

1984 No. 99

**FIRE SERVICES****The Firemen's Pension Scheme (Amendment) Order  
(Northern Ireland) 1984***Made* . . . . . 26th March 1984*Coming into operation* . . . . . 1st May 1984

The Department of the Environment in exercise of the powers conferred by section 17(1) and (3B) of the Fire Services Act (Northern Ireland) 1969(a) and now vested in it(b) and of all other powers enabling it in that behalf and with the approval of the Department of Finance and Personnel(c) hereby makes the following Order:

*Citation*

1. This Order may be cited as the Firemen's Pension Scheme (Amendment) Order (Northern Ireland) 1984.

*Commencement and effect*

2. This Order shall come into operation on 1st May 1984 and shall have effect as from 25th November 1982.

*Interpretation*

3. In this Order "the 1973 Scheme" means the Firemen's Pension Scheme (Northern Ireland) 1973 set out in Appendix 2 to the Firemen's Pension Scheme Order (Northern Ireland) 1973(d).

*Scheme amended*

4. The 1973 Scheme shall be amended as follows—

(1) In Articles 29(2) (child's ordinary allowance) and 30(2) (child's special allowance) before "and IV" insert " ,IIA".

(2) In Article 31 (child's special gratuity):—

(a) in paragraph (1) for "the fireman" substitute " , if male, he";

(b) in paragraph (4) delete " , at the date of the father's death,";

(c) add after paragraph (4):—

"(5) The said amount shall be calculated as at the date of death of the fireman described in paragraph (1)."

(3) In Article 32(2) (child's accrued allowance) before "III" insert "IIA,".

(4) For Articles 34 (duration of child's allowance) and 35 (limitation on child's award) substitute—

(a) 1969 c. 13 (N.I.) as amended by S.I. 1973/601 (N.I. 9) Article 7(1)

(b) S.R. & O. (N.I.) 1973 No. 504 Article 5(b)

(c) Formerly Ministry of Finance. See S.R. 1976 No. 281 Article 3 and S.I. 1982/338 (N.I. 6) Article 4

(d) S.R. & O. (N.I.) 1973 No. 393 as amended by S.R. 1980 No. 208 and other amending instruments not relevant for the purpose

*“Limitation on child’s award*

34.—(1) A child’s allowance or gratuity (other than a gratuity in lieu of an allowance) shall not be granted—

- (a) to a child born on or after the date on which the fireman ceased to be a regular fireman otherwise than of a marriage which took place before that date (hereinafter referred to as “the relevant date”);
- (b) by virtue of his being a step-child, to the child of a spouse whose marriage to the relevant parent took place on or after the relevant date;
- (c) by virtue of his being substantially dependent on the fireman, to a child who was not so dependent before the relevant date;
- (d) by virtue of his being an adopted child, to a child adopted on or after the relevant date;
- (e) except in the case of a legitimate child of the relevant parent, to a child who was not substantially dependent on that parent at the time of his death;

and, without prejudice to the foregoing, a child’s gratuity shall not be granted to a child who attained the age of 17 years before the date of the relevant parent’s death unless at that date he is—

- (i) undergoing full-time education; or
- (ii) in full-time training of at least one year’s duration for a trade, profession or calling (hereinafter referred to as “full-time vocational training”); or
- (iii) both permanently disabled and substantially dependent on that parent.

(2) Subject to paragraph (3) a child’s allowance shall not be payable to a child who has attained the age of 16 years and is in full-time employment, unless he is in full-time vocational training, or to a child who has attained the age of 17 years unless he is—

- (a) undergoing full-time education; or
- (b) in full-time vocational training; or
- (c) permanently disabled, and—
  - (i) was both permanently disabled and substantially dependent on the relevant parent at the time of his death; or
  - (ii) became so disabled while in receipt of a child’s allowance; or
  - (iii) the fire authority, having regard to all the circumstances, in their discretion determine to pay a child’s allowance to him.

(3) A child’s allowance shall not be payable by virtue of paragraph (2)(a) or (b) to a child who has attained the age of 19 years unless—

- (a) immediately before the date on which he attained that age he was undergoing full-time education or in full-time vocational training and has at all times thereafter, without any period of interruption been undergoing such education or in such training; or
- (b) the fire authority, having regard to all the circumstances, in their discretion determine that, notwithstanding any such period of interruption, a child’s allowance shall be so payable.

(4) Any reference in this Article to the relevant parent is a reference to the parent in respect of whose death the child’s allowance or gratuity would be payable but for the provisions of this Article.

**34A.**—(1) Where but for Article 34 a child in whose case this paragraph applies would, by reason of his disability, be entitled to a gratuity or an allowance, he shall continue to be so entitled notwithstanding that Article.

