation, commencement and extent**

**Citation, commencement and application**

**1.**—1) This Order may be cited as the Firefighters' Pension Scheme (Amendment) (Scotland) Order 2005.

(1) This Order shall come into force on [XXXXXX 2005], but the amendments set out in the Schedule to this Order shall have effect from 2<sup>nd</sup> August 2005, except that—

(a) the following amendments shall have effect from [XXXXXX 2005]—

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**a** 1947 c.41; to which there are amendments not relevant to this Order.. The functions of the Secretary of State were transferred to the Scottish Ministers by virtue of the Scotland act 1998 (Transfer of functions to the Scottish Ministers etc) Order 1999 (" the 1999 Order"), article 2 and Schedule 1, (SI 1999/1750); approval of the Treasury is not required by virtue of the 1999 Order, article 2.

**b** 1972 c.11; section 16 applies section 12 with the necessary modifications to orders under section 26 of the Fire Services Act 1997.

- (i) the amendment made by paragraph 9, in so far as it relates to rule A13 (relating to normal pension age);
  - (ii) the amendments made by paragraph 7(a) and (b)(i), paragraph 73(d), in so far as it relates to the insertion of paragraphs (5) and (6) of rule L1, and paragraphs 76, 77 and 90(b) (relating to the prevention of duplication of certain awards); and
  - (iii) the amendment made by paragraph 82 (insertion of Part LA: scheme administration);
- (b) the amendment made by paragraph 15(c) (relating to deferred pensions) shall have effect from 1 October 2004 and
- (c) the amendment made by paragraph 24 (relating to limiting awards to widows) shall have effect from 1st March 1992.

(2) The amendments made by this Order apply only in relation to the Firefighters' Pension Scheme as it has effect in Scotland (a).

**Amendment of the Firefighters' Pension Scheme (Scotland only)**

2. The Firefighters' Pension Scheme set out in Schedule 2 to the Firemen's Pension Scheme Order 1992(b) shall be amended in accordance with the Schedule to this Order.

A member of the Scottish Executive

St Andrew's House  
Edinburgh

**SCHEDULE 1**

**Article 2**

**AMENDMENT OF THE FIREFIGHTERS' PENSION SCHEME  
(SCOTLAND ONLY)**

1. In rule A3 (exclusive application to regular firefighters)(c) in paragraph (3), for "a member of a brigade", substitute "an employee of a fire and rescue authority".

2. In rule A4 (application to temporary employment connected with fire services)—

- (a) in paragraph (2), for "fire services", substitute "fire and rescue services"; and
- (b) for paragraph (3), substitute—

"(3) Where this rule applies the person's relevant employment shall be treated for the purposes of this Scheme as employment by a fire and rescue authority and this Scheme applies in relation to the relevant employment as if—

- (a) he were, and his duties were duties as, a regular firefighter,

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(a) The Secretary of State's functions under section 26 of the Fire Services Act 1947, in so far as they were exercisable in relation to Scotland, were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (c.46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 (S.I. 1999/1750).  
 (b) S.I. 1992/129; amended by 1997/2309 and 2851, 1998/1010, SSI 2001/310 and 2004/385.  
 (c) Rule A3 was amended by SSI. 2001/310.

- (b) his pay and role were the same as they would have been had he not ceased to perform duties as a regular firefighter or, where section 10 of the Fire Services Act 1959<sup>(a)</sup> applies, the same as his pay and role as an employee of a fire and rescue authority,
- (c) any reference to [employment with a fire and rescue authority?] were a reference to the relevant employment,
- (d) rules A14, A15 and L2 were omitted, and
- (e) any reference to a fire and rescue authority were a reference to the Secretary of State.”.

**3. In rule A5 (application to permanent employment as instructor)—**

- (a) in paragraph (2), for “fire services”, substitute “fire and rescue services”;
- (b) in paragraph (3)—
  - (i) for “as a member of a brigade”, substitute “by a fire and rescue authority”;
  - (ii) omit sub-paragraph (b);
  - (iii) in sub-paragraph (c), for “fire authority”, substitute “fire and rescue authority”; and
  - (iv) in sub-paragraph (d), for “A13 to”, substitute “A14,”.

**4. In rule A6 (no application to auxiliary firefighter)—**

- (a) for “a member of a brigade”, substitute “an employee of a fire and rescue authority”; and
- (b) for “who is enrolled for service in the brigade which”, substitute “whose employment”.

**5. In rule A7 (reckoning of service for purposes of awards)—**

- (a) in paragraph (1), for “a member of a brigade”, substitute “an employee of a fire and rescue authority”;
- (b) in paragraph (2)(b), for “fire authority”, substitute “fire and rescue authority”; and
- (c) in paragraph (4), for “member of a brigade” (in both places), substitute “employee of a fire and rescue authority”.

**6. In rule A8 (aggregate pension contributions for purposes of awards), in paragraph (1)(a), for “fire authority”, substitute “fire and rescue authority”.**

**7. In rule A9 (qualifying injury)—**

- (a) in paragraph (1), for “Except in rule J4,” substitute “Except in rules J4, L1(5) and (6) and L4B(b),”; and
- (b) in paragraph (2)—
  - (i) for “In rule J4, unless the context otherwise requires,” substitute “In rules J4, L1(5) and (6) and L4B(b)”; and
  - (ii) for “member of a brigade”, substitute “firefighter”.

**8. In rule A10 (disablement)—**

- (a) for paragraph (1A)<sup>(b)</sup>, substitute—
 

“(1A) In determining whether a disablement is permanent, a fire and rescue authority shall have regard to whether the disablement will continue until the person’s normal pension age.”; and
- (b) in paragraph (4), for “fire authority”, substitute “fire and rescue authority”.

**9. For rules A13 (compulsory retirement on account of age) and A14 (compulsory retirement on grounds of efficiency of brigade), substitute—**

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<sup>(a)</sup> 1959 c.44.  
<sup>(b)</sup> Paragraph (1A) was inserted by S.S.I. 2004/385.

**“Normal pension age**

**A13.** The normal pension age of employees of a fire and rescue authority appointed on terms under which they are or may be required to engage in fire-fighting is 55.

**Compulsory retirement of grounds of efficiency**

**A14.** A regular firefighter who—

- (a) has attained the age of 50, and
- (b) has, or but for an election under rule G3 or a failure to make an election under rule G2A would have, completed 25 years’ pensionable service,

may be required by the fire and rescue authority to retire on the grounds that his retention in the fire and rescue service would not be in the general interests of its efficiency.”.

**10.** In rule A15 (compulsory retirement on grounds of disablement)(a), for “fire authority” (in both places), substitute “fire and rescue authority”.

