

SCHEDULE

Amendment of Schedule 1 to the Firefighters' Pension Scheme (Scotland) Order 2007

Amendment of Part 11 (pensionable pay, pension contributions and purchase of additional service)

10. In Part 11—

- (a) in rule 2 (final pensionable pay), after paragraph (7) insert—
 - “(8) In the case of a special member, paragraph (2)(b) applies with the substitution of “special pensionable service” for “pensionable service”.
 - (9) In the case of a person who joined this Scheme as a special deferred member or a special pensioner member, final pensionable pay shall be the amount determined by the authority and set out in the notice given by the authority under rule 5A(13) of this Part.”;
- (b) in rule 3 (pension contributions)—
 - (i) in paragraph (1), for “A firefighter member” substitute “Subject to paragraph (1A), a firefighter member”;
 - (ii) after paragraph (1), insert—
 - “(1A) A firefighter member who is a special member shall pay pension contributions to the authority at the rate of 11% of pensionable pay in respect of a period ending with 31st March 2012 and in respect of any period commencing on or after 1st April 2012 at the percentage rate of their pensionable pay for the period in question specified in the Table in Annex AB1.”;
 - (iii) in paragraph (2), after “paragraph (1)” insert “or (1A)”;
- (c) in rule 4 (optional pension contributions during maternity and adoption leave)—
 - (i) in paragraph (1)(a), after “pensionable service under rule 2 of Part 10” insert “or as special pensionable service under rule 2A of Part 10”;
 - (ii) in paragraph (5), after “pensionable service” insert “or as special pensionable service”;
- (d) in rule 5 (purchase of additional service), after paragraph (6) insert—
 - “(7) In the case of a special firefighter member—
 - (a) this rule applies—
 - (i) in paragraph (2)(c) with the substitution of “30 years’ special pensionable service” for “40 years’ pensionable service”;
 - (ii) in paragraph (3) with the substitution of “special pensionable service” for “pensionable service” and “30 years” for “40 years”;
 - (b) in relation to paragraph (4)(a) the Scheme Actuary shall provide different tables for special members and in paragraph (4)(b) the determination by the Scheme Actuary shall take account of the purchase being made by a special member.”;
- (e) after rule 5, insert—

“Purchase of service during the limited period

5A.—(1) A person member who satisfies the conditions specified in paragraph (2) may, in accordance with the following provisions of this Chapter, elect to pay pension contributions in respect of service during the limited period.

(2) The conditions are that—

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- (a) the person is entitled to join this Scheme as a special member;
- (b) the service is—
 - (i) as a retained firefighter;
 - (ii) as a regular firefighter where the member took up employment after 5th April 2006 as a regular firefighter immediately after the termination of employment as a retained firefighter; or
 - (iii) with the agreement of the authority, as a regular firefighter, but not as a retained firefighter, where the member had been employed by an authority as a retained firefighter and then required by that authority after 5th April 2006 to remain in employment as a retained firefighter whilst taking up employment as a regular firefighter.
- (3) Where paragraph (1) applies—
 - (a) subject to rule 6A(11) of this Part, mandatory special period pension contributions shall be paid in respect of the person's service during the mandatory special period; and
 - (b) mandatory special period pension contributions shall be paid for the period required by rule 6A(12) of this Part, where a person has elected to transfer accrued rights in the 1992 Scheme to that person's special membership but the period of service referred to in sub-paragraph (a) or (b) does not, subject to rules 11A or 18 of Part 12, include any period of service in respect of which the person paid pension contributions under the 1992 Scheme or under this Scheme as a standard member.
- (4) Within 2 months of the initial date, the authority shall use reasonable endeavours to notify all those existing employees and former employees who may be entitled to join this Scheme as a special member that they may be so entitled.
- (5) Within 2 months of receiving the notification in paragraph (4), or if no notification has been received, within 4 months of the initial date, a person may apply to the authority by which he or she was employed in service falling within paragraph (2) above for a statement of the service in respect of which he or she may become entitled to pay contributions under this rule and the limited period pension contributions which he or she would be required to pay in respect of it.
- (6) An application under paragraph (5) shall be in writing and shall state—
 - (a) the date on which the applicant took up employment as a retained firefighter;
 - (b) where the applicant has left that employment, the date on which they left;
 - (c) where the applicant took up employment as a regular firefighter, the date on which that happened;
 - (d) if the applicant joined this Scheme as a standard member or joined the 1992 Scheme, the date on which that person joined the Scheme and, if it was the case, the date on which that person made an election not to pay pension contributions under rule 5 of Part 2 of this Scheme or under rule G3 of the 1992 Scheme (as the case may be).
- (7) An authority shall determine the period of the person's service during the limited period from its records.
- (8) Where an authority is not able to determine the period of the person's service during the limited period from its records, the person may provide the authority with documents to assist it to determine the person's period of service during the limited period and the authority shall determine the period of the person's service from those documents.

