1977 No. 213*

FIRE SERVICES

Firemen's Pension Schemes (Amendment) Order (Northern Ireland) 1977

Made . . . . . *22nd July* 1977

Coming into operation . . . *7th September* 1977

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 Finance(c) hereby makes the following Order:

PART I

CITATION, OPERATION AND INTERPRETATION

Citation, commencement and effect

1. This Order may be cited as the Firemen's Pension Schemes (Amendment) Order (Northern Ireland) 1977 and shall come into operation on 7th September 1977 and shall have effect—

(*a*) for the purposes of article 3 as on and from 1st April 1975;

(*b*) for the purposes of article 4 as on and from 1st May, 1975;

(*c*) for the purposes of article 5 as on and from 7th September 1978; and

(*d*) for the purposes of article 6 as on and from 1st December 1976.

Interpretation

2. In this Order—

"The Scheme of 1973" means 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);

"The Scheme of 1971" means the Firemen's Pension Scheme (Northern Ireland) 1971 as set out in the Appendix to the Firemen's Pension Scheme Order (Northern Ireland) 1971(e);

"The Scheme of 1955" means the Scheme set out in the Schedule to the Fire Services (Fire Officers and Firemen) Pensions Order (Northern Ireland) 1955(f); and

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(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 (II, p. 2992)
(c) Formerly the Ministry of Finance: *see* 1973 c. 36 Sch. 5 para. 8(1)
(d) S.R. & O. (N.I.) 1973 No. 393 (II, p. 2187) as amended by S.R. 1975 No. 358 (II, p. 1767) and 1976 No. 216 (I, p. 997)
(e) S.R. & O. (N.I.) 1971 No. 33 (p. 221) as amended by S.R. & O. (N.I.) 1972 No. 157 (p. 908), 1972 No. 379 (p. 1781), 1973 No. 1 (I, p. 1), S.R. 1975 No. 358 and 1976 No. 216 (I, p. 997)
(f) S.R. & O. (N.I.) 1955 No. 181 (p. 198) as amended by S.R. & O. (N.I.) 1971 No. 33, 1972 No. 157, 1972 No. 379, 1973 No. 1, S.R. 1975 No. 358 and 1976 No. 216

* This Order has been replaced by S.R. 1978 No. 24

"The Belfast Fire Brigade Scheme" means the Belfast Fire Brigade Superannuation Scheme made on 1st May 1953 by the Council of the County Borough of Belfast under section 13 of the Fire Services (Amendment) Act (Northern Ireland) 1950(**g**) and that or any Scheme maintained by the said Council under section 26(3) of the Fire Services Act (Northern Ireland) 1969.

PART II

General Amendments

Provisions having effect from 1st April 1975

3. In the Scheme of 1973, article 17 shall be amended as follows:

(*a*) for paragraph (1) there shall be substituted the following paragraph—

"(1) A regular fireman may, in accordance with this Article commute for a lump sum a portion of any pension, other than an injury pension, to which he is or may become entitled, provided, in the case of an ordinary pension, that—

(*a*) he retires when entitled to reckon at least 30 years' pensionable service, or

(*b*) he is required to retire on account of age, or

(*c*) the notice of commutation referred to in paragraph (3) is given with the consent of the Fire Authority and he retires on or after attaining the age of 55 years, or

(*d*) in any other case, he retires on or after 1st April 1975.";

(*b*) in paragraph (3) for the words "limitation contained" there shall be substituted the words "limitations contained in paragraphs (3A) and (6B) and";

(*c*) after paragraph (3) there shall be inserted the following paragraph—

"(3A) A regular fireman whose case does not fall within paragraph (1)(*a*), (*b*) or (*c*) shall not commute such a portion of his ordinary pension that the lump sum calculated by reference thereto in accordance with paragraph (6) (disregarding any reduction in accordance with the proviso thereto) exceeds an amount equal to $2\frac{1}{4}$ times the annual amount of his pension calculated in accordance with Part I of Schedule 1 (disregarding any reduction therein under paragraph (6) or any other provision of this Scheme).";