**11.** In rule A16 (effective date of retirement), for “a member of a brigade”, substitute “an employee of a fire and rescue authority”.

**12.** In rule B1(ordinary pension)—

- (a) in paragraph (2)(a), for “joining another brigade”, substitute “taking up employment with another fire and rescue authority”; and
- (b) in paragraph (2)(b)—
  - (i) for “fire authority”, substitute “fire and rescue authority”; and
  - (ii) for “chief officer”, substitute “chief fire officer”.

**13.** In rule B2 (short service awards), for paragraph (1), substitute—

“(1) This rule applies, unless immediately before his retirement an election under rule G3 not to pay pension contributions had effect, to a regular firefighter who—

- (a) retires on or after attaining the age of 65,
- (b) is entitled to reckon at least 2 years' pensionable service, and
- (c) is not entitled to any other pension or gratuity under this Part.”.

**14.** In rule B3 (ill-health award)—

- (a) in paragraph (2)(a) and (b), after calculated, insert “subject to paragraph (3); and
- (b) after paragraph (2), insert—

“(3) Where the person holds the role of Group Manager or a superior role, the calculation required by paragraph (2)(a) or (b) (as the case may be) shall be made as if his normal pension age were 60.”.

**15.** In rule B5 (deferred pension)—

- (a) in paragraph (2)—
  - (i) for “a member of a brigade”, substitute “an employee of a fire and rescue authority”;
  - (ii) for “joining another brigade”, substitute “taking up employment with another fire and rescue authority; and
  - (iii) after “calculated”, insert “subject to paragraph (3A)”;
- (b) in paragraph (3)—

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(a) Rule A15 was amended by S.I. 1997/2309.

- (i) in sub-paragraph (b), for “rejoining his brigade”, substitute “re-employment with his fire and rescue authority; and
  - (ii) after “calculated”, insert “subject to paragraph (3A)”;
- (c) after paragraph (3), insert—
- “(3A) Where the person holds the role of Group Manager or a superior role, the calculation required by paragraph (2) or (3) shall be made as if his normal pension age were 60.”; and
- (d) in paragraph (4)(b), after “he becomes permanently disabled”, insert “for engaging in firefighting or performing any other duties appropriate to his former role as a firefighter”.
- 16.** In rule B6 (repayment of aggregate pension contributions), in paragraph (1), —
- (a) for “a member of a brigade”, substitute “an employee of a fire and rescue authority”; and
  - (b) for “joining another brigade”, substitute “taking up employment as a regular firefighter with another fire and rescue authority”.
- 17.** In rule B7 (commutation - general provision)—
- (a) for “fire authority” (in each place), substitute “fire and rescue authority”;
  - (b) for paragraph (5)(b), substitute “(b) he retires at normal pension age (see rule A13 (normal pension age).”;
  - (c) omit paragraph (5)(c).
- 18.** In rule B8 (commutation – small pensions)(a), in paragraph (1), for “fire authority”, substitute “fire and rescue authority”.
- 19.** In rule B9 (allocation), for “fire authority” (in each place), substitute “fire and rescue authority”.
- 20.** In rule B11 (deduction of tax from certain awards), for “fire authority”, substitute “fire and rescue authority”.
- 21.** In rule B13 (part-time members)—
- (a) after “calculated”, insert “subject to paragraph (2)”;
  - (b) renumber the existing provision, as so amended, as paragraph (1); and
  - (c) after that paragraph, insert—
- “(2) Where the person holds the role of Group Manager or a superior role, the calculation required by paragraph (1) shall be made as if his normal pension age were 60.”.
- 22.** In rule C1 (spouse’s ordinary pension), for “fire authority” (in each place), substitute “fire and rescue authority”.
- 23.** In rule C3 (spouse’s augmented award)—
- (a) for “fire authority” (in both places), substitute “fire and rescue authority”; and
  - (b) in paragraph (5)—
    - (i) for “rule C2(2) to (5) does not apply”, substitute “paragraphs (3) to (5) of rule C2 do not apply”; and
    - (ii) for “holding the rank of firefighter in the brigade maintained by the London Fire and Civil Defence Authority”, substitute “employed as a firefighter by the London Fire and Emergency Planning Authority”.
- 24.** For rule C5 (limitation on award to widow by reference to date of marriage), substitute—

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(a) Rule B8(1) was amended by S.S.I. 2001/310.

**“Limitation on award to spouse by reference to date of marriage**

**C5.—**(1) A surviving spouse is not entitled to an ordinary pension under rule C1, a special award under rule C2, an augmented award under rule C3 or an accrued pension under rule C4 unless he or she was married to the deceased during a period before he or she last ceased to be a regular firefighter.

(2) A surviving spouse who, but for paragraph (1), would be entitled to a pension or other award mentioned in that paragraph, is instead entitled to a pension calculated in accordance with Part IV of Schedule 3.”.

**25.** For rule C6 (widow’s requisite benefit and temporary pension), substitute—

**“Spouse’s requisite benefit and temporary pension**

**C6.—**(1) This rule applies where—

- (a) a person entitled to reckon less than 2 years' pensionable service who is or has been a regular firefighter and by whom pension contributions have at any time been payable under rule G2 dies, leaving a surviving spouse, after the beginning of the tax year in which he or she attained or would have attained state pensionable age, and
- (b) neither rule C2 nor rule C4 applies.

(2) Where this rule applies the surviving spouse is entitled—

- (a) in respect of the first 13 weeks following the death, to a temporary pension, and
- (b) after the last of those 13 weeks, to a requisite benefit pension.

(3) The weekly amount of the temporary pension is A - B, where—

A is the weekly amount, immediately before the deceased died, of his or her pensionable pay or, as the case may be, his or her pension or pensions (including any increase under the Pensions (Increase) Act 1971(a), and

B is the weekly amount of any children's allowances payable in respect of his or her death.

(4) The requisite benefit pension shall be calculated in accordance with Part V of Schedule 3.

(5) If—

- (a) the deceased died while serving as a regular firefighter, and
- (b) the amount of the capitalised value of the requisite benefit pension, as calculated by the Government Actuary, is less than that of his average pensionable pay,

the surviving spouse is entitled to a gratuity equal to the difference between those amounts.”.

**26.** In rule C8 (limitations where spouses living apart), for “fire authority” (in both places), substitute “fire and rescue authority”.

**27.** In rule C9 (effect of remarriage), for “fire authority” (in both places), substitute “fire and rescue authority”.

**28.** In rule D5 (child’s allowance or special gratuity: limitations), for “fire authority” (in both places), substitute “fire and rescue authority”.

**29.** In rule E2 (adult dependent relative’s special pension) for “fire authority” (in both places), substitute “fire and rescue authority”.

