

## SCHEDULE 1

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

#### PART 11

#### PENSIONABLE PAY, PENSION CONTRIBUTIONS AND PURCHASE OF ADDITIONAL SERVICE

##### CHAPTER 1

##### PENSIONABLE PAY AND PENSION CONTRIBUTIONS

###### **Pensionable pay**

1.—(1) Subject to paragraph (3) and rule 3(3) of this Part, the pensionable pay of a firefighter member is the aggregate of—

- (a) the firefighter member's pay in relation to the performance of the duties of the firefighter member's role, other than any allowance or emoluments that are paid to the firefighter member on a temporary basis; and
- (b) the firefighter member's permanent emoluments (including, in the case of a retained firefighter, any retaining allowance).

(2) Where a firefighter member surrenders the right to receive part of the firefighter member's pensionable pay in exchange for the provision by the firefighter member's employing authority of any non-cash benefit, the amount forgone shall continue to be treated as part of the firefighter member's pensionable pay for all purposes of this Scheme (including determining pension contributions and calculating awards).

(3) A firefighter member's pensionable pay in any tax year shall be taken not to include any amount in excess of the permitted maximum for that year.

(4) For the purposes of this rule and rule 2 of this Part, the permitted maximum for a tax year is £108,600: but in relation to a tax year other than the tax year ending in 2007, this is subject to paragraph (5).

(5) Where the retail price index for the month of December in the tax year preceding the tax year in question is higher than it was for the previous December the permitted maximum for the tax year in question shall be the amount arrived at—

- (a) by increasing the permitted maximum for the previous tax year by the same percentage as the percentage increase in the retail prices index; and
- (b) if the result is not a multiple of £600, by rounding it up to the nearest amount which is a multiple of £600.

###### **Final pensionable pay**

2.—(1) For the purpose of calculating pensions under this Scheme, the final pensionable pay of a firefighter member is the aggregate of pensionable pay received in respect of the 365 pensionable pay days ending with the relevant date, but this is subject to the following paragraphs of this rule.

(2) Subject to paragraph (3), "the relevant date" for the purposes of paragraph (1)—

- (a) in relation to a firefighter member who is entitled to two pensions under rule 7 of Part 3, means—

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- (i) as regards the first pension, the date on which the firefighter member was last paid at the higher rate (before changing roles and accepting a reduction in pensionable pay); or
  - (ii) as regards the second pension, the last day of the firefighter member's membership of the Scheme<sup>(1)</sup> or, if the firefighter member dies in service, the date of the firefighter member's death; and
- (b) in any other case, means the date of the firefighter member's last day of pensionable service or, if the firefighter member dies in service, the date of the firefighter member's death.
- (3) Where a firefighter member's final pensionable pay would have been more than the amount calculated in accordance with paragraph (1) if the relevant date had occurred on the corresponding day in either of the two periods of 365 pensionable pay days preceding the first day of the period of 365 pensionable pay days ending with the relevant date (as defined in paragraph (2) without reference to this paragraph), that corresponding day in whichever of those periods produces the higher amount shall be treated as the relevant date for the purposes of paragraph (1).
- (4) Subject to paragraph (7), where a firefighter member is entitled to count only part of a year as a period of membership of the Scheme ("the membership period"), the firefighter member's final pensionable pay is the amount of pensionable pay received in the membership period multiplied by 365 and divided by the number of days in the membership period.
- (5) For the purposes of paragraph (1), any reduction of pensionable pay as a result of—
- (a) sick leave; or
  - (b) stoppage of pay by way of punishment; or
  - (c) ordinary maternity leave, ordinary adoption leave or paternity leave; or
  - (d) paid additional maternity leave or additional adoption leave; or
  - (e) unpaid periods in respect of which the firefighter member has paid pension contributions; or
  - (f) unpaid additional maternity leave or additional adoption leave in respect of which pension contributions have been paid,
- shall be disregarded.
- (6) The final reference pay of a retained or volunteer firefighter shall be determined by reference to the equivalent whole-time rate of pay for a regular firefighter of similar service, role and experience.
- (7) A firefighter member's final pensionable pay in any tax year shall be taken not to include any amount in excess of the figure which is the permitted maximum for that year.

### **Pension contributions**

- 3.—(1)** A firefighter member shall pay pension contributions to the authority at the rate of 8.5% of the firefighter member's pensionable pay for the time being.
- (2) The contributions payable under paragraph (1) may be deducted by the authority from each instalment of pensionable pay as it becomes due, but this is subject to any other method of payment that may be agreed between the authority and the member.
- (3) For the purposes of this rule, the pensionable pay of a firefighter member during a period of maternity, paternity or adoption leave shall be the pay that the person receives for that period including the value of any statutory maternity, paternity or adoption pay under the Social Security Contributions and Benefits Act 1992<sup>(2)</sup>.

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(1) See rule 4 of Part 2.  
(2) 1992 c. 4.

## **Optional pension contributions during maternity and adoption leave**

4.—(1) A firefighter member who—

- (a) is on maternity or adoption leave, which would not otherwise count as pensionable service under rule 2 of Part 10; and
- (b) who, for the whole or part of the leave period, is not entitled to receive pay (including any statutory maternity or adoption pay under the Social Security Contributions and Benefits Act 1992),

may elect to pay pension contributions in respect of that leave period.

(2) The contributions shall be calculated by applying rule 3 of this Part to the pensionable pay (including any statutory maternity or adoption pay under the Social Security Contributions and Benefits Act 1992) received immediately before the start of the unpaid period in question.

(3) Subject to paragraph (6), an election must be made by giving written notice to the authority before the expiry of the period of 30 days (or such longer period as the authority may allow) beginning with\_

- (a) the day on which the firefighter member returns to work; or
- (b) if the firefighter member does not return to work after the leave period, the day the firefighter member ceases to be employed by the authority.

(4) On receipt of the notice, the authority shall calculate the amount of contributions due and shall give notice in writing of that amount to the person concerned.

(5) Where the full amount of contributions due has not been paid within six months of the date of the notice given under paragraph (4), the person concerned shall be entitled to reckon as pensionable service such proportion of the period in respect of which contributions were due as the amount of contributions paid bears to the total amount of contributions due.

(6) Where a person dies before the end of the period of 30 days referred to in paragraph (3) without having given the required notice—

- (a) the person shall be deemed to have given the notice; and
- (b) the authority—
  - (i) shall give to the person's personal representatives a statement of the amount of contributions due; and
  - (ii) may collect the contributions by deducting their amount from the amount of the death grant payable under Part 5.