

**2008 No. 238**

**FIRE & RESCUE SERVICES**

**PENSIONS**

**The Firefighters' Compensation Scheme (Amendment) Order  
(Northern Ireland) 2008.**

*Made* - - - - *3rd June 2008*  
*Coming into operation* - *4th July 2008*

The Department of Health Social Services and Public Safety(a), in exercise of the powers conferred by Article 10 (1), (3), (4) and (5) of the Fire Services (Northern Ireland) Order 1984(b) and now vested in it(c) and with the approval of the Department of Finance and Personnel(d) in accordance with Article 10(1) of that Order makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Firefighters' Compensation Scheme (Amendment) Order (Northern Ireland) 2008 and shall come into operation on 4th July 2008, but the amendments made by Article 2 shall have effect from 6th April 2006.

(2) In this order "the Compensation Scheme" means the Scheme set out in The Firefighters' Compensation Scheme Order (Northern Ireland) 2007(e).

**Amendment of the Firefighters' Compensation Scheme Order (Northern Ireland) 2007**

2. The Firefighters' Compensation Scheme Order (Northern Ireland) 2007 is amended in accordance with the Schedule.

**General Transitional provision**

3. Where a person to whom a protected benefit was being paid or might become payable under the Compensation Scheme is placed in a worse position than he would have been in if the Scheme had continued to have effect without the amendments made by Article 2, he may, by giving written notice to the Board, elect that the provisions of the Scheme, in the form in which they existed immediately before the coming into operation of this order, shall continue to have effect in relation to the benefit.

(1) Notice under paragraph (1) must be given not later than 4th September 2008.

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(a) S.I. 1999 No 283 (N.I. 1) Article 3 (6)  
(b) S.I. 1984/1821 (N.I.11) see article 2(2) for the definition of the Department article 10(5) was amended by S.I. 1998/1549 (N.I.11)  
(c) see S.R. 1999 No 481 Schedule 4 Part III  
(d) Formerly the Department of Finance see S.I. 1982/338 (N.I. 6) article 3  
(e) S.R. 2007 No. 143

(2) For the purposes of paragraph (1), a protection benefit is one paid, or capable of becoming payable, to or in respect of a person who, before the coming into operation of this Order, ceased to be employed by the Board or died.

**Transitional provision: decisions and determinations**

4.—(1) The amendments made by Article 2 shall not have effect in relation to a person in respect of whom a determination or decision relevant to whether permanent disablement has been occasioned by a qualifying injury (within the meaning of rule 7 of Part 1 of the Compensation Scheme) has been made before the coming into operation of this Order.

(2) In a case to which paragraph (1) applies, the provisions of the Compensation Scheme, in the form in which they existed immediately before the coming into operation of this Order, shall continue to have effect in relation to such a person.

Sealed with the Official Seal of the Department of Health, Social Services and Public Safety on 3<sup>rd</sup> June 2008



*Mr Noel McCann*  
A senior officer of the  
The Department of Health, Social Services and Public Safety

The Department of Finance and Personnel approves this Order.  
Sealed with the Official Seal of the Department of Finance and Personnel on 3rd June 2008



*Dr Mary McIvor*  
A senior officer of the  
The Department of Finance and Personnel

**SCHEDULE**

Article 2

1. In Part 1 (general provisions)—

(a) in rule 2(1) (interpretation)—

(i) omit the definitions of “Pension Scheme”, “pensionable pay” and “pensionable service”, “retained firefighter” and “volunteer firefighter”;

(ii) after the definition of “the 2006 Order”, insert the following definitions—

““the Firefighters’ Pension Scheme” means the Firefighters’ Pension Scheme (Northern Ireland) as set out in the Firefighters’ Pension Scheme Order (Northern Ireland) 2007(a);

“the New Firefighters Pension Scheme” means the New Firefighters’ Pension Scheme (Northern Ireland) as set out in the New Firefighters Pension Scheme Order (Northern Ireland) 2007(b);” and

(iii) in the definition of “average pensionable pay” for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme”; and