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(a) 1971 c. 56.

30. In rule E3 (dependent relative’s gratuity), in paragraph (3), for “fire authority”, substitute “fire and rescue authority”.

31. In rule E4 (payment of balance of contributions to estate), in paragraph (4), for “fire authority”, substitute “fire and rescue authority”.

32. For rule E5 (gratuity in lieu of surviving spouse’s pension), substitute—

**“Gratuity in lieu of surviving spouse’s pension**

**E5.**—(1) Where the amount of any pension payable under Part C, together with any increase under the Pensions (Increase) Act 1971, does not exceed £260, or any greater amount prescribed by regulations for the time being in force under section 12C(1) of the Pension Schemes Act 1993(a), the fire and rescue authority may commute the pension for a gratuity.

(2) Where—

- (a) a surviving spouse is entitled to a pension under rule C1 or C2, and
- (b) the fire and rescue authority are satisfied that there are sufficient reasons, and
- (c) the surviving spouse consents,

the fire and rescue authority may commute for a gratuity the pension or so much of it as may be commuted without contravening rule E7.

(3) A fire and rescue authority may under this rule commute a pension for a gratuity only when the pension first becomes payable.

(4) A gratuity under this rule shall be calculated in accordance with such guidance as is provided for the purpose by the Government Actuary.”.

33. In rule E6 (gratuity in lieu of child’s allowance), for “fire authority” (in both places), substitute “fire and rescue authority”.

34. In rule E7 (limitation on discretion to commute pension or allowance for gratuity), in paragraph (2), for “fire authority”, substitute “fire and rescue authority”.

35. In rule E9 (flat-rate awards)—

(a) in paragraph (2), after “applies”, insert “and the deceased died before 2<sup>nd</sup> August 2005.”;

(b) after paragraph (2), insert—

“(2A) Subject to paragraph (3), where paragraph (1)(a) or (b) applies and the deceased retired on or after 2<sup>nd</sup> August 2005, the amount of the pension is—

- (a) if his last role was at a level not higher than Watch Manager A (Case A), £379.78;
- (b) if his last role was at a level higher than Watch Manager A but not higher than Area Manager A (Case B), £494.54; and
- (c) in any other case (Case C), £594.18,

increased, in each case, in accordance with paragraph (7).”;

(c) in paragraph (3)(b), for the words after “April 1975”, substitute—

“and would have become entitled to reckon at least 10 years’ pensionable service had he continued to serve until—

- (i) he could have been required to retire on account of age; or
- (ii) if he died on or after 2<sup>nd</sup> August 2005, normal pension age,

the amount specified in, as the case may be, paragraph (2)(a), (b) or (c) or paragraph (2A)(a), (b) or (c), is increased by £29.91.”;

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(a) 1993 c.48. Section 12C was inserted by the Pensions Act 1995 (c.26), section 136(5).

- (d) in paragraph (6), for “fire authority”, substitute “fire and rescue authority”; and
- (e) in paragraph (9), for “the sums referred to in paragraph (2)(a), (b) and (c)”, substitute “the amounts specified in sub-paragraphs (a), (b) and (c) of paragraphs (2) and (2A)”.

**36.** In rule F1 (reckoning of and certificates as to pensionable service)(a)—

- (a) in paragraph (3), for “fire authority”, substitute “fire and rescue authority”; and
- (b) in paragraph (7), for “resumes service in his former brigade”, substitute “resumes employment with his former fire and rescue authority”.

**37.** In rule F2 (current service)—

- (a) for paragraphs (1) and (2), substitute —

“(1) Subject to paragraphs (2) and (3), a person serving as a regular firefighter is entitled to reckon as pensionable service—

- (a) any period of service after 1st August 2005, as a regular firefighter in the employment of a fire and rescue authority, except a period during which pension contributions were not payable under rule G2, and
- (b) if he served as a regular firefighter in a brigade after 31st March 1972 and before 2<sup>nd</sup> August 2005, any period of service in that brigade, except a period during which pension contributions were not payable under rule G2, and
- (c) if he was serving in a brigade both on and immediately before 1st April 1972, any period he was entitled to reckon immediately before that date**(b)**.

- (2) A person is not entitled to reckon as pensionable service by virtue of paragraph (1)—

- (a) if he ceases employment with a fire and rescue authority after 1<sup>st</sup> August 2005, and again takes up employment with the authority, any period of service before he [last] took up such employment, or
- (b) if he left a fire brigade after 31st March 1972 and—
  - (i) rejoined the brigade before 2<sup>nd</sup> August 2005, or
  - (ii) took up employment with a fire and rescue authority on or after that date, any period of service before he last rejoined the brigade or, as the case may be, took up employment with the authority, or
- (c) any period of absence from duty as a regular firefighter as a result of sickness or injury certified by a qualified medical practitioner to be due to his own misconduct, or
- (d) subject to paragraph (3) and rule F2A, any period of absence from duty without pay, or
- (e) any period of maternity or adoption leave in respect of which the person has the right to, but does not, pay contributions under rule G2A.”; and

- (b) in paragraph (3), for the words from the beginning to “is serving”, substitute “The fire and rescue authority which employs a person”.

**38.** In rule F2A(c) (maternity, paternity and adoption leave), for “fire authority” (in both places), substitute “fire and rescue authority”.

**39.** In rule F3 (previous service reckonable without payment)—

- (a) in paragraph (a) for “a brigade”, substitute “employment by a fire and rescue authority; and

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(a) Rule F1 was amended by S.I. 1997/2851.

(b) Fire and rescue authorities were established on 2nd August 2005 under the Fire (Scotland) Act 2005. Before that date, the provision of fire services was the responsibility of fire authorities under the Fire Services Act 1947 (c. 41, to which there are amendments not relevant to this Order).

(c) Rule F2A was inserted by S.S.I. 2004/385.

- (b) in paragraph (b), for “resumed service as a regular firefighter in the brigade”, substitute “again taken up employment with the fire and rescue authority as a regular firefighter”.

**40. In rule F4 (previous service reckonable on payment)—**

- (a) for paragraph (1), substitute—

“(1) A person who—

- (a) has retired from employment with a fire and rescue authority without a pension and without any transfer value or cash equivalent becoming payable by the authority, and
- (b) has within 12 months, with the written consent, applied for before retiring, of the authority from which he retired, joined another fire and rescue authority as a regular firefighter, and
- (c) within 6 months of joining the other authority, or such longer period as the other authority may allow, has undertaken to pay the required amount in accordance with paragraph 1 of Part 1 of Schedule 6,

is entitled to reckon as pensionable service the period he was entitled to reckon when he retired.”