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(9) Where an authority is not able to determine the period of the person's service during the limited period and the authority does not hold records of that person's pay for that period, and the person cannot provide the authority with the necessary documents, 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 at which the person was based for the relevant period.

(10) Where the authority has estimated the pay of a person in accordance with paragraph (9), the authority shall determine that person's period of pensionable service during the limited period.

(11) Where the service is as a retained firefighter, the authority shall determine the person's retained pensionable service during the limited period by calculating the same proportion of whole-time service as that which actual pensionable pay or, as the case may be, pensionable pay as estimated by the authority under paragraph (9), bears to reference pay for each year of service during that period.

(12) The authority shall calculate the amount of the special period contributions payable in respect of special pensionable service during the limited period by applying a rate determined by the Scheme Actuary having regard to the rate required by paragraph (1A) of rule 3 (pension contributions) for the appropriate period to the person's pensionable pay.

(13) Within 4 months of receiving an application under paragraph (5), the authority shall give the applicant a notice setting out the period of service during the limited period which that person may purchase, the amount of special pension contributions payable in respect of the mandatory special period, the amount of special pension contribution payable in respect of the remainder of service during the limited period, the pensionable pay and in appropriate cases the final pensionable pay which the authority has determined was paid during the limited period.

(14) Where it is not reasonably practicable to comply with any requirement set out in this rule within the period specified, the authority or applicant as the case may be shall comply with that requirement as soon as reasonably practicable after the end of that period.”;

- (f) in rule 6(1) (election to purchase additional service), for “An election” substitute “Subject to rule 6A, an election”;
- (g) after rule 6, insert—

“Election to purchase service during the limited period

6A.—(1) A person who intends to join this Scheme as a special pensioner member shall elect to pay mandatory special period contributions in respect of service during the mandatory special period.

(2) A special pensioner member shall pay the mandatory special period pension contributions by way of a lump sum contribution which the special pensioner member may request the authority to deduct from any lump sum to which the member is entitled under this Scheme—

- (a) pursuant to a notice to commute a portion of his pension under rule 9 (commutation: general) of Part 3; and
- (b) under paragraph (8) of rule 1A (special member's ordinary pension) or under paragraph (12) of rule 2A (retrospective award on ill-health retirement) of Part 3.

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(3) A person who intends to join this Scheme as a special deferred member shall elect to pay mandatory special period pension contributions in respect of service during the mandatory special period.

(4) The mandatory special period pension contributions may be paid by periodic contributions which shall be calculated in accordance with tables provided by the Scheme Actuary so as to discharge his liability over a period of 10 years or may be paid by way of a lump sum contribution.

(5) A special deferred member shall cease to pay periodic contributions referred to in paragraph (4) on the date on which his special deferred pension becomes payable, and the member may then pay within 3 months of that date a lump sum of an amount equivalent to the contributions which would otherwise be paid calculated in accordance with tables provided by the Scheme Actuary.

(6) Where paragraph (5) applies, a special deferred member may pay all or part of the lump sum required by that sub-paragraph by deduction from any lump sum which the member may be entitled to receive pursuant to a notice to commute a portion of his pension under rule 9 (commutation: general) or rule 10 (commutation: small pensions) of Part 3.

(7) Subject to sub-paragraphs (11) and (12), a person who intends to join this Scheme as a special firefighter member shall elect to pay mandatory special period pension contributions in respect of their service during the mandatory special period.

(8) The mandatory special period pension contributions may be paid by periodic contributions which shall be calculated in accordance with tables provided by the Scheme Actuary so as to discharge the liability over a period of 10 years or may be paid by way of a lump sum contribution.

(9) If a special firefighter member makes a contributions election or retires, the member shall cease to pay periodic contributions and may then pay within 3 months of the date of the contributions election a lump sum of an amount equivalent to the contributions which would otherwise be paid calculated in accordance with tables provided by the Scheme Actuary.

