

2019 No.

PUBLIC SERVICE PENSIONS, ENGLAND

**The Firefighters' Pension and Compensation Schemes
(Amendment) (England) Regulations 2019**

Made - - - - ***
Laid before Parliament ***
Coming into force - - ***

The Secretary of State makes the following Regulations in exercise of the powers in section 26(1), (2) and (5) of the Fire Services Act 1947(a); section 12 of the Superannuation Act 1972(b), as applied by section 16(3) of that Act; and sections 34 and 60 of the Fire and Rescue Services Act 2004(c).

Before making these Regulations and in accordance with section 34(5) of the Fire and Rescue Services Act 2004, the Secretary of State consulted such persons as the Secretary of State considered appropriate.

Citation, commencement and application

1.—(1) These Regulations may be cited as the Firefighters' Pension and Compensation Schemes (Amendment) (England) Regulations 2019.

(2) These Regulations come into force on xxx but, save as is provided in paragraph (3) have effect from 5th December 2005.

(3) The provisions in—

- (a) regulation 3 have effect from 1st April 2007;
- (b) regulation 6 have effect from 13th March 2014.

(4) These Regulations apply in England only.

(a) 1947 c. 41; repealed by sections 52 and 54 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c. 21).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 which also changed the name of the scheme to the Firefighters' Pension Scheme. Section 26 of the Fire Services Act 1947 was amended by section 1(3) of the Fire Services Act 1951 (c. 27), section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65), sections 16 and 29 of, and Schedule 8 to, the Superannuation Act 1972 (c. 11), sections 100 and 101 of, and paragraph 6 of Schedule 27 to, the Social Security Act 1973 (c. 38), section 1 of, and Part 1 of Schedule 1 to, the Social Security (Consequential Provisions) Act 1975 (c. 18), 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).

(b) 1972 c. 11; section 12 was amended by section 10 of 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 Section 16 was repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 but continues to have effect, in relation to England and Scotland, for the purposes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 Firefighters' Pension Scheme by virtue of S.I. 2004/2306.

(c) 2004 c. 21; section 34 was amended by section 27 of, and paragraph 27 of Schedule 8 to, the Public Service Pensions Act 2013 (c. 25), sections 6 and 8 of, and paragraphs 1 and 11 of Part 1 of Schedule 1 to, the Policing and Crime Act 2017 (c. 3), S.I. 2013/602 and S.I. 2018/226; section 50 was amended by section 9 of the Localism Act 2011 (c. 20).

Amendments to the Firefighters' Pension Scheme Order 1992

2. Schedule 2 to the Firefighters' Pension Scheme Order 1992(a) ("the Order") (in which the Firefighters' Pension Scheme is set out) is amended in accordance with regulations 3 to 7.

Amendment to Part B (personal awards)

3. In rule B5A (entitlement to two pensions)(b) in paragraph (2) for "exceeds" substitute "is lower than".

Amendments to Part C (awards on death – spouses)

- 4.—(1) In rule C1 (spouse's ordinary pension)—
- (a) in paragraph (2)(c) after "spouse" insert "or surviving civil partner";
 - (b) omit paragraph (2A)(d).
- (2) In rule C4 (spouse's accrued pension)(e) in paragraph (3)—
- (a) in sub-paragraph (a) after "spouse" insert "or surviving civil partner";
 - (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)(f)—
- (a) in paragraph (2) after "spouse" insert "or surviving civil partner";
 - (b) omit paragraph (3).
- (4) In rule C6 (spouse or civil partner's requisite benefit and temporary pension), in paragraph (4)(g)—
- (a) in sub-paragraph (a) omit "in the case of a surviving spouse";
 - (b) omit sub-paragraph (b) and the "and" preceding it.
- (5) In rule C8 (limitation where spouses living apart) in paragraph (2)(h)—
- (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)

5. 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 of 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;
 - (c) in paragraph (4) for "(c) or (d)" substitute "or (c)".

(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 of, and paragraph 1 of the Schedule to, S.I. 2008/214; there are amendments to paragraph (2) which are not relevant to this instrument.

(c) Paragraph 2 of rule C1 was substituted by article 2 of, and paragraph 3(a) of the Schedule to, S.I. 2013/1392.

(d) Paragraph (2A) of rule C1 was inserted by article 2 of, and paragraph 3(b) of Schedule 1 to, S.I. 2005/3228.

(e) Paragraph (3) of rule C4 was substituted by article 2 of, and paragraph 6(b) of Schedule 1 to S.I. 2005/3228.

(f) Rule C5 was substituted by article 2 of, and paragraph 7 of Schedule 1 to S.I. 2005/3228; paragraphs (2) and (3) were amended by article 2 of and paragraph 17 of Schedule 1 to, S.I. 2006/1810.

