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STATUTORY INSTRUMENTS

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**2006 No. XXXX**

**FIRE AND RESCUE SERVICES, ENGLAND**

**PENSIONS, ENGLAND**

**The Firefighters' Pension Scheme (Amendment) (England)  
Order 2006**

<i>Made</i>	- - - -	2006
<i>Laid before Parliament</i>		2006
<i>Coming into force</i>	- -	2006

The First Secretary of State, in exercise of the powers conferred by section 26(1) to (5) of the Fire Services Act 1947(a) and section 12 of the Superannuation Act 1972(b), as applied by section 16(3) of that Act(c), makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Firefighters' Pension Scheme (Amendment) (England) Order 2006.

(2) This Order shall come into force on [xxxx] 2006, but shall have effect as specified in paragraphs (3) to (5)

(3) [So much of the amendment made by article 2 of, and paragraph 57 of Schedule 1 to, this Order as relates to rules LA2 and LA3 has effect from 1st April 2005.]

(4) The following provisions have effect from 1st April 2006—

- (a) subject to article 3, paragraphs [ ] of Schedule 1 to this Order, and
- (b) so much of the amendment made by article 2 of, and paragraph 57 of that Schedule as relates to rules LA1, LA4 and LA5.

(5) The remaining provisions of this Order have effect from 6th April 2006.

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(a) 1947 c.41, repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c.21). Subsections (1) to (5) of section 26 continue to have effect, in relation to England and Scotland, for the purposes of the scheme established under that section as the Firemen's Pension Scheme and set out in the Firemen's Pension Scheme Order 1992 (S.I. 1992/129), by article 3 of S.I. 2004/2306. The name of the scheme was changed to the Firefighters' Pension Scheme, by article 4(1) of S.I. 2004/2306. Section 26 of the 1947 Act was amended by section 1 of the Fire Services Act 1951 (c.27), section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c.65), section 33 of, and Schedule 3 to, the Theft Act 1968 (c.60), sections 16 and 29 of, and Schedule 8 to, the Superannuation Act 1972 (c.11), section 100 of, and Schedule 27 to, the Social Security Act 1973 (c.38), section 1 of, and Schedule 1 to, the Social Security (Consequential Provisions) Act 1975 (c.18), section 32 of the Magistrates' Courts Act 1980 (c.43), section 1 of the Police and Firemen's Pensions Act 1997 (c.52), and Schedule [ ] to the Civil Partnership Act 2004 (c.33), and article 2 of the Social Security (Modification of Fire Services Act 1947) Order 1976 (S.I. 1976/551).

(b) 1972 c.11; section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c.7).

(c) Section 16 continues to have effect, for the purposes of the Firefighters' Pension Scheme, by virtue of S.I. 2004/2306.

(6) In this Order—

“the Compensation Scheme” means the Firefighters’ Compensation Scheme set out in the Schedule to the Firefighters’ Compensation Scheme (England) Order 2006(a); and

“the Pension Scheme” means the Firefighters’ Pension Scheme, set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992(b), as it has effect in England(c).

### **Amendment of the Pension Scheme**

2. The Pension Scheme shall be amended in accordance with Schedule 1 to this Order.

### **Transitional provision**

3.—(1) The amendments made by paragraph 6 (ill-health awards) and 47 (cancellation of ill-health and injury pensions) of Schedule 1 to this Order shall not have effect in relation to a person in respect of whom a determination or decision relevant to the termination of his employment on grounds of ill-health (whether under Part H or Part K of the Pension Scheme) has been made before 1st April 2006.

(2) In a case to which paragraph (1) applies, rules B3 and K1 of the Pension Scheme shall continue to have effect in relation to such a person in the form in which they exist immediately before that date.

### **Revocation and consequential provision**

4.—(1) So much of article 2(2) of the Firemen’s Pension Scheme Order 1992 as relates to the provisions specified in column (1) of Schedule 2 to this Order (provisions of the Pension Scheme superseded by the Compensation Scheme) is revoked as to England.

(2) A reference in any document (whether made, served or issued before, on or after 6th April 2006) to a provision of the Pension Scheme that ceases to have effect by virtue of paragraph (1) shall, unless a contrary intention appears, be construed on and after that date as a reference to, the corresponding provision of the Compensation Scheme specified in column (2) of Schedule 2.

### **Amendment of the Firefighters’ Pension Scheme (Amendment) (England) Order 2005**

5. The Firefighters’ Pension Scheme (Amendment) (England) Order 2005(d) is amended, in article 1(3)(c)—

(a) by the substitution for “amendment” of “amendments”; and

(b) by the insertion, after “widows”, of “and paragraph 25 (relating to spouse’s requisite benefit and temporary pensions)”.

Signed by authority of the First Secretary of State

XXXX 2006

Minister of State,  
Office of the Deputy Prime Minister

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(a) S.I. 2006/xxxx.

(b) S.I. 1992/129; amended by 1997/2309 and 2851, 1998/1010, 2001/3649 and 3691 and 2004/1912. The Scheme was made under section 26 of the Fire Services Act 1947 (c.41). That Act was repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c.21). Subsections (1) to (5) of section 26 were continued in force, for the purposes of the scheme established under that section as the Firemen’s Pension Scheme, by S.I. 2004/2306. The name of the scheme was changed, in relation to England and Scotland, by article 4(1) of S.I. 2004/2306.

(c) The Secretary of State’s functions under section 26 of the Fire Services Act 1947, in so far as they were exercisable in relation to Scotland, were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (c.46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 (S.I. 1999/1750). The Secretary of State’s functions under section 3(5) of the Fire Services Act 1947, in so far as they were exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry for the Fire Services Act 1947 in Schedule 1.

(d) S.I. 2005/2980.

