1976 No. 216

FIRE SERVICES

Firemen's Pension Schemes (Amendment) Order (Northern Ireland) 1976

Made . . . . . 23*rd July* 1976

Coming into operation . . . . 1*st September* 1976

The Department of the Environment for Northern Ireland 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) 1976 and shall come into operation on 1st September 1976 and shall have effect—

(*a*) for the purposes of Part II as on and from 1st April 1972; and

(*b*) for the purposes of Part III as on and from 1st December 1975.

Interpretation

2.—(1) 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);

"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.

(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)
(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) and 1973 No. 1 (I, p. 1) and S.R. 1975 No. 358
(f) S.R. & O. (N.I.) 1955 No. 181 (p. 198)
(g) 1950 c. 4 (N.I.)

(2) Any reference to a rank held by a member of a fire brigade is a reference to the rank held by him immediately before he ceased to serve as such; and the following shall be deemed to be equivalent ranks:

(*a*) Sub-Officer and Section Leader;

(*b*) Station Officer and Company Officer;

(*c*) Assistant Divisional Officer and Senior Company Officer.

PART II

GENERAL AMENDMENTS

Amendment to the Firemen's Pension Scheme Order (Northern Ireland) 1973

3. The Firemen's Pension Scheme Order (Northern Ireland) 1973 shall be amended by inserting after Article 3(2)(*b*) the following:

"(*c*) a person to whom the Scheme as set out in Appendix 2 to this Order does not apply by virtue of Article 1(2)(*d*) of the Scheme.".

Amendments to the Scheme of 1973

4. The Scheme of 1973 shall be amended as follows:

(1) after Article 1(2)(*c*) insert:

"(*d*) a person who was a member of the Belfast Fire Brigade Scheme and who had attained the age of 50 years and had completed 30 years pensionable service and had ceased to pay contributions as provided for in that Scheme unless he notifies the Authority in writing before 1st March 1974 that he wishes this Scheme to apply in his case,";

(2) after Article 12(3) insert:

"(3A). Where a person to whom this Article applies satisfies the conditions of paragraph (2)(*a*) and (2)(*b*) dies without having elected under paragraph (2)(*c*) or, where paragraph (3) applies, dies without having made a repayment required thereby, and, before the expiry of 3 months from the date of his death or such longer period as the Authority may allow as reasonable in the circumstances of the case, there is repaid to the Authority the amount of any award by way of repayment of his aggregate contributions made in his case, then this Scheme shall have effect as if he had been entitled to a deferred pension when he died.";

(3) after Article 50 insert:

"*Additional contribution—completed years*

50A. If a regular fireman to whom Article 1(2)(*d*) applies, exercises the option referred to in Article 1(2)(*c*) then in the application of this Scheme to such a fireman—

(*a*) the liability to pay contributions at the rate specified in Article 50 shall have effect from 1st October 1973; and

(*b*) the amount of completed years of pensionable service referred to in Part VIII of Schedule 1 and in Schedule 6 shall be increased by the length of the period between 1st April 1972 and 30th September 1973 (or such shorter period up to 30th September 1973 where contributions were payable after 1st April 1972 by virtue of the provisions of a previous

Scheme when the period shall commence from the day immediately following the last payment of contributions) and the figure so produced shall be read as the amount of completed years of pensionable service to determine the adjustments set out in the said Schedules.";

(4) in Article 61(3) for the words "within 14 days from the date on which he is supplied by the Authority with a copy of the opinion in pursuance of paragraph (2)" there shall be substituted the words "subject to and in accordance with the provisions of Schedule 9,";

(5) in Part VII of Schedule 1—

(*a*) in paragraph 1(3) for the words "his age on the appointed day in the first column of the said Table" there shall be substituted the words "the age which he had attained at 5th July 1948."; and

(*b*) in paragraph 1(4) for the words from "number of complete years" to "pensionable service" there shall be substituted the words "highest whole number of years in the aggregate period since 5 July 1948, which the person concerned was, when he last retired, entitled to reckon as pensionable service.";

(6) in Part III of Schedule 2 for paragraph 2 there shall be substituted the following paragraph—

"2.—(1) Where, in respect of any week, a pension under section 19 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 is payable to the widow in consequence of her husband's death and the amount of that pension exceeds that of a widow's pension under the National Insurance Act (Northern Ireland) 1966 as specified in Schedule 3 thereto at the time of the husband's death, then the amount of her special pension in respect of that week shall be reduced by that excess.

(2) Where the provisions governing the amounts of pensions under section 19 of the National Insurance (Industrial Injuries) Act (Northern Ireland) 1966 have changed after the death of the husband, the reduction under sub-paragraph (1) in respect of any week shall not exceed the amount which would have been the amount thereof in respect of that week had those provisions not changed.";

(7) after Schedule 8 the following Schedule shall be inserted:

"SCHEDULE 9 Article 61

APPEALS TO MEDICAL REFEREES

1. The person seeking to appeal must institute his appeal within 14 days from the date on which he is supplied by the Fire Authority with a copy of the opinion in pursuance of Article 61:

Provided that where the Authority are of opinion that a person's failure to institute his appeal within the time allowed was not due to his own default, they may (notwithstanding that the said time has expired) extend it by so much as they think fit, but so that the appeal shall in any event be instituted before the expiration of 6 months from the aforesaid date.

