

SCHEDULE

Article 2

Amendments to the Firefighters' Compensation Scheme (Scotland) 2006

Amendments to Part 1

1. In Part 1 (general provisions)—

(a) in rule 2(1) (interpretation)—

(i) for the definition of “pensionable pay”, substitute—

““pensionable pay”—

- (a) in relation to a person who is a member of the 1992 Scheme, shall be construed in accordance with rule G1 of that Scheme;
- (b) in relation to a person who is a member of the 2006 Scheme, shall be construed in accordance with rule 1 of Part 11 of that Scheme;
- (c) in the case of a person who is not a member of either scheme, shall be construed in accordance with rule 11 of this Part”;

(ii) after the definition of “regular firefighter”, insert—

““relevant service”, except where the context otherwise requires, means service which either was, or would but for an election under rule G3 of the 1992 Scheme or rule 5 of Part 2 of the 2006 Scheme or a failure to elect under rule G2A of the 1992 Scheme or rule 4 of Part 11 of the 2006 have been, reckonable as pensionable service;”

(iii) for the definitions of “retained firefighter” and “retained or volunteer firefighter”, substitute—

““retained firefighter” means a person who is employed by the authority—

- (a) as a retained firefighter, but not as a regular firefighter or a volunteer firefighter;
- (b) on terms under which that person is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to that person’s role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting);
- (c) otherwise than in a temporary capacity; and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders received;”

(iv) after the definition of “surviving spouse”, insert—

““volunteer firefighter” means a person who is employed by an authority—

- (a) as a volunteer firefighter but not as a regular firefighter or retained firefighter;
- (b) on terms under which that person is, or may be, required to engage in fire-fighting or may be required to perform other duties appropriate to that person’s role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting);
- (c) otherwise than in a temporary capacity, and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders received.”;

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- (b) in rule 3—
 - (i) for the heading, substitute “Exclusive application to regular and retained firefighters”;
 - (ii) in paragraph (1), for “regular firefighters” substitute “regular and retained firefighters”;
 - (iii) in paragraph (2), for “regular firefighter” substitute “regular or retained firefighter”;
- (c) in rule 6 (reckoning of service for purposes of awards)—
 - (i) in paragraph (2), for “regular firefighter” in each place where that phrase occurs substitute “regular or retained firefighter”;
 - (ii) in paragraph (3), for “retained or volunteer firefighter” substitute “volunteer firefighter”;
 - (iii) in paragraph (3), for the words from “Part 3” to the end substitute “Part 3 and except where the context otherwise requires, any period of service as a retained firefighter or as a part-time employee of a fire and rescue authority shall be treated as service as a whole-time employee of a fire and rescue authority when calculating a person’s relevant service”;
- (d) in rule 7 (qualifying injury)—
 - (i) in paragraph (1)(b), omit “retained or”;
 - (ii) in paragraph (1), for “regular firefighter” substitute “regular or retained firefighter”;
 - (iii) in paragraph (3), omit “and paragraph (4) of rule 3 of Part 10” and “retained or”;
- (e) after rule 10, insert—

“Determining pensionable pay in certain cases

11.—(1) Where an award is to be calculated in respect of a person who is not, or was not, a member of the 1992 Scheme or the 2006 Scheme, the definition of “pensionable pay” is to be construed in accordance with—

- (a) rule G1 of the 1992 Scheme in the case of a person who elected not to pay pension contributions under rule G3 of that Scheme;
- (b) rule 1 of Part 11 of the 2006 Scheme in the case of a person who elected not to pay pension contributions under rule 5 of Part 2 of that Scheme;
- (c) rule 1 of Part 11 of the 2006 Scheme, where an election had been made at different times under both schemes.

(2) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 1992 Scheme, that person’s award is to be calculated on the basis of the pay which would have been average pensionable pay if the person had not made an election.

(3) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 2006 Scheme, that person’s award is to be calculated on the basis of the pay which would have been final pensionable pay if the person had not made an election.