## SCHEDULE 1

Article 2

### AMENDMENT OF THE FIREFIGHTERS' PENSION SCHEME (ENGLAND ONLY)

1. In rule A3 (exclusive application to regular firefighters)—
  - (a) in paragraph (1), for “paragraphs (3) and (4)”, substitute “paragraphs (3) to (5)”; and
  - (b) after paragraph (4), add—

“(5) This Scheme ceases to apply in relation to—

    - (a) a person who takes up employment with a fire and rescue authority on or after 6th April,
    - (b) a person who, having made an election under rule G3(1) not to pay pension contributions, cancels that election on or after 6th April 2006, and
    - (c) the spouse, civil partner or dependant of such a person,

on the day on which a scheme, other than the Firefighters' Compensation Scheme 2006, is brought into operation under section 34 of the Fire and Rescue Services Act 2004.”(a).
2. Omit rules A9 (qualifying injury).
3. In rule A10 (disablement)—
  - (a) in paragraph (2), for “Subject to paragraph (3), disablement”, substitute “Disablement”; and
  - (b) omit paragraph (3).
4. Omit rule A11 (death or infirmity resulting from injury).
5. For rule B2 (short service award), substitute—

#### “Short service award

- B2.**—(1) This rule applies, unless immediately before his retirement an election under rule G3 not to pay pension contributions had effect, to a regular firefighter who—
- (a) retires at normal pension age or on or after attaining the age of 65;
  - (b) is entitled to reckon at least two years' pensionable service; and
  - (c) is not entitled to any other award under this Part.
- (2) A person to whom this rule applies becomes entitled on retiring—
- (a) if he is entitled to reckon at least two years' pensionable service, to a short service pension calculated in accordance with Part II of Schedule 2; and
  - (b) in any other case, to a short service gratuity of an amount equal to the aggregate of his pension contributions.”.

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(a) See S.I. 2006/xxxx.

6. For rule B3 (ill-health award)(a), substitute—

**“Ill health awards**

**B3.**—(1) This rule applies to a regular firefighter who is required to retire under rule A15 (compulsory retirement on grounds of disablement) unless, immediately before his retirement, an election under rule G3 not to pay pension contributions had effect.

(2) A regular firefighter who is entitled to reckon at least 2 years’ pensionable service becomes entitled on retiring—

- (a) where, in the opinion of an independent qualified medical practitioner, obtained in accordance with rule H1, he is capable of undertaking regular employment outside the fire and rescue service, to a lower tier ill-health pension calculated in accordance with paragraph 2 or 3 (as the case may be) of Part III of Schedule 2;
- (b) where, in the opinion of an independent qualified medical practitioner, obtained in accordance with rule H1, he is incapable of undertaking regular employment outside the fire and rescue service, to—
  - (i) a lower tier ill-health pension calculated in accordance with paragraph 2 or 3 (as the case may be) of Part III of Schedule 2; and
  - (ii) a higher tier ill-health pension determined in accordance with paragraph 4 of that Part.

(3) A firefighter who is not entitled to a pension under paragraph (2), becomes entitled on retiring—

- (a) to a short service pension calculated in accordance with Part II of Schedule 2; and
- (b) to a short service gratuity of an amount equal to the aggregate of his pension contributions.

(4) In paragraph (2) “regular employment” means employment in any period of 12 months for an average of not less than 30 hours in each week.

(5) Where the person has the role of Station Manager B or a superior role, the calculation required by paragraph (2) shall be made as if his normal pension age were 60.”.

7. Omit rule B4 (injury award).

8. In rule B5 (deferred pension), in paragraph (2)(b), for “rules B1 to B4”, substitute “rules B1 to B3”.

9. In rule B6 (repayment of aggregate pension contributions)—

- (a) in paragraph (1)—
  - (i) after “regular firefighter” (in the first place where those words appear), insert “with less than 2 years’ pensionable service”; and
  - (ii) in sub-paragraph (b), for “rules B1 to B5”, substitute “rules B1 to B3, B5”; and
- (b) after paragraph (2), insert—

“(3) Where aggregate pension contributions are repaid under paragraph (2), the fire and rescue authority shall transfer from their Firefighters’ Pension Fund to their general fund an amount equal to the aggregate of the amounts that they have paid by way of employer’s contributions under rule G2(3) in respect of the firefighter concerned.”.

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(a) Rule B3 was amended by S.I. 2005/2980, Sch. para.14.

**10.** In rule B7 (commutation - general provision)—

- (a) in paragraph (7), for “6 months after his retirement”, substitute “the day before the pension comes into payment”;
- (b) for paragraph (8), substitute—  
“(8) Notice of commutation takes effect on the date of the person’s retirement.”;
- (c) in paragraph (9), for sub-paragraph (b), substitute—  
“(b) within three months of the date of his retirement, pay him the lump sum; but where payment of the pension had commenced before commutation, that sum shall be reduced by the difference between the aggregate payments made in respect of the pension and the aggregate payments that would have been made in respect of it if it had been reduced from the date of retirement.”; and
- (d) in paragraph (11), after “I 4” insert “or rule 2 or 3 of the Compensation Scheme”.

**11.** In rule B8 (commutation – small pensions), in paragraph (1), for the words from “does not exceed” to the end, substitute “does not exceed £750, or any greater amount prescribed by regulations for the time being in force under Part 1 of Schedule 29 to the Finance Act 2004, the fire and rescue authority may commute the pension for a gratuity”.

**12.** In rule B9 (allocation), in paragraph (16), after “I 4” insert “or rule 2 or 3 of the Compensation Scheme”.

**13.** In rule B10 (limitation of commuted or allocated portion of pension), in paragraph (2), after “I 4” insert “or rule 2 or 3 of the Compensation Scheme”.

**14.** For rule B11 (deduction of tax from certain awards), substitute—

**“Deduction of tax and lifetime allowance charge**

**B11.** A fire and rescue authority shall deduct from any payment which is chargeable to tax, or subject to a lifetime allowance charge within the meaning of the Finance Act 2004(a), the amount of tax charged or the amount of charge to be recovered.”.

**15.** In rule C1 (spouse’s ordinary pension)—

- (a) in paragraph (1)(c), after “injury pension”, insert “under the Compensation Scheme”;
- (b) in paragraph (2), omit “, subject to paragraph (3),”;
- (c) in paragraph (2A)(b), for “Subject to paragraph (3), the”, substitute “The”; and
- (d) omit paragraphs (3) to (6).

**16.** Omit rules C2 (spouse’s special award) and C3 (spouse’s augmented award).

**17.** In rule C5 (limitation on award to widow by reference to date of marriage)(c)—

- (a) in paragraph (1), omit “, a special award under rule C2, an augmented award under rule C3”;
- (b) in paragraph (2), omit “or other award” and “, subject in the case of a civil partner, to paragraph (3),”; and
- (c) in paragraph (3), omit “or other award”.

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(a) See section 214 of the Finance Act 2004 (c.12).

(b) Paragraph (2A) was inserted by S.I. 2005/3228, Sch.1, para.3.

(c) Rule C5 was substituted by S.I. 2005/2980, Sch., para 24 and S.I. 2005/3228, Sch.1, para.7.