(2) Paragraph (1) applies in the case of a child where the relevant parent ceased to be a regular fireman before 1st May 1984.

(3) In paragraph (2) “relevant parent” has the same meaning as in Article 34(4).”.

(5) In Article 36(2) for “father’s” substitute “parent’s”.

(6) Article 77(1)(b) shall be omitted.

(7) Part I of Schedule 3 shall be amended as follows—

(a) in paragraph 1—

(i) for sub-paragraph (1) substitute—

“(1) Where one of the child’s parents is alive, the child’s ordinary allowance in respect of the death of a regular fireman (in this Part referred to as the “relevant parent”), shall, subject to paragraph 5, be determined in accordance with this paragraph”;

(ii) in sub-paragraph (4) for “father’s” substitute “relevant parent’s”;

(b) (i) in paragraph 2(1) for “father” substitute “relevant parent” and for “mother” substitute “child’s other parent”;

(ii) in paragraph 2(4) for “father’s” substitute “relevant parent’s”;

(c) in paragraph 3—

(i) in sub-paragraph (1), for “father” substitute “relevant parent”; and

(ii) in sub-paragraph (2), for “father’s” substitute “parent’s”; and

(d) in paragraph 4(1), for “the father was serving” substitute “the relevant parent is the father and he served before 1st April 1972, and was serving,” and for “is” substitute “was”.

(8) For Part II of Schedule 3 substitute—

#### “PART II

#### Article 30

### Child’s Special Allowance

**1.**—(1) Where one of the child’s parents is alive, a child’s special allowance in respect of the death of a regular fireman (in this Part referred to as the “relevant parent”) shall be determined in accordance with sub-paragraphs (2) and (3).

(2) Subject to sub-paragraph (3), that allowance shall be of an amount equal to 10% of the relevant parent’s average pensionable pay.

(3) Where 5 or more children’s special allowances are payable in respect of the death of the same person, the allowance shall be an amount equal to 40% of the relevant parent’s average pensionable pay divided by the total number of allowances.

**2.**—(1) Where the relevant parent was the child’s only surviving parent or in respect of the period after the death of the child’s other parent, a child’s special allowance shall be determined in accordance with the following provisions of this paragraph.

(2) Subject to sub-paragraph (3), the allowance shall be an amount equal to 20% of the relevant parent’s average pensionable pay.

(3) Where 5 or more children’s special allowances are payable in respect of the death of the same person, the allowance shall be an amount equal to 80% of the relevant parent’s average pensionable pay divided by the total number of allowances.

### Reduction In Child's Allowance Where Child In Full-Time Remunerated Training

#### 1.—(1) In this Part—

- “the excess remuneration” means the amount by which the relevant child's remuneration exceeds the specified annual rate;
- “the relevant child” means a child in whose case this Part applies by virtue of sub-paragraph (2);
- “the relevant provisions” means paragraphs 1(3) and 2(3) of Part I, and paragraphs 1(3) and 2(3) of Part II;
- “the specified annual rate” means an amount rounded up to the nearest £1, equal to £250 a year, increased from time to time by the amount by which a corresponding official pension within the meaning of section 5(1) of the Pensions (Increase) Act (Northern Ireland) 1971(a) of that amount, which began on 1st June 1972, would from time to time be increased under an Order made under section 2 of that Act or section 69 of the Social Security Pensions (Northern Ireland) Order 1975(b) if such a pension were payable to the relevant child and fell to be paid on the days on which his remuneration fell to be paid; and

references to “allowance” in paragraphs 2(a) and (b) and 4(a) are references to an allowance together with any increase under an Order made under section 2 of the Pensions (Increase) Act (Northern Ireland) 1971, or section 69 of the Social Security Pensions (Northern Ireland) Order 1975.

(2) This Part shall apply where an allowance is payable to a child by virtue of Article 29, 30 or 32 (or would be so payable but for the provisions of this Part) and the child is—

- (a) in full-time training for a trade, profession or calling; and
- (b) in receipt of remuneration in respect of that training in excess of the specified annual rate:

Provided that where the parent, in respect of whose death a child's allowance is payable, died or ceased to be a regular fireman before 1st May 1984, this Part shall not apply to that child until he has attained the age of 19.

#### 2. In the case of any relevant child—

- (a) if the annual amount of the allowance is greater than the amount of the excess remuneration, it shall be reduced by the amount of the excess remuneration; and
- (b) if the amount of the excess remuneration is equal to or greater than the annual amount of the allowance which, but for this sub-paragraph, would be payable, no allowance shall be so payable.

3.—(1) Where as well as any relevant child there are other children to whom allowances are payable in respect of the same death, in circumstances to which any of the relevant provisions applies (or would but for this paragraph apply), the allowances payable to those other children (hereinafter called “the other allowances”) shall be calculated in accordance with the following provisions of this Part.