(iv) insert, in the appropriate places, the following definitions—

““final pensionable pay” shall be construed in accordance with article 62 of the New Firefighters’ Pension Scheme;

“normal benefit age” has the meaning given by article 6(2) of the New Firefighters’ Pension Scheme;

“pensionable pay”—

(a) in relation to the Firefighters’ Pension Scheme shall be construed in accordance with article 56 of that Scheme;

(b) in relation to the New Firefighters’ Pension Scheme shall be construed in accordance with article 61 of that Scheme;

“pensionable retained service”, in relation to a retained or volunteer firefighter, means the same proportion of whole-time service as that which his actual annual pensionable pay bears to his reference pay;

“pensionable service”—

(a) in relation to the Firefighters’ Pension Scheme, shall be construed in accordance with article 45 of that Scheme;

(b) in relation to the New Firefighters’ Pension Scheme, shall be construed in accordance with articles 56 to 60 of that Scheme;

“reference pay”, in relation to the pensionable pay of a retained or volunteer firefighter for any period, means the whole-time equivalent pensionable pay for that period of a regular firefighter employed in a similar role and with equivalent qualifying service;

“retained firefighter” and “retained or volunteer firefighter” mean a person employed by the board—

(a) as a firefighter but not as a regular firefighter,

(b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),

(c) otherwise than in a temporary capacity, and

(d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives;”.

**2. In Part 2 (injury awards and duty related compensation)—**

(a) in rule 1, in paragraph (1), omit “regular”;

(b) for rule 2 substitute—

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(a) S.R. 2007 No. 144  
(b) S.R. 2007 No. 215

### **“Part-time, retained and volunteer firefighters**

2.—(1) Where a person is entitled to an award under this Part and some or all of his service, by virtue of which his pensionable service is reckonable, is part-time service, his award shall be calculated in accordance with Part 2 of Schedule 1.

(2) Where a person—

- (a) first takes up employment with the Board as a retained or volunteer firefighter on or after 6th April 2006; and
- (b) is entitled to an award under this Part,

his award shall be calculated in accordance with Part 3 of Schedule 1.”;

- (c) in rule 3 (compensation for death or permanent incapacity while on duty), in paragraph (8), for “the Pension Scheme” substitute “the Firefighters’ Pension Scheme, or any lump sum payable under the New Firefighters’ Pension Scheme”; and
- (d) in rule 4 (commutation of small compensatory pensions), in paragraph (1)(b), for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme or article 37 of the New Firefighters’ Pension Scheme”.

3. In Part 3 (awards on death: spouses and civil partners)—

- (a) in rule 1 (special award for spouse or civil partner)—
  - (i) in paragraph (2), for “3 and 4”, substitute “3, 4 and 6”;
  - (ii) in paragraph (3)—
    - (aa) after “average pensionable pay” (in each place), insert “or, as the case may be, his final pensionable pay”, and
    - (bb) in sub-paragraph (a) (ii), for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme or article 12 of the New Firefighters’ Pension Scheme”; and
  - (iii) in paragraph (4) after “average pensionable pay”, insert “or, as the case may be, his final pensionable pay”;
- (b) in rule 4 (limitation where spouse or civil partner is living apart)—
  - (i) in paragraph (1), for “A”, substitute, “Subject to paragraph (1A), a”;
  - (ii) after paragraph (1), insert—

“(1A) Paragraph (1) does not apply to a person—

    - (a) who is a member of the New Firefighters’ Pension Scheme, or
    - (b) who first takes up employment with the Board on or after 6th April 2006 and is entitled to be a member of that Scheme, but elects not to pay pension contributions;” and
  - (iii) in paragraph (2) (a) for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme”;
- (c) in rule 5 (effect of new relationship)—
  - (i) in paragraph (1), for “A” substitute “Subject to paragraph (3), a”;
  - (ii) in paragraph (2), for “Where”, substitute “Subject to paragraph (3) where”; and
  - (iii) after paragraph (2) add—

“(3) Paragraphs (1) and (2) do not apply to a person—

    - (a) who is a member of the New Firefighters Pension Scheme
    - (b) who first takes up employment with the Board on or after 6th April 2006 and is entitled to be a member of that Scheme, but elects not to pay pension contributions”; and
- (d) after rule 5 insert—

**“Amount of Survivor’s pension: special cases**

6.—(1) This rule applies in relation to a person—

- (a) who is a member of the New Firefighters’ Pension Scheme on the day on which he dies; or
- (b) in respect of whom an election under rule 5(1) of Part 2 not to make pension contributions has effect on that day.

