**1988 No. 144**

# FIRE SERVICES

## The Firemen's Pension Schemes (War Service) (Transferees) Order (Northern Ireland) 1988

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| *Made* . . . . . | *8th April 1988* |
| *Coming into operation* . . | *1st June 1988* |

The Department of the Environment in exercise of the powers conferred on it by Article 10(1)(3) 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 makes the following Order:—

### PART I

### GENERAL

*Citation*

**1.** This Order may be cited as the Firemen's Pension Schemes (War Service) (Transferees) Order (Northern Ireland) 1988.

*Commencement and effect*

**2.** This Order shall come into operation on 1st June 1988 and shall have effect as from 1st April 1978.

*Interpretation*

**3.**—(1) In this Order—

"the Order of 1980" means the Firemen's Pension Schemes (War Service) Order (Northern Ireland) 1980(**b**);

"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**).

(2) Where by virtue of Part II or III the Order of 1980 applies in the case of a fireman—

(*a*) references in the Order of 1980 to paragraph (3) of Article 8(3) and to pensionable service as mentioned in that paragraph, shall be construed as references to Parts II to IV and to the appropriate period of pensionable service reckonable by virtue thereof, and

(*b*) the Order of 1980 shall have effect subject to the modifications set out in Schedule 1.

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(a) S.I. 1984/1821 (N.I. 11)
(b) S.R. 1980 No. 91
(c) S.R. & O. (N.I.) 1973 No. 393. The relevant amending orders are S.R. 1976 No. 216, S.R. 1979 Nos. 88, 310 and 387, S.R. 1980 Nos. 62 and 208, S.R. 1981 No. 320, S.R. 1982 No. 418, S.R. 1984 No. 99 and S.R. 1987 No. 424

(3) Subject to paragraph (2) this Order shall be construed as one with the Order of 1980.

(4) Without prejudice to paragraph (3), in this Order any reference to a fireman includes a reference to a deceased fireman, and 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.

**4.** The public service pension scheme referred to in Articles 7(1)(*b*) and 10(1) and (4) is an occupational pension scheme as defined in Article 2(2) of the Social Security Pensions (Northern Ireland) Order 1975(**a**), 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

**5.**—(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 Scheme of 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,

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 that scheme analogous to those of the Order of 1980, and ''war service'' has the same meaning as in those provisions.

(3) The Authority may require that any claim that a fireman satisfies the requirement specified in paragraph (1)(*c*) and any claim as to the duration of

(a) S.I. 1975/1503 (N.I. 15)

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 Authority shall be entitled to rely on that certificate.

**6.**—(1) Subject to paragraphs (2) and (3), the Order of 1980 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 Order of 1980, the Scheme of 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 in Great Britain or police or fire service in Northern Ireland;

(*b*) 35·25% thereof, where the qualifying service is National Health Service in Great Britain or service in health and personal social services in Northern Ireland, or local government service in Great Britain or Northern Ireland; and

(*c*) 34·85% thereof, where the qualifying service is teaching service in Great Britain or Northern Ireland.

(3) Where a fireman so elects, his pension shall, notwithstanding paragraph (2), 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 Order of 1980 (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

**7.**—(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 4;

(*c*) in respect of whom a transfer value has been paid to the 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 Scheme of 1973; and

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

**8.**—(1) Subject to paragraphs (2) and (3), the Order of 1980 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 Order of 1980, the Scheme of 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 follows—

(*a*) the basic transfer value shall be determined by deducting from the additional transfer value calculated by reference to his war service 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 column (2) of 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 paragraph (2), 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 Order of 1980 (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

**9.**—(1) Where a fireman to whom Part II or III applies elects for the purposes excepted in Article 8(1) of the Order of 1980 (calculation of widow's pension and child's allowance) as well as under that paragraph, the Scheme of 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 6 or 8, 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 Scheme of 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 18(3) of, and paragraph 4 of Part I of Schedule 3 to, the Scheme of 1973 shall not apply in his case; and

(*b*) for the purposes of Part IV of Schedule 2 to the Scheme of 1973 and Article 12 of the Order of 1980, 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

**10.**—(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 4 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 "Scheme of 1978" 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 as described in Article 6(1) of the Order of 1980;

(*b*) that a transfer value has been paid in respect of him under Article 65A(**a**) of the Scheme of 1973 or under the Superannuation (Fire and Specified Services) Interchange Rules 1972(**b**) (or the corresponding provisions of any previous instruments); and

(*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 Scheme of 1978.

(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 Scheme of 1978,

(hereinafter referred to as his earlier service), a transfer value shall not be payable under this Part unless it appears to the 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.

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(**a**) As inserted by S.R. 1979 No. 88 Sch. 1 Part II para. 7
(**b**) S.I. 1972/521; there are no amending instruments