1991 No. 312

FIRE SERVICES

Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1991

Made . . . . . *5th July 1991*

Coming into operation . . *1st September 1991*

The Department of the Environment, in exercise of the powers conferred on it by Articles 2(2) and 10(1) and (4) of the Fire Services (Northern Ireland) Order 1984(**a**) and of every other power enabling it in that behalf, with the approval of the Department of Finance and Personnel(**b**), makes the following Order:

Citation and commencement

1. This Order may be cited as the Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1991 and shall come into operation on 1st September 1991.

Interpretation

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

Variation of the Scheme of 1973

3.—(1) The Schedule to this Order has effect for varying the Scheme of 1973.

(2) Part II of the Schedule, except paragraphs 2 and 14(*a*), has effect as from 6th April 1988.

(3) A reference in the Schedule to a numbered Article or Schedule is a reference to the Article or Schedule identified by that number in the Scheme of 1973.

Elections in respect of protected benefits

4.—(1) This Article applies to a person—

(*a*) to whom a protected benefit is being paid or may become payable, and

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(**a**) S.I. 1984/1821 (N.I. 11); *See* Art. 2(2) for definition of "the Department"
(**b**) Formerly the Department of Finance. *See* S.I. 1982/338 (N.I. 6) Art. 3
(**c**) S.R. & O. (N.I.) 1973 No. 393; the relevant amending Orders are S.R. 1978 No. 24, S.R. 1979 Nos. 88 and 387, S.R. 1980 Nos. 62 and 208, S.R. 1981 Nos. 143 and 320, S.R. 1982 No. 418, S.R. 1983 No. 116, S.R. 1984 No. 99, S.R. 1987 No. 424, S.R. 1988 No. 185 and S.R. 1989 No. 383

(*b*) who is placed in a worse position than he would have been in if a variation made to the Scheme of 1973 by virtue of Article 4 (''the relevant variation'') had not applied in relation to the protected benefit.

(2) A protected benefit is one which is being paid or may become payable by the Authority under the Scheme of 1973, to or in respect of a person who was employed as a regular fireman but ceased to be so employed, or died, before 1st September 1991.

(3) A person to whom this Article applies may, by giving written notice to the Authority within 3 months after 1st September 1991, elect that the relevant variation shall not apply in relation to the protected benefit.

Sealed with the Official Seal of the Department of the Environment on 5th July 1991.

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

The Department of Finance and Personnel approves this Order.

Sealed with the Official Seal of the Department of Finance and Personnel on 17th July 1991.

(L.S.) *Doreen Brown*
Assistant Secretary

PART I

TRANSFER VALUE PROVISIONS

1. In Article 7 (meaning of certain expressions) insert in the appropriate place—

(*a*) " ''approved scheme'' means superannuation arrangements falling within Article 65A(2)(**a**);'';

(*b*) " ''cash equivalent'' means a cash equivalent mentioned in sub-paragraph (1) of paragraph 12 of Schedule 1A to the Social Security Pensions (Northern Ireland) Order 1975(**b**), and ''part cash equivalent'' means the cash equivalent of any part of the benefits described in that sub-paragraph which is prescribed under sub-paragraph (2A) (continuation in employment after termination of pensionable service);'';

(*c*) " ''club scheme'' means superannuation arrangements falling within Article 65A(2)(*a*), (*b*) or (*e*);''; and

(*d*) " ''personal pension scheme'' has the meaning given in Article 2(2) of the Social Security (Northern Ireland) Order 1986(**c**);''.

2. In Article 44A(**d**) (previous service reckonable under current interchange arrangements)—

(*a*) in paragraph (4) for the words after ''pensionable service'' substitute ''calculated—

(*a*) if he became a regular fireman before 1st January 1986 and the former superannuation arrangements were not a club scheme, in accordance with paragraphs 1 to 4 of Part II of Schedule 7(**e**) and Part III of that Schedule, and

(*b*) in any other case, in accordance with paragraph 5 or 6 of Part II of Schedule 7.''; and

(*b*) for paragraph 5(*b*)(ii) substitute—

''(ii) if a transfer value such as is mentioned in paragraph (1)(*c*) were paid to the Authority its amount would be at least A × B, where—

A is the annual amount of the pension to which he would in that event be entitled under Article 78A(**f**), and

B is the factor ascertained from the Table by reference to his age at the date on which the Authority is requested to accept the transfer value.

