

SCHEDULE 1

THE NEW FIREFIGHTERS' PENSION SCHEME (WALES)

PART 10

QUALIFYING SERVICE AND PENSIONABLE SERVICE

Qualifying service

1. For the purposes of this Scheme, the following periods are periods of a person's qualifying service—

- (a) the period during which the person is a firefighter member of the Scheme and for which the person receives pensionable pay;
- (b) any period during which the person—
 - (i) is a firefighter member of the Scheme,
 - (ii) is on unpaid leave other than unauthorised absence,
 - (iii) has made an election under rule 4(1) of this Part, and
 - (iv) has paid such contributions as are required to be paid under rule 4(2) in respect of that period;
- (c) in relation to the second pension under rule 7 of Part 3 (entitlement to two pensions), the period of qualifying service taken into account in calculating the first pension under that rule;
- (d) any period of additional service purchased under Part 11;
- (e) a period credited on acceptance of a transfer under Part 12;
- (f) where the person was a member of the 1992 Scheme, the period of service used for determining the person's eligibility for an award under that Scheme; and
- (g) any period of service that may be credited to the firefighter member resulting from maternity, paternity or adoption leave.

Reckoning of pensionable service

2.—(1) Subject to paragraph (6), for the purposes of this Scheme, a person's pensionable service accrues as pension contributions are paid, and consists of—

- (a) any period in respect of which the person has paid pension contributions as a member of this Scheme;
- (b) any period of service taken into account for the purposes of an award under rule 3 (deferred pension) or rule 7 (entitlement to two pensions) of Part 3 where, on again taking up employment with an authority —
 - (i) the person becomes a member of the Scheme; and
 - (ii) in accordance with rule 4 of Part 3 (cancellation of deferred pension), the award under rule 3 or rule 7 is cancelled;
- (c) any period which the person is entitled to reckon as pensionable service under rule 4 (reckoning of unpaid period of absence) or rule 5 (reckoning of maternity, paternity and adoption leave, etc) of this Part or under any of rules 5 to 9 of Part 11;

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- (d) any period of pensionable service taken into account for the purposes of an ill-health award under rule 2 of Part 3, other than any period included by way of enhancement, where—
 - (i) the award is cancelled under rule 2 of Part 9; and
 - (ii) the person remains a member of this Scheme (whether or not as an employee of the authority which made the award);
 - (e) if the person rejoins this Scheme on again taking up employment with an authority, any period of service as a former member of the Scheme, in respect of which—
 - (i) no pension has been paid;
 - (ii) no refund of pension contributions has been made; and
 - (iii) no transfer value payment has been made; and
 - (f) any period of service credited to the Scheme as pensionable service on acceptance of a transfer into the Scheme under Part 12.
- (2) The pensionable service of a firefighter member may not exceed forty five years.
- (3) A person may not—
- (a) buy additional service if that would increase that person's pensionable service to more than forty years by normal retirement age; or
 - (b) transfer service into the Scheme if the aggregate of—
 - (i) that service,
 - (ii) that person's prospective service to normal retirement age, and
 - (iii) any service already accrued in the Scheme,would exceed forty years by normal retirement age.
- (4) Any additional period of service purchased or in the process of being purchased under Part 11 is reckonable as pensionable service; but where only a portion of the pension contributions payable in respect of a period of additional service has been paid, only the equivalent portion of the period is reckonable as pensionable service.
- (5) Subject to paragraph (6), an additional period of service purchased or in the process of being purchased under Part 11 is to be taken into account for the purposes of determining—
- (a) the amount of pension payable to the firefighter member or to the firefighter member's survivors; and
 - (b) the amount of service a firefighter member has or may accrue in the Scheme.
- (6) An additional period of service is not to be taken into account in assessing—
- (a) the amount of the higher tier ill-health pension included in a higher tier ill-health award under Part 3; or
 - (b) the amount of a death grant under Part 5.