- (b) for paragraphs (3) and (4), substitute—

“(3) A person who—

- (a) has retired from employment by a fire and rescue authority with no pension other than an ill-health pension the unsecured portion of which has been terminated as mentioned in rule K1(3), and
- (b) has again taken up employment as a regular firefighter with that or another fire and rescue authority, and
- (c) within 6 months of taking up that employment, or such longer period as his employing authority may allow, has undertaken to pay in accordance with paragraph 1 of Part I of Schedule 6 a sum calculated in accordance with paragraph 2 of that Part,

is entitled to reckon as pensionable service the period he was entitled to reckon when he retired.

(4) A person who—

- (a) has retired from employment by a fire and rescue authority with a deferred pension, and
- (b) has by written notice to the authority relinquished the pension, and
- (c) has again taken up employment as a regular firefighter with that or another fire and rescue authority, and
- (d) within 6 months of taking up that employment, or such longer period as his employing authority may allow, has undertaken to pay in accordance with paragraph 1 of Part I of Schedule 6 the required amount described in paragraph (2),

is entitled to reckon as pensionable service the period he was entitled to reckon when he retired.”; and

- (c) in paragraph (5), in sub-paragraph (a), for “the fire authority maintaining the brigade from which”, substitute “the fire and rescue authority from whose employment”.

**41. In rule F5 (period during which injury pension was payable)—**

- (a) for paragraph (1), substitute—

“(1) A person who—

- (a) retired from a brigade before 2<sup>nd</sup> August 2005, or from employment with a fire and rescue authority on or after that date, and became entitled to an injury pension, and

- (b) resumed service as a regular firefighter in that or another brigade before 2<sup>nd</sup> August 2005, or took up employment with a fire and rescue authority on or after that date, in the circumstances and within the period mentioned in rule K1(1) to (4), and
- (c) within 6 months of his resuming service, or such longer period as the fire authority, or as the case may be, the fire and rescue authority, may allow, has undertaken to pay the required amount in accordance with paragraph 1 of Part I of Schedule 6,

is entitled to reckon as pensionable service the period during which he was entitled to the injury pension (“the pension period”).”; and

- (b) in paragraph (2), after “rank he held”, insert “or, as the case may be, role he had”.

**42.** In rule F6A (previous service reckonable following actionable loss)(a), for “fire authority” (in each place), substitute “fire and rescue authority”.

**43.** In rule F6B (calculation of amount of restitution payment)(b), for “fire authority” (in each place), substitute “fire and rescue authority”.

**44.** In rule F7 (receipt of transfer value)(c)—

- (a) in paragraph (1)—
  - (i) for “fire authority”, substitute “fire and rescue authority”; and
  - (ii) for “has become a regular firefighter in the brigade maintained by them” substitute “has taken up employment with them as a regular firefighter”; and
- (b) in paragraph (4), in the definition of “B”, for “fire authority”, substitute “fire and rescue authority”.

**45.** In rule F8 (transfer payments between fire authorities)(d), after paragraph (1), insert—

“(1A)Where—

- (a) after 31<sup>st</sup> July 2005, a person who retired from a brigade before 2<sup>nd</sup> August 2005 (“the first employment”) takes up employment as a regular firefighter with a fire and rescue authority, or
- (b) a person retires from employment with a fire and rescue authority (“the first FRA”) and takes up employment as a regular firefighter with another fire and rescue authority (“the second FRA”), and
- (c) in either case becomes entitled under rule F4 to reckon as pensionable service the period he was entitled to reckon when he retired,

the authority responsible for the person in the first employment or, as the case may be, the first FRA, shall, subject to paragraph (2), pay to the second FRA a sum calculated in accordance with Part III of Schedule 6.”.

**46.** In rule F9 (payment of transfer values)(e)—

- (a) in paragraph (1)—
  - (i) for “fire authority”, substitute “fire and rescue authority”; and
  - (ii) in sub-paragraph (a), for “serve as a regular firefighter in the brigade maintained by them”, substitute “be employed by the authority as a regular firefighter”;
- (b) in paragraph (2)—
  - (i) for “fire authority”, in the first place those words appear, substitute “fire and rescue authority”; and

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(a) Rule F6A was inserted by S.I. 1997/2851.  
 (b) Rule F6B was inserted by S.I. 1997/2851.  
 (c) Rule F7 was amended by S.S.I. 2001/310.  
 (d) Rule F8 was amended by S.S.I. 2001/310.  
 (e) Rule F9 was amended by S.S.I. 2001/310.

- (ii) for “the fire authority”, in the second place those words appear, substitute “the authority”; and
  - (c) in paragraphs (5)(a) and (6)(b), for “fire authority”, substitute “fire and rescue authority”.
- 47.** In rule G1 (pensionable pay and average pensionable pay), for paragraph (1), substitute—
- “(1) Subject to paragraph (2), the pensionable pay of a regular firefighter is the amount determined in relation to the performance of the duties of his role (whether as a whole-time or part-time employee).”.
- 48.** In rule G2 (pension contributions), for “fire authority” (in both places), substitute “fire and rescue authority”.
- 49.** In rule G2A (optional pension contributions during maternity and adoption leave)(a)—
- (a) in paragraph (3)—
    - (i) for “fire authority” (in the first place those words appear), substitute “fire and rescue authority”; and
    - (ii) for “fire authority” (in the second and third places those words appear, substitute “authority”;
  - (b) in paragraphs (5) and (7), for “fire authority” (in each place), substitute “fire and rescue authority”.
- 50.** In rule G3 (election not to pay pension contributions), for “fire authority”, in each place, substitute “fire and rescue authority”.
- 51.** In rule G5 (purchase of increased benefits)—
- (a) in paragraph (2)(c) and (d), for “retirement date”, substitute “normal pension age”; and
  - (b) omit paragraph (3).
- 52.** In rule G6 (election to purchase increased benefits)(b)—
- (a) in paragraph (1), for “fire authority” (in both places), substitute “fire and rescue authority”;
  - (b) in paragraph (2), for “retirement date”, substitute “normal pension age”;
  - (c) in paragraph (4)—
    - (i) for “fire authority” (in both places), substitute “fire and rescue authority”; and
    - (ii) in sub-paragraph (a), omit “of brigade”; and
  - (d) for paragraph (5), substitute—
 

“(5) An election under this rule—

    - (a) takes effect, subject to paragraph (3)(b), on the day on which the written notice is received by the fire and rescue authority, and
    - (b) is irrevocable.”.
- 53.** In rule G7 (payment of periodical contributions for increased benefits)—
- (a) in paragraphs (1)(a) and (2), for “retirement date”, substitute “normal pension age”; and
  - (b) in paragraph (4), for “fire authority”, substitute “fire and rescue authority”.
- 54.** In rule G8 (effect of payment for increased benefits)—
- (a) in paragraph (2)(c), for “retirement date”, substitute “normal pension age”;
  - (b) in paragraph (4)(a), for “a member of a brigade”, substitute “an employee of a fire and rescue authority”; and

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(a) Rule G2A was inserted by S.S.I. 2004/385.

