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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 Scheme"). Except as mentioned below, the amendments have effect from 2nd August 2005. The power to give amendments retrospective effect is conferred by section 12 of the Superannuation Act 1972, as applied by s16 of that Act.

Many of the amendments specified in the Schedule to this Order are consequential on the revocation of the Fire Services Act 1947 and its replacement in Scotland by the Fire (Scotland) Act 2005 ("the 2005 Act"). For example, references to fire authorities (unless retained for transitional purposes) have been amended to references to fire and rescue authorities and references to brigades have been amended to references to fire and rescue services or, depending on the particular context, to fire and rescue authorities.

The amendments which are not consequential on the 2005 Act are:

- (a) the replacement of rule A13, which provided for compulsory retirement at 55 for those of Station Officer or lower rank, and at 60 for those of Assistant Divisional Officer rank or higher rank, with a rule providing for a normal pension age of 55, whatever the individual's role. This amendment has effect from 4th December 2005;
- (b) the correction of an anomaly in the operation of rule B5(4)(b), which allowed an individual who was found to be unfit for fire-fighting, but able to carry out other duties, to resign with a deferred pension prior to re-deployment, and immediately request early payment of that pension on the ground that he was permanently unfit for fire-fighting;
- (c) the substitution of rules C5 and C6 to reflect the fact that the surviving spouse of a deceased firefighter may be either a widow or a widower. The opportunity has been taken to correct an error in rule C5, which limited by reference to the date of the marriage awards payable to widows. That correction removes the reference to rule C7 (spouse's award where no other award payable). The substitution of C5 has effect from 1st March 1992 (the date on which the Scheme came into force). The substitution of C6 reduces from 3 to 2 years the pensionable service required in relation to spouse's requisite benefit and temporary pension and has effect from 4th December 2005;
- (d) the substitution of rule E5, which relates to the payment to a surviving spouse of a gratuity instead of a pension. The former paragraphs (2) and (3), which applied in relation to widows and widower, respectively, have been amalgamated, and minor drafting changes have been made;
- (e) the amendment to rule G1, which relates to the way in which firefighters' pensions are calculated, enables fire and rescue authorities which have introduced "salary sacrifice" schemes (schemes in which an employer allows employees certain benefits, such as childcare, in return for giving up part of their salary) to collect pension contributions based on the amount of pay before reduction for the sacrifice;
- (f) the amendment of rule L4, which prevents the duplication of certain injury awards. The main change of substance is to prevent duplicate injury awards in cases where the individual is employed both as a regular firefighter and as a retained firefighter (whether by the same fire and rescue authority or by different fire and rescue authorities). New rules L4A and L4B are introduced to deal expressly with the prevention of duplication in those cases. Consequential amendments are made to rules A9 (qualifying injury) and L1

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- (authorities responsible for payment of awards), and to Part V of Schedule 2 to the Scheme (adjustments where two fire and rescue authorities are responsible for pension payments);
- (g) the substitution of Part IV of Schedule 3, which reflects the substitution of rule C5; and
  - (h) the amendment of references to members of brigades by rank to references to employees of fire and rescue authorities by role. These amendments reflect a new grading structure introduced by the Fire Service Appointments and Promotion (Scotland) Regulations 2004 ([S.S.I. 2004/527](#)).

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