(2) Subject to paragraph (3), where the person entitled to a special pension under rule 1 is more than twelve years younger than the deceased on the day on which he dies, a reduction of 2.5 per cent. for each year by which the age of the surviving spouse or civil partner exceeds, by more than twelve years, that of the deceased, shall be applied to the Schedule 2 amount.

(3) Where the application of paragraph (2) would result in the payment of a special pension of less than 50 per cent. of the Schedule 2 amount, the special pension shall be 50 per cent. of the Schedule 2 amount.

(4) In paragraphs (2) and (3), “the Schedule 2 amount” means the amount that would have been ascertained in accordance with Part 1 of Schedule 2 if rule 1 were not subject to this rule.

(5) For the purposes of paragraph (2), a part of a year shall be treated as a whole year.

(6) References in this rule to rule 1 include references to that rule as applied by rule 2(3).”

4. In Part 4 (awards on death: children), in rule 3 (child’s special allowance or gratuity: limitations), for paragraphs (2) to (7), substitute—

“(2) Subject to paragraphs (3) and (4), no allowance shall be paid to a person if—

- (a) he is 18 or older;
- (b) he has ceased full-time education and is in paid employment; or
- (c) he is married or has entered into a civil partnership.

(3) A child who is aged 18 but not more than 23 is entitled to an allowance if he is in full time education or attending a course of a least one year’s duration.

(4) A child who is aged 18 or more is entitled to an allowance if, when the scheme member dies, he is dependant on him by reason of permanent disablement.

(5) A child’s allowance ceases to be payable—

- (a) unless paragraph (3) or (4) applies, on his 18th birthday or the occurrence of an event referred to in paragraph (b) or (c), whichever first occurs;
- (b) where paragraph (3) applies, on his 23rd birthday or that on which his full-time education or course ceases, whichever first occurs;
- (c) where paragraph (4) applies, when the Board is satisfied—
  - (i) that the child is no longer permanently disabled; or
  - (ii) that the child’s pension should not have been awarded.

(6) Unless paragraph (5)(c) applies, an allowance payable in the circumstances mentioned in paragraph (4) is payable for life.”.

5. In Part 5 (awards on death: additional provisions)—

- (a) In rule 3 (gratuity in lieu of surviving spouse’s or civil partner’s pension), in paragraph (1), for the words from “Part 1” to “rule”, substitute “Part 2 of Schedule 29 to the Finance Act 2004(a) (lump sum death benefit rule); and
- (b) In rule 5 (increase of pensions and allowances during first 13 weeks)—

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(a) 2004 c.12. As to “the lump sum death benefit rule”, see section 168 of, and Part 2 of Schedule 29 to, that Act.

- (i) In paragraph (2)—
  - (aa) in sub-paragraph (b), for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme, and”; and
  - (bb) after sub-paragraph (b) insert—
    - “(c) any children’s pensions payable under the New Firefighters’ Pension Scheme.”;
- (ii) in paragraph (4)(a), for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme”;
- (iii) in paragraph (5), for the words from “and” to “the Pension Scheme”, substitute “, a child’s ordinary or accrued allowance under the Firefighters’ Pension Scheme or a child’s pension under the New Firefighters’ Pension Scheme”; and
- (iv) in paragraph (7), for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme or the New Firefighters’ Pension Scheme”.

**6.** In Part 6 (determination of questions and appeals), in rule 3 (appeal against the decision of the authority), in paragraph (5)(c), for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme”.

