

SCHEDULE

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

Amendment of Part 12 (transfers into and out of the Scheme)

11. In Part 12—

- (a) in rule 2 (3) (entitlement to transfer value payment), after “pensionable service” insert “or special pensionable service”;
- (b) in rule 4(5)(b) (applications for transfer value payments), after “pensionable service” insert “, or special pensionable service.”;
- (c) in rule 6 (calculating amounts of transfer value payments)—
 - (i) in paragraph (1), after “the guarantee date”, insert “and different guidance and tables shall be provided for standard and special members”;
 - (ii) in paragraph (4), after sub-paragraph (b) insert—
“; and
(c) any mandatory special period pension contributions.”;
- (d) in rule 8(3) (applications for acceptance of transfer value payment from another scheme), after “pensionable service” insert “or as special pensionable service”;
- (e) in rule 9 (procedure for applications under rule 8)—
 - (i) in paragraph (1)(c), for “paragraph (2)” substitute “paragraphs (2) to (4)”;
 - (ii) in paragraph (2), for “In the case” substitute “Subject to paragraph (4), in the case”;
 - (iii) after paragraph (2), insert—
“(3) Where the application under rule 8 is made by a special firefighter member who was not already a member of this Scheme at the time of electing to become a special firefighter member, sub-paragraph (c) of paragraph (1) and paragraph (2) shall not apply.
(4) In the case of a person referred to in paragraph (3) and in the case of a transfer value payment to be made under public sector transfer arrangements, the application under rule 8 must be made by that person during the period of one year beginning with the day on which the authority gave the applicant the notice required by rule 5A(13) of Part 11.”;
- (f) in rule 10(2) (acceptance of transfer value payments), after “pensionable service” insert “or special pensionable service”;
- (g) in rule 11 (calculation of transferred-in pensionable service)—
 - (i) after “pensionable service” insert “or special pensionable service”;
 - (ii) after paragraph (4), insert—
“(4A) The Scheme Actuary may provide different guidance and tables for the purpose of this rule in the case of special members.”;
- (h) after Chapter 3, insert—

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“CHAPTER 3A

TRANSFERS TO SPECIAL MEMBERSHIP

Transfer of accrued rights under the 1992 Scheme to special membership of this scheme

11A.—(1) A person who is a deferred member of the 1992 Scheme and took up employment as a retained firefighter immediately after the termination of employment as a regular firefighter and who is entitled to join this Scheme as a special firefighter member, may apply in writing to the authority by which he or she is employed for a statement of the amount of service to be treated as accrued if he or she were to elect to transfer accrued rights under the 1992 Scheme to his or her special membership of this Scheme.

(2) Where the application under paragraph (1) is made at the same time as an application under rule 5(A)(5) (purchase of service during the limited period) of Part 11, the authority shall provide a statement of the amount of service to be treated as special pensionable service if the applicant were to elect to transfer accrued rights under the 1992 Scheme to that person’s special membership of this Scheme at the same time as the authority gives the notice under rule 5A(13) of Part 11.

(3) Where an application under paragraph (1) is not made at the time specified in paragraph (2), it shall be made during the period of one year beginning with the day on which the authority gave the applicant the notice required by rule 5(13).

(4) Where paragraph (3) applies to the application, the authority shall provide a statement of the amount of service to be treated as special pensionable service if the applicant were to elect to transfer accrued rights under the 1992 Scheme to that person’s special membership of this Scheme within three months of the date of the person’s application.

(5) A person who receives a statement under paragraph (2) or (4) may elect to transfer accrued rights under the 1992 Scheme to that person’s special membership of this Scheme.

(6) Where the application is made within the time specified in paragraph (2) and the election to transfer accrued rights in the 1992 Scheme is made at the same time as the election to pay mandatory special period pension contributions under rule 6A of Part 11, the period of the applicant’s pensionable service accrued under the 1992 Scheme shall be treated as special pensionable service accrued in this Scheme.

(7) Where the application is made within the time specified in paragraph (3), the transfer value payment shall be accepted under the public sector transfer arrangements and the period of special pensionable service which the member shall be entitled to count shall be calculated in accordance with those arrangements.

(8) An election under paragraph (5) shall be made by giving written notice to the authority and shall take effect on the day on which the notice is received by the authority.”;

- (i) in rule 12 (transfer of payments and pension history between fire authorities), after “pensionable service” insert “or special pensionable service”;
- (j) after Chapter 5, insert—

“CHAPTER 6

CONVERTING MEMBERSHIP BETWEEN STANDARD AND SPECIAL MEMBERSHIP

Converting membership from special membership to standard membership

16.—(1) A person who is entitled to join this Scheme as a special firefighter member and is a standard member of this Scheme in respect of service which that person would otherwise be able to reckon as special pensionable service may apply to the authority for a statement of the amount of service to be treated as accrued if he or she converted special membership to standard membership of this Scheme.

