

*This Statutory Instrument has been made in consequence of defects in S.I. 2015/589 and S.I. 2016/878 and is being issued free of charge to all known recipients of those Statutory Instruments.*

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STATUTORY INSTRUMENTS

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**2017 No. 892**

**PUBLIC SERVICE PENSIONS, ENGLAND**

**The Firefighters' Pension Schemes and Compensation Scheme  
(Amendment) (England) Order 2017**

*Made* - - - - *7th September 2017*

*Laid before Parliament* *11th September 2017*

*Coming into force in accordance with article 1*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 26(1), (2) and (5) of the Fire Services Act 1947(a), sections 34(1) to (4) of the Fire and Rescue Services Act 2004(b), and section 12 of the Superannuation Act 1972(c), as applied by section 16(3) of that Act.

The Secretary of State has consulted in accordance with section 34(5) of the Fire and Rescue Services Act 2004.

**Citation, commencement and application**

1.—(1) This Order may be cited as the Firefighters' Pension Schemes and Compensation Scheme (Amendment) (England) Order 2017 and comes into force on 6th October 2017.

(2) The amendments made by—

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- (a) 1947 c. 41; repealed by sections 52 and 54 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c. 21).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 Firefighters' Pension Scheme, in relation to England and Scotland by virtue of S.I. 2004/2306 and in relation to Wales by virtue of S.I. 2004/2917. The name of the scheme was changed to the Firefighters' Pension Scheme by S.I. 2004/2306. Section 26 of the Fire Services Act 1947 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), sections 100 and 101 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(2) of the Magistrates' Courts Act 1980 (c. 43), 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 article 2 of S.I. 1976/551. The Secretary of State's functions under section 26 of the Fire Services Act 1947, in so far as they were exercisable in relation to Scotland, were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (c. 46) and article 2 of, and Schedule 1 to S.I. 1999/1750. The Secretary of State's functions under section 26 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales by virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32).
- (b) 2004 c. 21; the powers conferred by section 34 of the Fire and Rescue Services Act 2004 are now vested in Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by virtue of section 62 of that Act. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers. Powers under section 34 of the Fire and Rescue Services Act 2004 are now vested in Scottish Ministers so far as they are exercisable in relation to Scotland (S.I. 2005/849). Section 34 was amended by paragraph 27 of Schedule 8 to the Public Service Pension Act 2013 (c. 25).
- (c) 1972 c. 11; section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7). Section 16 was repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 but continues to have effect, in relation to England and Scotland, for the purposes of the scheme set out in S.I. 1992/129.

- (a) articles 2(2), (3), (4)(a) and (5); and
  - (b) articles 3 and 4;
- have effect from 1st April 2015.
- (3) The amendments made by article 2(4)(b) have effect from 1st December 2006.
  - (4) The amendment made by article 5 has effect from 30th September 2016.
  - (5) This Order applies in relation to England only.

### **Amendment of the Firemen’s Pension Scheme Order 1992**

- 2.**—(1) Schedule 2 to the Firemen’s Pension Scheme Order 1992(a) is amended as follows.
- (2) In Part B (personal awards), in rule B1A(3)(b) (continuous service pension)—
    - (a) in sub-paragraph (a), for “paragraph (1)(a)”, substitute “paragraph (1)(b)”; and
    - (b) for sub-paragraph (b), substitute—
      - “(b) paragraph (1) of this rule applies as if the age ascertained under sub-paragraph (a) above were substituted for “normal pension age.”.
  - (3) In Part C (awards on death-spouses), in rule C9 (effect of remarriage)—
    - (a) in paragraph (1), for “A person”, substitute “Subject to paragraphs (3) to (5), a person”;
    - (b) in paragraph (2), for “Where a person”, substitute “Subject to paragraphs (3) to (5), where a person”; and
    - (c) after paragraph (2), insert—
      - “(3) Paragraphs (1) and (2) do not apply if the person (“P”), entitled to a pension or gratuity under this Part—
        - (a) marries, remarries, forms a civil partnership or a subsequent civil partnership on or after 1st April 2015; and
        - (b) immediately before the beginning of that marriage, remarriage or formation of a civil partnership or subsequent civil partnership the condition set out in paragraph (4) is satisfied.
  - (4) The condition in this paragraph is that—
    - (a) P is either—
      - (i) entitled to a pension under rule C1 (spouse’s ordinary pension), rule C4 (spouse’s accrued pension), rule C5 (limitation on award to spouse or civil partner by reference to date of marriage or formation of partnership), rule C6 (spouse or civil partner’s requisite benefit and temporary pension) or rule C8 (limitation where spouses living apart); or
      - (ii) receiving a gratuity under rule C8(7); and
    - (b) the deceased spouse or civil partner of P (“D”) died as a result of an injury—
      - (i) received in the exercise of D’s duties as a firefighter; or
      - (ii) sustained while on a journey necessary to enable D to report for duty or return home after duty.
  - (5) If on or after 1st April 2015 P is the subject of a decision by the fire and rescue authority to pay any sums in exercise of its discretion under paragraph (1) or (2), the payment of those sums is not affected by any future marriage, remarriage or formation of a civil partnership.”.
  - (4) In Part G (pensionable pay and contributions)—