**7.** In Part 7 (servicemen)—

- (a) In rule 1 (interpretation of Part 7), for paragraph (1) substitute—
  - “**1.**—(1) This Part applies to a person who—
    - (a) immediately before undertaking relevant service in the armed forces, was employed as a regular firefighter; and
    - (b) ceased to be so employed at any time before 6th April 2006,
 and in this Part such a person is referred to as a serviceman.”;
- (b) In rule 2 (awards to servicemen)—
  - (i) In paragraph (2), for “the Pension Scheme” (in both places), substitute “the Firefighters’ Pension Scheme”;
  - (ii) in paragraph (3)—
    - (aa) in sub-paragraph (a), for “the Pension Scheme”, substitute “The Firefighters’ Pension Scheme”; and
    - (bb) in sub-paragraph (b), after “pension” add “or any ill-health pension payable under the Firefighters’ Pension Scheme or the New Firefighters’ Pension Scheme”; and
- (c) In rule 3 (awards on death of servicemen)—
  - (i) in paragraph (2), for “the Pension Scheme”, (in both places) substitute “the Firefighters’ Pension Scheme”; and
  - (ii) in paragraph (3), for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme”.

**8.** After Part 7, insert—

**“PART 7A  
RESERVISTS**

**Interpretation of Part 7A**

- 1.**—(1) This Part applies to a person who—
  - (a) on or after 6th April 2006—
    - (i) takes up employment with the Board , or

(ii) having been employed by the Board before that date, becomes a member of the New Firefighters' Pension Scheme; and

(b) immediately before undertaking relevant service in the reserve forces, is employed by the Board as a firefighter,

and in this Part such a person is referred to as a reservist.

(2) For the purposes of this Scheme a reservist shall be treated as having continued to be a firefighter during his period of relevant service in the reserve forces (referred to in this Part as his "forces period").

(3) References in this Part to relevant service in the reserve means service in the forces specified in section 1(2) of the Reserve Forces 1996 Act(a)—

(a) in pursuance of a training obligation under Part 3 of that Act; or

(b) by virtue of a call out for permanent service or a recall under the Reserve Forces Act 1980(b) or Part 7 of the Reserve Forces Act 1996.

### **Awards to reservists**

2.—(1) This rule applies to a reservist who, at the end of his forces period, is permanently disabled.

(2) Subject to paragraph (3), article 12 of the New Firefighters' Pension Scheme (award on ill-health retirement) has effect in relation to a reservist to whom this rule applies as if the reservist were a firefighter member taking ill-health retirement at the end of his forces period.

(3) Where the infirmity that occasioned his incapacity for the performance of duty was occasioned by an injury received during his forces period or by a qualifying injury the Board may—

(a) pay him, instead of an ill health pension under article 12 of the New Firefighters' Pension Scheme, a pension at the rate of one twelfth of his final pensionable pay, and

(b) subject to paragraph (4), increase any such pension.

(4) Paragraph 1 of Schedule 6A has effect for limiting increases under paragraph (3)(b).

### **Awards on death of reservists**

3.—(1) This rule applies in the case of a reservist who—

(a) dies during his forces period, or

(b) was permanently disabled at the end of his forces period, has not since been a firefighter, and dies either from the effects of an injury that occasioned his incapacity for the performance of duty or while in receipt of a pension.

(2) If the reservist dies from the effects of an injury received during his forces period or a qualifying injury, the Board may, subject to paragraph 3, increase any pension or child's pension payable under articles 23, 28 or 31 of the New Firefighters' Pension Scheme.

(3) Paragraphs 2 and 3 of Schedule 6A have effect for limiting increases under paragraph (2).

### **Reservists who resume service as firefighters**

4. Paragraph (2) of rule 2 or, as the case may be, paragraph (2) of rule 3 shall apply in relation to a reservist who, having sustained an injury during his forces period and resumed service as a firefighter—

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(a) 1996 c. 14.

(b) 1980 c. 9.

- (a) is permanently disabled, or
  - (b) dies, whether or not while serving as a firefighter,
- as they apply in relation to reservists to whom rule 2 or, as the case may be, rule 3 applies.”