(10) Where paragraph (9) applies so that a lump sum may be payable as a result of retirement, the member may pay all or part of the lump sum required by that sub-paragraph by deduction from any lump sum which he or she may be entitled to receive pursuant to a notice to commute a portion of pension under rule 9 (commutation: general) or rule 10 (commutation: small pensions) of Part 3.

(11) A special firefighter member who elects under paragraph (5) of rule 11A of Part 12 to transfer accrued rights in the 1992 Scheme to that member's special membership of this Scheme shall pay mandatory special period pension contributions for the period of service during the mandatory special period from the later of the date on which pensionable service under the 1992 Scheme ended and 1st July 2000.

(12) A special firefighter member who elects under paragraph (5) of rule 16 of Part 12 to convert accrued rights as a special firefighter member to that member's standard membership shall pay mandatory special period pension contributions for the period of service during the mandatory special period before 6th April 2006 and from that date shall pay pension contributions as a standard member until the date on which the member joined this Scheme as a standard member.

(13) Interest is payable in respect of the special pension contribution required to be paid in respect of a special member's service during the mandatory special period as follows—

- (a) for the purposes of calculating interest under this paragraph, it shall be assumed that in respect of the mandatory special period, pension contributions were

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- payable by monthly periodic contributions from the first pay date following the start of the mandatory special period;
- (b) interest starts to accrue from the date that the first monthly contribution would have been paid in accordance with sub-paragraph (a) and ceases to accrue on the date that the lump sum contribution or final periodic contribution is paid in accordance with paragraphs (2), (4), (5) and (8) of this rule;
 - (c) in relation to mandatory special period pension contributions which are paid by lump sum contribution, interest shall be calculated by applying the past interest rate to the contribution payable in accordance with rule 3(1A) of Part 11 compounded monthly between the month each contribution would have been made in accordance with sub-paragraph (a) until the calculation date;
 - (d) in relation to mandatory special period pension contributions which are paid by periodic contribution—
 - (i) interest shall be calculated as for a lump sum contribution under sub-paragraph (c);
 - (ii) the amount of interest payable shall then be adjusted in accordance with tables provided by the Scheme Actuary so as to allow for interest at the future interest rate in relation to the period from the calculation date to the date that the contribution is paid, so as to discharge liability over a period of ten years;
 - (e) for the purpose of this rule—
 - (i) “calculation date” means—
 - (aa) in the case of a lump sum contribution, the date when the lump sum is paid; and
 - (bb) in the case of payment of the mandatory special period pension contribution by periodic contribution, the date when the member joined this Scheme as a special member;
 - (ii) “future interest rate” is a rate equivalent to 1.5% plus the FTSE Actuaries UK Gilt 10 years yield index less the average of the FTSE Actuaries UK Index-linked Gilt 5 to 15 years index with assumed inflation rates of 0% and 5%;
 - (iii) “past interest rate” is a rate equivalent to the interest available on the most recent issue of five-year fixed interest savings certificates from National Savings and Investments available on the 15th day of each month which would have been applicable to the period in question.

Election to purchase service during the limited period: supplemental provision

6B.—(1) Subject to paragraph (12), an election under rule 6A shall be made by giving written notice to the authority during the period of four months beginning with the date on which the authority gave notice under rule 5A(13).

(2) In preparing the tables required by paragraphs (5) and (9) of rule 6A, the Scheme Actuary must have regard to the rate of contribution referable to the period in respect of which the contribution relates and must use such other factors as he considers appropriate.

(3) The period of a person’s service referred to in paragraphs (1), (3) or (7) of rule 6A shall be that part of the service set out in the authority’s notice to the person under rule 5A(13) in respect of which the person elects to pay mandatory special period pension contributions from a date selected before 6th April 2006, or which applies under rule

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6A(11), and ending on the earlier of the date on which the member joined this Scheme as a special member or a standard member and the date, if applicable, on which the member was dismissed or retired from employment as a regular or retained firefighter.

(4) Where a person is required under paragraph (2), or has chosen under paragraph (4) or (8) of rule 6A, to pay a lump sum contribution and this sum has not been paid within six months of the election under paragraph (1), (4) or (8), or such longer period as the authority may notify in writing to the person, the election under paragraph (1), (4) or (8) as the case may be shall be treated as not having been made.