(*d*) at the end of paragraph (4) there shall be added the following proviso—

"Provided that a person who retired with an ordinary pension on or after 1st April 1975 but before 7th May 1977 whose case does not fall within paragraph (1)(*a*) or (*b*) may give such notice at any time before 7th November 1977."; and

(*e*) after paragraph (6) there shall be inserted the following paragraphs—

"(6A) Where the unsecured portion of an ill-health pension is terminated under article 14 after a notice of commutation in relation to the pension has become effective—

(*a*) it is hereby declared that no reduction shall be made under paragraph (6) in the secured portion of the pension, in so far as it is payable under article 14,

(g) 1950 c. 4 (N.I.)

(*b*) if thereafter, and after 7th September 1977, the person concerned becomes entitled to a pension, other than an injury pension, and is entitled to reckon for the purposes thereof the period of pensionable service reckonable for the purposes of the ill-health pension first mentioned in this paragraph, the unsecured portion of the other pension shall be reduced by the amount by which the ill-health pension would have been reduced if it had not been terminated as aforesaid.

(6B) Where a person wishes to surrender and commute for a lump sum a portion of a pension which falls to be reduced under paragraph (6A)(*b*), the portion which, under paragraphs (3) and (3A), he may commute shall be reduced by the amount of the said reduction.".

Provisions having effect from 1st May 1975

4. In the Scheme of 1973—

(*a*) the following article shall be inserted after article 4—

"*Reckoning of service etc. for purposes of awards*

4A.—(1) Subject to paragraph (2), for the purpose of calculating an award payable to or in respect of a fireman by reference to any period in years (including a period of pensionable or other service)—

(*a*) that period shall be reckoned in completed years and a fraction of a year;

(*b*) a part of a year shall be taken to be that fraction of a year whereof the denominator is 365 and the numerator the number of completed days in that part and, accordingly, a part of a year which includes 29 February in a leap year and comprises 365 days shall be treated as a whole year.

(2) Paragraph (1) shall not apply where the member ceased to serve as such before 1st May 1975, and, in such cases, Schedule 10 shall have effect.";

(*b*) for Part I of Schedule 1 there shall be substituted the following part—

"PART I Article 8

FIREMAN'S ORDINARY PENSION

Subject as hereafter in this Schedule provided, an ordinary pension shall be of an amount equal to 30 sixtieths of the fireman's average pensionable pay with the addition, subject to a maximum of 40 sixtieths, of an amount equal to 2 sixtieths of that pay multiplied by the period in years by which his pensionable service exceeds 25 years.";

(*c*) for Part II of Schedule 1 there shall be substituted the following Part—

"PART II Article 9

FIREMAN'S SHORT SERVICE PENSION

Subject as hereafter in this Schedule provided, a short service pension shall be of an amount which is the aggregate of—

(*a*) an amount equal to a sixtieth of the fireman's average pensionable pay multiplied by the period in years of his pensionable service up to 20 years, and

(*b*) an amount equal to 2 sixtieths of that pay multiplied by the period in years by which his pensionable service exceeds 20 years.";

(*d*) in Part III of Schedule 1, for paragraphs 2, 3 and 4 there shall be substituted, respectively, the following paragraphs—

"2. Where the fireman has less than 5 years' pensionable service, the amount of the pension shall not be less than a sixtieth of his average pensionable pay and, subject as aforesaid, shall be of an amount equal to a sixtieth of that pay multiplied by the period in years of his pensionable service.

3. Where the fireman has 5 or more years', but not more than 10 years', pensionable service, subject to paragraph 5, the pension shall be of an amount equal to 2 sixtieths of that pay multiplied by the period in years of his pensionable service.

