1979 No. 88

FIRE SERVICES

Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1979

Made . . . . . 26*th March* 1979

Coming into operation . . . 1*st May* 1979

The Department of the Environment in exercise of the powers conferred by Section 17 of the Fire Services Act (Northern Ireland) 1969(**a**) and now vested in it(**b**) and of every other power enabling it in that behalf and with the approval of the Department of the Civil Service(**c**) hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1979 and shall come into operation on 1st May 1979.

Interpretation

2. In this Order any reference to the Scheme of 1973 is a reference to the Firemen's Pension Scheme (Northern Ireland) 1973 as set out in Appendix 2 to the Firemen's Pension Scheme Order (Northern Ireland) 1973(**d**).

Amendment of the Scheme of 1973

3.—(1) Subject to the provisions of paragraphs (2), (3) and (4) the Scheme of 1973 shall be amended in the manner specified in Schedules 1 and 2 which shall take effect as provided in Article 4.

(2) Nothing in paragraphs 7 and 13 of Part II of Schedule 1 shall affect the operation of Article 65 of the Scheme of 1973 and Schedule 7 thereto in relation to a regular fireman in respect of whom a liability to pay a transfer value under the said Article 65 arose before 1st January 1974.

(3) Nothing in paragraph 13 of Part II of Schedule 1 and paragraph 2 of Part III of Schedule 1 shall affect the operation of Schedules 5 and 7 to the Scheme of 1973 for the purposes of Article 44(4) in relation to a regular fireman who has rejoined or, as the case may be, joined the brigade before 1st May 1979.

(4) Where an award to or in respect of a regular fireman who ceased to be such before 1st May 1979 is, or may become, payable to any person and that person is placed in a worse position than he would have been if this Order had not been made, then, if, before 1st November 1979 notice in writing is given by or on behalf of that person to the Authority, so electing, the Scheme of 1973 shall have effect in relation to that person's award as if this Order had not been made.

(a) 1969 c. 13 (N.I.) as amended by S.I. 1973/601 (N.I. 9) Article 7
(b) S.R. & O. (N.I.) 1973 No. 504 Article 5(*b*) (II, p. 2992)
(c) Formerly a function of the Department of Finance S.R. 1976 No. 281 (II, p. 1339)
(d) S.R. & O. (N.I.) 1973 No. 393 (II, p. 2187) as amended by S.R. 1975 No. 358 (II, p. 1767), 1976 No. 216 (I, p. 997), 1978 No. 24 and 1978 No. 100

Dates from which amendments take effect

4. The amendments referred to in Article 3 shall take effect as follows—

(*a*) for the purposes of Part I of Schedule 1 and Part I of Schedule 2 as from 1st October 1973;

(*b*) for the purposes of Part II of Schedule 1 as from 1st January 1974;

(*c*) for the purposes of Part III of Schedule 1 as from 1st May 1979;

(*d*) for the purposes of Part II of Schedule 2 as from 6th April 1975;

(*e*) for the purposes of Part III of Schedule 2 and subject to the transitional provisions of Part IV of Schedule 2, as from 6th April 1978.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 26th March 1979.

(L.S.) *E. A. Simpson*
Assistant Secretary

The Department of the Civil Service hereby approves the foregoing Order.

Sealed with the Official Seal of the Department of the Civil Service for Northern Ireland on 23rd March 1979.

(L.S.) *J. Armstrong*
Assistant Secretary

SCHEDULE 1

Transfer Arrangements

PART 1

Amendments to the Scheme of 1973 taking effect from 1st October 1973

1. For paragraph (1) of Article 40 there shall be substituted the following paragraph—

"(1) Where a regular fireman retires from the brigade in pursuance of a written notice to the Authority of his intention to retire for the purpose of joining a brigade maintained under the Fire Services Act 1947(e), then, notwithstanding anything in Part II of this Scheme, he shall not, on the occasion of that retirement, be entitled to an award under that Part.".

2.—(1) At the end of Article 53(4) there shall be added the following proviso—

"Provided that nothing in this paragraph shall affect the application of Article 44—

(i) where the fireman retires or has retired as mentioned in Article 40(1), or

(ii) on or after 1st January 1974 in the case of such a fireman as is mentioned in Article 44(8) except to the extent that a repayment would fall to be made to him under that paragraph.".

(2) Any agreement to the reduction of pension, given for the purposes of Article 53(4) before 1st May 1979 shall be treated for the purposes of the Scheme of 1973 as though it had never been given if it is rendered unnecessary by paragraph (1).

3. For paragraph 1(2) of Part II of Schedule 2 there shall be substituted the following paragraph—

"(2) In this Part "pre-1972 pensionable service" means the pensionable service the husband was entitled to reckon otherwise than by virtue of—

(*a*) service as a regular fireman on or after 1st April 1972; or

(*b*) Article 44 in the case of a man who retires or retired otherwise than as mentioned in Article 40(1), where there are satisfied—

(i) on or after 1st October 1973 the conditions specified in Article 44(1) or (4), or

(ii) on or after 1st January 1974, the condition specified in Article 44(1) as it has effect by virtue of Article 44(8),

as the case may be.".

4. For paragraph 4(2)(*b*) of Part I of Schedule 3 there shall be substituted the following paragraph—

"(*b*) an amount calculated as aforesaid but by reference only to the father's pre-1972 pensionable service, that is to say, the pensionable service he was entitled to reckon otherwise than by virtue of—

(i) service as a regular fireman on or after 1st April 1972, or

(ii) Article 44 in the case of a man who retires or retired otherwise than as mentioned in Article 40(1), where there are satisfied—

(*a*) on or after 1st October 1973, the conditions specified in Article 44(1) or (4), or

(*b*) on or after 1st January 1974, the conditions specified in Article 44(1) as it has effect by virtue of Article 44(8),

as the case may be.".