9. In Part 8 (special cases)—

- (a) In rule 1 (award for or in relation to employee who is not a regular or retained firefighter)—
  - (i) in paragraph (1), omit “regular or retained”;
  - (ii) in paragraph (6), for “The”, substitute “Subject to paragraph (6A), the”; and
  - (iii) after paragraph (6) insert—

“(6A) Where a person is or has been a part-time employee, the appropriate amount is that found by applying the formula—

$$(Ax(B + C)) \div D$$

where—

A is the amount that would have been calculated as mentioned in sub-paragraph (a), (b) or (c) of paragraph (6) (as the case may be) if the person had been a whole-time employee of the Board;

B is the period in years of his pensionable service as a whole-time employee of the Board;

C is the period of years of his pensionable service as a part-time employee of the Board, expressed as a fraction, where the numerator is the total number of contractual hours during the part-time employment and the denominator is the number of contractual hours for one year of whole-time employment; and

D is the period in years of his pensionable service.”;

- (b) In rule 2 (award for or in relation to a volunteer firefighter)—
  - (i) in paragraph (1), after “Board”, insert “immediately before 6th April 2006”;
  - (ii) in paragraph (2), at the end add “; but an award under rule 1 or 3 shall be reduced by 75 per cent. of any other pension under the Firefighters’ Pension Scheme or the New Firefighters’ Pension Scheme that is then in payment.”;
  - (iii) in paragraph (3), after “allocated portion” insert “of the Firefighters’ Pension Scheme or article 19 (commutation: general) or 21 (allocation of pension) of the New Firefighters’ Pension Scheme”;
  - (iv) in paragraph (4)—
    - (aa) for “A”, substitute “Subject to paragraph (4A), a”;
    - (bb) for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme”; and
    - (cc) after “case of default”, insert “of the Firefighters’ Pension Scheme or, if he has become a member of the New Firefighters’ Pension Scheme, article 19 (commutation: general) or article 21 (Allocation of pension) of that Scheme, articles 49 (review of ill-health pension) and 50 (consequences of review)”;
  - (v) after paragraph (4), insert—

“(4A) In the case of a person who has become a member of the New Firefighters’ Pension Scheme, the award under article 15 of the Firefighters’ Pension Scheme shall be reduced by the amount of any award to which the person is entitled under article 12 of the New Firefighters’ Pension Scheme (award on ill-health retirement).”;

- (vi) for paragraph (5) substitute—

“(5) This paragraph applies where—

- (a) a person dies from the effects of a qualifying injury or infirmity of mind or body occasioned by a qualifying injury; and

- (b) he has at any time before 6th April 2006 been employed by the Board as a retained or volunteer firefighter.”.

**10. In Part 9 (review, withdrawal and forfeiture of awards)—**

- (a) In rule 2 (reduction of award in case of default)
  - (i) in paragraph (2), for sub-paragraph (b) substitute—
    - “(b) the amount of the reduced pension is less than that of the notional deferred pension—
      - (i) if the person is a member of the Firefighters’ Pension Scheme on his 60th birthday,
      - (ii) if the person is a member of the New Firefighters’ Pension Scheme on his 65th birthday;”;
  - (ii) in paragraph (3), for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme or article 13 of the New Firefighters’ Pension Scheme”; and
- (b) In rule 3 (withdrawal of pension during service as a regular firefighter), omit “regular”.

