
SCOTTISH STATUTORY INSTRUMENTS

2006 No. 342

**FIRE SERVICES
PENSIONS**

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

<i>Made</i>	- - - -	<i>8th June 2006</i>
<i>Laid before the Scottish Parliament</i>	- - - -	<i>9th June 2006</i>
<i>Coming into force</i>	- -	<i>1st July 2006</i>

The Scottish Ministers, in exercise of the powers conferred by section 26(1) to (5) of the Fire Services Act 1947(1), sections 12 and 16 of the Superannuation Act 1972(2) and of all other powers enabling them in that behalf hereby make the following Order:

Citation, commencement and interpretation

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

(2) This Order shall come into force on 1st July 2006, but subject to paragraph (3) (4) and (5) the amendments set out in Schedule 1 to this Order shall have effect from 6th April 2006.

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- (1) 1947 c. 41, repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 c. 21.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 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), article 2 of the Social Security (Modification of Fire Services Act 1947) Order 1976 (S.I. 1976/551), section 1 of the Police and Firemen's Pensions Act 1997 c. 52 and section 256 of and Schedule 25 to the Civil Partnership Act 2004 (c. 33). The functions of the Secretary of State as regards Scotland were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, article 2 and Schedule 1, (S.I. 1999/1750) and the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2006, article 2 and the Schedule.
- (2) 1972 c. 11; section 12 was amended by section 10 of the Pensions (Miscellaneous Provisions) Act 1990 c. 7. The functions of the Secretary of State as regards Scotland were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 1999, article 2 and Schedule 1 (S.I. 1999/1750). Section 16 applies section 12 with the necessary modifications to orders under section 26 of the Fire Services Act 1997. Section 16 is repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 c. 21 but continues to have effect, for the purposes of the Firefighters' Pension Scheme, by virtue of article 3 of S.I. 2004/2306.

- (3) The following amendments shall have effect from 1st July 2006—
- (a) the amendments made by paragraph 6 of Schedule 1 (ill-health awards);
 - (b) the amendments made by paragraph 46 of Schedule 1 (review of ill health and certain deferred pensions); and
 - (c) the amendments made by paragraph 55 of Schedule 1 (calculation of an ill-health award).
- (4) The amendment made by article 2 and paragraph 18 of Schedule 1 (spouse's or civil partner's requisite benefit and temporary pension) have effect from 1st March 1992.
- (5) The amendment made by article 2 and paragraph 5 of Schedule 1 (short service award) have effect from 4th December 2005.
- (6) In this Order—
- “the Compensation Scheme” means the Firefighters' Compensation Scheme (Scotland) set out in the Schedule to the Firefighters' Compensation Scheme (Scotland) Order 2006(3); and
 - “the Pension Scheme” means the Firefighters' Pension Scheme, set out in Schedule 2 to the Firemen's Pension Scheme Order 1992(4), as it has effect in Scotland.

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), 46 (review of ill health and certain deferred pensions) and 55 (calculation of an ill-health award) 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 or her employment on grounds of ill-health (whether under Part H or Part K of the Pension Scheme) has been made before 1st July 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.

(3) Where—

- (a) a provision of this Order applies to a person to whom a protected benefit was being paid or might become payable; and
- (b) by virtue of this Order that person is placed in a worse position than he or she would have been if this Order had not applied to him or her;

he or she may, by giving written notice to the fire and rescue authority liable or prospectively liable for the payment of the benefit, elect that this Order or a provision of this Order shall not apply to him or her.

(4) Notice under paragraph (3) must be given not later than the date 3 months after the coming into force of a scheme, other than the Compensation Scheme(5), under section 34 of the Fire and Rescue Services Act 2004(6).

(3) S.I. 2006/338.

(4) S.I. 1992/129, amended by S.I. 1997/2309 and 2851, S.I. 1998/1010, S.I. 2001/3649, S.I. 2005/3228, S.S.I. 2001/310, S.S.I. 2004/385 and S.S.I. 2005/566. 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. The Firefighters' Pension Scheme and 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 by article 4(1) of S.I. 2004/2306.

