

2019 No.

FIRE SERVICES

PENSIONS

**The Firefighters' Pension and Compensation Schemes
(Amendment)(No. 2)(Scotland) Order 2019**

<i>Made</i> - - - -	2019
<i>Laid before Parliament</i>	2019
<i>Coming into force</i> - -	2019

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), section 12 of the Superannuation Act 1972(b), section 34(1) to (5) and (8) and 60(2) of the Fire and Rescue Services Act 2004(c) and all other powers enabling them to do so.

In accordance with section 34(5) of the Fire and Rescue Services Act 2004, the Scottish Ministers consulted such persons as they considered appropriate.

PART 1

Introductory

1.—(1) This Order may be cited as the Firefighters' Pension and Compensation Schemes (Amendment) (No. 2) (Scotland) Order 2019.

(2) This Order comes into force on [***].

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- (a) 1947 c.41. Section 26 was repealed by sections 52 and 54 and schedule 2 of the Fire and Rescue Services Act 2004 (c.21).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 Firefighters' Pension Scheme, in relation to Scotland by virtue of S.I. 2004/2306. The name of the scheme was changed to the Firefighters' Pension Scheme by S.I. 2004/2306. Section 26 was amended by section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c.65), section 29 and Schedule 8 of the Superannuation Act 1972 (c.11), section 1 of the Police and Firemen's Pensions Act 1997 (c.52), section 256 of, and Schedule 25 to, the Civil Partnership Act 2004 (c.33), and S.I. 1976/551. The Secretary of State's functions under section 26, in so far as they were exercisable in relation to Scotland, were devolved to Scottish Ministers by S.I. 1999/1750 and S.I. 2006/304.
- (b) 1972 c. 11. 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 Section 16 is repealed by section 52 and schedule 2 of the Fire and Rescue Services Act 2004, but continues to have certain effect by virtue of S.I. 2004/2306.
- (c) 2004 c.21. The functions of the Secretary of State in respect of section 34(1) to (5) and (8) and 60(2) 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.

PART 2

CHAPTER 1

Firefighters' Pension Scheme Order 1992

Amendments to the Firefighters' Pension Scheme Order 1992

2. Schedule 2 of the Firefighters' Pension Scheme Order 1992(a) ("the Order") in which the Firefighters' Pension Scheme is set out) is amended in accordance with paragraphs 3 to 8.

Amendments to Part B (personal awards)

3. In rule B5A (entitlement to two pensions)(b)—

- (a) in paragraph (2), for "exceeds" substitute "is lower than",
- (b) in paragraph (6), after "B1" insert "B1A.", and
- (c) in paragraph (9), for "paragraph (3)" substitute "paragraph (4)".

4. In rule B7 (commutation – general provision)(c), after paragraph (5A), insert—

“(5B) Subject to paragraph (4) a fire and rescue authority may, having regard to—

- (a) the economical, effective and efficient management of their functions, and
- (b) the costs likely to be incurred in the particular case,

pay a lump sum in excess of two and a quarter times the full amount of the pension.”

Amendments to Part C (awards on death – spouses)

5.—(1) In rule C1 (spouse's ordinary pension)—

- (a) in paragraph (2), after "spouse" insert "or surviving civil partner", and
- (b) omit paragraph (2A).

(2) In rule C4 (spouse's accrued pension) in paragraph (3)—

- (a) in sub-paragraph (a), after "spouse" insert "or surviving civil partner", and
- (b) omit sub-paragraph (b) and the "and" preceding it.

(3) In rule C5 (limitation on award to spouse or civil partner by reference to date of marriage or formation of partnership)—

- (a) in paragraph (2), after "spouse" insert "or surviving civil partner", and
- (b) omit paragraph (3).

(4) In rule C6 (spouse's requisite benefit and temporary pension), in paragraph (4)—

- (a) for the heading substitute—

“Spouse or civil partner's requisite benefit and temporary pension”,

- (b) in sub-paragraph (a) omit "in the case of a surviving spouse,", and
- (c) omit sub-paragraph (b) and the "and" preceding it.

(5) In rule C8 (limitation where spouses living apart) in paragraph (2)—

(a) S.I. 1992/129; the name of the scheme in England and Scotland was changed to the Firefighters' Pension Scheme by Article 4(1) of S.I. 2004/2306.

(b) Rule B5A was inserted by article 2 and paragraph 1 of the Schedule of S.S.I. 2008/161; there are amendments to paragraph (2) which are not relevant to this instrument; paragraph (9) was inserted by regulation 34(g) of S.S.I. 2015/141.

(c) Paragraphs (3) and (11) of rule B7 were amended by article 2 and paragraph 2(i) of the Schedule of S.S.I. 2018/216.

- (a) in sub-paragraph (a), omit “in the case of a surviving spouse,”;
- (b) omit sub-paragraph (b) and the “and” preceding it.

Amendments to Part J (special cases)

- 6.** In rule J1 (guaranteed minimum pensions)—
 - (a) for paragraph (2)(b) substitute—
 - “(b) in the case of a person who dies at any time and leaves a widow, a surviving same-sex spouse or surviving civil partner, that person is entitled to a pension at a weekly rate equal to half the deceased person’s guaranteed minimum, and”;
 - (b) in paragraph (2), omit sub-paragraph (d) and the “and” preceding it, and
 - (c) in paragraph (4), for “, (c) or (d)” substitute “or (c)”.

Amendments to Appendix 1 to the scheme

- 7.** Omit paragraphs 1 and 2 of Part 3 (provision relating to same sex couples) of Appendix 1(a).

Amendments to Appendix 3 to the scheme

- 8.** In Appendix 3 (awards on death – spouses)—
 - (a) in Part 3 (spouse’s accrued pension)—
 - (i) in paragraph 2(1), after “spouse’s” insert “, or surviving civil partner’s”, and
 - (ii) in paragraph 3(1), after “spouse” insert “or surviving civil partner”, and
 - (b) in Part 4 (pension for surviving spouse of post-retirement marriage), in paragraphs 1(1) and 2(1), after “surviving spouse” insert “or surviving civil partner”.

CHAPTER 2

Firefighters’ Compensation Scheme (Scotland) Order 2006

Amendments to the Firefighters’ Compensation Scheme (Scotland) Order 2006

9. Part 3 (awards on death: spouses and civil partners) of schedule 1 of the Firefighters’ Compensation Scheme (Scotland) Order 2006(b) (in which the firefighters’ compensation scheme 2006 is set out) is amended in accordance with paragraphs 10 to 12.

Amendments to rule 1

- 10.** In rule 1 (special award for spouse or civil partner), in paragraph (3)—
 - (a) in sub-paragraph (a), after “spouse” insert “or surviving civil partner”, and
 - (b) omit paragraph (b).

Amendments to rule 3

- 11.** In rule 3 (limitation on award to spouse or civil partner by reference to date of marriage or formation of partnership)—
 - (a) in paragraph (2), after “spouse” insert “or surviving civil partner”, and
 - (b) omit paragraph (3).

(a) Paragraphs 1 and 2 of Part 3 of Appendix 1 were inserted by article 3 of S.S.I. 2015/140.
(b) S.S.I. 2006/338 was relevantly amended by S.S.I. 2007/198, S.S.I. 2014/109 and S.S.I. 2015/143.

Amendments to rule 4

- 12.** In rule 4 (limitation where spouse or civil partner is living apart), in paragraph (2)—
- (a) in sub-paragraph (a), after “spouse” insert “or surviving civil partner”, and
 - (b) omit sub-paragraph (b) and the “and” preceding it.