**11. In Part 10 (payment of awards and financial provisions)—**

- (a) in rule 2 (prevention of duplication)—
    - (i) in paragraph (1) (b), for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme or the New Firefighters’ Pension Scheme”;
    - (ii) for paragraph (2) substitute—
      - “(2) A pension payable—
        - (a) under article 20 of the Firefighters’ Pension Scheme or article 21 of the New Firefighters’ Pension Scheme to the beneficiary of an allocation,
        - (b) under article 74 of the Firefighters’ Pension Scheme or article 37 of the New Firefighters’ Pension Scheme (pension credit member’s entitlement to pension), or
        - (c) under article 78 of the Firefighters’ Pension Scheme or article 100 of the New Firefighters’ Pension Scheme (guaranteed minimum pensions),
- is not a pension for the purposes of this rule.”;
- (iii) in paragraph (3), for “article 86 of the Pension Scheme”, substitute “article 86 of the Firefighters’ Pension Scheme or as, the case may be, article 97 of the New Firefighters’ Pension Scheme”;
  - (iv) in paragraph (4), for sub-paragraph (a) substitute—
    - “(a) under rule 1 of Part 2 to an injury pension and also—
      - (i) articles 13, 14, 15 or 16 of the Firefighters’ Pension Scheme to an ordinary, short service, ill health or deferred pension, or
      - (ii) articles 11, 12 or 13 of the New Firefighters’ Pension Scheme to an ordinary, ill –health or deferred pension, or”;
- (b) for rules 3 and 4 substitute—

**“Prevention of duplication: other injury awards for persons who are both regular and retained firefighters**

**3.—(1) In this rule—**

“article 15 award” means an ill-health award under article 15 of the Firefighters’ Pension Scheme;

“injury award” means an injury award under Part 2 of this Scheme;

“Part 8 award” means an injury award which is payable by virtue of rule 2 of Part 8 of this Scheme; and

“article 12 award” means an ill-health pension under article 12 of the New Firefighters’ Pension Scheme.

(2) This paragraph applies to a person employed as both a regular firefighter and a retained firefighter who—

- (a) in respect of his retained employment, was employed before 6th April 2006, and
- (b) is entitled—
  - (i) from the Board to an injury award, article 15 award, article 12 award, or more than one of these awards; and
  - (ii) a Part 8 award.

(3) The Board shall pay (in full) the article 15 award or, as the case may be, the article 12 award and, subject to paragraph (4) shall pay only the injury element of the Part 8 award.

(4) Where the amount of the article 15 award or, as the case may be, the article 12 award is less than the amount which, but for paragraph (3), would have been paid to the person as the ill-health element of the Part 8 award, the Board shall pay him an amount equal to the amount of the difference.

(5) A firefighter who is entitled to both an injury award and a Part 8 award shall receive, in respect of those awards, a single award of an amount equal to the injury award or the Part 8 award, whichever is greater; and rule 1(2) of this Part shall apply as regards the payment of that single award.

#### **Prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters**

4.—(1) This rule applies where—

- (a) a person employed as both a regular firefighter and a retained firefighter dies (whether during or after such employment); and
- (b) a qualifying injury sustained in the course of such employment is certified by an independent qualified medical practitioner as the cause of death; and
- (c) in consequence of the person’s death, another person becomes entitled not only to an award of a description mentioned in paragraph (2), but also to an award of a description mentioned in paragraph (3).

(2) The descriptions mentioned in this paragraph are—

- (a) a person employed as both a regular firefighter and a retained firefighter dies (whether during or after such employment); and
- (b) a spouse’s or civil partner’s augmented award under rule 2 of that Part,
- (c) a child’s special allowance under rule 1 of Part 4, and
- (d) a child’s special gratuity under rule 2 of that Part.

(3) The descriptions mentioned in this paragraph are—

- (a) a spouse’s or civil partner’s ordinary pension under article 25 of the Firefighters’ Pension Scheme;
- (b) a spouse’s or civil partner’s accrued pension under article 26 of that Scheme,
- (c) a spouse’s or civil partner’s requisite benefit and temporary pension under article 28 of that Scheme,
- (d) a spouse’s or civil partner’s award under article 29 of that Scheme (award where another award is payable),
- (e) a child’s ordinary allowance under article 33 of that Scheme, and
- (f) a child’s accrued allowance under article 34 of that Scheme.

(4) The award of the description in paragraph (3) shall be paid in full, and the award of the description in paragraph (2) shall not be paid.

(5) Where the amount of the award paid to a person in accordance with paragraph (4) is less than the amount which, but for that paragraph, would have been paid to him by way of an award of a description in paragraph (2), the Board shall pay an amount equal to the amount of the difference.”.