(5) The Compensation Scheme is brought into operation by the Firefighters' Compensation Scheme (Scotland) Order 2006, S.S.I. 2006/338.

(6) 2004 c. 21. The functions of the Secretary of State in respect of section 34 as regards Scotland were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2005, S.I. 2005/849.

(5) For the purposes of paragraph (3) a protected benefit is one paid or capable of becoming payable to or in respect of a person who, before 1st July 2006, ceased to be a member of the fire and rescue service or died.

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.

(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.

St Andrew’s House,
Edinburgh
8th June 2006

GEORGE LYON
Authorised to sign by the Scottish Ministers

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SCHEDULE

Article 2

AMENDMENT OF THE FIREFIGHTERS' PENSION SCHEME

1. In rule A3 (exclusive application to regular firefighters)(7)–
 - (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 2006,
 - (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 Compensation Scheme (8), is brought into operation under section 34 of the Fire and Rescue Services Act 2004(9) as regards Scotland.”.
2. Omit rule A9 (qualifying injury)(10).
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)(11), substitute–

“Short service award

B2.—(1) This rule applies, unless immediately before his retirement an election under rule G3 (election not to pay pension contributions)(12) not to pay pension contributions had effect, to a regular firefighter who retires on or after normal pension age and is not entitled to any 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.”.

6. For rule B3 (ill-health award)(13), substitute–

(7) Rule A3 was amended by article 5 of and paragraph 1 of Schedule 2 to [S.S.I. 2001/310](#) and article 2 of and paragraph 1 of the Schedule to [S.S.I. 2005/566](#).

(8) The Compensation Scheme is brought into operation by the Firefighters' Compensation Scheme (Scotland) Order 2006, [S.S.I. 2006/338](#).

(9) [2004 c. 21](#). The functions of the Secretary of State in respect of section 34 as regards Scotland were transferred to the Scottish Ministers by virtue of the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2005, S.I. [2005/849](#).

(10) Rule A9 was amended by article 2 of and paragraph 3 of the Schedule to [S.S.I. 2004/385](#) and article 2 of and paragraph 7 of the Schedule to [S.S.I. 2005/566](#).

(11) Rule B32 was amended by article 2 of and paragraph 13 of the Schedule to [S.S.I. 2005/566](#).

(12) Rule G3 was amended by article 2 of and paragraph 50 of the Schedule to [S.S.I. 2005/566](#).

(13) Rule B32 was amended by article 2 of and paragraph 13 of the Schedule to [S.S.I. 2005/566](#).

“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—

- (a) to reckon at least 2 years' pensionable service; or
- (b) to an award under the Compensation Scheme,

becomes entitled on retiring—

(i) where paragraph (3) applies, 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; and

(ii) where paragraph (4) applies, to the pensions referred to in paragraph (5)

(3) this paragraph applies where, in the opinion of an independent qualified medical practitioner, obtained in accordance with rule H1, the firefighter is capable of undertaking regular employment outside the fire and rescue service.

(4) This paragraph applies where, in the opinion of the independent qualified medical practitioner, obtained in accordance with rule H1, the firefighter is incapable of undertaking regular employment outside the fire and rescue service.

(5) The pensions are—

- (a) 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
- (b) a higher tier ill health pension determined in accordance with paragraph 4 of that Part.

(6) A firefighter who is not entitled to a pension under paragraph (2), becomes entitled on retiring to a short service lump sum of an amount equal to the aggregate of his pension contributions.

(7) In paragraphs (3) and (4) “regular employment” means employment for 30 hours a week on average over a 12 month period.”.

7. Omit rule B4 (injury award).

8. In rule B5 (deferred pension)(14)—

(a) in paragraph (2)(b), for “rules B1 to B4”, substitute “rules B1 to B3”; and

(b) for paragraph (3)(b) substitute—

“(b) that pension is terminated under rule K1A(3) otherwise than on his re-employment with his fire and rescue authority”.