(2) Any application under paragraph (1) shall be made at the same time as an application under rule 5A(5) (purchase of service during the limited period) of Part 11.

(3) At the same time as the authority gives the notice under rule 5A (13) of Part 11, the authority shall provide a statement of the additional service to be treated as pensionable service if the member converted special membership to standard membership.

(4) For the purpose of calculating the pensionable service that a person would be treated as having accrued in this scheme as a standard member on the conversion of accrued rights as a special firefighter member, the authority shall apply the conversion factors set out in the tables in annex 3 applying the factors to the age the person was on 6th April 2006.

(5) Where the applicant elects in writing to convert special membership to standard membership, the election shall be made at the same time as the election to purchase service during the limited period under paragraph (1), (3) or (7) of rule 6A and may not be made at any other time.

(6) An authority must not accept a person’s election to convert membership from special membership to standard membership if the aggregate of—

- (a) that person’s pensionable service treated as accrued; and
- (b) that person’s prospective pensionable service, on the assumption that he or she continues to be a standard member of this scheme until reaching normal retirement age;

would exceed 40 years by the time of the person’s 60th birthday.

(7) When the payments required by rule 6A(12) of Part 11 have been made—

- (a) the additional pensionable service notified by the authority under paragraph (3) shall be added to the person’s pensionable service as a standard member;
- (b) from the date the authority add that service, the person shall cease to be a special firefighter member;

(8) An election under paragraph (5) shall be made by giving written notice to the authority and shall take effect on the day on which the notice is received by the authority.

Converting membership from standard membership to special membership

17.—(1) This rule applies—

- (a) to a person who is entitled to join this Scheme as a special firefighter member and who is a standard member of this Scheme;
- (b) in respect of pensionable service which that person would be entitled to treat as special pensionable service.

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(2) A person to whom this rule applies may apply to the authority for a statement of the amount of service to be treated as special pensionable service if the member converted standard membership to special membership and the amount of the payments required by sub-paragraphs (b) and (c) of paragraph (5).

(3) An application under paragraph (2) shall be made in writing at the same time as an application under rule 5A(5) (purchase of service during the limited period) of Part 11.

(4) At the same time as the authority gives the notice under rule 5A(13) of Part 11, it shall provide—

(a) a statement of the amount of service to be treated as special pensionable service if the applicant were to elect to convert accrued rights as a standard member to special membership;

(b) a statement of the amount of the payments required by paragraph (5).

(5) Where the member elects to transfer accrued rights as a standard member of this Scheme to special membership, the member—

(a) may only give the election at the same time as giving an election to pay mandatory special period pension contributions under rule 6A of Part 11;

(b) shall pay an amount representing the difference between the pension contribution under rule 3(1) of Part 11 which the member has paid as a standard member and the pension contribution required to be paid as a special member under paragraph (1A) of that rule;

(c) shall pay interest on the amount payable under sub-paragraph (b) in accordance with paragraph (13);

(d) shall pay those amounts in the same manner in which the member elects to pay mandatory special period pension contributions under rule 6A of Part 11.

(6) When the payments required by paragraph (5) have been paid, and subject to paragraph (7), the member's pensionable service as a standard member shall be converted to special pensionable service.

(7) Where a member's pensionable service includes a period ("the transferred in period") which the member is entitled to count as pensionable service in accordance with rules 10 and 11 of this Part, the transferred in period shall be converted to special pensionable service in accordance with guidance and tables provided by the Scheme Actuary for the purposes of this paragraph.

(8) Subject to paragraph (9), where rule 6A(3) (election to purchase service during the limited period) of Part 11 applies, and the member does not within the period specified in that paragraph pay a lump sum equivalent to the balance of the payment referred to in paragraph (5)(b), ascertained in accordance with tables provided by the Scheme Actuary, the period of service as a standard member converted to special pensionable service shall be treated as if it were the period ascertained in accordance with the formula—

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

Where—

A is the period of service as a standard member which the member elected to convert,

B is the period of that service in respect of which the payment referred to in paragraph 5(b) has been paid, and

C is the period of that service in respect of which the payment referred to in paragraph 5(b) would have been paid in accordance with the member's election.

