

2.—(1) This paragraph applies in the case of a person who was a member of a brigade (“the first brigade”) and has by virtue of a relevant instrument become a member of another brigade (“the second brigade”).

(2) Where this paragraph applies—

- (a) this Scheme has effect as if the second brigade and the fire authority maintaining it were, respectively, the first brigade and the authority maintaining the first brigade, and
- (b) if in the first brigade the person held the rank of assistant divisional officer or a higher rank and he has suffered a reduction in rank attributable to the relevant instrument, rule A13 (compulsory retirement on account of age) has effect as if he had not suffered the reduction in rank, unless by giving written notice to the fire authority he otherwise elects.

3.—(1) This paragraph applies in the case of a person who has suffered loss of employment as a regular firefighter which is attributable to a relevant instrument.

(2) Where this paragraph applies—

- (a) this Scheme has effect as if when he suffered the loss of employment he had retired after giving due notice of retirement to the fire authority and, if they agree, as if the notice had been given with their permission, and
- (b) if before the end of his resettlement period he has become a regular firefighter in another brigade, rule F2 (current service) has effect as if he had been a member of that brigade immediately after suffering the loss of employment.

(3) A person’s resettlement period is—

- (a) where the loss of employment occurred before he had attained the age of 45, the period of 13 weeks beginning with the week after that in which the loss occurred, and
- (b) in any other case, that period of 13 weeks extended by an additional week for each year by which his age when the loss occurred exceeded 45, but not by more than 13 such weeks.

4.—(1) This paragraph applies in the case of a person who was a member of a brigade and has by virtue of the London Government Act 1963 or a relevant instrument become a member of another brigade, if—

- (a) Part IV of this Schedule applies in his case, and
- (b) his last change of rank during the period of 3 years ending with his last day of service as a regular firefighter was a reduction in rank attributable to that Act or a relevant instrument, and
- (c) his average pensionable pay during that period was less than his pensionable pay at the end of it.

(2) Where this paragraph applies, rule G1 (pensionable pay) as modified by paragraph 13 of Part IV of this Schedule has effect as if paragraphs (4) and (5) were omitted.

SCHEDULE 12

Rule M1

TRANSITIONAL AND OTHER MATTERS

1.—(1) The revocation by article 2(1) of the Firemen’s Pension Scheme Order 1992 (“the 1992 Order”) of the orders specified in Part I of Schedule 1 to the 1992 Order (“the Part I Orders”) and the re-enactment in this Scheme, by virtue of article 2(2), of provisions that were contained in or required to be construed as one with the 1973 Scheme (“1973 provisions”), shall not, except in so far as 1973 provisions are re-enacted with modifications, be taken to affect the continuity of the law, and accordingly—

- (a) any reference in this Scheme to, or to things done or falling to be done under or for the purposes of, any provision of this Scheme is, if and so far as the nature of the reference permits, to be construed as including, in relation to circumstances or purposes in relation to which the corresponding 1973 provision had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision, and
- (b) where a period of time specified in a 1973 provision is current at the commencement of this Scheme, this Scheme has effect as if the corresponding provision of this Scheme had been in force when that period began to run.

(2) Sub-paragraph (1)—

- (a) has effect subject to any express provision to the contrary, and to paragraph 2 (protected benefits), and

- (b) does not mean that the provisions of this Scheme apply to cases to which the corresponding 1973 provisions did not apply by virtue of transitional provision made in connection with the commencement of any of the Part I Orders.

2.—(1) Where—

- (a) a provision of this Scheme (“the new provision”) re-enacts a 1973 provision with any modification, and
 (b) a person to whom a protected benefit was being paid or might become payable is placed in a worse position than he would have been in if the 1973 provision had continued to have effect,

he may, by giving written notice within 3 months after 1st March 1992 to the fire authority liable or prospectively liable for payment of the benefit, elect that the new provision is to apply in relation to the benefit as if it had re-enacted the 1973 provision without modification.

(2) A protected benefit is one paid, or capable of becoming payable, to or in respect of a person who before 1st March 1992 ceased to be a member of a brigade or died.

3.—(1) The revocation by article 2(1) of the 1992 Order of a transitional provision relating to the coming into force of a 1973 provision re-enacted in this Scheme does not affect the operation of that transitional provision, so far as it remains capable of having effect, in relation to the provision as re-enacted.

(2) The revocation by article 2(1) of the 1992 Order of the Part I Orders and the orders specified in Part II of Schedule 1 to the 1992 Order (“the Part II Orders”) does not affect—

- (a) the previous operation, or
 (b) so far as they remain capable of having effect, the operation,

of the savings subject to which the Part II Orders were previously revoked or, in relation to provisions that were given continued effect by those savings, of the Part I Orders and the Part II Orders in so far as they varied those provisions.

