

## 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.

## **CHAPTER 2**

### **PURCHASE OF ADDITIONAL SERVICE**

#### **Purchase of additional service**

5.—(1) A person who satisfies the conditions specified in paragraph (2) may, in accordance with the following provisions of this Chapter, elect to purchase additional service for the purpose of securing increased benefits under this Scheme.

(2) The conditions are that the person—

- (a) is a firefighter member of the Scheme;
- (b) is not a pension credit member; and
- (c) would be entitled to reckon less than 40 years' pensionable service at normal retirement age.

(3) Additional service may be purchased as years or part of a year, but the aggregate of—

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- (a) the period purchased;
  - (b) the person's pensionable service up to the date of the purchase; and
  - (c) the person's prospective service from that date to normal retirement age,
- must not exceed 40 years.

(4) Additional service may be purchased—

- (a) by payment of a lump sum calculated in accordance with tables provided by the Scheme Actuary; or
- (b) subject to paragraphs (5) and (6), by deduction from the person's pensionable pay of periodical contributions of such percentage of that pay as shall be determined by the Scheme Actuary.

(5) An authority may permit a part-time regular firefighter to purchase additional service by periodical contributions at a rate that bears to the percentage determined by the Scheme Actuary the same proportion as the part-time regular firefighter's pensionable pay bears to the pensionable pay of a full-time regular firefighter in the same role.

(6) An authority may permit a retained or volunteer firefighter to purchase additional service by periodical contributions; and in such a case they shall calculate the amount of the contributions by applying the rate determined by the Scheme Actuary to the firefighter's reference pay.

#### **Election to purchase additional service**

6.—(1) An election to pay a lump sum—

- (a) must be made by written notice given to the authority not later than 12 months after the date on which the person last became employed by the authority as a firefighter; and
- (b) if the sum is not paid within three months after the date on which notice was given, shall be treated as not having been made.

(2) An election to pay periodical contributions must be made by notice in writing given to the authority at least two years before the person's normal retirement age, but no such election may be made where the person and the authority have agreed that the person will leave the scheme with an entitlement under any of rules 1, 2, 3, 5 and 6 of Part 3.

(3) Unless paragraph (1)(b) applies, an election under this rule—

- (a) takes effect on the day on which the written notice is received by the authority; and
- (b) is irrevocable once the lump sum has been paid or, as the case may be, the first contribution has been deducted.

#### **Duration of periodical contributions and premature cessation**

7.—(1) Subject to paragraph (2), where a person has elected under rule 6 of this Part to pay periodical contributions, they are payable from his or her next birthday and continue to be payable until normal retirement age.

(2) Paragraph (1) ceases to apply to a person who leaves their employment before normal retirement age—

- (a) where the person is entitled to a pension under rule 3 of Part 3 (deferred pension), on the person's last day of service;
- (b) where the person becomes entitled to a second pension under rule 7 of that Part (entitlement to two pensions), on the person's last day of service in the second period of employment;
- (c) on the date on which the person ceases to be employed by any authority; or
- (d) on the date on which any contributions election takes effect.

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(3) Where a sub-paragraph of paragraph (2) applies, the period of additional service purchased up to the date referred to in that sub-paragraph shall be treated as if it were the period ascertained in accordance with the formula—

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

where—

- A is the number of 60ths of additional service which the person elected to purchase;
- B is the period in respect of which contributions have been made; and
- C is the period in respect of which contributions would, but for the cessation of the person's employment, have been made in accordance with the election.

(4) The period of additional service calculated in accordance with paragraph (3) shall be treated—

- (a) Where the person qualifies for an ordinary pension (rule 1 of Part 3), as part of the pensionable service on which the ordinary pension is calculated;
- (b) where the person qualifies for a deferred pension (rule 3 of Part 3), as part of the pensionable service on which the deferred pension is calculated;
- (c) where the person takes member-initiated early retirement (rule 5 of Part 3), as part of the award to which the actuarial reduction is applied;
- (d) where the person takes authority-initiated early retirement (rule 6 of Part 3), as part of the person's pensionable service; or
- (e) where, on commencing a second period of employment with the same authority, the person becomes entitled to two pensions (rule 7 of Part 3)—
  - (i) to the extent that it is attributable to the first period of employment, as part of the service on which the first pension is calculated; and
  - (ii) to the extent that it is attributable to the second period of employment, as part of the service on which the second pension is calculated.