(e) 1947 c. 41

SCHEDULE 1

PART II

Amendments to the Scheme of 1973 taking effect from 1st January 1974

1. At the beginning of Article 1(2) there shall be inserted the words "Save as provided in Article 65A(3),".

2. For paragraph (3) of Article 40 there shall be substituted the following paragraph—

"(3) Where an award under Article 12(4) ceases to be repayable under paragraph (2) and the transfer value is paid otherwise than in accordance with this Scheme there shall continue to be payable so much of the award as is unpaid which—

(*a*) represents a return of such additional or further payments by way of contributions or lump sum as are mentioned in Articles 51, 52 and 53, and

(*b*) would not have been payable had he paid pension contributions at a rate related to 5 per cent of his pensionable pay.".

3.—(1) In paragraph (1)(*a*) of Article 44 the words "or with a deferred pension which he has relinquished under Article 14(2)" shall be omitted.

(2) At the beginning of paragraphs (3) and (4) respectively of Article 44 there shall be inserted the words "subject to Article 53(4)".

(3) At the end of Article 44 there shall be added the following paragraph—

"(8) Where a regular fireman retires or has retired from the brigade with a deferred pension which he has relinquished under Article 12(2) paragraph (1) shall have effect as though

(*a*) he is retiring or has retired without a pension, and

(*b*) the words "within 12 months of so retiring and" in sub-paragraph (*b*) were omitted,

and where, immediately before retiring he is or, as the case may be, was making such additional or further payments by way of contributions as are mentioned in paragraph (2)(*a*) the amount paid by way of such contributions shall be repaid to him by the Authority and he shall be deemed neither to have paid or elected to pay such contributions.".

4. After Article 44 there shall be inserted the following Article—

"Previous service reckonable under current interchange arrangements

44A.—(1) Save as provided in paragraph (2), this Article shall apply to a regular fireman—

(*a*) subject to paragraph (5) who before becoming a regular fireman was in service or employment by virtue of which he was subject to superannuation arrangements in pursuance of which a transfer value may be paid to the Authority (such service or employment and such superannuation arrangements are hereafter in this Article and in Schedule 7 referred to, respectively as "former service" and "former superannuation arrangements");

(*b*) subject to paragraph (3), who last became a regular fireman on or after 1st April 1972, and

(*c*) in respect of whom a transfer value relating to his former service has, in pursuance of his former superannuation arrangements, been paid to the Authority.

(2) This Article shall not apply in the case of a regular fireman who last became such before 1st May 1979 if such a transfer value as is mentioned in paragraph (1)(*c*) was received in his case before 1st January 1974.

(3) If the Authority so determine in the case of a particular regular fireman who last became such on or after 5th July 1948 but before 1st April 1972, this Article shall have effect as if paragraph (1)(*b*) were omitted.

(4) There shall be reckonable by a regular fireman to whom this Article applies, in respect of his former service, a period of pensionable service calculated in accordance with Parts II and III of Schedule 7.

(5) Notwithstanding anything in this Article, the provisions thereof shall not apply where the former service was service as a regular fireman and the regular fireman concerned is entitled to reckon pensionable service under Article 44.".

5. In Article 47(1) after the words "Articles 44" there shall be inserted the words "44A and".

6. For Article 65 there shall be substituted the following Article—

"Payment of Transfer Values between Fire Authorities

65.—(1) Where a regular fireman retires or has retired from the brigade and after again becoming such a fireman in a brigade maintained under the Fire Services Act 1947, becomes entitled under Article 44 to reckon as pensionable service the period of pensionable service he was entitled to reckon on retiring the Authority shall pay to the fire authority maintaining the latter brigade a sum by way of transfer value calculated in accordance with Parts I and III of Schedule 7.

(2) Where previous service is reckonable under Article 44(4) and the person concerned last became a regular fireman before 1st May 1979 paragraph (1) shall have effect as if it authorised but did not require the payment of a transfer value.".

7. After Article 65 there shall be inserted the following Article—

"Payment of Transfer Values under interchange arrangements

65A.—(1) This Article shall apply to a regular fireman—

(*a*) subject to paragraph (3), who retires or who has retired on or after 1st April 1972:

Provided that where he retired before 1st May 1979 a transfer value, calculated otherwise than in accordance with this Scheme, has not been paid before that date;

(*b*) who subsequently, enters or entered service or employment, otherwise than as a regular fireman hereafter in this Article referred to as "new service", by virtue of which he is subject to superannuation arrangements;

(*c*) who—

(i) was not entitled to a pension on retiring from service as a regular fireman, or

(ii) if so entitled, has not received any payment in respect of the pension;

(*d*) who—

(i) has not received a return of pension contributions or a gratuity on retiring from his former brigade, or

(ii) if he has received such an award on retiring has entered the new service within 12 months of retiring or within such longer period as the fire authority maintaining his former brigade may allow in the circumstances and has, within the period mentioned in sub-paragraph (*e*) paid to that authority an amount equal to the said award;

(*e*) who, within 6 months of his entering the new service or within 6 months of 1st May 1979, whichever period last expires, or within such longer period as the Authority may allow in the circumstances of a particular case, has given notice in writing to the fire authority maintaining his former brigade of his desire that this Article should apply in his case; and