(5) Where a person has chosen under paragraph (4) or (8) of rule 6A to pay periodic contributions—

- (a) where the first contribution has not been paid within three months of election under paragraph (4) or (8), or such longer period as the authority may notify in writing to the person, the election shall be treated as not having been made;
- (b) where three or more consecutive periodic contributions have not been paid and the amount remains outstanding, the authority shall require, by written notice, the special member to pay the outstanding periodic contributions within a period of 28 days beginning with the date the notice is served on the special member, and to resume the periodical contributions;
- (c) if payment of the outstanding amount is not made within that period, or if a subsequent periodic contribution is not made within 28 days of it being due, the special member shall be treated as having ceased to pay mandatory special period contributions from the date that the last contribution was received and may not resume payment of such contributions.

(6) Subject to paragraphs (8) and (11), where paragraph (5) or (9) of rule 6A applies, and the special deferred member or special firefighter member, as the case may be, does not pay the lump sum within the period specified in that paragraph, the period of service purchased shall be treated as if it were the period ascertained in accordance with the formula—

$$A \times (B/C)$$

Where—

A is the number of 45ths of special pensionable service which he or she elected to purchase,

B is the period in respect of which mandatory special period pension contributions have been made in accordance with the election, and

C is the period in respect of which mandatory special period pension contributions would have been made in accordance with the election.

(7) In the case of a firefighter to whom paragraph (11) of rule 6A applies—

- (a) that person's pension contribution as a standard member during the limited period shall be calculated as though these were mandatory special period pension contributions under paragraph (8) of rule 6A;
- (b) where paragraph (9) of rule 6 applies, and the special firefighter member does not pay the lump sum within the period specified in that sub-paragraph, the period of service purchased as a standard member shall be treated as if it were the period ascertained in accordance with the formula—

$$A \times (B/C)$$

Where—

A is the number of 60ths of pensionable service as a standard member which he elected to purchase,

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B is the period in respect of which pension contributions as a standard member have been paid during the limited period, and

C is the period in respect of which mandatory special period pension contributions would have been made in accordance with this election.

(8) Where periodic contributions cease as mentioned in paragraph (5) or (9) of rule 6A when a pension becomes payable, the pension shall not be paid until the earlier of the date on which the lump sum mentioned in that paragraph has been paid or the special member has given notice that he or she will not pay the lump sum or the period mentioned in that paragraph has expired.

(9) Where service is purchased by the payment of periodic contributions under paragraphs (4) or (8) of rule 6A, the service shall accrue at the end of each year in accordance with the contributions paid.

(10) An election under rule 6A—

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

(11) Where the special member dies before the mandatory special period pension contributions due in accordance with rule 6A have been paid, those contributions shall be treated as paid and service during the mandatory special period shall be special pensionable service.

(12) Where it is not reasonably practicable to comply with the requirement in paragraph (1) within the period specified, the election shall be given by written notice as soon as reasonably practicable after the end of that period but in any event may not take effect after 31st March 2015.”;

(h) in rule 7 (duration of periodical contributions and premature cessation)—

(i) in paragraph (3), after “Where a sub-paragraph of paragraph (2) applies” insert “and the additional service is not special pensionable service”;

(ii) after paragraph (3), insert—

“(3A) Where a sub-paragraph of paragraph (2) applies and the additional service is special pensionable service, paragraph (3) applies with the substitution of the definition of “A” with—

““A” is the number of 45ths of additional special pensionable service which the special member elected to purchase.””

(iii) in paragraph (4), after sub-paragraph (a), insert—

“(aa) where the person qualifies for a special member’s ordinary pension, as part of the special pensionable service on which the special member’s ordinary pension is calculated;”;

(iv) in paragraph (4), in sub-paragraph (b) after “pensionable service” insert “or special pensionable service,”;

(v) in paragraph (5) after “pensionable service” insert “or special pensionable service”.

(i) in rule 8 (discontinuance and resumption of periodical contributions)—

(i) in paragraph (4), for “The period of additional service” substitute “Subject to paragraph (4A), the period of additional service”;

(ii) after paragraph (4), insert—

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“(4A) Where the firefighter member is a special member, in paragraph (4) “A” is the number of 45ths of additional special pensionable service which the special member elected to purchase.”;

- (j) in rule 9(1) (periodical contributions in respect of periods of unpaid service or absence), after “pensionable service” insert “or special pensionable service”;
- (k) in rule 10 (effect of purchasing additional service by lump sum payment), in paragraphs (1) and (2) after “pensionable service” insert “or special pensionable service.