**12.**—(1) In Schedule 1 (injury awards and duty-related compensation), in Part 1 (calculation of awards for full-time service)—

(a) In paragraph 1—

(i) in sub-paragraph (1), for “Part 2”, substitute “Parts 2 and 3”;

(ii) in sub-paragraph (2)—

(aa) for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme or article 8 of the New Firefighters’ Pension Scheme”, and

(bb) for “that Scheme”, substitute “the Firefighters’ Pension Scheme or article 64 of the New Firefighters’ Pension Scheme; and

(iii) in the headings in the Table, after “average pensionable pay” (in both places), insert “or as the case may be, final pensionable pay”;

(b) in paragraph 2—

(i) in subparagraph (2)—

(aa) for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme or article 8 of the New Firefighters’ Pension Scheme” and

(bb) “that Scheme” substitute “the Firefighters’ Pension Scheme or article 64 of the New Firefighters’ Pension Scheme”; and

(ii) in sub-paragraph (3)—

(aa) in paragraph (a), for “the Pension Scheme”, substitute “the Firefighters’ Pension Scheme or article 19 (commutation: general) or article 21 (allocation of pension) of the New Firefighters’ Pension Scheme”, and

(bb) in sub-paragraph (b), for “that Scheme”, substitute “the Firefighters’ Pension Scheme”.

**13.** In Schedule 1, in Part 2 (calculation of awards for part-time service), in paragraph 2—

(a) In sub-paragraph (1)—

(i) for “The”, substitute “Subject to sub-paragraph (2), the” and

(ii) in the definition of “A”, after “average pensionable pay”, insert “or, as the case may be, the final pensionable pay”; and

(b) for sub-paragraph (2), substitute—

“(2) Where the person is a member of the Firefighters’ Pension Scheme, neither (B + C) nor D shall exceed 30 years.”.

**14.** In Schedule 1, after Part 2 insert—

## “PART 3

### CALCULATION OF AWARDS FOR RETAINED OR VOLUNTEER SERVICE

1. The amounts of the injury gratuity and injury pension payable to a retained or volunteer firefighter shall be calculated in accordance with paragraph 1(2) of Part 1 as if for “pensionable service” there were substituted “pensionable retained service”(a).”.

15. In Schedule 2 (awards for spouses and civil partners), in Part 1 (special pension)—

(a) In paragraph 1, after “average pensionable pay”, insert “or, as the case may be, final pensionable pay.”; and

(b) in paragraph 2—

(i) in sub-paragraph (1), in the definition of “A”, after “average pensionable pay”, insert, “or, as the case may be, the final pensionable pay”; and

(ii) for sub-paragraph (2) substitute—

“(2) Where the person was a member of the Firefighters’ Pension Scheme, neither (B + C) nor D shall exceed 30 years.”.

16. In Schedule 2, for Part 2 (award for surviving spouse or civil partner of post-retirement marriage or civil partnership) substitute—

## “PART 2

### AWARD FOR SURVIVING SPOUSE OF POST-RETIREMENT MARRIAGE WHERE DECEASED IS A MEMBER OF THE FIREFIGHTERS’ PENSION SCHEME BUT NOT A MEMBER OF THE NEW FIREFIGHTERS’ PENSION SCHEME

1.—(1) Where the surviving spouse of a person who—

(a) was a member of the Firefighters’ Pension Scheme but

(b) was not a member of the New Firefighters’ Pension Scheme,

would otherwise have been entitled to a special award under rule 1 of Part 3 or an augmented award under rule 2 of that Part, the amount of his pension under that Part shall, subject to sub-paragraph (2), be calculated in accordance with paragraph 1 of Schedule 3 to the Firefighters’ Pension Scheme (spouse’s or civil partner’s ordinary pension) in the same way as that of an ordinary pension.

