

SCHEDULE 1

THE NEW FIREFIGHTERS' PENSION SCHEME (SCOTLAND)

PART 9

REVIEW, WITHDRAWAL AND FORFEITURE OF AWARDS

Review of ill-health pension

1.—(1) So long as a person—

- (a) has been in receipt of an ill-health pension for less than 10 years; and
- (b) is under state pensionable age,

the authority shall consider, at such intervals as they think proper, whether the person has become capable—

- (i) of performing any duty appropriate to the role from which the person retired on grounds of ill-health; and
- (ii) of undertaking regular employment.

(2) The authority shall, at such intervals as they think proper, consider in relation to a person whose deferred pension is being paid early by virtue of rule 3(4) of Part 3 (early payment of deferred pension on permanent disablement), the same matters as they are required to consider in relation to persons of the description mentioned in paragraph (1).

Consequences of review

2.—(1) If, on such consideration as is mentioned in rule 1(1) of this Part, it is found that a person who is in receipt of a higher tier ill-health pension has become capable of undertaking regular employment, the person's entitlement to that pension shall cease with immediate effect.

(2) Subject to paragraph (3), a lower tier ill-health pension shall continue to be paid to a person who ceases to be entitled to a higher tier ill-health pension.

(3) If—

- (a) on such consideration as is mentioned in rule 1(1) of this Part, it is found that a person who is in receipt of a lower tier ill-health pension has become capable of performing the duties appropriate to the role from which the person retired on grounds of ill-health; and
- (b) the authority make the person an offer of employment in that role (“a paragraph (3)(b) offer”),

the person's entitlement to a lower tier ill-health pension shall cease, with immediate effect, whether or not the person accepts or declines the offer.

(4) A person who accepts or declines a paragraph (3)(b) offer becomes entitled to a deferred pension under rule 3 of Part 3.

(5) If, on such consideration as is mentioned in rule 1(2) of this Part, it is found that a person whose deferred pension is being paid early has become capable of undertaking regular employment, the person's entitlement to early payment of the deferred pension shall cease with immediate effect.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Withdrawal of pension during service as firefighter

3.—(1) Subject to paragraph (2), the authority by which a pension under Part 3 is payable may withdraw the whole or any part of the pension for any period during which the person entitled to it is again employed as a firefighter by any authority.

(2) Where a person who is entitled to pensions under this Scheme in respect of both regular and retained service or volunteer service (whether from the same authority or from different authorities)—

- (a) resumes regular service, but does not resume retained service or volunteer service; or
- (b) resumes retained service or volunteer service, but does not resume regular service,

paragraph (1) applies only as regards the pension referable to the person's previous retained service or, as the case may be, the person's previous regular service.

(3) An authority may abate a pension to which a person is entitled under Part 3 so long as the person is employed (in whatever capacity) by any authority.

(4) A person who—

- (a) is entitled to a pension under Part 3; and
- (b) accepts an offer of employment with an authority (in whatever capacity),

shall, as soon as reasonably practicable after accepting that offer, give notice in writing to each authority by which a pension is payable to that person under Part 3, specifying the name of the person's employing authority.

Withdrawal of early payment of deferred pension

4. A person who, on dismissal from an authority's employment, becomes entitled to a deferred pension under rule 3 of Part 3, shall not be entitled to early payment of the deferred pension before reaching the age of 65, unless the authority by which the pension is payable determine otherwise.

Withdrawal of pension on conviction of certain offences

5.—(1) Where paragraph (2) applies, the authority by which a pension under Part 3 or 4 is payable may withdraw the pension in whole or in part and permanently or temporarily as they think fit.

(2) This paragraph applies where—

- (a) the pensioner has been convicted of an offence referred to in paragraph (3), and, in the case of a pension under Part 4, that the offence was committed after the death on which the pensioner became entitled to it; or
- (b) that the pensioner has been convicted of an offence, committed in connection with the pensioner's employment by an authority, which is certified by the Scottish Ministers—
 - (i) as gravely injurious to the interests of the State; or
 - (ii) as likely to lead to serious loss of confidence in the public service.

(3) The offences mentioned in paragraph (2)(a) are—

- (a) an offence of treason; and
- (b) one or more offences under the Official Secrets Acts 1911 to 1989⁽¹⁾ for which the pensioner has been sentenced, on the same occasion—
 - (i) to a term of imprisonment of at least 10 years; or
 - (ii) to two or more consecutive terms amounting in aggregate to at least 10 years.

(4) The authority may, at any time and to such extent as they think fit—

(1) 1911 c. 28, 1920 c. 75, 1939 c. 121, 1989 c. 6.

- (a) apply for the benefit of any dependant of the pensioner; or
 - (b) restore to the pensioner,
- so much of any pension as has been withdrawn under this rule.

Forfeiture of award

6. A person who has been convicted of an offence under subsection (6) of section 34 of the Fire and Rescue Services Act 2004⁽²⁾ (acts or omissions for purposes of obtaining awards or other sums), forfeits the whole or part of an award or sum obtained by the person under this Scheme, as the authority think fit.

(2) 2004 c. 21.