4. Where the fireman has more than 10 years' pensionable service, the pension shall be not less than 20 sixtieths of his average pensionable pay and, subject as aforesaid and to paragraph 5, shall be equal to 7 sixtieths of that pay with the addition—

(*a*) of an amount equal to a sixtieth of that pay multiplied by the period in years of his pensionable service up to 20 years, and

(*b*) of an amount equal to 2 sixtieths of that pay multiplied by the period in years by which his pensionable service exceeds 20 years.";

(*e*) in Part IV of Schedule 1, in paragraph 1(*a*) for the words "the number of completed years of pensionable service which he is entitled to reckon;" there shall be substituted the words "the period in years of his pensionable service;";

(*f*) in Part VI of Schedule 1—

(i) in paragraph 2 for the words following "calculated" there shall be substituted the words "in years"; and

(ii) for paragraph 3 there shall be substituted the following paragraph—

"3. The hypothetical pension referred to in paragraph 2 is a pension of an amount which is the aggregate of—

(*a*) an amount equal to a sixtieth of his average pensionable pay multiplied by the period in years of his hypothetical service up to 20 years, and

(*b*) an amount equal to 2 sixtieths of that pay multiplied by the period in years by which his hypothetical service exceeds 20 years.";

(*g*) in Part VII of Schedule 1, in paragraph 1(4) for the words "highest whole number of years in the aggregate period" there shall be substituted the words "the period in years";

(*h*) in Part II of Schedule 2—

(i) for paragraph 4(*a*) there shall be substituted the following paragraph—

"(*a*) an amount which is the aggregate of—

(i) an amount equal to a sixtieth of the husband's average pensionable pay multiplied by the period in years of his pensionable service up to 20 years, and

(ii) an amount equal to 2 sixtieths of that pay, multiplied by the period in years by which his pensionable service exceeds 20 years;";

(ii) for paragraph 5(1) there shall be substituted the following paragraph—

"(1) In this paragraph the following expressions have the meanings hereby respectively assigned to them, that is to say—

"relevant period" means the period (if any) in years by which the fireman's pre-1972 pensionable service falls short of 20 years;

"relevant pensionable service" means a fireman's pensionable service reduced by his pre-1972 pensionable service and expressed in years;

"weighted relevant pensionable service" means a fireman's relevant pensionable service, so much of such service as exceeds the relevant period being counted twice.";

(iii) in paragraph 5(2)(*b*) for the words "a half year for each completed year of" there shall be substituted the words "a half of his"; and

(iv) in paragraph 6 the words "completed years of" shall be omitted in each of the four places where they occur and for the word "exceed" there shall be substituted the word "exceeds";

(*i*) in paragraph 2(2) of Part IV of Schedule 2 the words following "reckonable by him" shall be omitted;

(*j*) in Part I of Schedule 3—

(i) for paragraph 4(2)(*a*) there shall be substituted the following paragraph—

"(*a*) an amount which is the aggregate of—

(i) an amount equal to a sixtieth of the father's average pensionable pay multiplied by the period in years of his pensionable service up to 20 years, and

(ii) an amount equal to 2 sixtieths of that pay multiplied by the period in years by which his pensionable service exceeds 20 years;"; and

(ii) in paragraph 4(3) the words "completed years of" shall be omitted in each of the three places where they occur and for the word "exceed" there shall be substituted the word "exceeds";

(*k*) in Part III of Schedule 3, in paragraph 3(2) the words "each period being reckoned in completed years up to 20 years and in completed half years in so far as it exceeds 20 years" shall be omitted; and

(*l*) after Schedule 9 the following Schedule shall be inserted—

"SCHEDULE 10 Article 4A(2)

RECKONING OF SERVICE ETC. FOR THE PURPOSES OF AWARDS TO OR IN RESPECT OF FIREMEN WHO CEASED TO SERVE BEFORE 1ST MAY 1975

1. This Schedule shall apply for the purposes of the calculation of an award payable to or in respect of a member of a fire brigade who ceased to serve as such before 1st May 1975.

2. For the purposes of Part I of Schedule 1, the period in years by which pensionable service exceeds 25 years shall be computed in completed half-years and, accordingly—

(*a*) a part of a year less than a half shall be ignored, and

(*b*) a part of a year exceeding a half shall be treated as a half.