- 18.** In rule C6 (widow’s requisite benefit and temporary pension)(a)—
- (a) for paragraph (1)(b), substitute “(b) rule C4 does not apply”; and
  - (b) omit paragraph (5).
- 19.** [In rule C7 (spouse’s award where no other award payable)(b)—
- (a) in paragraph (1), omit “rule C2 nor”; and
  - (b) for paragraph (2), substitute—
 

“(2) Where this rule applies, the surviving spouse or civil partner is entitled to a gratuity of an amount equal to the deceased’s average pensionable pay.”.]
- 20.** In rule C8 (limitations where spouses living apart)(c)—
- (a) in paragraph (1), for “rules C1 to C7”, substitute “rules C1 and C4 to C7”;
  - (b) in paragraphs (2) and (3), for “an award under rule C1, C2, C3 or C4”, substitute “a pension under rule C1 or C4”; and
  - (c) in paragraph (5), omit “, C2 , C3”.
- 21.** In rule D1 (child’s ordinary allowance), in paragraph (1)(c), after “injury pension”, insert “under the Compensation Scheme”.
- 22.** Omit rules D2 (child’s special allowance) and D3 (child’s special gratuity).
- 23.** For rule D5 (child’s allowance or special gratuity: limitations)(d), substitute—

**“Child’s allowance**

**D5.**—(1) No allowance or gratuity under this Part shall be paid—

- (a) in respect of a child born on or after the relevant date who is not a child of a marriage that took place, or of a civil partnership that was formed, before that date, or
- (b) by reason of his being a step-child, in respect of a child of a spouse whose marriage to the deceased took place, or of a civil partner whose civil partnership with the deceased was formed, on or after the relevant date, or
- (c) by reason of his being substantially dependent on the deceased, in respect of a child who was not so dependent before the relevant date, or
- (d) by reason of his being an adopted child, in respect of a child adopted on or after the relevant date, or
- (e) except in the case of a legitimate or adopted child of the deceased, in respect of a child who was not substantially dependent on the deceased at the time of the death,

the relevant date being in each case the date on which the deceased ceased to be a regular firefighter.

(2) Subject to paragraph (3), no allowance under this Part shall be paid in respect of a person who has reached the age of 23.

(3) An allowance under this Part may be paid in respect of a person who has reached the age of 23 if, in the opinion of the scheme administrator, he was at the date of the member’s death dependent on the member by reason of physical or mental impairment.

(4) Part IV of Schedule 4 has effect for the reduction, in certain circumstances, of allowances under this Part.”

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(a) Rule C6 was substituted by S.I. 2005/2980, Sch., para.25 and amended by S.I. 2005/3228, Sch.1, para 8.  
 (b) Rule C7 was amended by S.I. 2005/3228, Sch 1, para.9.  
 (c) Rule C8 was amended by S.I. 2005/3228, Sch.1, para.10.  
 (d) Rule D5 was amended by S.I. 2005/2980, Sch. para.28 and 2005/3228, Sch.1, para.14 and Sch.2, para.1.

**24.** In rule E1 (lump sum death grant), in paragraph (1), for the words after “payable”, substitute—

“unless, at the time of his death—

- (a) he was 75 or more; or
- (b) an election under rule G3 not to pay pension contributions had effect.”.

**25.** Omit rule E2 (adult dependent relative’s special pension).

**26.** In rule E4 (payment of balance of contributions to estate), in paragraph (2)(b)—

- (a) after “injury pension”, insert “under the Compensation Scheme”; and
- (b) for “rule B4”, substitute “that Scheme”.

**27.** In rule E5 (gratuity in lieu of surviving spouse’s pension)(a)—

- (a) in paragraph (1), from the words from “does not exceed” to the end, substitute “does not exceed £750, or any greater amount prescribed by regulations for the time being in force under Part 1 of Schedule 29 to the Finance Act 2004, the fire and rescue authority may commute for a gratuity the pension or so much of it as may be commuted without contravening rule E7”; and
- (b) in paragraph (2)—
  - (i) in sub-paragraph (a), omit “or C2”; and
  - (ii) at the end of sub-paragraph (c), insert “and”; and
  - (iii) after sub-paragraph (c), insert—

“(d) the deceased spouse or civil partner died before his 75th birthday.”.

**28.** In rule E7 (limitation on discretion to commute pension or allowance for gratuity)—

- (a) for paragraph (2), substitute—

“(2) The fire and rescue authority may not under rule E5 or E6 commute the whole or any part of a pension or allowance for a gratuity the actuarial value of which exceeds—

  - (a) the permitted amount; or
  - (b) the commutation limit specified for the purposes of Part 1 of Schedule 29 to the Finance Act 2004 (lump sum rule) in paragraph 7(4) of that Part (trivial commutation lump sum)”(b);
- (b) in paragraph (5), before “in an award”, insert “or rule 3 of Part 7 of the Compensation Scheme”; and
- (c) after paragraph (5), add—

“(6) The payment of a gratuity on the commutation of the whole or any part of a pension payable as mentioned in rule E5 must be made before the date on which the deceased would have attained the age of 75.”.

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(a) Rule E5 was amended by S.I. 2005/3228, Sch 1, para.17.  
(b) 2004 c.12.

**29.** In rule E8 (increase of pensions and allowances during first 13 weeks)(a)—

- (a) in paragraph (1), omit “, special”;
- (b) in paragraph (2), after “payable”, insert “under this Scheme or the Compensation Scheme”;
- (c) for paragraph (4), substitute—

“(4) For the purposes of paragraph (3)(b), any reduction in the deceased’s pension under Part VIII of Schedule 2 (reduction of pension related to uprating of widow’s pensions) shall be disregarded.”;
- (d) in paragraph (5)—
  - (i) omit “, special”; and
  - (ii) after “allowance”, insert “under this Scheme and to a child’s special allowance under the Compensation Scheme”; and
- (e) in paragraph (7), after “payable”, insert “under this Scheme or an injury pension under the Compensation Scheme”.

**30.** In rule F1 (reckoning of and certification as to pensionable service), in paragraph (6), after “gratuity”, insert “under this Scheme, or a pension or gratuity under the Compensation Scheme”.

**31.** In rule F2 (current service), for paragraphs (3) and (4), substitute—

“(3) A regular firefighter may, by written notice given to his employing authority at any time, require them to reckon as pensionable service all or part of any period of absence from duty without pay (excluding absence for maternity, paternity or adoption leave) (the “reckonable period”).