(4) For the purposes of calculating a retained firefighter’s pensionable pay (whether or not that person is or was a member of the 2006 Scheme), the authority shall determine the period of the person’s service from its records.

(5) Where the authority is not able to determine the period of the person’s service from its records, the person, or any other person entitled to an award under this Scheme,

may provide the authority with documents to assist it to determine the person's period of service.

(6) Where the authority is not able to determine the period of the person's service and the authority does not hold records of that person's pay for that period, and the necessary documents cannot be provided in accordance with paragraph (5), the authority may estimate the person's pensionable pay for that period from the records which it holds and may in particular estimate this on the basis of the average of recent pay data for retained firefighters at the same station or stations as that or those at which the person was based for the relevant period."

Amendments to Part 2

2. In Part 2 (injury awards and duty-related compensation), in rule 2 (part-time, retained and volunteer firefighters)—

- (a) in paragraph (1), for "this Part" substitute "rule 1" and omit ", by virtue of which that person's pensionable service is reckonable";
 - (b) in paragraph (2)(a), omit "retained or";
 - (c) in paragraph (2)(b), for "this Part" substitute "rule 1";
 - (d) after paragraph (2), insert—
 - "(3) Where a person—
 - (a) is employed as a retained firefighter; and
 - (b) is entitled to an award under rule 1,
- the award is to be calculated in accordance with Part 3 of Schedule 1."

Amendments to Part 3

3. In Part 3 (awards on death: spouses and civil partners)—

- (a) in rule 1 (special award for spouse or civil partner), in paragraphs (1) and (3) for "regular firefighter" in each place where it occurs substitute "regular or retained firefighter";
- (b) in rule 2 (augmented award for spouse or civil partner), in paragraph (1) for "regular firefighter" substitute "regular or retained firefighter".

Amendments to Part 4

4. In Part 4 (awards on death: children)—

- (a) in rule 1(1) (child's special allowance) and rule 2 (1) (child's special gratuity), for "regular firefighter" in each place where it occurs substitute "regular or retained firefighter";
- (b) in rule 3(1) (child's special allowance), for "a regular firefighter" substitute "either a regular or retained firefighter".

Amendments to Part 5

5. In Part 5 (awards on death: additional provisions), in rule 1(1) (adult dependent relative's special pension), rule 2(1)(a) (dependent relative's gratuity) and rule 5(1)(a) (increase of pensions and allowances during first 13 weeks) for "regular firefighter" in each place where it occurs substitute "regular or retained firefighter".

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Amendments to Part 8

6. In Part 8 (special cases), in rule 2 (award for or in relation to a retained or volunteer firefighter)

- (a) in the heading to the rule, omit “retained or”;
- (b) in paragraph (1)(a), omit “retained firefighter or”;
- (c) in paragraphs (5)(b) and (10)(a) and (b), omit “retained or” in each place where it occurs.

Amendments to Part 10

7. In Part 10 (payment of awards and financial provisions)—

- (a) in rule 3 (prevention of duplication)—
 - (i) in paragraph (4), for sub-paragraph (a)(ii) substitute—
 - “(ii) under rule 1, 1A, 2 or 3 of Part 3 of the 2006 Scheme to an ordinary, special member’s ordinary, ill-health or deferred pension;”; and
 - (ii) in paragraph (6), for “regular firefighter” substitute “regular or retained firefighter”;
- (b) in rule 4 (prevention of duplication: other injury awards for persons who are both regular and retained firefighters)—
 - (i) in paragraph (2), for “both a regular firefighter and” substitute “a volunteer firefighter and a retained firefighter or a regular firefighter”;
 - (ii) omit sub-paragraph (a) of paragraph (2) and the word “and” after it;
 - (iii) in paragraph (2)(b)(i), after “regular firefighter” insert “or a retained firefighter”;
 - (iv) in paragraph (2)(b)(ii), for “retained firefighter” substitute “volunteer firefighter”;
 - (v) in paragraph (3), after “regular firefighter” insert “or a retained firefighter”;
 - (vi) in paragraph (3), for “retained firefighter” substitute “volunteer firefighter”;
 - (vii) in paragraph (4), for “retained firefighter” substitute “volunteer firefighter”;
- (c) in rule 5 (prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters), in paragraph (3)—
 - (i) omit “and” after sub-paragraph (e);
 - (ii) after sub-paragraph (f), insert—
 - “(g) a survivor’s pension under rule 1 of Part 4 of the 2006 Scheme;
 - (h) a survivor’s bereavement pension under rule 4 of Part 4 of the 2006 Scheme;
 - (i) a child’s pension under rule 6 of Part 4 of the 2006 Scheme;
 - (j) a child’s bereavement pension under rule 9 of Part 4 of the 2006 Scheme;
 - (k) a death grant under rule 1 of Part 5 of the 2006 Scheme;
 - (l) a post-retirement death grant under rule 2 of Part 5 of the 2006 Scheme.”.