Non-reckonable service

3. The following periods are not reckonable as pensionable service—
- (a) any period of unpaid leave, other than a period that is reckonable by virtue of rule 4 of this Part;
 - (b) any period of service that has been taken into account for the purposes of a pension under rule 3 of Part 3 (deferred pension) that has not been cancelled under rule 4 of that Part;
 - (c) any period of absence resulting from sickness or injury attributable to the person's misconduct which the authority determine should be unpaid leave;

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- (d) any period of additional maternity or adoption leave in respect of which the person entitled has declined to pay the required contributions; and
- (e) any period of service that is pensionable service by virtue of any other provision of this Part.

Reckoning of unpaid period of absence

4.—(1) A firefighter member may reckon as pensionable service all or part of a period of absence without pay if the firefighter member elects to pay the pension contributions that the firefighter member and the firefighter member's employing authority would have paid in accordance with Part 11 in respect of that period if it had been a period of absence with pay.

(2) An election under paragraph (1) is to be made by written notice given to the employing authority not later than six months from the end of the period of unpaid leave for which contributions are due.

(3) An authority may pay the employer's pension contributions that would otherwise fall to be paid by the employee as a result of the firefighter member's election.

(4) Contributions falling to be paid by the employee under this rule must be paid within six months of the date on which the notice under paragraph (2) is given.

Reckoning of maternity, paternity and adoption leave, etc

5.—(1) A firefighter member is entitled to reckon as pensionable service any period of—

- (a) paid maternity leave,
- (b) unpaid ordinary maternity leave, and
- (c) unpaid maternity leave in respect of which the firefighter member has paid pension contributions in accordance with rule 4 of Part 11.

(2) A firefighter member is entitled to reckon as pensionable service any period of—

- (a) paternity leave,
- (b) ordinary adoption leave,
- (c) paid additional adoption leave, and
- (d) unpaid additional adoption leave in respect of which the member has paid pension contributions in accordance with rule 4 of Part 11.

(3) Where there is a period of pensionable service both before and after a period of maternity or adoption leave in respect of which a person is entitled to pay pension contributions but does not do so, those periods must be treated for the purposes of this Scheme as if they were continuous.

Calculation of pensionable service

6.—(1) Paragraphs (3) to (5) are subject to rule 2(2) and (3).

(2) For the purposes of paragraphs (3) and (4), a period which comprises three hundred and sixty five completed days including 29 February must be treated as a completed year.

(3) The pensionable service of a regular firefighter member must be calculated in accordance with the formula—

$$A \div (B \div 365) \text{ years,}$$

where—

A is the number of completed years in the period, and

B is the number of completed days in any remaining part of a year.

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(4) The pensionable service of a part-time regular firefighter member must be calculated as a proportion of whole-time service by applying the formula—

$$\frac{A \times C}{B}$$

where—

A is the person's weekly contractual hours,

B is the weekly whole-time equivalent conditioned hours, and

C is the period of the person's part-time service in years (calculated in accordance with the formula in paragraph (3), and with regard to paragraph (2)),

and in this paragraph "conditioned hours" (*"oriau wedi'u pennu"*) means the number of hours that the person was required to work each week under the terms of that person's contract of employment.

(5) The pensionable service of a retained or volunteer firefighter for any year or part of a year of the firefighter's service must be assessed as a proportion of whole-time service in accordance with the formula—

$$\frac{A \times 365}{B}$$

where—

A is the actual pensionable pay received in that year, and

B is the retained or volunteer firefighter's reference pay for that year.

(6) Where, for the purpose of calculating an award payable to or in respect of a firefighter member—

(a) it is necessary to determine the firefighter member's pensionable service reckonable by reason of service or employment before or after a particular date ("the material date"), and

(b) by virtue of the receipt by an authority of a transfer value payment, the firefighter member is entitled to reckon a period of pensionable service ("the credited period") by reason of employment for a period ("the previous employment period") which includes that date,

the credited period counts as pensionable service reckonable by reason of employment before and after the material date in the same proportion as that between the parts of the previous employment period falling before and after the material date.