

2018 No.

PENSIONS

The Firefighters' Pension Scheme Amendment (Increased Pension Entitlement) (Scotland) Order 2018

<i>Made</i>	- - - -	2018
<i>Laid before the Scottish Parliament</i>		2018
<i>Coming into force</i>	- -	2018

The Scottish Ministers make the following Order in exercise of the powers conferred by section 26(1) to (5) of the Fire Services Act 1947(a), sections 12 and 16 of the Superannuation Act 1972(b) and all other powers enabling them to do so.

Citation, commencement, effect and extent

1.—(1) This Order may be cited as the Firefighters' Pension Scheme Amendment (Increased Pension Entitlement) (Scotland) Order 2018.

(2) This Order comes into force on [] 2018 and, subject to paragraph (3), has effect from 8th April 2019(c).

(3) Article 2 of this Order, in so far as required to give effect to paragraph 2 of the Schedule, and paragraph 2 of the Schedule have effect from 12th November 1979 to 7th April 2019.

(4) This Order extends to Scotland only.

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- (a) 1947 c.41 ("the 1947 Act"); repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c.21).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 the Firefighters' Pension Scheme (England and Scotland) Order 2004 (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 (S.I. 2006/304).
- (b) 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 1947. 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.
- (c) Retrospective effect is permitted by section 12 of the Superannuation Act 1972 as applied by section 16 of that Act.

Amendment of the Firemen’s Pension Scheme Order 1992

2. Schedule 2 to the Firemen’s Pension Scheme Order 1992^(a) as it has effect in Scotland is amended in accordance with the Schedule to this Order.

St Andrew’s House,
Edinburgh
2018

Name
A member of the Scottish Government

(a) S.I. 1992/129; amended by S.I. 1997/2309 and 2851, 1998/1010, 2001/3649 and 2005/3228 and S.S.I. 2001/310, 2004/385, 2005/566, 2006/342, 2007/200 and 2008/161. The Firemen’s Pension 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 Scheme and subsections (1) to (5) of section 26 were continued in force by 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.

SCHEDULE

Article 2

Amendment of Schedule 2 to the Firemen's Pension Scheme Order 1992

1. In rule P1, (interpretation) in the definition of “the existing Orders” –
 - (i) for “and” after “Order 2009” substitute “,”; and
 - (ii) after “Order 2009” insert “the Pensions Increase (Review) Order 2011(a), the Pensions Increase (Review) Order 2012(b), the Pensions Increase (Review) Order 2013(c), the Pensions Increase (Review) Order 2014(d), the Pensions Increase (Review) Order 2015(e), the Pensions Increase (Review) Order 2017(f) and the Pensions Increase (Review) Order 2018(g)”.
2. In rule P2 (application of this Part)–
 - (a) after “5th April 2009” insert “or 7th April 2018”; and
 - (b) for “that date” substitute “either of those dates”.
3. In rule P4 (Authorisation of payment of GMP-related payments), for paragraph (2) substitute “(2) Where a relevant administering authority has paid GMP-related payments before 8th April 2019, the authority may not recover those payments after 8th April 2019.”.
4. In rule P5 (Increased Pension Entitlement)–
 - (a) in paragraph (2) for “2009–10” substitute “2018–19”;
 - (b) in paragraph (6)(a), for “2009–10” substitute “2018–19”; and
 - (c) in paragraph (6)(b), for “2009–10” twice occurring, substitute “2018–19” and for “not entitled to a guaranteed minimum pension” substitute “(i) not entitled to a guaranteed minimum pension or (ii) entitled to the original guaranteed minimum pension awarded prior to the reconciliation of that award” .

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- (a) S.I. 2011/827.
 - (b) S.I. 2012/782.
 - (c) S.I. 2013/604.
 - (d) S.I. 2014/668.
 - (e) S.I. 2015/671.
 - (f) S.I. 2017/417.
 - (g) S.I. 2018/333.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Firefighters' Pension Scheme Order 1992 (S.I. 1992/129) ("the 1992 Order") to authorise the payments made by fire and rescue authorities between 12th November 1979 and 6th April 2018 of annual increases to certain persons who are entitled to a guaranteed minimum pension.

Section 5 of the Pensions (Increase) Act 1971 ("the 1971 Act") requires pensions authorities to increase annually pensions to which that Act applies. The 1971 Act is modified by sections 59 and 59A of the Social Security Pensions Act 1975 ("the 1975 Act"). Pensions authorities pay annual increases on pensions in accordance with the annual Pensions (Increase) Review Orders ("the annual PIROs") which are made under section 59 of the 1975 Act. The combined effect of section 59(5) of the 1975 Act, Directions by the Treasury made under section 59A of the 1975 Act and relevant provisions of the annual PIROs is that the amount of increase payable by a pensions authority under the annual PIROs is reduced by the amount equal to the rate of the GMP which is paid by the Department of Work and Pensions ("DWP"). Affected pensioners (to whom Part P applies) have received duplicate payments, from both DWP and the fire and rescue authority.

Amended rule P4 authorises the past payment of GMP-related payments. This provision has effect from 12th November 1979 until 7th April 2019. Paragraph (2) of that rule provides that where a fire and rescue authority has made such payments to an affected pensioner, it may not recover them.