(4) Where notice is given under paragraph (3), the firefighter shall, within 6 months of giving that notice, pay to the authority—

- (a) the contributions (including any such additional or further contributions as are mentioned in rule G4) that he would have been liable to pay in respect of the reckonable period (in accordance with rule G2(1)) if he had been paid at his normal rate; and
- (b) subject to paragraph (5), such amount as shall be notified to him by the authority as the amount that would have been payable by them, in accordance with rule G2(3), in respect of his service for that period and if he had been paid at his normal rate.

(5) A fire and rescue authority may pay the amount notified under sub-paragraph (b) of paragraph (4); and where they do so, the requirements of that sub-paragraph shall cease to apply.

(6) Nothing in paragraph (3) requires a fire and rescue authority to reckon as pensionable service any reckonable period where—

- (a) in a case to which paragraph (5) applies, the requirements of paragraph (4)(a) have not been met;
- (b) in any other case, the requirements of paragraph (4)(a) and (b) have not been met.

(7) Any periods of pensionable service before and after any period of maternity or adoption leave in respect of which the person has the right to, but does not pay, contributions under rule G2A shall be treated as continuous.”.

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(a) Rule E8 was amended by S.I. 2005/3228, Sch.1, para.18.

**32.** In rule F5 (period during which injury pension was payable)(a), for paragraph (a), substitute—

- “(a)(i) on retiring from a brigade before 1st October 2004, or from employment with a fire and rescue authority before 6th April 2006, became entitled to an injury pension under rule B4 (as it existed before that date)(b).; or
- (ii) on retiring from employment with a fire and rescue authority on or after 6th April 2006, becomes entitled to an injury pension under the Compensation Scheme, and”.

**33.** For rule F8 (transfers payments between fire and rescue authorities)(c), substitute—

**“Transfer payments to Scottish and Welsh fire and rescue authorities**

**F8.**—(1) Where, on or after 1st April 2006—

- (a) a person who retired from an English fire brigade before 1st October 2004 or from an English fire and rescue authority after 30th September 2004 (“the first employment”)—
  - (i) takes up employment as a regular firefighter with a Scottish or Welsh fire and rescue authority; and
  - (ii) becomes entitled under rule F4 (previous service reckonable on payment) to reckon as pensionable service the period he was entitled to reckon when he retired,

the authority responsible for the person in the first employment shall, subject to paragraph (2), pay to the Scottish or Welsh fire and rescue authority (as the case may be) a sum calculated in accordance with Part III of Schedule 6.

(2) No sum may be paid in respect of any pension credit rights.”.

**34.** In rule G1 (pensionable pay and average pensionable pay)—

- (a) in paragraph (2), omit the words after “for that year”; and
- (b) in paragraph (4)—
  - (i) for sub-paragraph (a), substitute—

“(a) for the purposes of rule C7 (spouse’s award where no other award payable), the date of the person’s last day of service as a regular firefighter.”; and
  - (ii) in sub-paragraph (b), after “purposes”, insert “of this Scheme”.

**35.** In rule G2 (pension contributions)—

- (a) for paragraph (1), substitute—

“(1) A regular firefighter shall, except where an election under rule G3 has effect, pay pension contributions to the fire and rescue authority at the rate specified in paragraph (1A).

(1A) The rate is—

  - (a) for a person who takes up employment with the authority on or after 6th April 2006, 8.5 per cent of his pensionable pay;
  - (b) in any other case, 1p less than 11 per cent of his pensionable pay.”; and
- (b) after paragraph (2), add—

“(3) [In each year beginning with the financial year commencing on 1st April 2006, e]ach fire and rescue authority shall, by transfer from their general fund to their Firefighters’

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(a) Rule F5 was amended by S.I. 2005/2980, Sch. para.41.

(b) Rule B4 is revoked by paragraph 7 of this Schedule.

(c) Paragraph (1A) was inserted by S.I. 2005/2980, Sch. para 45.

Pension Fund, make an annual contribution towards the discharge of their future liability for the payment of pensions under this Scheme [and the Compensation Scheme].

(4) The annual contribution shall be such percentage of the authority's estimate of the aggregate of the pensionable pay, for the year in respect of which the contribution is made, of those firefighters employed by the authority who [are required by paragraph (1) to] make pension contributions in that year, as shall have been notified to them for that year by the Secretary of State.

(5) Where a firefighter elects under rule G3(1) not to pay pension contributions, nothing in paragraphs (3) and (4) shall require an authority to make a contribution in respect of their future liability for the payment of his pension as regards—

- (a) in the year in which notice of that election is given, the part of the year that falls after the first date after the notice is received on which an instalment of pay falls due; and
- (b) any later period in which the election not to pay pension contributions has effect.”.

**36.** In rule G3 (election not to pay pension contributions)—

- (a) in paragraph (2), for “paragraph (3)”, substitute “paragraphs (3) and (3A)”;
- (b) after paragraph (3), insert—

“(3A) Where—

- (a) a person gives notice under paragraph (1) within 3 months of taking up employment with the authority as a regular firefighter; and
- (b) no transfer of pension rights from another pension scheme has been made in respect of him,

the election shall be treated as given on his first day of employment and the fire and rescue authority shall repay the pension contributions paid by him.”; and

- (c) after paragraph (4), insert—

“(4A) Where aggregate pension contributions are repaid under paragraph (3A), the fire and rescue authority shall transfer from their Firefighters' Pension Fund to their general fund an amount equal to the aggregate of the amounts that they have paid by way of employer's contributions under rule G2(3) in respect of the firefighter concerned.”.

**37.** In rule G6 (election to purchase increased benefits), in paragraph (1), omit “and rule G9”.

**38.** In rule G7 (payment of periodic contributions for increased benefits)—

- (a) in paragraph (1), for “paragraphs (2) to (4)”, substitute “paragraphs (2) and (3)”;
- (b) for paragraphs (3) to (4)(a), substitute—

“(3) If the fire and rescue authority are satisfied that payment of the periodical contributions is causing, or is likely to cause, financial hardship they may consent to the discontinuance of payment for such period as they think fit.”.

**39.** Omit rule G9 (pension debit members: restriction on replacement of debited rights).

**40.** In rule H1 (determination by fire authority), omit paragraph (2)(c) and (d).

**41.** In rule I2 (awards to servicemen)(b)—

- (a) in paragraph (3), omit “or by a qualifying injury”; and
- (b) in paragraph (4), for “Paragraph 1 of Schedule 10”, substitute “Schedule 6 to the Compensation Scheme”.

**42.** In rule I3 (awards on death of servicemen)(c)—

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(a) Paragraph (3A) was inserted by S.I. xxxxxxxxxxxxxx.

(b) Rule I2 was amended by S.I. 2005/2980, Sch. para.58.