4. Any document made, served or issued after 29th February 1992 which includes a reference to a 1973 provision is to be construed, except so far as a contrary intention appears, as referring or, as the context may require, including a reference to the corresponding provision of this Scheme.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation the Firemen’s Pension Scheme 1992 set out in Schedule 2 to the Order (“the 1992 Scheme”) and revokes the Orders specified in Schedule 1. It effects the consolidation, with some further variations, of the Scheme brought into operation by the Firemen’s Pension Scheme Order 1973 as varied by the other Orders specified in Part I of Schedule 1. The further variations, apart from those that consist in the omission of spent or obsolete provisions, are described in the Table below.

TABLE

<i>1992 provisions</i>	<i>Corresponding 1973 provisions</i>	<i>Subject</i>	<i>Variations</i>
r.A7(2)	—	Apportionment of service credit by reference to date	New provision.
r.A11(2)	art.4(2)	Injury occasioning infirmity	Includes injury substantially contributing to infirmity.

TABLE - continued

<i>1992 provisions</i>	<i>Corresponding 1973 provisions</i>	<i>Subject</i>	<i>Variations</i>
r.B3(1)	art.14(1)	Ill-health award	Payable only where retirement compulsory.
r.B7(7)	art.21(4)	Notice to commute pension	May be given 4 (instead of 2) months before retirement.
r.B8	art.21A	Commutation of small pensions	Maximum commutable pension increased.
r.C1(1)	art.22(1)	Spouse's ordinary pension	Payable in additional case (death while in receipt of injury pension after ill-health pension discontinued).
r.C4	art.25	Spouse's accrued pension	Payable even if deceased's deferred pension commuted.
r.C6(3)	art.27A(2)	Widow's temporary pension	In calculating pension deceased's pensions, if more than one, to be aggregated and account to be taken of any statutory increases.
r.D1(1)	art.33(1)	Child's ordinary allowance	Payable in same additional case as spouse's ordinary pension.
r.E5(1)	art.26(1)	Commutation of spouse's pension for gratuity	Maximum commutable pension increased.
r.E5(2)	art.26(2)	Same	Excess over guaranteed minimum commutable only in case of ordinary or special pension.
r.E6(1)	art.37(1)	Commutation of child's allowance for gratuity	Child may consent where there is no parent or guardian.
r.E8	Sch.2 Part V Sch. 3 Part IV	Increases for spouses and children during first 13 weeks	Deceased's pensions, if more than one, to be aggregated and account to be taken of any statutory increases.
r.L3(8)	art.69(8)	Payment of gratuities	Payment may be deferred pending determination of fire authority's liability.
r.L5(2)	art.70(2)	Awards: payment where person entitled incapable	Authority's choice of payee widened.
r.L5(3)	art.70(3)	Payment without proof of title	Not to exceed amount specified under 1965 c.32 (instead of £1500).
Sch.3 Part IV	Sch. 2 Part IX	Pension for widow of post-retirement marriage	Rate linked to that of special award where one would otherwise have been payable.
Sch. 5 Part III	Sch. 3 Part V	Commutation of child's allowance for gratuity	Child may agree amount where there is no parent or guardian.

TABLE—continued

<i>1992 provisions</i>	<i>Corresponding 1973 provisions</i>	<i>Subject</i>	<i>Variations</i>
—	Art.16D	Transitional award	Not reproduced: award not in conformity with current preservation requirements under 1973 c.38.

Section 12(2) of the Superannuation Act 1972 (c.11), as applied by section 16(3) of that Act in relation to orders under section 26 of the Fire Services Act 1947, allows such an order to be framed so as to apply in relation to pensions which are being paid, or may become payable, to or in respect of persons who have ceased to serve or died before the order comes into operation. The 1992 Scheme brought into operation by this Order is framed so as to apply in relation to some such pensions (for example, surviving spouses' pensions becoming payable under Part C). Schedule 12 to the 1992 Scheme contains related transitional provisions, including provision (required by section 12(4) of the Superannuation Act 1972 as applied) for persons who might be adversely affected by any changes to elect that the changes are not to apply.

This Order finally revokes the Orders specified in Part II of Schedule 1 to the Order. These had brought into operation, or varied, six successive Firemen's Pension Schemes, and had previously been revoked subject to savings preserving their effect for old cases. Schedule 12 to the 1992 Scheme contains provision for continuing any remaining effect of the savings.

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