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(a) S.I. 1992/129; amended by S.I. 1997/2309, 1997/2851, 1998/1010, 2001/3649, 2001/3691, 2004/1912, 2006/1810, 2006/3433, 2008/214, 2012/953, 2013/1392, 2015/579, S.I. 2016/878.  
 (b) Rule B1A was inserted by S.I. 2015/589.

- (a) In rule G1 (pensionable pay and average pensionable pay)—
    - (i) in paragraphs (10) and (11)(a) for “paragraph 34 of Schedule 2”, substitute “paragraph 33 of Schedule 2”;
    - (ii) in paragraph (13) for “paragraph 34(3) of Schedule 2”, substitute “paragraph 33(3) of Schedule 2”; and
  - (b) in rule G2 (pension contributions)—
    - (i) in paragraph (1) for “paragraph (1B)”(b), substitute “paragraphs (1B) to (1D);
    - (ii) after paragraph (1B) insert—
      - “(1C) A firefighter who is—
        - (a) below the age of 50 and has reckoned 30 years pensionable service; and
        - (b) entitled to be credited with additional pension benefit under rule B5B or B5C shall, until they attain the age of 50, pay pension contributions to the fire and rescue authority only in relation to that additional pension benefit.
      - (1D) Contributions payable under paragraph (1C) are payable—
        - (a) at the rate of 11% in the period starting on 1st December 2006 and ending on 31st March 2012; and
        - (b) on and after 1st April 2012 at the rate specified in the Table in paragraph 3 of Part A1 of Schedule 8.”; and
      - (iii) for paragraph (4), substitute—
        - “(4) The annual contribution shall be such percentage of the authority’s estimate of the aggregate of the pensionable pay, for the year in respect of which the contribution is made, of those firefighters employed by the authority who are—
          - (a) required by paragraph (1) to make pensions contributions in that year; and
          - (b) below the age of 50 and have reckoned 30 years pensionable service, as shall have been notified to them for that year by the Secretary of State.”.
- (5) In Part 2A(c) (continuous service pension) of Schedule 2 (personal awards), for “40 years”, where the words occur for the first time, substitute “30 years”.

### **Amendment of the Firefighters’ Pension Scheme (England) Order 2006**

3.—(1) Part 11 of Schedule 1 (pensionable pay, pension contributions and purchase of additional service) to the Firefighters’ Pension Scheme (England) Order 2006(d) is amended as follows.

- (2) In rule 1 (pensionable pay)—
  - (a) in paragraphs (7) and (8) for “paragraph 33 of Schedule 2 ”, substitute “paragraph 32 of Schedule 2”;
  - (b) in paragraph (8) for “paragraph 33(4) of Schedule 2”, substitute “paragraph 32(4) of Schedule 2”; and
  - (c) in paragraph (9) for “paragraph 33(3) of Schedule 2 ”, substitute “paragraph 32(3) of Schedule 2”.
- (3) In paragraph 2A(b) of rule 2 (final pensionable pay), for “paragraph 33(4) of Schedule 2” substitute “paragraph 32(4) of Schedule 2”.

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(a) Rule G1(10) to (13) was inserted by S.I. 2015/589  
 (b) Rule G2(1B) was inserted by S.I. 2016/878  
 (c) Part 2A was inserted by S.I. 2015/589.  
 (d) S.I. 2006/ 3432: relevant amendments were made by S.I. 2015/589.