(c) Rule I3 was amended by S.I. 2005/2980, Sch. para.59 and 2005/3228, Sch.1, para.19.

- (a) in paragraph (3), omit “or by a qualifying injury”; and
- (b) in paragraph (4), for “Paragraphs 2 and 3 of Schedule 10 have”, substitute “Schedule 6 to the Compensation Scheme has”.

43. Omit rule I4 (servicemen who resume service as regular firefighters).

44. In rule IA4 (application of general rules), in paragraph (2), for “rule L2 (expenses and receipts of fire and rescue authorities)”, substitute “rule LA1 (establishment, maintenance and operation of Firefighters’ Pension Fund”.

45. In rule J1 (guaranteed minimum pensions)—

- (a) in paragraph (5), after “this Scheme”, insert “or to an injury pension under the Compensation Scheme”; and
- (b) in paragraph (6), after “injury pension”, insert “under the Compensation Scheme”.

46. Omit rules J3 (whole-time member of brigade who is not a regular firefighter), J4 (part-time member of brigade) and J5 (members of brigade other than regular firefighters: supplementary).

47. For rule K1 (cancellation of ill-health and injury pensions), substitute—

**“Review of ill-health and certain deferred pensions**

**K1.**—(1) So long as a person—

- (a) is in receipt of an ill-health pension, and
- (b) has not attained state pension age,

the fire and rescue authority shall consider, at such intervals as they think proper, whether he has become capable of carrying out any duty appropriate to the role from which he retired on grounds of ill-health.

(2) So long as a person—

- (a) is in receipt of a higher tier ill-health pension; and
- (b) has not attained state pension age,

the authority shall also consider, at such intervals as they think proper, whether he has become capable of undertaking regular employment.

(3) So long as a person—

- (a) is entitled under rule B5 to a deferred pension; and
- (b) has begun to receive payments in respect of the pension on becoming permanently disabled,

the authority shall also consider, at such intervals as they think proper, whether he has become capable—

- (i) of carrying out any duty appropriate to the role from which he retired on grounds of ill-health; or
- (ii) of undertaking regular employment.

(4) In this Part, “regular employment” means employment in any period of 12 months for an average of not less than 30 hours in each week.

**Consequences of review**

**K1A.**—(1) If, on such consideration as is mentioned in rule K1(2), it is found that a person has become capable of undertaking regular employment, the authority shall immediately terminate his higher tier ill-health pension.

(2) His lower tier ill-health pension shall continue to be paid

(3) Where paragraph (1) applies in relation to a person, the authority shall transfer from their Firefighters’ Pension Fund to their general fund an amount equal to the difference

between the aggregate amount of the instalments paid in respect of him in accordance with rule LA2(2) (higher tier ill-health charge) and the aggregate amount of the instalments that would have been paid in respect of him in the same period in accordance with rule LA2(3) (lower tier ill-health charge).

(4) If, on such consideration as is mentioned in rule K1, it is found that the person has become capable of performing the duties appropriate to the role from which he retired on grounds of ill-health, the authority may make him an offer of employment in that role.

(5) Where an offer under paragraph (4) is accepted by a person who is in receipt of a lower tier ill-health pension, his entitlement to that pension shall cease with immediate effect.

(6) Where a person in receipt of a lower tier ill-health pension declines an offer under paragraph (4), his entitlement to that pension shall cease with immediate effect; and he shall then become entitled to a deferred pension under rule B5.

(7) Where paragraph (6) applies, the authority shall not make any transfer into their Firefighters' Pension Fund in respect of the person concerned as regards any time after the date on which they receive notice that the offer made under paragraph (4) has been rejected."

**48.** Omit rule K2 (reassessment of injury pension).

**49.** In rule K3 (reduction of award in case of default)(a), in paragraph (1), omit "or injury".

**50.** In rule K5 (withdrawal of pension on conviction of certain offences)(b), in paragraph (4), omit " , other than an injury pension,".

**51.** In rule L1(authorities responsible for payment of awards)(c), omit paragraphs (2), (5) and (6).

**52.** Omit rule L2 (expenses and receipts of fire authorities).

**53.** In rule L3 (payment of awards)(d), in paragraph (7), omit "other than an injury gratuity under rule B4,".

**54.** In rule L4 (prevention of duplication)(e)—

- (a) in paragraph (1), at the end insert "or the Compensation Scheme";
- (b) [in paragraph (4), for "rule B4", substitute "the Compensation Scheme"; and
- (c) omit paragraph (5)]

**55.** In rule L4A (prevention of duplication: other injury awards for persons who are both regular and retained firefighters)(f),

**56.** In rule L4B, (prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters)(g), in paragraph (3)—

- (a) in sub-paragraph (a), for "rule C2 (whether or not by virtue of rule J4(4))", substitute "rule 1 of Part 3 of the Compensation Scheme (whether or not by virtue of [rule 2(6) of Part 9] of that Scheme)";
- (b) in sub-paragraph (b), for "rule C3 (whether or not by virtue of rule J4(4))", substitute "rule 2 of Part 3 of the Compensation Scheme (whether or not by virtue of [rule 2(6) of Part 9] of that Scheme)";

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(a) Rule K3 was amended by S.I. 2005/2980, Sch. para.72.

(b) Rule K5 was amended by S.I. 2005/2980, Sch. para.74.

(c) Rule L1 was amended by S.I. 2005/2980, Sch. para.75.

(d) Rule L3 was amended by S.I. 2005/2980, Sch., para.77.

(e) Rule L4 was amended by S.I. 2005/2980, Sch., para.78.

(f) Rule L4A was inserted by S.I. 2005/2980, Sch., para.79.

(g) Rule L4B was inserted by S.I. 2005/2980, Sch., para.79, and amended by S.I. 2005/3228, Sch.1, para.26.

- (c) in sub-paragraph (c), for “rule D2 (whether or not by virtue of rule J4(5))”, substitute “rule 1 of Part 4 of the Compensation Scheme (whether or not by virtue of [rule 2(7) of Part 9] of that Scheme)”; and
- (d) in sub-paragraph (d), for “rule D3 (whether or not by virtue of rule J4(5))”, substitute “rule 2 of Part 4 of the Compensation Scheme (whether or not by virtue of [rule 2(7) of Part 9] of that Scheme)”.