(b) Rule G6 was amended by S.S.I. 2001/310.

- (c) in paragraph (6), for “retirement date”, substitute “normal pension age”.
- 55.** In rule H1 (determination by fire authority)—
- (a) for “fire authority” (in each place), substitute “fire and rescue authority”; and
  - (b) in paragraph (2A)(a), in sub-paragraph (b), for “the member”, substitute “the employee”.
- 56.** In rule H2 (appeal to board of medical referees)(b), for “fire authority” (in each place), substitute “fire and rescue authority”.
- 57.** In rule H3 (appeal to Crown Court or Sheriff), for “fire authority” (in each place), substitute “fire and rescue authority”.
- 58.** In rule I3 (awards on death of servicemen), in paragraph (3), for “fire authority”, substitute “fire and rescue authority”.
- 59.** In rule I4 (servicemen who resume service as regular firefighters), for “fire authority”, substitute “fire and rescue authority”.
- 60.** In rule I5 (servicemen who do not resume service in their former brigade)—
- (a) in paragraph (1)—
    - (i) for “service in his former brigade”, substitute “employment with his former fire and rescue authority”; and
    - (ii) for “his former brigade” (in the second place where those words appear), substitute “the employment of that authority”.
  - (b) in paragraph (3), for “(former fire authority’s consent to joining new brigade)”, substitute “(former fire and rescue authority’s consent to taking up employment with new fire and rescue authority)”.
- 61.** In rule I6 (pensionable service), for “during his forces period to serve in his former brigade”, substitute “in the employment of his former fire and rescue authority throughout his forces period”.
- 62.** In rule I7 (pension contributions), in paragraph (1), for “to serve in his former brigade”, substitute “in the employment of his former fire and rescue authority”.
- 63.** In rule J1 (guaranteed minimum pensions), in paragraph (3)(b), after “fire authority” insert “or the fire and rescue authority, as the case may be”.
- 64.** In rule J3 (whole-time member of brigade who is not a regular firefighter)(c)—
- (a) in paragraph (1)—
    - (i) for “member of a brigade” (in the first place where those words appear), substitute “employee of a fire and rescue authority”; and
    - (ii) for “a member of the brigade”, substitute “an employee of the authority”;
  - (b) in paragraph (2), for “the fire authority”, substitute “the fire and rescue authority”;
  - (c) in paragraph (3), for “the brigade, the fire authority”, substitute “that employment, the fire and rescue authority”;
  - (d) in paragraph (5)(a), for “fire authority”, substitute “fire and rescue authority”; and
  - (e) in paragraph (7)(a), for “a regular firefighter of the rank of, as the case may be, fireman or firewoman”, substitute “employed in the role of firefighter”.
- 65.** In rule J4 (part-time member of brigade)—
- (a) in paragraph (1)—

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(a) Paragraph (2A) was inserted by S.S.I. 2004/385.  
 (b) Rule H2 was amended by S.I. 1997/2309.  
 (c) Rule J3 was amended by S.S.I. 2004/385.

- (i) for “This”, substitute “Subject to paragraph (1A), this”; and
- (ii) for “a retained or volunteer member of a brigade”, substitute “employed by a fire and rescue authority as a retained firefighter or who was a volunteer firefighter”;
- (b) after paragraph (1), insert—
  - “(1A) Paragraph (1) does not apply where the person was also employed by the authority as a regular firefighter.”;
- (c) in paragraph (3)—
  - (i) for “This”, substitute “Subject to paragraph (3A), this”; and
  - (ii) for “a retained or volunteer member of a brigade”, substitute “employed by a fire and rescue authority as a retained firefighter or who is or has been a volunteer firefighter”;
- (d) after paragraph (3), insert—
- (e) “(3A) Paragraph (3) does not apply where the person was also employed by the authority as a regular firefighter.”; and
- (f) in paragraph (7)—
  - (i) for “member of a brigade”, substitute “employee of a fire and rescue authority”; and
  - (ii) for sub-paragraph (a), substitute—
    - “(a) was employed in the same role as the retained or volunteer firefighter and had the same service in that role”.

**66.** In rule J5 (members of brigade other than regular firefighters-supplementary), in paragraph (2), for “member of a brigade”, substitute “person”.

**67.** In rule K1 (cancellation of ill-health and injury pensions)—

- (a) in paragraph (1)—
  - (i) for “the fire authority”, substitute “the fire and rescue authority”; and
  - (ii) in sub-paragraph (c), for “could not have been required to retire on account of age”, substitute “would not have attained normal pension age”;
- (b) in paragraph (2), for “The fire authority”, substitute “The fire and rescue authority”; and
- (c) in paragraph (4)—
  - (i) for “service in the brigade”, substitute “employment with the fire and rescue authority”; and
  - (ii) for sub-paragraph (b), substitute—
    - “(a) the fire and rescue authority shall permit him to resume service forthwith in a role at a level equivalent to, or higher than, that which he had when he retired with the pension, and”.

**68.** In rule K2 (reassessment of injury pension), for “fire authority” (in both places), substitute “fire and rescue authority”.

**69.** In rule K3 (reduction of award in case of default), for “fire authority”, substitute “fire and rescue authority”.

**70.** In rule K4 (withdrawal of pension during service as a regular firefighter)—

- (a) for “fire authority”, substitute “fire and rescue authority”; and
- (b) for “serving as a regular firefighter in any brigade”, substitute “employed as a regular firefighter by any fire and rescue authority”.

**71.** In rule K5 (withdrawal of pension on conviction of certain offences)—

- (a) for “fire authority” (in each place), substitute “fire and rescue authority”; and
- (b) for “a member of the brigade”, substitute “an employee of a fire and rescue authority”.

**72.** In the heading to Part L, omit “AND FINANCIAL PROVISIONS”.

**73.** In rule L1 (authorities responsible for payment of awards)(a)—

(a) in paragraph (1)—

(i) for “fire authority”, substitute “fire and rescue authority”; and

(ii) at the end, insert “or, where his employment ceased before 1st October 2004, by the fire and rescue authority which inherited the liabilities of the fire authority which last employed him;

(b) in paragraph (2)—

(i) for “as a member of a brigade”, substitute “by a fire and rescue authority”; and

(ii) for “the fire authority”, substitute “the authority”;

(c) in paragraph (3), for “fire authority”, substitute “fire and rescue authority”; and

(d) for paragraph (4), substitute—

“(4) In this Scheme “the relevant fire and rescue authority”, in relation to a pension credit member, means—

(a) the fire and rescue authority who employ the pension debit member from whose rights the pension credit member’s pension credit is derived at the time when the pension sharing order takes effect, or

(b) if he is not then employed by a fire and rescue authority, the fire and rescue authority by whom he was last employed or, where his employment ceased before 1st October 2004, by the fire and rescue authority which inherited the liabilities of the fire authority which last employed him.