(g) Rule C6 was substituted by article 2 of, and paragraph 18 of Schedule 1 to S.I. 2006/1810.

(h) Paragraph (2) of rule C8 was substituted by article 2 of, and paragraph 10(b) of Schedule 1 to, S.I. 2005/3228; it was amended by article 2 of, and paragraph 20(b) of Schedule 1 to, S.I. 2006/1810.

Amendments to Schedule 1 to the scheme

6. Omit paragraphs 1 and 2 of Part 3 (provision relating to same sex couples) of Schedule 1 to the Firefighters' Pension Scheme (in Schedule 2 to the Order)(a).

Amendments to Schedule 3 to the scheme

7. In Schedule 3 (awards on death – spouses) to the Firefighters' Pension Scheme (in Schedule 2 to the Order)—

- (a) in Part 3 (spouse's accrued pension)—
 - (i) in paragraph 2(1) after “surviving spouse's” insert “, or surviving civil partner's”,
 - (ii) in paragraph 3(1) after “surviving spouse” insert “or surviving civil partner”;
- (b) in Part 4 (pension for surviving spouse of post-retirement marriage), in paragraphs 1(1)(b) and 2(1) after “surviving spouse” insert “or surviving civil partner”.

Amendments to the Firefighters' Compensation Scheme (England) Order 2006

8. Part 3 (Awards on Death: Spouses and Civil Partners) of Schedule 1 to the Firefighters' Compensation Scheme (England) Order 2006(c) (in which the firefighters' compensation scheme 2006 is set out) is amended in accordance with regulations 9 to 11.

Amendments to rule 1

9. In rule 1 (special award for spouse or civil partner), in paragraph (3)(d)—

- (a) in sub-paragraph (a) after “spouse” insert “or surviving civil partner”;
- (b) omit sub-paragraph (b).

Amendments to rule 3

10. 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”;
- (b) omit paragraph (3).

Amendments to rule 4

11. In rule 4 (limitation where spouse or civil partner is living apart), in paragraph (2)(e)—

- (a) in sub-paragraph (a) after “spouse” insert “or surviving civil partner”;
- (b) omit sub-paragraph (b).

Signed

Name
Parliamentary Under Secretary of State
Home Department

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- (a) Part 3 of Schedule 1 to the scheme was inserted by article 4 of, and paragraph 17 of Part 2 of Schedule 3 to, S.I. 2014/560; there is an amendment to paragraph 1 not relevant to this instrument.
 - (b) Part 4 was substituted in relation to England by article 2 of S.I. 2005/2980; paragraph 1(1) was amended by article 2 of, and paragraph 62(c)(i) of Schedule 1 to, S.I. 2006/1810.
 - (c) S.I. 2006/1811.
 - (d) Paragraph (3) of rule 1 was amended by article 2 of, and paragraph 3(a)(ii)(bb) of the Schedule to, S.I. 2006/3434, article 2 of, and paragraph 3(1) and (2) of the Schedule to, S.I. 2014/447, and article 2 of, and paragraph 3(1), (2)(a)(i) and (ii) of Schedule 1 to, S.I. 2015/590.
 - (e) Paragraph 2 of rule 4 was amended by article 2 of, and paragraph 3(b)(iii) of the Schedule to, S.I. 2006/3434.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which apply in England only, make amendments to the Firefighters' Pension Scheme contained in Schedule 2 to the Firefighters' Pension Scheme Order 1992 ("the 1992 Order") and to the Firefighters' Compensation Scheme contained in Schedule 1 to the Firefighters' Compensation Scheme (England) Order 2006 ("the 2006 Order"). The effect of the amendments, apart from the amendment made by regulation 3, is to bring the benefits payable to survivors of civil partnerships and same sex marriages into line with the benefits payable to widows of different-sex marriages.

The amendment made by regulation 3 is to ensure that a firefighter is not disadvantaged by the provision which allows for two pensions to be awarded, calculated separately, after a significant reduction in pay.

The amendments apart from that made by regulation 3 have effect from the dates from which civil partnerships or same-sex marriages were introduced. The amendment made by regulation 3 has effect from the date Rule B5A was inserted into the 1992 Order. Section 12(2) of the Superannuation Act 1972, as applied by section 16(3) of that Act in relation to orders made under section 26 of the Fire Services Act 1947 permits such retrospective provision in relation to the 1992 Order. Section 34(3) of the Fire and Rescue Services Act 2004 permits retrospective provision in relation to the 2006 Order.

No impact assessment has been produced for this instrument as no impact on the private or voluntary sectors is foreseen.