## **Amendment of the Firefighters' Compensation Scheme (England) Order 2006**

4. In rule 5 (effect of a new relationship) in Part 3 of Schedule 1 (awards on death: spouses and civil partners) of the Firefighters' Compensation Scheme (England) Order 2006(a)—

(a) at the beginning of paragraphs (1) and (2) for “Subject to paragraph (3)” substitute “Subject to paragraphs (3) to (5)”; and

(b) after paragraph (3) insert—

“(4) Paragraphs (1) and (2) do not apply if the person (“P”), entitled to a pension or gratuity under this Part—

(a) marries, remarries, forms a civil partnership or a subsequent civil partnership on or after 1st April 2015; and

(b) immediately before the beginning of that marriage, remarriage, or formation of a civil partnership or subsequent civil partnership is entitled to a pension or gratuity under this Part;

(5) If on or after 1st April 2015 P is the subject of a decision by the fire and rescue authority to pay any sums in exercise of its discretion under paragraph (1) or (2), the payment of those sums is not affected by any future marriage, remarriage or formation of a civil partnership.”.

## **Amendment of the Firefighters' Pension Scheme (Amendment and Transitional Provisions) (England) Order 2016**

5. In the description of “A” in paragraph (3) of article 3 (transitional provision), of the Firefighters' Pension Scheme (Amendment and Transitional Provisions) (England) Order 2016(b), after “contribution”, the first time that it appears insert “(not including any contribution in relation to an additional pension benefit)”.

7th September 2017

*Nick Hurd*  
Minister of State  
Home Office

### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

This Order amends the Firefighters' Pension Scheme 1992 (set out in Schedule 2 to the Firefighters' Pension Scheme Order 1992 (S.I. 1992/129)) as it has effect in England; the New Firefighters' Pension Scheme (England) (set out in Schedule 1 to the Firefighters' Pension Scheme (England) Order 2006 (S.I. 2006/3432)); the Firefighters' Compensation Scheme (England) Order 2006 (S.I. 2006/1811) (“the 2006 Order”), Schedule 1 of which sets out the Firefighters' Compensation Scheme (England) 2006 (“the 2006 Compensation Scheme”) and the Firefighters' Pension Scheme (Amendment and Transitional Provisions) (England) Order 2016 (S.I. 2016/878).

The amendments made by article 2(4)(b) of the Order have effect from 1st December 2006 and the amendment made by article 5 has effect from 30th September 2006; the other amendments made by the Order have effect from 1st April 2015. The power to give the Order retrospective effect is conferred by section 12 of the Superannuation Act 1972, as applied by section 16(3) of that Act and section 34(3) of the Fire and Rescue Services Act 2004.

Article 2 amends the Firefighters' Pension Scheme 1992 to, in particular, set out the circumstances in which a surviving spouse or civil partner's entitlement to a pension or gratuity under Part C rule C9 continues following marriage, remarriage, formation of a civil partnership or subsequent civil partnership on or after 1st April 2015. In addition the amendments clarify that under Part G of the

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(a) S.I. 2006/1811; amended by S.I. 2006/3434, 2010/234, 2014/447, 2015/590.

(b) S.I. 2016/878.

1992 Scheme a firefighter below the age of 50 who has reckoned 30 years pensionable service is treated as an employee of the fire and rescue authority for the purposes of annual employer contributions and that if such a firefighter has arrangements for additional pension benefits they must pay contributions in relation to these until they attain 50. When they attain the age of 50 the requirements in rule G2(1) of the 1992 Scheme will apply to them. Related to this, the amendment in Article 5 amends the transitional provision made by the Firefighters' Pension Scheme (Amendment and Transitional Provisions) (England) Order 2016 (S.I. 2016/878) to make it clear that payments made by a fire and rescue authority under that provision do not include any sum in respect of a firefighter's contribution in relation to additional pension benefit.

Article 3 amends the New Firefighters' Pension Scheme (England) to correct errors in cross references.

Article 4 amends Part 3, rule 5 of Schedule 1 to the 2006 Compensation Scheme which provided for a new compensation scheme for firefighters in England and superseded corresponding provisions of the Firefighters' Pension Scheme 1992. This amendment provides that the limitations on payments of survivors' benefits on marriage, remarriage or formation of a civil partnership or subsequent civil partnership do not apply where that marriage or civil partnership is entered into on or after 1st April 2015.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen and the impact on the public sector is minimal.

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