(5) Subject to paragraph (6), an award payable in respect of a qualifying injury sustained by a person who is employed as both a regular firefighter and a retained firefighter shall be paid—

(a) where the injury was sustained in the course of his regular employment, by the fire and rescue authority which employs him as a regular firefighter;

(b) where the injury was sustained in the course of his retained employment, by the fire and rescue authority which employs him as a retained firefighter;

(c) where the injury is of such a nature that it cannot be attributed solely to either his regular employment or his retained employment—

(i) by such one of his employing authorities as may be agreed; or

(ii) by both of them, in such proportion as may be agreed; or

(iii) in default of agreement, in equal proportions.

(6) An award payable to a person in respect of both a qualifying injury sustained in the course of his regular employment and a different qualifying injury sustained in the course of his retained employment, shall be paid—

(a) by such one of his employing authorities as may be agreed; or

(b) by both of them, in such proportion as may be agreed; or

(c) in default of agreement, in equal proportions.”.

**74.** Omit rule L2 (expenses and receipts of fire authorities).

**75.** In rule L3 (payment of awards)—

(a) in paragraph (1)—

(i) for “fire authority” (in the first place those words appear), substitute “fire and rescue authority”; and

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(a) Rule L1 was amended by S.S.I. 2001/310.

- (ii) for “the fire authority” (in the second place those words appear), substitute “the authority”; and
- (b) in paragraphs (7), (8) and (9), for “fire authority”, substitute “fire and rescue authority”.

**76.** In rule L4 (prevention of duplication)(a), omit paragraph (2)(c).

**77.** After rule L4, insert—

**“Prevention of duplication: other injury awards for persons who are both regular and retained firefighters**

**L4A.—**(1) This rule applies in relation to a person employed as both a regular firefighter and a retained firefighter who is entitled to both—

- (a) an ill-health award under rule B3 from the fire and rescue authority which employs him as a regular firefighter; and
- (b) an ill-health and injury award under rules B3 and B4, as they have effect as mentioned in rule J4(2) (“the rule J4 award”), from the fire and rescue authority which employs him as a retained firefighter.

(2) The fire and rescue authority which employs the person as a regular firefighter shall pay the award under rule B3 in full and, subject to paragraph (3), the authority which employs him as a retained firefighter shall pay only the injury element of the rule J4 award.

(3) Where the amount awarded under rule B3 is less than the amount which, but for paragraph (2), would have been paid to the person as the ill-health element of the rule J4 award, the fire and rescue authority which employs him as a retained firefighter shall pay him an amount equal to the amount of the difference.

**Prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters**

**L4B.—**(1) This rule applies where—

- (a) a person employed as both a regular firefighter and a retained firefighter dies (whether during or after such employment); and
- (b) a qualifying injury sustained in the course of such employment is certified by an independent qualified medical practitioner as the cause of death; and
- (c) in consequence of the person’s death, another person becomes entitled not only to an award of a description mentioned in paragraph (2), but also to an award of a description mentioned in paragraph (3).

(2) The descriptions mentioned in this paragraph are—

- (a) a spouse’s ordinary pension under rule C1,
- (b) a spouse's accrued pension under rule C4
- (c) a spouse’s requisite benefit and temporary pension under rule C6,
- (d) a spouse's award under rule C7 (award where no other award is payable),
- (e) a child's ordinary allowance under rule D1, and
- (f) a child's accrued allowance under rule D4.

(3) The descriptions mentioned in this paragraph are—

- (a) a spouse’s special award under rule C2 (whether or not by virtue of rule J4(4)),
- (b) a spouse’s augmented award under rule C3 (whether or not by virtue of rule J4(4)),
- (c) a child’s special allowance under rule D2 (whether or not by virtue of rule J4(5)), and

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(a) Rule L4 was amended by S.S.I. 2001/310.

(d) a child's special gratuity under rule D3 (whether or not by virtue of rule J4(5)).

(4) Subject to paragraph (5), the award of the description in paragraph (2) shall be paid in full, and the award of the description in paragraph (3) shall not be paid.

(5) Where the award of the description in paragraph (3) would be of greater value, that award shall be paid in full and the award of the description in paragraph (2) shall not be paid.”.

**78.** In rule L5 (payments of awards – supplementary)—

(a) for “fire authority” (in each place), substitute “fire and rescue authority”; and

(b) in paragraph (8)(b), for “a member of a brigade”, substitute “an employee of a fire and rescue authority”.

**79.** After Part L, insert the following Part—

## “PART LA

### SCHEME ADMINISTRATION, RECEIPTS AND EXPENSES

#### **Scheme administrator for purposes of Part 4 of Finance Act 2004**

**LA1.** For the purposes of Part 4 (pension schemes, etc) of the Finance Act 2004(a), [each fire and rescue authority shall be a][the fire and rescue authorities shall jointly be the] scheme administrator of both this Scheme and the 1973 Scheme.

#### **Expenses and receipts of fire and rescue authorities**

**LA2.** Each fire and rescue authority shall maintain an account showing all sums received or paid by them under or for the purposes of this Scheme, or in consequence of rights acquired and obligations incurred by them under the 1973 Scheme and previous Firemen's Pension Schemes.”.

**80.** In rule N4 (calculation of appropriate amount), in paragraph (5), for “fire authority”, substitute “fire and rescue authority”.

**81.** In rule N7 (discharge of pension credit liability), in paragraph (1), for “fire authority” substitute “fire and rescue authority”.

**82.** In rule N8 (adjustment to the amount of the pension credit-payments made without knowledge of the pension credit), in paragraph (b) for “fire authority” substitute “fire and rescue authority”.

**83.** In rule N9 (implementation period for discharge of pension credit), in paragraph (1) for “fire authority” (in each place) substitute “fire and rescue authority” .

**84.** In rule N10 (failure to discharge liability in respect of pension credit within the implementation period and death of ex-spouse before implementation has taken place) for “fire authority” (in each place) substitute “fire and rescue authority”.

**85.** In rule N11 (appropriate rights and pension credit benefits under this Scheme), for “fire authority” (in each place) substitute “fire and rescue authority”.

