

## SCHEDULE 1

### THE NEW FIREFIGHTERS' PENSION SCHEME (SCOTLAND)

#### PART 12

##### TRANSFERS INTO AND OUT OF THE SCHEME

##### CHAPTER 5

##### MIS-SOLD PENSIONS AND RESTITUTION PAYMENTS

#### **Mis-sold pensions**

14.—(1) This rule applies to a firefighter who—

- (a) has opted out or transferred out, or both; and
- (b) has suffered actionable loss as a result of a contravention which is actionable under section 150 of the Financial Services and Markets Act 2000(1) (actions for damages).

(2) A firefighter to whom this rule applies who has given notice—

- (a) under rule 6 of Part 2 cancelling his or her contributions election; or
- (b) under rule G3(5) of the 1992 Scheme (cancellation of election not to pay contributions),

may give written notice to the authority that the firefighter wishes them to accept a transfer value payment in order to create or restore the firefighter's pensionable service.

(3) Paragraph (4) or (5) applies where, within twelve months of the date of a notice given under paragraph (2) or such longer period as the authority may allow, the authority have accepted a transfer value payment in relation to the firefighter who gave the notice (whether or not the firefighter has ceased to be a firefighter after the date of the notice) not exceeding the calculated amount.

(4) Where the amount of the transfer value payment is equal to the calculated amount—

- (a) the whole of the relevant period shall be treated as pensionable service; and
- (b) for the purposes of calculating any award under this Scheme, the firefighter who gave the notice shall be treated as having made pension contributions throughout that period.

(5) Where the amount of the transfer value payment is less than the calculated amount—

- (a) the authority shall, in accordance with the relevant methods and assumptions, calculate the period of pensionable service that the transfer value payment represents, and treat that period as pensionable service;
- (b) for the purposes of calculating any award under this Scheme, the firefighter who gave the notice shall be treated as having made pension contributions throughout that period; and
- (c) that period shall be treated as a continuous period with the same final date as the final date of the relevant period.

(6) Where a firefighter who is being credited under paragraph (4) or (5) with a period of pensionable service has previously been credited, in respect of the relevant period, with—

- (a) an additional period of pensionable service calculated in accordance with this Part; or
- (b) an additional period of reckonable service calculated in accordance with Part 4 of Schedule 6 to the 1992 Scheme (amount of transfer value),

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(1) 2000 c. 8, to which there are amendments not relevant to this Order.

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the authority may adjust the amount of the transfer value payment that they accept under this rule to ensure that no part of the additional period of pensionable or reckonable service that was previously credited is included in the period of pensionable service credited under paragraph (4) or (5).