STATUTORY INSTRUMENTS

2017 No. 892

PUBLIC SERVICE PENSIONS, ENGLAND

The Firefighters' Pension Schemes and Compensation Scheme (Amendment) (England) Order 2017

Made - - - - 7th September 2017

Laid before Parliament 11th September 2017

Coming into force in accordance with article 1

The Secretary of State makes the following Order in exercise of the powers conferred by sections 26(1), (2) and (5) of the Fire Services Act 1947(**1**), sections 34(1) to (4) of the Fire and Rescue Services Act 2004(**2**), and section 12 of the Superannuation Act 1972(**3**), as applied by section 16(3) of that Act.

The Secretary of State has consulted in accordance with section 34(5) of the Fire and Rescue Services Act 2004.

(**1**) 1947 c. 41; repealed by sections 52 and 54 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c. 21). Subsections (1) to (5) of section 26 continue to have effect for the purposes of the Firefighters' Pension Scheme, in relation to England and Scotland by virtue of S.I. 2004/2306 and in relation to Wales by virtue of S.I. 2004/2917. The name of the scheme was changed to the Firefighters' Pension Scheme by S.I. 2004/2306. Section 26 of the Fire Services Act 1947 was amended by section 1 of the Fire Services Act 1951 (c. 27), section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65), section 33 of, and Schedule 3 to, the Theft Act 1968 (c. 60), sections 16 and 29 of, and Schedule 8 to, the Superannuation Act 1972 (c. 11), sections 100 and 101 of, and Schedule 27 to, the Social Security Act 1973 (c. 38), section 1 of, and Schedule 1 to, the Social Security (Consequential Provisions) Act 1975 (c. 18), section 32(2) of the Magistrates' Courts Act 1980 (c. 43), section 1 of the Police and Firemen's Pensions Act 1997 (c. 52), section 256 of, and Schedule 25 to, the Civil Partnership Act 2004 (c. 33), and article 2 of S.I. 1976/551. 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 S.I. 1999/1750 . The Secretary of State's functions under section 26 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).

(**2**) 2004 c. 21; the powers conferred by section 34 of the Fire and Rescue Services Act 2004 are now vested in Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by virtue of section 62 of that Act. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers. Powers under section 34 of the Fire and Rescue Services Act 2004 are now vested in Scottish Ministers so far as they are exercisable in relation to Scotland (S.I. 2005/849). Section 34 was amended by paragraph 27 of Schedule 8 to the Public Service Pension Act 2013 (c. 25).

(**3**) 1972 c. 11; section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7). Section 16 was repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 but continues to have effect, in relation to England and Scotland, for the purposes of the scheme set out in S.I. 1992/129.

Citation, commencement and application

1.—(1) This Order may be cited as the Firefighters' Pension Schemes and Compensation Scheme (Amendment) (England) Order 2017 and comes into force on 6th October 2017.

(2) The amendments made by—

(a) articles 2(2), (3), (4)(a) and (5); and

(b) articles 3 and 4;

have effect from 1st April 2015.

(3) The amendments made by article 2(4)(b) have effect from 1st December 2006.

(4) The amendment made by article 5 has effect from 30th September 2016.

(5) This Order applies in relation to England only.

Amendment of the Firemen's Pension Scheme Order 1992

2.—(1) Schedule 2 to the Firemen's Pension Scheme Order 1992(**4**) is amended as follows.

(2) In Part B (personal awards), in rule B1A(3)(**5**) (continuous service pension)—

(a) in sub-paragraph (a), for "paragraph (1)(a)", substitute "paragraph (1)(b)"; and

(b) for sub-paragraph (b), substitute—

"(b) paragraph (1) of this rule applies as if the age ascertained under sub-paragraph (a) above were substituted for "normal pension age.".

(3) In Part C (awards on death-spouses), in rule C9 (effect of remarriage)—

(a) in paragraph (1), for "A person", substitute "Subject to paragraphs (3) to (5), a person";

(b) in paragraph (2), for "Where a person", substitute "Subject to paragraphs (3) to (5), where a person"; and

(c) after paragraph (2), insert—

"(3) Paragraphs (1) and (2) do not apply if the person ("P"), entitled to a pension or gratuity under this Part—

(a) marries, remarries, forms a civil partnership or a subsequent civil partnership on or after 1st April 2015; and

(b) immediately before the beginning of that marriage, remarriage or formation of a civil partnership or subsequent civil partnership the condition set out in paragraph (4) is satisfied.

(4) The condition in this paragraph is that—

(a) P is either—

(i) entitled to a pension under rule C1 (spouse's ordinary pension), rule C4 (spouse's accrued pension), rule C5 (limitation on award to spouse or civil partner by reference to date of marriage or formation of partnership), rule C6 (spouse or civil partner's requisite benefit and temporary pension) or rule C8 (limitation where spouses living apart); or

(ii) receiving a gratuity under rule C8(7); and

(b) the deceased spouse or civil partner of P ("D") died as a result of an injury—

(**4**) S.I. 1992/129; amended by S.I. 1997/2309, 1997/2851, 1998/1010, 2001/3649, 2001/3691, 2004/1912, 2006/1810, 2006/3433, 2008/214, 2012/953, 2013/1392, 2015/579, S.I. 2016/878.

(**5**) Rule B1A was inserted by S.I. 2015/589.