**86.** In rule N14 (pension transfers), for “fire authority” (in each place) substitute “fire and rescue authority”.

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(a) 2004 c.12. See section 270 for the meaning of “scheme administrator”.

**87.** In rule N15 (charges in respect of pension sharing costs), for “fire authority” (in each place) substitute “fire and rescue authority”.

**88.** In rule N19 (application of rules of this Scheme to pension credit members etc), for “rule L2 (expenses and receipts of fire authorities)” substitute “rule LA2 (expenses and receipts of fire and rescue authorities)”.

**89.** In Schedule 1 (interpretation), in Part I(glossary of expressions)(a)—

- (a) insert, after the entry for the expression “eligible person”—
  - (i) in the first column “fire and rescue authority”, and
  - (ii) in the second column, “A fire and rescue authority under the Fire (Scotland) Act 2005”;
- (b) omit the entry (both columns) for the expression “Rank”;
- (c) in the definition of “Regular firefighter”, in the second column—
  - (i) after “after 1<sup>st</sup> October 2004”, insert “and before 2<sup>nd</sup> August 2005”; and
  - (ii) at the end insert “In relation to any time on or after 2<sup>nd</sup> August 2005, the expression means a person who is employed—
    - (a) by a fire and rescue authority as a firefighter (whether whole-time or part-time), other than as a retained or volunteer firefighter, and
    - (b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting) and whose employment is not temporary.”;
- (d) omit the entry (both columns) for the expression “Relevant fire authority”;
- (e) after the entry for the expression “Regular firefighter”, insert—
  - (i) in the first column, “Relevant fire and rescue authority”; and
  - (ii) in the second column, “Construe in accordance with rule L1(4)”;
- (f) in the entry for the expression “Retained member of a brigade”, in the first and second columns, for “of a brigade”, substitute “of the fire and rescue service”;
- (g) after the entry for the expression “Relevant service in the armed forces”, insert—
  - (i) in the first column, “ “Retained member”, except in the expression “retained member of a brigade”; and
  - (ii) in the second column, “A member of the fire and rescue service who is obliged to attend—
    - (a) at the station to which he is attached for training, development and maintenance duties for an average of 2 hours each week and, promptly, at any time, in response to a call; and
    - (b) at any incident or other occurrence, or at any other station for standby duties during the employee’s period of availability.”;
- (h) omit the entry (both columns) for the expression “Retirement date”; and
- (i) in the entry for the expression “Volunteer member of a brigade”, in the first and second columns, for “of a brigade”, substitute “of the fire and rescue service”.

**90.** In Schedule 2 (personal awards)—

- (a) in Part III (ill-health pension), in paragraph 5(1)(a), for “could be required to retire on account of age”, substitute “reached normal pension age”;
- (b) in Part V (injury awards), for paragraph 2, substitute—

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(a) Part 1 of Schedule 1 was amended by S.S.I. 2001/310.

“2.—(1) The amount of a person’s injury pension under rule J4 shall be reduced by three quarters of the amount of any other pension referable to his service as a firefighter (including, if rule L4A applies in his case, the aggregate of the pension to which he is entitled under rule B3 and the amount of the difference referred to in rule L4A(3)).

(2) In any other case, the amount of a person's injury pension calculated in accordance with paragraph 1 shall be reduced by three quarters of the amount of any other pension calculated by reference to pensionable service reckonable by virtue of the period of service during which he received the qualifying injury or, where an election under rule G3 had effect or the person failed to make an election under rule G2A, by the amount of any other pension which would otherwise have been so calculated.

(3) For the purposes of sub-paragraphs (1) and (2), any reduction of the other pension—

- (a) under rule B7 or B9 (commutation and allocation),
- (b) under Part VIII of this Schedule, or
- (c) by virtue of a pension debit,

shall be disregarded.”.

(c) in Part VI (deferred pension), in paragraph 2(3)—

- (i) omit “he could”;
- (ii) at the beginning of sub-paragraph (a), insert “he could”; and
- (iii) for sub-paragraph (b), substitute “he reached normal pension age”;

(d) in Part VIA (calculation of awards for part-time service), in paragraph 2, for “member of a brigade” (in each place), substitute “employee of a fire and rescue authority”; and

(e) in Part VII (reduction of pension at state pensionable age), in paragraph 2(4), for “fire authority”, substitute “fire and rescue authority”.

**91.** In Schedule 3 (awards on death- spouses)—

(a) in Part II (spouse’s special pension), in paragraph 2(2), for “member of a brigade”, substitute “employee of a fire and rescue authority”;

(b) for Part IV (pension for widow of post-retirement marriage), substitute—

## “ PART IV

### PENSION FOR SURVIVING SPOUSE OF POST-RETIREMENT MARRIAGE

**1.**—(1) Where the surviving spouse would otherwise have been entitled to an ordinary pension under rule C1 or a special award under rule C2 or an augmented award under rule C3, the amount of his or her pension under rule C5 shall, subject to sub-paragraph (2), be calculated in accordance with paragraph 1 of Part I of this Schedule in the same way as that of an ordinary pension.

(2) For the purposes of this paragraph, paragraph 1 of Part I has effect—

- (a) as if the reference in sub-paragraph (1)(a) to the base pension were a reference to the appropriate proportion of the base pension, and
- (b) where the surviving spouse would otherwise have been entitled to a special award under rule C2 or an augmented award under rule C3, as if the base pension were the ill-health pension to which the deceased would have been entitled if he or she had, when he or she ceased to serve, retired because he or she was disabled in circumstances entitling him or her to such a pension.

**2.**—(1) Where the surviving spouse would otherwise have been entitled to an accrued pension under rule C4, the amount of his or her pension under rule C5 shall, subject to sub-

paragraph (2), be calculated in accordance with Part III of this Schedule in the same way as that of an accrued pension.

(2) For the purposes of this paragraph, paragraph 2 of Part III has effect as if references to the deceased's deferred pension were references to the greater of—

- (a) the appropriate proportion of the deferred pension, and
- (b) subject to sub-paragraph (3), 1/160th of the deceased's average pensionable pay multiplied by the period in years of so much of his or her pensionable service as is reckonable by virtue of service or employment after 5th April 1978 (“relevant pensionable service”).

(3) Where some or all of the deceased's service, which is reckonable as pensionable service, was part-time service, the amount at sub-paragraph (2)(b) shall be calculated using the formula in paragraph 2 of Part VIA of Schedule 2.

(4) In making the calculation mentioned in sub-paragraph (3), for the value of A there shall be substituted “A is the amount calculated under paragraph 2(2)(b) of Part IV of Schedule 3 if the average pensionable pay was the pay the deceased would have received had he or she been a whole-time employee of a fire and rescue authority” and in relation to B, C and D only pensionable service after 5th April 1978 shall be counted.