57. After Part L, insert the following Part—

## “PART LA

### FIREFIGHTERS’ PENSION FUND

#### **Establishment, maintenance and operation of Firefighters’ Pension Fund**

**LA1.**—(1) For the purposes of this Scheme, and in connection with rights acquired and liabilities incurred under the 1973 Scheme or previous Firemen’s Pension Schemes and transferred to a fire and rescue authority, each fire and rescue authority shall establish and maintain, in accordance with proper practices<sup>(a)</sup>, a pension fund, which shall be known as their Firefighters’ Pension Fund (in this Part referred to as the FPF).

(2) Without prejudice to the generality of paragraph (1), there shall be credited to the FPF or, where a transfer is made to the FPF from any other fund maintained by the authority, credited to the FPF and debited to that other fund—

- (a) sums receivable from firefighters in respect of periods treated as reckonable by virtue of paragraph (3) of rule F2 (current service);
- (b) sums receivable under rule F7 (receipt of transfer value);
- (c) sums receivable from Scottish or Welsh fire and rescue authorities under provisions of the Firefighters’ Pension Scheme [as it has effect in Scotland] [(Scotland)] or the Firefighters’ (Wales) Pension Scheme equivalent to rule F8 (transfer payments between fire and rescue authorities);
- (d) the amount of the authority’s annual contributions under paragraph (3) of rule G2 (pension contributions).

(3) Without prejudice to the generality of paragraph (1), there shall be payable out of the FPF or, if a transfer is made from the FPF to any other fund maintained by the authority, debited to the FPF and credited to that other fund—

- (a) sums payable under rule B6 (repayment of aggregate pension contributions);
- (b) awards payable under any provision of this Scheme (including the commuted portion of a pension to which rule B7 (commutation: general provision) applies);
- (c) sums payable under rule F8 (transfer payments to Scottish and Welsh fire and rescue authorities);
- (d) sums payable under rule F9 (payment of transfer values) by way of transfer values or cash or part cash equivalents;
- (e) the amount of any refund of employer’s contributions under rule B6 or G3(3); and
- (f) where paragraph (4) of rule K1A (consequences of review) applies, the amount of the difference referred to in that paragraph.

(4) Where, in respect of any financial year, the amount shown in the accounts of the FPF as expended (including debit transfers) exceeds the amount shown in those accounts as receivable (including credit transfers), the authority shall transfer from their general fund to the FPF an amount equal to the difference between those amounts.

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<sup>(a)</sup> See section 21 of the Local Government Act 2003 (c.26) and, in particular, subsection (4)(e).

(5) Where, in respect of any financial year, the amount shown in the accounts of the FPF as receivable (including credit transfers) exceeds the amount shown in those accounts as expended (including debit transfers), the authority shall transfer from the FPF to their general fund an amount equal to the difference between those amounts.

### **Special payments and transfers into Firefighters' Pension Fund**

**LA2.**—(1) Subject to paragraph (8), each fire and rescue authority shall make transfers into their FPF in accordance with the following provisions of this rule.

(2) Where an employee of the authority retires with an entitlement to immediate payment of a higher tier ill-health pension under rule B3 (ill-health awards), the authority shall transfer into the Fund such amount as shall be determined and notified to them by the Secretary of State as the higher tier ill-health charge

(3) Where an employee of the authority retires—

(a) with an entitlement to immediate payment of a lower tier ill-health pension under rule B3 (ill-health awards); and

(b) with no entitlement to a higher tier ill-health pension,

the authority shall transfer into the Fund such amount as shall be determined and notified to them by the Secretary of State as the lower tier ill-health charge applicable in respect of that pension.

(4) The amount to be paid under paragraph (2) or (3) shall be transferred in three equal instalments.

(5) The first instalment shall be transferred on the date on which the employee retires.

(6) The second and third instalments shall be transferred on 1st April in each of the two financial years that follow the financial year in which the first instalment was transferred.

(7) Where, in consequence of a review under rule K1, a higher tier ill-health pension is cancelled and a lower tier ill-health pension is substituted, an amount equal to the difference between the higher tier ill-health charge and the lower tier ill-health charge applicable in respect of that pension shall be transferred from the Fund to the authority's general fund.

(8) Where—

(a) a higher tier ill-health pension or a lower tier ill-health pension is wholly and permanently withdrawn under rule K5; and

(b) the former recipient of that pension does not again take up employment in the fire and rescue service in England,

paragraph (2) or (3) (as the case may be) and such of the requirements of paragraphs (4) and (6) as remain to be satisfied in his case shall be disregarded.

### **Payments by and to the Secretary of State**

**LA3.**—(1) Where, on the basis of estimates provided in accordance with rule LA4, the Secretary of State is of the opinion, that a fire and rescue authority will be required to make a transfer under rule LA1(4) in respect of any financial year, he shall pay to the authority an amount not exceeding the maximum calculated by him for that year in relation to that authority.

(2) Where an amount is shown in the audited accounts of the authority which received a payment under paragraph (1) as a credit balance on their FPF for the year, the authority shall pay that amount to the Secretary of State (whether from their FPF or any other fund maintained by the authority).

### **Duty to provide information**

**LA4.**—(1) A fire and rescue authority shall provide the Secretary of State with such information relevant to the exercise of his functions under rule LA3 as he may, by written notice to the authority, require.

(2) Without prejudice to the generality of paragraph (1), the Secretary of State may require the authority to provide—

- (a) estimates of their expenditure and income relevant to any of the purposes for or in connection with which their FPF is established; and
- (b) accounts (whether audited or unaudited) relating to their FPF.

(3) An authority shall respond to a request under paragraph (1) within such period as the Secretary of State shall specify in his notice under that paragraph, or such longer period as he may in any particular case allow.

### **Duty to have regard to guidance**

**LA5.** In exercising their functions under this Part a fire and rescue authority shall have regard to such guidance as may be issued by the Secretary of State from time to time.”.

**58.** In Schedule 1 (interpretation), in Part I (glossary of expressions)(a)—

- (a) after the entry for the expression “club scheme”, insert—
  - (i) in the first column “Compensation Scheme”; and
  - (ii) in the second column, “the Firefighter’s Compensation Scheme (England) 2006, set out in Schedule 1 to the Firefighters’ Compensation Scheme (England) Order 2006”;
- (b) omit the entry (both columns) for the expression “qualifying injury”.

**59.** In Schedule 2 (personal awards)(b)—

- (a) for Part III (ill-health pension), substitute—

## **“PART III**

### **ILL-HEALTH PENSION**

**1.** [Paragraph 2 has effect subject to rule B3(5) and Parts VIA, VII and VIII of this Schedule.]

**2.** Subject to paragraph 3, the amount of a lower tier ill-health pension, is an amount equal to that which the person concerned would have received if his employment had ceased in circumstances in which he would have been entitled to immediate payment of a deferred pension (calculated in accordance with Part VI of this Schedule).