9. In rule B6 (repayment of aggregate pension contributions)(15) in paragraph (1)—

(a) after “regular firefighter” (in the first place where those words appear), insert “with less than 2 years' pensionable service”; and

(b) in sub paragraph (b), for “rules B1 to B5”, substitute “rules B1 to B3, B5”.

10. In rule B7 (commutation – general provision)(16)—

(14) Rule B5 was relevantly amended by article 2 of and paragraph 15 of the Schedule to [S.S.I. 2005/566](#).

(15) Rule B5 was relevantly amended by article 2 of and paragraph 15 of the Schedule to [S.S.I. 2005/566](#).

(16) Rule B5 was relevantly amended by article 2 of and paragraph 15 of the Schedule to [S.S.I. 2005/566](#).

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- (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.”;
 - (d) for paragraph (10), substitute—
 - “(10) Where—
 - (a) notice of commutation relating to an ill-health pension has taken effect;
 - (b) the pension is terminated under K1A(3); and
 - (c) the person later becomes entitled to another pension, other than an injury pension, for the purposes of which he is entitled to reckon the period of pensionable service that was reckonable for the purposes of the ill health pension,
 - 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.
 - (10A) Where paragraph (10)(c) applies and notice of commutation is given in respect of the other pension, the portion of it that may be commuted is reduced by the amount of the reduction under paragraph (10).”;
 - (e) in paragraph (11), after “I4” insert “or rules 2 and 3 of Part 7 of the Compensation Scheme”.
- 11. In rule B8 (commutation – small pensions)(17)–**
- (a) in paragraph (1), for the words from “does not exceed” to the end, substitute “does not exceed the commutation limit for the purposes of Part 1 of Schedule 29 to the Finance Act 2004(18) (lump sum rule), the fire and rescue authority may commute the pension for a lump sum”; and
 - (b) in paragraph (2) for “gratuity”, substitute “lump sum”.
- 12. In rule B9 (allocation)(19)–**
- (a) omit paragraph (4)
 - (b) for paragraph (7) substitute—
 - “(7) A person’s notice of allocation, which may be sent by post, must be given before, but not earlier than two months before, the date on which he intends to retire.”;
 - (c) for paragraph (10), substitute—
 - “(10) A notice of allocation which has been accepted takes effect only if the person who gave it retires within two months of giving it.”;
 - (d) omit paragraph (11);
 - (e) in paragraph (12), for the words from “the later” to “took effect,”, substitute–

(17) Rule B8 was relevantly amended by article 5 of and paragraph 5 of Schedule 2 to [S.S.I. 2001/310](#).

(18) As to “the lump sum rule”, see section 166 of the Finance Act 2004. As to the commutation limit, see paragraph 7(4) of Part 1 of Schedule 29 to that Act.

(19) Rule B9 was relevantly amended by article 2 to and paragraph 9 to the Schedule to [S.S.I. 2004/385](#), article 2 of and paragraph 19 of the Schedule to [S.S.I. 2005/566](#) and article 2 and paragraph 2 of Schedule 1 to [S.I. 2005/3228](#).

“the date from which the pension is payable;” and

- (f) in paragraph (16), for “or I4” substitute “or rules 2 and 3 of Part 7 of the Firefighters' Compensation Scheme”.

13. In rule B10 (limitation of commuted or allocated portion of pension), in paragraph (2), for “or I4” substitute “or rule 2 or 3 of Part 7 of the Compensation Scheme”.

14. For rule B11 (deduction of tax from certain awards)(**20**), 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(**21**), 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)(**22**), 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)(**23**).

17. In rule C5 (limitation on award to widow by reference to date of marriage)(**24**)—

- (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), for “or other award mention”, substitute “mentioned”.

18. For rule C6 (widow’s requisite benefit and temporary pension)(**25**) substitute—

“Spouse or civil partner’s requisite benefit and temporary pension

C6.—(1) This rule applies, with effect from 1st March 1992, where—

- (a) a person entitled to reckon less than 2 years' pensionable service who is or has been a regular firefighter and by whom pension contributions have at any time been payable under rule G2 dies, leaving a surviving spouse or civil partner, after the beginning of the tax year in which he attained or would have attained state pensionable age, and
- (b) rule C4 does not apply.