(5) The period of additional service calculated in accordance with paragraph (3) shall not be treated as part of the pensionable service on which—

- (a) the amount of any higher tier ill-health pension is calculated under rule 2 of Part 3; or
- (b) the notional ill-health pension calculated where a survivor's pension is awarded on the person's death in service is calculated (rule 2(1) of Part 4).

(6) Additional service purchased by the payment of periodical contributions shall accrue annually in accordance with the contributions paid.

### **Discontinuance and resumption of periodical contributions**

8.—(1) An authority may—

- (a) at the request of a firefighter member who has elected to purchase additional service by the payment of periodical contributions; and
- (b) solely on the grounds of his or her financial circumstances,

agree to discontinue the making of deductions from his or her pay by way of such contributions.

(2) Where the firefighter member and the authority agree that deductions should be discontinued for a period not exceeding six months ("the discontinuance period"), the authority shall resume the making of deductions as soon as reasonably practicable after the end of that period or, at the request of the firefighter member, at such time before the end of that period as may be agreed.

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(3) Where the firefighter member and the authority agree that deductions should be discontinued for a period of six months or more, the member’s election under rule 6 of this Part shall be treated as cancelled with effect from the date of the agreement.

(4) The period of additional service purchased up to the date on which the last contribution was deducted shall be treated as if it were the period ascertained in accordance with the formula—

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

where—

A is the number of 60ths of additional service which the firefighter member elected to purchase;

B is the period in respect of which contributions have been made; and

C is the period in respect of which contributions would have been made in accordance with the election (disregarding for this purpose any deemed cancellation under paragraph (3)).

(5) Subject to paragraph (6), where—

(a) deductions were discontinued under paragraph (2); and

(b) the firefighter member wishes to purchase additional service referable to the discontinuance period,

a deduction of an amount equal to the aggregate of the contributions that would otherwise have been made in respect of that period shall be made on the same occasion as the first resumed deduction is made.

(6) Where the firefighter member’s rate of pay at the end of the discontinuance period is less than at the beginning of that period, deductions in respect of the discontinuance period shall be made at the rate that would have applied if deductions had been made from the firefighter member’s salary during that period.

**Periodical contributions in respect of periods of unpaid service or absence**

9.—(1) A firefighter member who—

(a) has elected to purchase additional service in respect of a period of unpaid service or unpaid leave which falls within the period in respect of which contributions are payable in accordance with rule 7(1) of this Part; and

(b) complies with the requirements of paragraph (2),

is entitled to require the authority to treat that period of unpaid service or unpaid leave as a period of pensionable service.

(2) The requirements of this paragraph are that the firefighter member must, not later than one month after the end of the period of unpaid service or leave (as the case may be), require the authority to deduct from the firefighter member’s pay an amount equal to the aggregate of the contributions that would have been made in respect of that period if it had been a period of paid service.

(3) In paragraphs (1) and (2) “unpaid leave” means adoption leave, additional adoption leave, additional maternity leave or ordinary maternity leave or other absence without pay (including absence while participating in a strike).

(4) Contributions payable under paragraph (2) may be paid—

(a) during the unpaid leave period;

(b) within six months of returning to duty after the end of that period; or

(c) within such longer period as the authority may allow.

### **Effect of purchasing additional service by lump sum payment**

**10.**—(1) Subject to paragraph (2), where a period of additional service has been purchased by way of a lump sum payment, the firefighter member's pensionable service shall be increased by that period as regards any award payable to the firefighter member under this Scheme.

(2) A period of additional service purchased by way of a lump sum payment shall not be treated as part of the pensionable service on which the amount of any higher tier ill-health pension is calculated under rule 2 of Part 3.

(3) If the firefighter member takes member-initiated early retirement the period of additional service shall be part of the total to which the actuarial reduction is applied under rule 5 of Part 3.

(4) If the firefighter member takes authority-initiated early retirement the period of additional service shall be part of the pensionable service on which the pension is calculated under rule 6 of Part 3.