Amendments to Schedule 1

8. In Schedule 1 (injury awards and duty-related compensation)—

- (a) in Part 1 (calculation of awards for full-time service), omit sub-paragraph (2) of paragraph 1;
- (b) in Part 2 (calculation of awards for part-time service)—

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- (i) in paragraph 1, omit “, by virtue of which the person’s pensionable service is reckonable.”;
- (ii) in paragraph 2(1), in the definitions of “B”, “C” and “D” for “pensionable service” in each place where it occurs substitute “relevant service”;
- (c) in Part 3 (calculation of awards for retained or volunteer service)—
 - (i) for “paragraph 1(2)” substitute “paragraph 1”;
 - (ii) for “pensionable service” substitute “relevant service”.

Amendments to Schedule 2

- 9.** In Part 1 (special pension) of Schedule 2 (awards for spouses and civil partners)—
- (a) in paragraph 1, for “paragraph 2” substitute “paragraphs 2 and 3”;
 - (b) in paragraph 2, in the definitions of “B”, “C” and “D”, for pensionable service” in each place where it occurs substitute “relevant service”;
 - (c) after paragraph 2, insert—

“**3.**—(1) Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, the amount of special pension is to be calculated in accordance with the formula—

$$A \times B/C$$

where—

A is the amount calculated under paragraph 1 as if the final pensionable pay was the pay the deceased would have received had he or she been a whole-time employee of the authority;

B is the period in years of pensionable retained service; and

C is the period in years of relevant service.

(2) Where the person was a member of the 2006 Scheme, neither B nor C is to exceed 40 years.”.

Amendments to Schedule 3

- 10.** In Schedule 3 (awards on death: children), in Part 1 (child’s special allowance)—
- (a) in paragraph 1, for “paragraph 4” substitute “paragraphs 4 and 5”;
 - (b) in paragraph 4(1), omit “, which is reckonable as pensionable service.”;
 - (c) after paragraph 4, insert—

“**5.** Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, the amount of the special allowance is to be calculated in accordance with the formula—

$$A \times B/C$$

A is the amount calculated under paragraphs 1 to 3 of this Part as if the final pensionable pay was the pay the deceased would have received had he or she been a whole-time employee of the authority;

B is the period in years of pensionable retained service; and

C is the period in years of relevant service.”.

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Amendments to Schedule 4

11. In Schedule 4 (awards on death: additional provisions), in Part 1 (adult dependent relative's special pension)—

- (a) in paragraph 1, for “and 3” substitute “, 3 and 4”;
- (b) in paragraph 3, omit “, which is reckonable as pensionable service,”;
- (c) after paragraph 3, insert—

“**4.** Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, paragraphs 1 and 2 are to apply with the modification that for any reference to final pensionable pay there shall be substituted the product of the formula—

$$A \times B/C$$

where—

- A is the amount of pay the deceased would have received had he or she been a whole-time employee of the authority;
- B is the period in years of pensionable retained service; and
- C is the period in years of his relevant service.”