(2) Where this rule applies the surviving spouse or civil partner is entitled—

- (a) in respect of the first 13 weeks following the death, to a temporary pension, and

(20) Rule B11 was amended by article 2 of and paragraph 20 of the Schedule to [S.S.I. 2005/566](#).

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

(22) Paragraph (2A) was inserted by S.I. 2005/3228, Schedule 1, paragraph 3 and rule C1 was relevantly amended by article 2 of and paragraph 22 of the Schedule to [S.S.I. 2005/566](#).

(23) Rule C2 and C3 were relevantly amended by article 2 of and paragraphs 4 and 5, respectively, of Schedule 1 to S.I. 2005/3228.

(24) Rule C5 was substituted by article 2 of and paragraph 24 of the Schedule to [S.S.I. 2005/566](#) and article 2 of and paragraph 7 of Schedule 1 to S.I. 2005/3228.

(25) Rule C6 was substituted by article 2 of and paragraph 24 of the Schedule to S.I. 2005/566 and amended by article 2 of and paragraph 8 of Schedule 1 to S.I. 2005/3228.

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- (b) after the last of those 13 weeks, to a requisite benefit pension.
 - (3) The weekly amount of the temporary pension is $A - B$, where—
 - A is the weekly amount, immediately before the deceased died, of his pensionable pay or, as the case may be, his pension or pensions (including any increase under the Pensions (Increase) Act 1971)⁽²⁶⁾, and
 - B is the weekly amount of any children’s allowances payable in respect of his death.
 - (4) The requisite benefit pension shall be calculated—
 - (a) in the case of a surviving spouse, in accordance with Part V of Schedule 3; and
 - (b) in the case of a surviving civil partner, in accordance with that Part subject to the substitution, in paragraphs 1 and 3, of “5th April 1988” for “5th April 1978”.
 - (5) If—
 - (a) the deceased dies while serving as a regular firefighter; and
 - (b) the amount of the capitalised value of the requisite benefit pension, as calculated by the Government Actuary, is less than that of his average pensionable pay,
 the surviving spouse or civil partner is entitled to a lump sum equal to the difference between those amounts.”.
19. For rule C7 (spouse’s award where no other award payable)⁽²⁷⁾, substitute—

“Award to spouse or civil partner where no other award payable

C7.—(1) This rule applies where—

- (a) a person by whom pension contributions have at any time been payable under rule G2 dies while serving as a regular firefighter before the end of the tax year preceding that in which he would have attained state pensionable age;
- (b) he leaves a spouse or civil partner; and
- (c) rules C1, C4 and C6 do not apply.

(2) Where this rule applies, the surviving spouse or civil partner is entitled—

- (a) in respect of the first 13 weeks following the death, to a temporary pension calculated as if rule C6(2)(a) and (3) had applied; and
- (b) to a lump sum of an amount equal to the deceased’s average pensionable pay.”.

20. In rule C8 (limitations where spouses living apart)⁽²⁸⁾—

- (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. In rule D5 (child’s allowance or special gratuity: limitations)⁽²⁹⁾, omit paragraph (7).

⁽²⁶⁾ 1971 c. 56.

⁽²⁷⁾ Rule C7 was amended by article 2 of and paragraph 9 of Schedule 1 to S.I. 2005/3228.

⁽²⁸⁾ Rule C8 was amended by article 2 of and paragraph 10 of Schedule 1 to S.I. 2005/3228.

⁽²⁹⁾ Rule D5 was amended by article 2 of and paragraph 28 of the Schedule to S.I. 2005/566 and by article 2 of and paragraph 14 of Schedule 1 and paragraph 1 of Schedule 2 to S.I. 2005/3228.