**3.** Where the person concerned has less than 5 years’ pensionable service, the amount of the lower tier ill-health pension is that found by applying the formula—

$(A \times B) \div 60$ , where—

A is the person’s average pensionable pay; and

B is the greater of one year and the period in years of his pensionable service.

**4.**—(1) The amount of a person’s higher tier ill-health pension is the amount determined by deducting from the amount ascertained in accordance with sub-paragraph (2) or paragraph 5, as his circumstances require, the amount of his lower-tier ill-health pension.

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(a) Part 1 of Schedule 1 was amended by S.I. 2005/2980, Sch., para.81, and 2005/3228, Sch.1, para.27.

(b) Schedule 2 was amended by S.I. 2005/2980, Sch., para.82.

(2) The amount referred to in sub-paragraph (1) as to be ascertained in accordance with this sub-paragraph is—

- (a) if the person concerned has at least 5 but not more than 10 years' pensionable service, the amount found by applying the formula—

$$(2 \times A \times C) \div 60, \text{ where—}$$

A is the person's average pensionable pay; and

C is the period in years of his pensionable service; or

- (b) if the person concerned has more than 10 years' pensionable service, the greater of the amounts found by applying the formulae—

$$\{(20 \times A) \div 60\}; \text{ and}$$

$$\{(7 \times A \div 60) + (A \times D \div 60) + (2 \times A \times E \div 60)\}, \text{ where—}$$

A is the person's average pensionable pay;

C is the period in years of his pensionable service;

D is the period in years of his pensionable service up to and including 20 years, and

E is the period in years by which his pensionable service exceeds 20 years.

**5.—(1) Where—**

- (a) if the person had continued to serve until he reached normal pension age, he would have become entitled to an ordinary or short service pension (“the notional retirement pension”), and

- (b) the amount ascertained in accordance with paragraph 4(2) exceeds the amount of the notional retirement pension,

the amount referred to in paragraph 4(1) as to be ascertained in accordance with this paragraph is that of the notional retirement pension.

(2) The notional retirement pension is to be calculated by reference to the person's actual average pensionable pay.”;

- (b) omit Parts IV (short service or ill-health gratuity) and V (injury awards); and

- (c) in Part VIA (calculation of awards for part-time service), in paragraph 1, omit sub-paragraphs (d) and (e).

**60. In Schedule 3 (awards on death: spouses)(a)—**

- (a) omit Part II (spouse's special pension); and

- (b) in Part IV (pension for surviving spouse of post-retirement marriage), in paragraph 1—

(i) in sub-paragraph (1), omit “a special award under rule C2 or an augmented award under rule C3,”; and

(ii) for sub-paragraph (2), substitute—

“(2) For the purposes of this paragraph, paragraph 1 of Part I has effect as if the reference in sub-paragraph (1)(a) to the base pension were a reference to the appropriate proportion of the base pension.”.

**61. In Schedule 4 (awards on death-children)—**

- (a) in Part I (child's ordinary allowance), in paragraph 2(2), for “, rule B9(12) (allocation) or paragraph 2 of Part V of Schedule 2 (reduction in injury award)”, substitute “or rule B9(12) (allocation)”;

- (b) omit Part II (child's special allowance)”; and

- (c) in Part IV (reduction in child's allowance during full-time remunerated training)—

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(a) Schedule 3 was amended by S.I. 2005/2980, Sch., para.83.

- (i) in paragraph 1(1), omit “, D2”; and
- (ii) in paragraph 2(2), for “one of the relevant provisions, that is to say paragraph 1(2)(b) and (3)(b) of Part I and paragraphs 2(b) and 3(b) of Part II of this Schedule, applies”, substitute “either sub-paragraph (2)(b) or (3)(b) of paragraph 1 of Part I of this Schedule applies”.

**62.** In Schedule 5 (awards on death-additional provisions), omit Part I (adult dependent relative’s special pension).

**63.** In Schedule 9 (appeals), in paragraph 8(2A)(a), for “10”, substitute “21”.

**64.** Omit Schedule 10 (servicemen: increased awards).

## SCHEDULE 2

Article 4(1)

### PROVISIONS OF THE PENSION SCHEME SUPERSEDED BY PROVISIONS OF THE COMPENSATION SCHEME

<i>(1)</i> <i>Provision of Pension Scheme</i>	<i>(2)</i> <i>Corresponding provision of Compensation Scheme</i>
Rule A9 (qualifying injury)	In Part 1, rule 7
Rule A10 (disablement)	In Part 1, rule 8
Rule A11 (death or infirmity resulting from injury)	In Part 1, rule 9
Rule B4 (injury award)	In Part 2, rule 1
Rule C2 (spouse’s special award)	In Part 3, rule 1
Rule C3 (spouse’s augmented award)	In Part 3, rule 2
Rule D2 (child’s special allowance)	In Part 4, rule 1
Rule D3 (child’s special gratuity)	In Part 4, rule 2
Rule E2 (adult dependent relative’s special pension)	In Part 5, rule 1
Rule I4 (servicemen who resume service as regular firefighters)	In Part 7, rule 4
Rule J3 (whole-time member of brigade who is not a regular firefighter)	In Part 8, rule 1
Rule J4 (part-time member of brigade)	In Part 8, rule 2
Rule J5 (members of brigade other than regular firefighters – supplementary)	In Part 8, rule 3
Rule K2 (reassessment of injury pension)	In Part 9, rule 2
In Schedule 1, Part I, the entry relating to “qualifying injury”	In Part 1, rule 2(1)
In Schedule 2, Part V (injury awards)	Schedule 1
In Schedule 3, Part II (spouse’s special pension)	Schedule 2
In Schedule 4, Part II (child’s special allowance)	Schedule 3
In Schedule 5, Part I ((adult dependent relative’s special pension)	Schedule 4
Schedule 10 (servicemen – increased awards)	Schedule 6

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(a) Paragraph 8(2A) was inserted by S.I.

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends the Firefighters' Pension Scheme (set out in Schedule 2 to the Firemen's Pension Scheme Order 1992) as it has effect in England ("the Pension Scheme"). Subject to the exceptions mentioned below, the amendments to the Pension Scheme, which are set out in Schedule 1 to this Order, have effect from 6th April 2006. The power to give retrospective effect is conferred by section 12 of the Superannuation Act 1972, as applied by section 16(3) of that Act.