3. The appropriate proportion mentioned in paragraphs 1 and 2 is the proportion which the deceased's relevant pensionable service bears to his or her total pensionable service.”; and

- (c) in Part V (spouse's requisite benefit pension), in paragraph 3, for “member of a brigade”, substitute “employee of a fire and rescue authority”.

**92.** In Schedule 4 (awards on death-children), in Part II (child's special allowance), in paragraph 4(2), for “member of a brigade”, substitute “employee of a fire and rescue authority”.

**93.** In Schedule 5 (awards on death-additional provisions)—

- (a) in Part I (adult dependent relative's special pension), in paragraph 3(2)(a), for “member of a brigade”, substitute “employee of a fire and rescue authority”;
- (b) in Part II (gratuity in lieu of surviving spouse's pension), in paragraph 1(b) and 2, for “fire authority”, substitute “fire and rescue authority”; and
- (c) in Part III (gratuity in lieu of child's allowance), in paragraph 1, for “fire authority”, substitute “fire and rescue authority”.

**94.** In Schedule 6 (pensionable service and transfer values)—

- (a) in Part I (payments in respect of previous service)—
  - (i) in paragraph 1(1)—
    - (aa) for “he could be required to retire on grounds of age”, substitute “reaches normal pension age”; and
    - (bb) for “fire authority”, substitute “fire and rescue authority”;
  - (ii) in paragraph 1(2), for “fire authority”, substitute “fire and rescue authority”;
  - (iii) in paragraph 1(4), for “fire authority”, substitute “fire and rescue authority”; and
  - (iv) in paragraph 2(1), in the definition of “A”—
    - (aa) for “member of a brigade”, substitute “employee of a fire and rescue authority”; and
    - (bb) for “whole-time member”, substitute “whole-time employee”;
- (b) in Part II (service reckonable on receipt of transfer value)—
  - (i) in paragraph 1(1), for “fire authority”, substitute “fire and rescue authority”; and

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(a) Paragraph 3(2) was inserted by S.S.I. 2004/385, paragraph 39.

- (ii) in paragraph 4(a)(a) for “member of a brigade” (in both places), substitute “employee of a fire and rescue authority”;
- (c) in Part III (transfer payments between fire authorities)—
  - (i) in paragraphs 2, 4 and 5(b), after “brigade”, insert “or fire and rescue authority (as the case may be)”;
  - (ii) in paragraph 6, after “brigade”, insert “or, as the case may be, from employment with the first fire and rescue authority”.

**95. In Schedule 9 (appeals)(b)—**

- (a) in Part I (appeal to board of medical referees), for “fire authority” (in each place), and “fire authority’s”, substitute “fire and rescue authority” and “fire and rescue authority’s”; and
- (b) in Part II (appeal tribunals), in paragraph 1, after “divisional officer (Grade 1), insert “or a retired employee of a fire and rescue authority, other than the authority by whom the appellant is or was employed, who [immediately?] before his retirement had a [role in area management [or brigade management?][managerial role senior to that of group manager?].”.

**EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Firefighters’ Pension Scheme, set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992, as it has effect in Scotland (“the Scheme”). Except as mentioned below, the amendments have effect from 1st October 2004. The power to give amendments retrospective effect is conferred by section 12 of the Superannuation Act 1972.

Many of the amendments specified in the Schedule to this Order are consequential on the revocation of the Fire Services Act 1947 and its replacement in Scotland by the Fire (Scotland) Act 2005 (“the 2005 Act”). For example, references to fire authorities (unless retained for transitional purposes) have been amended to references to fire and rescue authorities and references to brigades have been amended to references to fire and rescue services or, depending on the particular context, to fire and rescue authorities.

The amendments which are not consequential on the 2005 Act are:

- (c) the replacement of rule A13, which provided for compulsory retirement at 55 for those of Station Officer or lower rank, and at 60 for those of Assistant Divisional Officer rank or higher rank, with a rule providing for a normal pension age of 55, whatever the individual’s role. This amendment has effect from [xxxxxxxxxxxxxxxxx 2005];
- (d) (b) the correction of an anomaly in the operation of rule B5(4)(b), which allowed an individual who was found to be unfit for fire-fighting, but able to carry out other duties, to resign with a deferred pension prior to re-deployment, and immediately request early payment of that pension on the ground that he or she was permanently unfit for fire-fighting. This amendment has effect from 1<sup>st</sup> October 2004;
- (e) (c) the substitution of rules C5 and C6 to reflect the fact that the surviving spouse of a deceased firefighter may be either a widow or a widower. The opportunity has been taken to correct an error in rule C5, which limited by reference to the date of the marriage awards payable to widows. That correction removes the reference to rule C7. The [substitutions have] [correction in rule C5 has] effect from 1st March 1992 (the date on which the current Scheme came into force);
- (f) (d) the substitution of rule E5, which relates to the payment to a surviving spouse of a gratuity instead of a pension. The former paragraphs (2) and (3), which applied in

(a) Paragraph 4 was inserted by S.S.I. 2004/385, paragraph 41.  
 (b) Schedule 9 was amended by S.I.1997/2309.

relation to widows and widower, respectively, have been amalgamated, and minor drafting changes have been made;

- (g) (e) the amendment of rule L4, which prevents the duplication of certain injury awards. The main change of substance is to prevent duplicate injury awards in cases where the individual is employed both as a regular firefighter and as a retained firefighter (whether by the same fire and rescue authority or by different fire and rescue authorities). New rules L4A and L4B are introduced to deal expressly with the prevention of duplication in those cases. Consequential amendments are made to rules A9 (qualifying injury) and L1 (authorities responsible for payment of awards), and to Part V of Schedule 2 to the Scheme (adjustments where two fire and rescue authorities are responsible for pension payments);
- (h) (f) the insertion of a new Part LA, which contains material formerly in rule L2, and new material consequential on section 270 of the Finance Act 2004, which requires pension schemes to identify a scheme administrator to the Inland Revenue. This amendment has effect from [xxxxxxxxxxxxxxxxxxxxxx 2005];
- (i) (g) the substitution of Part IV of Schedule 3, which reflects the substitution of rule C5;and
- (j) (h) the amendment of references to members of brigades by rank to references to employees of fire and rescue authorities by role. These amendments reflect a new grading structure introduced by the Fire Service Appointments and Promotion (Scotland) Regulations 2004 (S.S.I. 2004/527).

[The Firefighters' Pension Scheme set out in Schedule 2 to the Firemen's Pension Scheme Order 1992, as amended by the provisions of this Order, may be viewed at [*website details*].]

A full regulatory impact assessment .....