(2) For the purposes of this paragraph, paragraph 1 of Part 1 of Schedule 3 to the Firefighters’ Pension Scheme has effect—

(a) as if the reference in sub-paragraph (1)(a) to the base pension were a reference to the appropriate proportion of the base pension, and

(b) as if the base pension were the ill-health pension to which the deceased would have been entitled if he had, when he ceased to serve, retired because he was disabled in circumstances entitling him to such a pension.

2. The appropriate proportion mentioned in paragraph 1(2)(a) is the proportion which the deceased’s relevant pensionable service bears to his total pensionable service.”.

17. In Schedule 3 (awards on death: children) In Part 1 (child’s special allowance)—

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(a) See the definition of “pensionable retained service” inserted in rule 2(1) of the Compensation Scheme by paragraph 1(a) of the Schedule to this Order.

- (a) in paragraph 1, after “average pensionable pay”, insert “or, as the case may be, his final pensionable pay”;
- (b) in paragraph 4(2), after “average pensionable pay”, insert “or, as the case may be, the final pensionable pay”.

18. In Schedule 4 (awards on death: additional provisions), after “average pensionable pay” (in each place), insert “or, as the case may be, his final pensionable pay”.

19. After Schedule 6, insert—

## “SCHEDULE 6A

Part 7A

### RESERVISTS: INCREASED AWARDS

1. The total of—

- (a) the amount of a pension as increased under rule 2(3)(b) of Part 7A, and
- (b) the amount of any service pension other than an allowance for constant attendance, wear and tear of clothing, or comforts,

must not exceed the amount of the injury pension to which the reservist would have been entitled if rule 1 of Part 2 had applied.

2. The total of—

- (a) the amount of a pension as increased under rule 3(2) of part 7A, and
- (b) the amount of any service pension payable to the spouse or civil partner in respect of the reservist,

must not exceed the amount of the special pension to which the spouse or civil partner would have been entitled if rule 1 of Part 3 had applied.

3. The total of—

- (a) the amount of a child’s allowance as increased under rule 3(2) of part 7A, and
- (b) the amount of any service pension payable to or for the child in respect of the reservist,

must not exceed the amount of the special allowance to which the child would have been entitled if rule 1 of Part 4 had applied.”.

#### EXPLANATORY NOTE

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

This Order amends provision of the Firefighters’ Compensation Scheme set out in Schedule 1 to S.R.2007 No.143 (“the firefighters’ compensation scheme”). The amendments made by article 2 of this Order have effect from 6th April 2006. The power to provide for an order to have effect from a date that is earlier than that on which it is made is conferred by article 10(4) of the Fire Services (Northern Ireland) Order 1984, as continued by Article 60 of the Fire and Rescue Services (Northern Ireland) Order 2006.

Articles 3 and 4 of the Order contain transitional provisions. Article 3 enables a person whose position would be less favourable under the amended version of the Scheme to elect to retain benefits under the unamended version. Notice of election has to be given to the Board before 4<sup>th</sup> September 2008. Article 4 provides for the compensation scheme in its unamended form to continue to apply in relation to decisions and determinations made before the coming into force of this Order as to whether permanent disablement has been caused by a “qualifying injury” as defined in rule 7 of Part 1 of the firefighters’ compensation scheme.

The amendments are consequential on the introduction of a new pension scheme for firefighters employed by the board (the New Firefighters' Pension Scheme (Northern Ireland) as set out in S.R. 2007 No.215.

The main effects of the amendments made by this Order are that—

- (a) The former distinction between regular firefighters and retained and volunteer firefighters is removed. This change reflects the fact that retained and volunteer firefighters were not entitled to be members of the Firefighters' Pension Scheme (set out in S.R. 2007/144). Persons who join the fire and rescue service in Northern Ireland after 6th April 2006 as retained or volunteer firefighters are entitled to membership of the new pension scheme, and persons who were employed in the fire and rescue service before that date as regular or retained firefighters may elect to become members of the new pension scheme. Benefits under the compensation scheme, as amended by this Order, are not dependent on membership of a firefighters' pension scheme; and
- (b) The insertion of references to relevant provisions of the new pension scheme ensures that the provisions of the compensation scheme apply to members of both pension schemes.

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

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