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 aged 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. For rule E5 (gratuity in lieu of surviving spouse’s pension)(30) substitute—

“Lump sum in lieu of surviving spouse’s or civil partner’s pension

E5.—(1) Subject to rule E7, where the amount of any pension payable under Part C, together with any increase under the Pensions (Increase) Act 1971, does not exceed the commutation limit for the purposes of Part 1 of Schedule 29 to the Finance Act 2004 (lump sum rule)(31), the fire and rescue authority may commute the pension for a lump sum.

(2) Where—

- (a) a surviving spouse or civil partner is entitled to a pension under rule C1; and
- (b) the fire and rescue authority are satisfied that there are sufficient reasons; and
- (c) the surviving spouse or civil partner consents; and
- (d) the deceased spouse or civil partner died before his 75th birthday,

the fire and rescue authority may commute for a lump sum the pension or so much of it as may be commuted without exceeding the commutation limit.

(3) A fire and rescue authority may under this rule commute a pension for a lump sum only when the pension first becomes payable.

(4) The payment of a lump sum on the commutation of the whole or any part of a pension under this rule must be made before the date on which the deceased would have attained the age of 75.

(5) A lump sum under this rule shall be calculated in accordance with such guidance as is provided for the purpose by the Government Actuary.”.

28. For rule E6 (gratuity in lieu of child’s allowance)(32), substitute—

“Lump sum in lieu of child’s allowance

E6.—(1) Subject to rule E7, where—

- (a) a child is entitled to an allowance under Part D, and
- (b) the fire and rescue authority are satisfied that there are sufficient reasons, and
- (c) a surviving parent or the child’s guardian or, if he has neither, the child himself consents, and
- (d) the deceased died before his 75th birthday,

(30) Rule E5 was substituted by article 2 of and paragraph 32 of the Schedule to [S.S.I. 2005/566](#) and was amended by article 2 and paragraph 17 of Schedule 1 to [S.I. 2005/3228](#).

(31) As to “the lump sum rule”, see section 166 of the Finance Act 2004 (c. 12). As to the commutation limit, see paragraph 7(4) of Part 1 of Schedule 29 to that Act.

(32) Rule E6 was amended by article 2 of and paragraph 33 of the Schedule to [S.S.I. 2005/566](#).

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the fire and rescue authority may commute for a lump sum the allowance or so much of it as may be commuted without exceeding the commutation limit for the purposes of Part 1 of Schedule 29 to the Finance Act 2004 (lump sum rule).

(2) The payment of a lump sum on the commutation of the whole or any part of an allowance under this rule must be made before the date on which the deceased would have attained the age of 75.

(3) A lump sum under this rule shall be calculated in accordance with Part III of Schedule 5.”.

29. In rule E7 (limitation on discretion to commute pension or allowance for gratuity)(**33**)–

(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)(**34**)

(b) in paragraph (3), for “other gratuity”, substitute “lump sum paid”;

(c) in paragraph (4), omit “, gratuity”; and

(d) in paragraph (5), for “or I4”, substitute “or rule 2 or 3 of Part 7 of the Compensation Scheme”.

30. In rule E8 (increase of pensions and allowances during first 13 weeks)(**35**)–

(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 paragraph 3 of Part V of Schedule 2 (additional benefits) or under Part VIII of that Schedule (uprating of widows' 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”.

31. 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”.

32. In rule F2 (current service)(**36**), for paragraphs (3) and (4), substitute–

“(3) A regular firefighter may, by written notice given to his employing authority within six months of returning to duty after a period of absence without pay (excluding absence for maternity, paternity or adoption leave), require them to reckon as pensionable service all or part of that period (the “reckonable period”).

(33) Rule E7 was amended by article 2 of and paragraph 34 of the Schedule to [S.S.I. 2005/566](#).

(34) [2004 c. 12](#).

(35) Rule E8 was amended by article 2 of and paragraph 18 of Schedule 1 to [S.I. 2005/3228](#).

(36) Rule F2 was amended by article 2 of and paragraph 13 of the Schedule to [S.S.I. 2004/385](#) and article 2 to and paragraph 27 of the Schedule to [S.S.I. 2005/566](#).