[The first exception relates to the amendment made by paragraph 57, in so far as it inserts new rules LA2 and LA3 into the Pension Scheme. Those new rules have effect from 1st April 2005. [The effect of rule LA2 is to require fire and rescue authorities to make special payments into their Firefighters' Pension Fund to reflect retiring firefighters' entitlements to ill-health pensions.][New rule LA2 requires fire and rescue authorities to make special payments into the Fund in relation to ill-health pensions under new rule B3. These payments will be of amounts specified by the Secretary of State ("ill-health charges") and are to be paid into the Fund in three annual instalments. Where a pensioner's higher tier ill-health pension is terminated under rule K1, an amount representing the difference between the ill-health charges applicable to the higher tier and lower tier pensions is to be transferred from the Fund to the authority's general fund. If a lower tier ill-health pension is withdrawn, the authority is relieved of any outstanding requirements in relation to the making of special payments.]

Rule LA3 requires the Secretary of State to make a payment to any fire and rescue authority which appears to him to be unable to meet their expenditure commitments from the Fund in any financial year. The rule also enables the Secretary of State to require an authority to which a payment has been made to pay to him (whether from the Fund or another fund maintained by the authority) an amount equal to that of any surplus shown in the audited accounts of the Fund.

The second exception relates to the amendments made by paragraphs [ ]. These amendments relate to ill-health awards and have effect from 1st April 2006. Some have the effect of removing from the Pension Scheme provisions relating to non-contributory compensation for death and injury. These provisions are re-enacted in the Firefighters' Compensation Scheme, which is set out in the Schedule to the Firefighters' Compensation Scheme Order 2006 (SI. 2006/xxx). Others are consequential on the removal of provisions from the Pension Scheme.

Schedule 2 to this Order lists the provisions of the Pension Scheme that cease to have effect, as to England, having been superseded by corresponding provisions of the Firefighters' Compensation Scheme.

Rule B3 and Part III of Schedule 2 to the Pension Scheme, which provide for the payment and calculation of pensions awarded to regular firefighters whose employment ceases by reason of ill-health, are substituted. Firefighters who are found by an independent qualified medical practitioner to be capable of undertaking employment outside the fire and rescue service for an average of at least 30 hours per week over a notional period of 12 months (whether or not they in fact take up any employment) will be entitled to a lower tier ill-health pension. Those who are found to be incapable of undertaking such employment will be entitled to both a lower tier ill-health pension. and a higher tier ill-health pension. There is no change in the method of calculating the newly-styled "higher tier" ill-health pension (paragraph 4 of Part III of Schedule 2). Nor is there any change in the method of calculating the newly-styled "lower tier" ill-health pension for those regular firefighters who have less than 5 years' pensionable service (paragraph 3 of that Part). The method of calculating other "lower tier" ill-health pensions (paragraph 2 of that Part) has the effect that a pensioner who has 5 or more years' pensionable service will be entitled to immediate payment of an amount calculated as if he had been entitled to immediate payment of a deferred pension under rule B5 of the Pension Scheme (the calculation is set out in Part VI of Schedule 2).

Rule K1 is amended to allow a fire and rescue authority to terminate a higher tier ill-health pension where, on a review of the pensioner's condition, it is established that he is capable of

undertaking employment in any period of 12 months for an average of not less than 30 hours in each week. The pensioner's lower-tier ill-health pension will be unaffected.

The effect of the amendment to paragraph 8(2A) of Schedule 9 is that a person who withdraws his appeal to a board of medical referees within 21 days of the date appointed for the interview or medical examination may be required to pay the fire and rescue authority an amount not exceeding that payable by the authority in respect of the board's fees and allowances. The current provision refers to withdrawal within 10 days of the appointed date.

The amendment of rule A3 and the substitution of rule G2(1) anticipate the making of a new pension scheme by order under section 34 of the Fire and Rescue Services Act 2004. The rule A3 amendments provide for the Pension Scheme to cease to have effect on the day on which the new scheme is brought into operation as respects—

persons who take up employment with a fire and rescue authority as regular firefighters on or after 6th April 2006,

persons who, having made an election under rule G3(1) not to pay pension contributions, cancel that election on or after 6th April 2006, and

the spouses, civil partners and dependants of those two classes of person.

It is envisaged that the new scheme will require those classes of person to become members of it.

The paragraph substituted in rule G2 has the effect of requiring persons who take up employment with a fire and rescue authority as firefighters on or after 6th April 2006 to make pension contributions at a lower rate than is required of firefighters whose employment began before that date.

Other amendments relate to changes in the regulation of pension schemes and tax changes brought about by the Finance Act 2004 (c.12), as amended by the Finance Act 2005 (c.7). These amendments have effect from 6th April 2006. In particular, a new Part LA is inserted which requires each fire and rescue authority to establish and maintain a Firefighters' Pension Fund ("the Fund") for the purposes of the Pension Scheme and in connection with rights and liabilities under earlier versions of the Scheme. Pension contributions made by firefighters and their employing authorities will be paid into the Fund and pension and other payments will be made out of the Fund.

The opportunity has been taken to correct two errors that arose in amending instruments made in 2005. Rule C5 of the Pension Scheme (limitation on award to spouse or civil partner by reference to date of marriage or formation of partnership) was substituted by paragraph 7 of Schedule 1 to the Firefighters' Pension Scheme (Civil Partnership Amendments) (England and Scotland) Order 2005 (S.I. 2005/3228). In paragraph (2) of the substituted rule, the words " , subject in the case of a civil partner, to paragraph (3)," were included in error and are now omitted. The second error relates to article 1(3)(c) of the Firefighters' Pension Scheme (Amendment) (England) Order 2005 (S.I. 2005/2980; "the 2005 Order"). That provision gave retrospective effect, to 1st March 1992 (the date on which the Pension Scheme came into force), to rule C5 of the Pension Scheme. It should have given similar retrospective effect to rule C6 of the Pension Scheme, which relates to the requisite benefit and temporary pensions awarded to surviving spouses and civil partners, which was amended in 2005 to reflect the fact that the surviving spouse of a deceased firefighter may be either a widow or a widower. Article 5 of this Order amends article 1(3)(c) of the 2005 Order so that rule C6 is given retrospective effect to 1st March 1992.

The text of the Firefighters' Pension Scheme, as amended by the provisions of this Order, may be viewed at [www.odpm.gov.uk/firepensions](http://www.odpm.gov.uk/firepensions).

A full regulatory impact assessment has not been produced for this Order, as it has no impact on the costs of business, charities or voluntary bodies.