

SCHEDULE 1

THE NEW FIREFIGHTERS' PENSION SCHEME (SCOTLAND)

PART 5

AWARDS ON DEATH

Death grant

1.—(1) On the death of a person while serving as a firefighter member, the authority shall pay a death grant of an amount ascertained in accordance with the following provisions of this rule (whether or not a pension is payable under any other Part).

(2) Subject to paragraphs (3) to (5) and, where paragraph (8) applies, paragraph (9), the amount is three times that of the deceased's pensionable pay at the time of the deceased's death, expressed as an annual rate.

(3) Where—

- (a) the deceased was a whole-time firefighter member at the time of the deceased's death;
- (b) had the deceased lived, the deceased would have been entitled to two pensions under rule 7 of Part 3; and
- (c) the product of the following formula is greater than three times that of the deceased's pensionable pay at the time of the deceased's death, expressed as an annual rate—

$$3 \times \left\{ \frac{(A \times B)}{C} - \left(\frac{D}{C} \times E \right) \right\},$$

where

A is the amount of the deceased's pensionable pay on the deceased's last day of service that would have been used in the calculation of the deceased's pension under rule 7(3) of Part 3;

B is the deceased's pensionable service that would have been used in that calculation;

C is the deceased's qualifying service;

D is the deceased's pensionable service that would have been used in the calculation of the deceased's pension under rule 7(4) of Part 3; and

E is the deceased's pensionable pay at the time of the deceased's death,

the amount of the death grant is that greater amount.

(4) Where the deceased was a part-time firefighter member at any time during the deceased's period of service (whether or not the deceased was a whole-time firefighter member for part of that period), the amount of the death grant is the greater of—

- (a) three times the deceased's pensionable pay at the time of the deceased's death (which, if the deceased was then employed part-time, would be calculated at the part-time rate), expressed as an annual rate; and
- (b) the product of the formula

$$\frac{F}{G} \times H \times 3,$$

where—

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F is the deceased's pensionable service;

G is the deceased's qualifying service; and

H is the pensionable pay that the deceased would have received if, throughout the deceased's period of service, the deceased had been a whole-time firefighter of equivalent role and length of service.

(5) Where the deceased—

- (a) had become entitled to two pensions under rule 7(1) of Part 3 at the time of the deceased's death; and
- (b) had been a part-time firefighter member during the period of service in respect of which the deceased was entitled to a second pension under rule 7(4) of that Part (whether or not the deceased had been a whole-time member for part of that period),

the amount of the death grant is whichever is the greatest of—

- (i) three times the deceased's pensionable pay at the time of the deceased's death, expressed as an annual rate;
- (ii) the product of the formula specified in paragraph (3); and
- (iii) the product of the formula specified in paragraph (4).

(6) Where the deceased was absent from duty without pay immediately before the day on which the deceased died, the deceased's pensionable pay for the purposes of this rule, subject to paragraph (8), shall be taken to be the amount, expressed as an annual rate, of the pay appropriate to the deceased's role and conditioned hours on the last occasion that the deceased received it.

(7) In paragraph (6), "conditioned hours" means the number of hours that the deceased was required to work each week under the terms of the deceased's contract of employment.

(8) The pensionable pay of a person who—

- (a) had made an election under rule 4 of Part 10 (reckoning of unpaid period of absence); and
- (b) dies before making any payment under that rule,

shall be taken to be the amount, expressed as an annual rate, of the pensionable pay that would have been paid if the period of the person's absence from duty without pay had reckoned as pensionable service.

(9) Where paragraph (8) applies, the death grant shall be abated by the amount due to the authority under rule 4(1) of Part 10.

(10) Subject to paragraph (11), the death grant may be paid, in whole or in part, to such person or persons as the authority think fit.

(11) The authority must not pay any part of a death grant to a person who is convicted of the murder, culpable homicide or manslaughter of the deceased, but this is subject to paragraph (12).

(12) Where a conviction of the description mentioned in paragraph (11) is quashed on appeal, the authority may, if they have not then paid the death grant in full, pay part of it to the person whose conviction is quashed.

Post-retirement death grant

2.—(1) Where—

- (a) a pension under any of rules 1 to 3, 5 or 6 of Part 3 is in payment; and
- (b) the pensioner dies within five years of the pension coming into payment,

the authority shall pay, by way of post-retirement death grant, an amount equal to the difference between—

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- (i) the amount that they would have paid to the pensioner in that five year period, disregarding any increase in the pension that might have become payable after the pensioner's death; and
 - (ii) the amount paid to the pensioner before the pensioner's death (including any lump sum that the pensioner may have received on commutation under rule 9 or 10 of Part 3).
- (2) Paragraphs (9) to (11) of rule 1 of this Part shall apply in relation to a grant under this rule as they apply in relation to a death grant.