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(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 if a notional funding system applied and an employers contribution was payable by the authority as part of the overall cost of pensionable service counting for the reckonable period.

(5) A fire and rescue authority may treat as paid 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.”.

33. In rule F3 (previous service reckonable without payment)(**37**), in paragraph (b), for “in the circumstances and within the period mentioned in rule K1(1) to(4) (cancellation of ill health pension)”, substitute “following an offer of employment under rule K1A(2)(b),”.

34. In rule F5 (period during which injury pension was payable)(**38**)—

(a) for paragraph (1) (a), substitute—

“(a) (i) on retiring from a brigade before 2nd August 2005, 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)(**39**); 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”;

(b) in paragraph (1)(b), for “in the circumstances and within the period mentioned in rule K1(1) to(4) (cancellation of ill-health pension)”, substitute “following an offer of employment under rule K1A(2)(b),”.

35. In rule F7 (receipt of transfer value), in paragraph (2), after “authority” insert “, not later than 12 months after the date on which he takes up employment with them,”.

36. In rule G1 (pensionable pay and average pensionable pay)(**40**), 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

(37) Rule F3 was amended by article 2 of and paragraph 39 of the Schedule to [S.S.I. 2005/566](#).

(38) Rule F5 was amended by article 2 of and paragraph 41 of the Schedule to [S.S.I. 2005/566](#)

(39) Rule B4 is revoked by paragraph 7 of this Order.

(40) Rule G1 was amended by article 2 of and paragraph 15 of the Schedule to [S.S.I. 2004/385](#) and article 2 and paragraph 47 of the Schedule to [S.S.I. 2005/566](#).

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- (ii) in sub paragraph (b), after “purposes”, insert “of this Scheme”.
- 37.** In rule G2 (pension contributions)(**41**) 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.”.
- 38.** In rule G3 (election not to pay pension contributions)–
- (a) in paragraph (2), for “paragraph (3)”, substitute “paragraphs (3) and (3A)”; and
- (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.”.
- 39.** In rule G7 (payment of periodic contributions for increased benefits)(**42**)–
- (a) in paragraph (1), for “paragraphs (2) to (4)”, substitute “paragraphs (2) and (3)”; and
- (b) for paragraphs (3) to (4)(**43**), 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.”.
- 40.** In rule H1 (determination by fire authority), omit paragraph (2)(c) and (d).
- 41.** In rule I2 (awards to servicemen)(**44**)–
- (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 has”.
- 42.** In rule I3 (awards on death of servicemen)(**45**)–
- (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 J1 (guaranteed minimum pensions), for paragraph (6), substitute–

(41) Rule G2 was amended by article 2 of and paragraph 49 of the Schedule to [S.S.I. 2005/566](#).

(42) Rule G7 was amended by article 2 of and paragraph 17 of the Schedule to [S.S.I. 2004/385](#) and article 2 of and paragraph 53 of the Schedule to [S.S.I. 2005/566](#).

(43) Rule I2 was amended by article 2 of and paragraph 58 of the Schedule to [S.S.I. 2005/566](#).

(44) Rule I3 was amended by article 2 of and paragraph 59 of the Schedule to [S.S.I. 2005/566](#) and article 2 of and paragraph 19 of Schedule 1 to [S.I. 2005/3228](#).

(45) Rule I3 was amended by article 2 of and paragraph 59 of the Schedule to [S.S.I. 2005/566](#) and article 2 of and paragraph 19 of Schedule 1 to [S.I. 2005/3228](#).

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“(6) For the purposes of paragraph (5), a pension includes any increase in it under the Pensions (Increase) Act 1971⁽⁴⁶⁾.”.

45. 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).

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

“Review of ill-health and certain deferred pensions

K1.—(1) So long as a person—

- (a) has been in receipt of an ill-health pension for less than 10 years, and
- (b) is under the age of 60,

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 for less than 10 years; and
- (b) is under the age 60,

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 in receipt of payments in respect of a deferred pension under rule B5; and
- (b) is under the age of 60,

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 for 30 hours on average over a twelve-month period.