(a) 1971 c. 35 (N.I.)

(b) S.I. 1975/1503 (N.I. 15)

(2) If paragraph 2(a) applies, then, subject to sub-paragraph (4), the other allowances shall be increased by dividing the excess remuneration amongst those other allowances.

(3) If paragraph 2(b) applies to any child, then, subject to sub-paragraph (4), the other allowances shall be recalculated as if he were not a child of the fireman.

(4) Notwithstanding the preceding provisions of this Part—

(a) no child shall by virtue of those provisions receive an allowance greater than that to which he would be entitled if the relevant provision in question did not apply to his case; and

(b) the total amount to be paid under each of the relevant provisions together with any increase in that amount under an Order made under section 2 of the Pensions (Increase) Act (Northern Ireland) 1971, or section 69 of the Social Security Pensions (Northern Ireland) Order 1975 shall not by virtue of the preceding provisions of this Part exceed the maximum amount which otherwise would be paid under the relevant provision in question, together with any such increase in that amount required as aforesaid.”.

(9) Part III of Schedule 3 shall be amended as follows—

(a) in paragraph 1, for “Part I” substitute “Parts I and IIA”;

(b) for paragraph 2 substitute—

“2. Except where the parent in respect of whose death the allowance is payable (in this Part referred to as the “relevant parent”) is such a person as is referred to in paragraph 3(1), the specified amount, for the purposes of paragraph 1 or 2 of Part I as applied hereby, shall be the amount of the relevant parent’s deferred pension and not the amount specified in Part I.”;

(c) in paragraph 3(1), for “father” substitute “relevant parent is the father and he”;

(d) in paragraph 4, for “father’s” substitute “relevant parent’s”.

Sealed with the Official Seal of the Department of the Environment for Northern Ireland on 26th March 1984.

(L.S.)

*J. M. Irvine*

Assistant Secretary

The Department of Finance and Personnel approves the foregoing Order.

Sealed with the Official Seal of the Department of Finance and Personnel for Northern Ireland on 26th March 1984.

(L.S.)

*D. W. Alexander*

Assistant Secretary

## EXPLANATORY NOTE

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

1. This Order amends the Firemen's Pension Scheme Order (Northern Ireland) 1973 (the 1973 Scheme) with effect from 25th November 1982 (retrospection is authorised by section 17(3B) of the Fire Services Act (Northern Ireland) 1969).

2. Article 4(3) and (5) amends the references to a father's death (in Article 31 of the 1973 Scheme) and retirement (in Article 36 of the 1973 Scheme) to provide that benefits for children may in future be payable in respect of a mother who was a regular fireman.

3. Article 4(4) amends Articles 34 and 35 of the 1973 Scheme. Under those Articles a child's allowance was not payable in respect of a child who had attained the age of 16 unless he was undergoing full-time education or was an apprentice or was permanently disabled; and a child's gratuity was not payable in respect of a child who had attained the age of 16 at the date of death of the fireman concerned unless at that date he was undergoing full-time education or was an apprentice or was permanently disabled. In each case, no payment could be made in respect of a child who had attained the age of 19 unless he was permanently disabled. These age limits of 16 and 19 have come to be referred to as "the lower age limit" and "the upper age limit" respectively. The amendments raise the lower age limit for the payment of child allowances or gratuities from 16 to 17; provide, subject to certain conditions, that allowances or gratuities for children over the lower age limit, who are in full-time education or training or permanently disabled, will be payable to children aged 19 or over as well as to those aged under 19; replace the reference to an apprentice with a reference to a child who is in full-time training of at least one year's duration for a trade, profession or calling; and ensure that a child allowance for a permanently disabled child is not payable to an older person who has become financially independent of his parent before that parent's death. The insertion of a new Article 34A preserves the rights of children whose parents have already died or ceased to serve at the coming into operation of this amendment. Article 4(6) makes a consequential amendment in Article 77 of the 1973 Scheme.

4. Article 4(7), (8) and (9) amends Schedule 3 to the 1973 Scheme. Article 4(7) amends Part I, Article 4(8) substitutes an amended Part II, and Article 4(9) amends Part III, to provide that benefits for children may in future be payable in respect of a mother who was a regular fireman. Article 4(8) also inserts a new Part IIA in Schedule 3 providing that an allowance payable to a child in full-time vocational training shall be reduced by the amount by which his remuneration exceeds a specified annual rate (paragraph 2). Provision is made for appropriate adjustments to any other child allowances payable. The new Part IIA preserves the existing rights of children whose parents have already died or ceased to serve at the date of its coming into effect and who may have a potential entitlement to a full allowance while in such training under the age of 19 (proviso to paragraph 1(2)(b)). Article 4(1) makes consequential amendments in Articles 29 and 30 of the 1973 Scheme.