(**a**) Article 65A was inserted by paragraph 7 of Part II of Schedule 1 to S.R. 1979 No. 88

(**b**) S.I. 1975/1503 (N.I. 15); Schedule 1A was inserted by the Social Security (Northern Ireland) Order 1985, S.I. 1985/1209 (N.I. 16), Schedule 1, paragraph 3, and sub-paragraph (2A) was inserted by the Social Security (Northern Ireland) Order 1986 S.I. 1986/1888 (N.I. 18), Schedule 9, paragraph 24

(**c**) S.I. 1986/1888 (N.I. 18)

(**d**) Article 44A was inserted by paragraph 4 of Part II of Schedule 1 and amended by paragraph 19 of Part III of Schedule 2 to S.R. 1979 No. 88

(**e**) Schedule 7 was substituted by paragraph 13 of Part II of Schedule 1 and paragraph 33 of Part III of Schedule 2 to S.R. 1979 No. 88

(**f**) Article 78A was inserted by paragraph 25 of Part III of Schedule 2 to S.R. 1979 No. 88

TABLE

Age	*Factor*
29 or under	8
30 to 39	9
40 to 49	10
50 or over	12

3. In Article 65A (payment of transfer values under interchange arrangements)—

(*a*) in paragraph (1) delete the words "subject to paragraph (3),";

(*b*) in paragraph (2) for the words "Parts I and III of Schedule 7" substitute "Part IA of Schedule 7";

(*c*) delete paragraph (3); and

(*d*) after paragraph (4)(**a**) insert—

"(5) Notwithstanding anything in this Article, a transfer value may not be paid if the fireman has acquired a right to a cash equivalent, unless—

(*a*) the service to which the cash equivalent relates includes service before 1st September 1991, and

(*b*) the right has been exercised by requiring the whole of the cash equivalent to be paid to the person responsible for the management of an approved scheme which is not a club scheme.

(6) Notwithstanding anything in this Article, a transfer value may not be paid if the fireman—

(*a*) has acquired a right to a part cash equivalent, and

(*b*) would on taking that right remain entitled to a deferred pension.

(7) In this Article references to retirement include references to electing under Article 50AA(1) not to pay pension contributions.".

4. In Part I of Schedule 7 (transfer value payable by the Authority under Article 65 or 65A)—

(*a*) in the heading delete the words "or 65A",

(*b*) in paragraph 1(1) delete the words "or 65A", and

(*c*) delete paragraph 10.

5. After Part I of Schedule 7 insert—

"PART IA

TRANSFER VALUE PAYABLE UNDER ARTICLE 65A

1. A transfer value is calculated on the cash equivalent basis if it is calculated in the manner prescribed under paragraph 14 of Schedule 1A to the Social Security Pensions (Northern Ireland) Order 1975 for the calculation of cash equivalents.

2. Where—

(*a*) a transfer value is payable to the person responsible for the management of a club scheme or a personal pension scheme, or

(**a**) Paragraph 4 of Article 65A was added by paragraph 24 of Part III of Schedule 2 to S.R. 1979 No. 88

(*b*) a transfer value is payable to the person responsible for the management of an approved scheme which is not a club scheme and none of the service to which it relates is service before 1st September 1991,

and no right to a cash equivalent was acquired, the transfer value is to be calculated on the cash equivalent basis.

3. Where—

(*a*) a transfer value is payable to the person responsible for the management of an approved scheme which is not a club scheme, and

(*b*) the service to which it relates includes service before 1st September 1991, and

(*c*) no right to a cash equivalent was acquired,

the amount of the transfer value is the total of A and the greater of B and C, where—

A is a notional transfer value, calculated on the cash equivalent basis, in respect of the person's service after 31st August 1991,

B is a notional transfer value, calculated on the cash equivalent basis, in respect of his service before 1st September 1991, and

C is a notional transfer value, calculated as if Part I had continued after 31st August 1991 to apply to transfer values payable under Article 65A, in respect of his service before 1st September 1991.

4. Where—

(*a*) a transfer value is payable to the person responsible for the management of an approved scheme which is not a club scheme, and

(*b*) the service to which it relates includes service before 1st September 1991, and

(*c*) a right to a cash equivalent was acquired,

the amount of the transfer value is D − E, where—

D is the transfer value that would have been payable if paragraph 3 had applied, and

E is the amount of the cash equivalent.

5. Where—

(*a*) a transfer value is payable to the person responsible for the management of a personal pension scheme, and

(*b*) a right to a part cash equivalent was acquired,

the transfer value is to be calculated on the cash equivalent basis but as if the person's service as a regular fireman had ended with 5th April 1988.''.

6. In Part II of Schedule 7 (pensionable service reckonable under Article 44A on receipt of transfer value by the Authority)—

(*a*) in paragraph 1(1) for the words ''The period'' substitute ''Where Article 44A applies, the period'' and after the words ''in accordance with'' insert ''this paragraph and paragraphs 2, 3 and 4 of''; and

(*b*) after paragraph 4 add—

''5.—(1) Where Article 44A applies and the transfer value was received from the person responsible for the management of a club scheme, the fireman is entitled to reckon as pensionable service a period equal to the period that would enable the Authority to pay a transfer value, calculated on the cash equivalent basis, of the same amount as the one received.