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) A lower tier ill-health pension shall continue to be paid to a person whose higher tier ill-health pension is terminated as mentioned in paragraph (1) unless—

- (a) on such consideration as is mentioned in rule K1, it is found that he has become capable of performing the duties appropriate to the role from which he retired on grounds of ill-health; and,
- (b) the authority may make him an offer of employment in that role (“a paragraph (2) (b) offer”).

⁽⁴⁶⁾ 1971 c. 56.

⁽⁴⁷⁾ Rule K1 was amended by article 2 and paragraph 23 of the Schedule to [S.S.I. 2004/385](#) and article 2 and paragraph 68 of the Schedule to [S.S.I. 2005/566](#).

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(3) Entitlement to a lower tier ill-health pension shall cease, with immediate effect, where a person accepts or declines a paragraph (2)(b) offer.

(4) A person who declines a paragraph (2)(b) offer shall then become entitled to a deferred pension under rule B5.”.

47. Omit rule K2 (reassessment of injury pension).
48. In rule K3 (reduction of award in case of default)(48), in paragraph (1), omit “or injury”.
49. In rule K5 (withdrawal of pension on conviction of certain offences)(49), in paragraph (4), omit “, other than an injury pension,”.
50. In rule L1(authorities responsible for payment of awards)(50), omit paragraphs (2), (5) and (6).
51. In rule L3 (payment of awards)(51), in paragraph (7), omit “other than an injury gratuity under rule B4,”.
52. In rule L4 (prevention of duplication)(52)–
- (a) in paragraph (1), at the end insert “or the Compensation Scheme”;
 - (b) in paragraph (2), omit sub paragraph (d);
 - (c) in paragraph (4), for “rule B4”, substitute “the Compensation Scheme”; and
 - (d) omit paragraph (5).
53. Omit rule L4A (prevention of duplication: other injury awards for persons who are both regular and retained firefighters)(53) and L4B, (prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters)(54).
54. In Schedule 1 (interpretation), in Part I (glossary of expressions)(55)–
- (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 (Scotland) , set out in the Schedule to the Firefighters’ Compensation Scheme (Scotland) Order 2006”; and
 - (b) omit the entry (both columns) for the expression “qualifying injury”.
55. In Schedule 2 (personal awards)(56)–
- (a) for Part III (ill-health pension), substitute–

“PART III

ILL-HEALTH PENSION

1.—(1) Paragraph 2 to 5 have effect subject to Parts VIA, VII and VIII of this Schedule.

(48) Rule K3 was amended by article 2 of and paragraph 70 of the Schedule to [S.S.I. 2005/566](#).

(49) Rule K5 was amended by article 2 of and paragraph 72 of the Schedule to [S.S.I. 2005/566](#).

(50) Rule L1 was amended by article 2 of and paragraph 73 of the Schedule to [S. S.I. 2005/566](#).

(51) Rule L3 was amended by article 2 of and paragraph 75 of the Schedule to [S. S.I. 2005/566](#).

(52) Rule L4 was amended by article 2 of and paragraph 76 of the Schedule to [S.S.I. 2005/566](#).

(53) Rule L4A was inserted by article 2 of and paragraph 77 of the Schedule to [S. S.I. 2005/566](#).

(54) Rule L4B was inserted by article 2 of and paragraph 77 of the Schedule to [SS.I. 2005/566](#) and amended by article 2 of and paragraph 26 of Schedule 1 to [S.I. 2005/3228](#).

(55) Part 1 of Schedule 1 was amended by article 2 of and paragraph 88 of the Schedule to [S.S.I. 2005/2980](#) and article 2 of and paragraph 27 of Schedule 1 to [S.I. 2005/3228](#).

(56) Schedule 2 was amended by article 2 of and paragraph 89 of the Schedule to [S.S.I. 2005/566](#).

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(2) Where the person concerned has the role of Station Manager B or a superior role, any calculation relevant for the purposes of this Part shall be made as if his normal pension age were 60.

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.