2. He must institute his appeal by giving to the Authority a notice in writing informing them of his intention to appeal and stating the grounds on which he proposes to appeal. Any such notice shall state the appellant's name and his place of residence.

3.—(1) Upon receiving the said notice the Authority shall supply the Department with 2 copies thereof and 2 copies of the opinion in question.

(2) The Department shall supply a copy of the said notice and a copy of the said opinion to the medical referee nominated by the Department for the purposes of the appeal.

4.—(1) The medical referee so nominated shall forthwith after his nomination inform the appellant and the Authority that he has been nominated to act as medical referee for the purposes of the appeal.

(2) It shall be the duty of the medical referee to secure that the appellant and the Authority are at all material times aware of an address at which communications may be delivered to the referee for the purposes of the appeal.

5.—(1) Subject to the provisions of this Schedule, the medical referee shall interview the appellant at least once, and may interview him or cause him to be interviewed on such further occasions as the referee thinks necessary for the purpose of determining the appeal.

(2) The medical referee shall appoint a time and place for any such interview and shall give reasonable notice thereof to the appellant and to the Authority.

(3) Where the medical referee is satisfied that the appellant is unable to travel, the place appointed for any such interview shall be the place where the appellant resides.

(4) It shall be the duty of the appellant to attend at the time and place appointed for any such interview and to submit himself at the interview to medical examination by the medical referee or by any person appointed by the referee for that purpose.

(5) If the appellant fails to comply with sub-paragraph (4), the medical referee may, unless satisfied that there was reasonable cause for the failure, dispence with the interview required by the preceding provisions of this Schedule, or, as the case may be, with any further interview, and give his decision upon such information as is then available.

(6) Any such interview may be attended by a person appointed for the purpose by the Authority and by a person so appointed by the appellant.

6. At any time before the interview, or before the last interview if there is more than one, either party may submit to the medical referee a statement relating to the subject matter of the appeal, and the referee shall take account of any such statement and give to the other party such opportunity as he thinks necessary of replying thereto.

7. The decision of the medical referee shall take the form of an opinion on the medical questions which appear to him to be relevant, and the opinion shall be delivered in writing to both parties.

8.—(1) The medical referee shall be entitled to such fees and allowances as the Department may from time to time determine.

(2) The said fees and allowances shall be paid by the Authority, and shall be treated as part of the Authority's expenses for the purposes of the following provisions of this Schedule.

9.—(1) Save as hereinafter provided, the expenses of each party to the appeal shall be borne by that party.

(2) Where the medical referee decides in favour of the Authority, the Authority may, unless the referee otherwise directs, require the appellant to pay toward the cost of the appeal such sum not exceeding the referee's total fees and allowances as the Authority think fit.

(3) Where the medical referee decides in favour of the appellant, the Authority shall, unless the referee otherwise directs, refund to the appellant any personal expenses actually and reasonably incurred by the appellant in respect of any such interview as is mentioned in paragraph 5 and, if any duly qualified medical practitioner chosen by the appellant has attended any such interview, any fees and expenses reasonably paid by the appellant in respect of such attendance.

(4) If in connection with any payment claimed under this paragraph any question arises as to whether the decision of the medical referee is in favour of the Authority or the appellant, that question shall be decided by the referee, or, in default of a decision by the referee, by the Department.

10. An appellant shall be deemed to have received any information, notice or document which he is entitled to receive for the purposes of the Schedule if that information, notice or document has been duly posted in a letter addressed to the appellant at his last known place of residence.".

PART III

INCREASES IN AWARDS

Awards on the death of servicemen

5. In each of the following Articles, namely—

Article 68(4)(*a*) of the Scheme of 1973;

Article 54(4)(*a*) of the Scheme of 1971; and

Article 28(2)(*a*) of the Scheme of 1955,

for sub-paragraph (*a*) there shall be substituted the following sub-paragraph:

"(*a*) pay to the widow, in lieu of a gratuity, a pension at the rate of £263.97 a year; and".

Widow's ordinary pensions

6. In the Scheme of 1973, for paragraph 2 of Part I of Schedule 2 there shall be substituted the following paragraph:

"2.—(1) Where in respect of any period a widow so elects, then, subject to sub-paragraph (2), the annual rate of her ordinary pension in respect of that period shall be, if her husband at the time when he ceased to be a regular fireman—

(*a*) held a rank not higher than that of sub-officer, £263.97 a year;

(*b*) held a rank higher than that of sub-officer but not higher than that of divisional officer (Grade 1), £343.78 a year;

(*c*) held a rank higher than that of divisional officer (Grade 1), £412.64 a year.

(2) Where the husband was entitled to reckon at least 10 years pensionable service, sub-paragraph (1) shall have effect as if for the rates of £263.97, £343.78 and £412.64 a year there were substituted, respectively, the rates of £283.80, £363.61 and £432.47 a year.".

7. In the Scheme of 1971 in Schedule 2—

(*a*) for paragraph 2 of Part I there shall be substituted the following paragraph: