1984 No. 99

FIRE SERVICES

The Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1984

Made	*26th March 1984*
Coming into operation . . .	*1st May 1984*

The Department of the Environment in exercise of the powers conferred by section 17(1) and (3B) of the Fire Services Act (Northern Ireland) 1969(**a**) and now vested in it(**b**) and of all other powers enabling it in that behalf and with the approval of the Department of Finance and Personnel(**c**) hereby makes the following Order:

Citation

1. This Order may be cited as the Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1984.

Commencement and effect

2. This Order shall come into operation on 1st May 1984 and shall have effect as from 25th November 1982.

Interpretation

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

Scheme amended

4. The 1973 Scheme shall be amended as follows—

(1) In Articles 29(2) (child's ordinary allowance) and 30(2) (child's special allowance) before "and IV" insert ",IIA".

(2) In Article 31 (child's special gratuity):—

(*a*) in paragraph (1) for "the fireman" substitute ", if male, he";

(*b*) in paragraph (4) delete ", at the date of the father's death,";

(*c*) add after paragraph (4):—

"(5) The said amount shall be calculated as at the date of death of the fireman described in paragraph (1).".

(3) In Article 32(2) (child's accrued allowance) before "III" insert "IIA,".

(4) For Articles 34 (duration of child's allowance) and 35 (limitation on child's award) substitute—

(a) 1969 c. 13 (N.I.) as amended by S.I. 1973/601 (N.I. 9) Article 7(1)
(b) S.R. & O. (N.I.) 1973 No. 504 Article 5(*b*)
(c) Formerly Ministry of Finance. *See* S.R. 1976 No. 281 Article 3 and S.I. 1982/338 (N.I. 6) Article 4
(d) S.R. & O. (N.I.) 1973 No. 393 as amended by S.R. 1980 No. 208 and other amending instruments not relevant for the purpose

"*Limitation on child's award*

34.—(1) A child's allowance or gratuity (other than a gratuity in lieu of an allowance) shall not be granted—

(*a*) to a child born on or after the date on which the fireman ceased to be a regular fireman otherwise than of a marriage which took place before that date (hereinafter referred to as "the relevant date");

(*b*) by virtue of his being a step-child, to the child of a spouse whose marriage to the relevant parent took place on or after the relevant date;

(*c*) by virtue of his being substantially dependent on the fireman, to a child who was not so dependent before the relevant date;

(*d*) by virtue of his being an adopted child, to a child adopted on or after the relevant date;

(*e*) except in the case of a legitimate child of the relevant parent, to a child who was not substantially dependent on that parent at the time of his death;

and, without prejudice to the foregoing, a child's gratuity shall not be granted to a child who attained the age of 17 years before the date of the relevant parent's death unless at that date he is—

(i) undergoing full-time education; or

(ii) in full-time training of at least one year's duration for a trade, profession or calling (hereinafter referred to as "full-time vocational training"); or

(iii) both permanently disabled and substantially dependent on that parent.

(2) Subject to paragraph (3) a child's allowance shall not be payable to a child who has attained the age of 16 years and is in full-time employment, unless he is in full-time vocational training, or to a child who has attained the age of 17 years unless he is—

(*a*) undergoing full-time education; or

(*b*) in full-time vocational training; or

(*c*) permanently disabled, and—

(i) was both permanently disabled and substantially dependent on the relevant parent at the time of his death; or

(ii) became so disabled while in receipt of a child's allowance; or

(iii) the fire authority, having regard to all the circumstances, in their discretion determine to pay a child's allowance to him.

(3) A child's allowance shall not be payable by virtue of paragraph (2)(*a*) or (*b*) to a child who has attained the age of 19 years unless—

(*a*) immediately before the date on which he attained that age he was undergoing full-time education or in full-time vocational training and has at all times thereafter, without any period of interruption been undergoing such education or in such training; or

(*b*) the fire authority, having regard to all the circumstances, in their discretion determine that, notwithstanding any such period of interruption, a child's allowance shall be so payable.

(4) Any reference in this Article to the relevant parent is a reference to the parent in respect of whose death the child's allowance or gratuity would be payable but for the provisions of this Article.

34A.—(1) Where but for Article 34 a child in whose case this paragraph applies would, by reason of his disability, be entitled to a gratuity or an allowance, he shall continue to be so entitled notwithstanding that Article.

(2) Paragraph (1) applies in the case of a child where the relevant parent ceased to be a regular fireman before 1st May 1984.

(3) In paragraph (2) ''relevant parent'' has the same meaning as in Article 34(4).''.

(5) In Article 36(2) for ''father's'' substitute ''parent's''.

(6) Article 77(1)(*b*) shall be omitted.

(7) Part I of Schedule 3 shall be amended as follows—

(*a*) in paragraph 1—

(i) for sub-paragraph (1) substitute—

''(1) Where one of the child's parents is alive, the child's ordinary allowance in respect of the death of a regular fireman (in this Part referred to as the ''relevant parent''), shall, subject to paragraph 5, be determined in accordance with this paragraph'';

(ii) in sub-paragraph (4) for ''father's'' substitute ''relevant parent's'';

(*b*) (i) in paragraph 2(1) for ''father'' substitute ''relevant parent'' and for ''mother'' substitute ''child's other parent'';

(ii) in paragraph 2(4) for ''father's'' substitute ''relevant parent's'';

(*c*) in paragraph 3—

(i) in sub-paragraph (1), for ''father'' substitute ''relevant parent''; and

(ii) in sub-paragraph (2), for ''father's'' substitute ''parent's''; and

(*d*) in paragraph 4(1), for ''the father was serving'' substitute ''the relevant parent is the father and he served before 1st April 1972, and was serving,'' and for ''is'' substitute ''was''.

(8) For Part II of Schedule 3 substitute—

''PART II Article 30

Child's Special Allowance

1.—(1) Where one of the child's parents is alive, a child's special allowance in respect of the death of a regular fireman (in this Part referred to as the ''relevant parent'') shall be determined in accordance with sub-paragraphs (2) and (3).

(2) Subject to sub-paragraph (3), that allowance shall be of an amount equal to 10% of the relevant parent's average pensionable pay.

(3) Where 5 or more children's special allowances are payable in respect of the death of the same person, the allowance shall be an amount equal to 40% of the relevant parent's average pensionable pay divided by the total number of allowances.

2.—(1) Where the relevant parent was the child's only surviving parent or in respect of the period after the death of the child's other parent, a child's special allowance shall be determined in accordance with the following provisions of this paragraph.

(2) Subject to sub-paragraph (3), the allowance shall be an amount equal to 20% of the relevant parent's average pensionable pay.

(3) Where 5 or more children's special allowances are payable in respect of the death of the same person, the allowance shall be an amount equal to 80% of the relevant parent's average pensionable pay divided by the total number of allowances.