(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—

$$(2 \times A \times C) \div 60,$$

where—

A 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—

$$\{(20 \times A) \div 60\} \text{ or } \{(7 \times A \div 60) + (A \times D \div 60) + (2 \times A \times E \div 60)\},$$

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

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

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- (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);
- (c) in Part VIA (calculation of awards for part-time service), in paragraph 1, omit sub paragraphs (d) and (e); and
- (d) in Part VII (reduction of pension at state pensionable age) omit paragraph 4.
- 56.** In Schedule 3 (awards on death: spouses)(**57**)–
- (a) in Part I (spouse's ordinary pension), in paragraph 1(2)(a), after “applies, the” insert “higher tier”;
- (b) omit Part II (spouse's special pension); and
- (c) 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.”.
- 57.** In Schedule 4 (awards on death-children)(**58**)–
- (a) in Part I (child's ordinary allowance)–
- (i) in paragraph 1(4)(a), after “applies, the”, insert “higher tier”; and
- (ii) 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)–
- (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 Part I of this Schedule applies”.
- 58.** In Schedule 5 (awards on death-additional provisions), omit Part I (adult dependent relative's special pension).
- 59.** In Schedule 9 (appeals), in paragraph 8(2A)(**59**), for “10”, substitute “21”.
- 60.** Omit Schedule 10 (servicemen: increased awards).

(57) Schedule 3 was amended by article 2 of and paragraphs 31 to 35 of the Schedule to [S.S.I. 2004/385](#) and article 2 of and paragraph 90 of the Schedule to [S.S.I. 2005/566](#).

(58) Schedule 4 was relevantly amended by article 2 of and paragraph 29 of Schedule 1 to [S.I. 2005/3228](#).

(59) Paragraph 8(2A) was inserted by article 2 and paragraph 42 of the Schedule to [S.S.I. 2004/385](#).

SCHEDULE 2

Article 4(1)

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

<i>Column 1</i> <i>Provision of Pension Scheme revoked</i>	<i>Column 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 E8 (increase of pension and allowances during first 13 weeks)	In Part 5 rule 5
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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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 Scotland ("the Pension Scheme"). The majority of the amendments have effect from 6th April 2006. The exceptions to this are the amendments made by paragraphs 6, 46 and 55 of Schedule 1 which have effect from 1st July 2006, the amendment at paragraph 18 of Schedule 1 which has effect from 1st March 1992 and the amendment at paragraph 5 of Schedule 1 which has effect from 4th December 2005. 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 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. Section 34(1) to (5) has been executively devolved to Scottish Ministers by S.I.2005/849. 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.

Some amendments specified in Schedule 1 to this Order remove 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 (S.I. 2006/xxx). Schedule 2 to this Order lists the provisions of the Pension Scheme that cease to have effect, as to Scotland, having been superseded by corresponding provisions of the Firefighters' Compensation Scheme.

Except as detailed below, other amendments specified in Schedule 1 to this Order are consequential on the removal of those provisions or relate to changes in the regulation of pension schemes brought about by the Finance Act 2004 (c. 12), as amended by the Finance Act 2005 (c. 7).

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 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 replaced by new rules K1 and K1A which allow a fire and rescue authority to replace a higher tier ill-health pension with a lower tier ill-health pension where, on a review of the pensioner's condition, it is established that he is capable of undertaking employment for 30 hours a week on average over a 12 month period. The pensioner's lower tier ill-health pension will be unaffected unless, on a review of his condition, it is established that he is capable of performing the duties of the role from which he retired and he accepts or declines the authority's offer to take up employment in that role. If the pensioner declines such an offer, he becomes entitled to a deferred pension and his entitlement to a lower tier ill-health pension is terminated.

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 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)(b) of the Firefighters' Pension Scheme (Amendment) (Scotland) Order 2005 ([S.S.I. 2005/566](#)). That provision gave retrospective effect, from 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. That rule was amended in 2005 to reflect the fact that the surviving spouse of a deceased firefighter may be either a widow or a widower. Rule C6, as now substituted, is given retrospective effect from 1st March 1992.

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.