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(9) Where the special member dies before the payment referred to in paragraph (5)(b) has been made in full, it shall be treated as having been made in full and the period of service as a standard member which the member had elected to convert shall be special pensionable service.

(10) This paragraph applies where a special member's pensionable service as a standard member has been converted to special pensionable service in accordance with this rule and—

- (a) where the member is required to make the payment referred to in paragraph (5)(b) by lump sum, the lump sum has not been paid within six months of election under paragraph (5) or such longer period as the authority may notify in writing to the person; or
- (b) where the member is required to make the payment by periodic contribution, three or more consecutive periodic contributions have not been paid and the amount remains outstanding.

(11) Where paragraph (10) applies in the circumstances referred to in paragraph (10)(a)—

- (a) the election to convert shall be treated as having been revoked; and
- (b) any contributions that the member has paid shall be credited against the mandatory special period pension contributions payable by the member.

(12) Where paragraph (10) applies in the circumstances referred to in paragraph (10)(b)—

- (a) the authority shall require, by written notice, the member to pay the outstanding amount within a period of 28 days beginning with the date the notice is served on the member, and to resume the periodical contributions;
- (b) 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 election to convert shall be treated as revoked; and
- (c) any contributions that the member has paid shall be credited against the mandatory special period pension contributions payable by the member.

(13) Interest on the amount referred to in paragraph (5)(b) ("the relevant amount") is calculated as follows—

- (a) for the purposes of this paragraph, it shall be assumed that the pension contributions due under rule 3(1A) of Part 11 (pension contributions) were payable at the same time as the contributions which the member paid under rule 3(1) of that Part;
- (b) interest starts to accrue on the relevant amount from the beginning of the period of pensionable service which is to be treated as special pensionable service in accordance with this rule and ceases to accrue on the calculation date;
- (c) where the relevant amount is to be paid by lump sum, interest shall be calculated by applying the past interest rate to that amount compounded monthly between the month each contribution under rule 3(1A) of Part 11 would have been made in accordance with sub-paragraph (a) until the calculation date;
- (d) where the relevant amount is to be paid by periodic contribution—
 - (i) interest shall be calculated as for a lump sum payment 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

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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 relevant amount 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.

(14) An election under paragraph (5) shall be made by giving written notice to the authority and shall take effect on the day on which the notice is received by the authority.

Converting membership from standard membership to special membership – special pensioner members

18.—(1) This rule applies—

- (a) to a person who is entitled to be a special pensioner member and who is in receipt of an ordinary pension, a higher tier ill-health pension or a lower tier ill-health pension;
- (b) in respect of pensionable service which that person would be entitled to treat as special pensionable service.

(2) A person to whom this rule applies may apply to the authority for a statement of the amount of pensionable service which that person would be entitled to treat as special pensionable service and the amount of the payments required by sub-paragraphs (b) and (c) of paragraph (5).

(3) An application under paragraph (2) shall be made in writing at the same time as an application under rule 5A(5) (purchase of service during the limited period) of Part 11.

(4) At the same time as the authority gives the notice under rule 5A(13) of Part 11, the authority shall provide—

- (a) a statement of the amount of pensionable service which may be treated as special pensionable service; and
- (b) a statement of the amount of the payments required by paragraph (5).

(5) Where the member elects to have his pensionable service treated as special pensionable service—

- (a) an election may only be made at the same time as making an election to pay mandatory special period pension contributions under rule 6A of Part 11;
- (b) the member shall pay an amount representing the difference between the pension contribution under rule 3(1) of Part 11 which he or she has paid as a standard

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- member and the pension contribution required to be paid as a special member under paragraph (1A) of that rule;
 - (c) the member shall pay interest on the amount payable under sub-paragraph (b) in accordance with paragraph (12);
 - (d) the member shall pay that amount by lump sum payment.
- (6) When the payment required by paragraph (5) has been paid, and subject to paragraph (7)—
- (a) the member’s pensionable service as a standard member shall be treated as special pensionable service;
 - (b) the member shall continue to receive his ordinary or ill-health pension in respect of his pensionable service as a standard member;
 - (c) the member shall, in addition, receive his or her special member’s ordinary pension or ill-health pension in respect of his or her special pensionable service as a special member, but the special member’s ordinary pension or ill-health pension in respect of his or her special pensionable service shall be reduced in accordance with tables produced by the Scheme Actuary so that the total amount of pension that the member receives in accordance with sub-paragraph (b) and this sub-paragraph does not exceed the amount he or she would have received as a special member if—
 - (i) that person had not been an ordinary member of the Scheme; and
 - (ii) all of his or her service from the start of the mandatory special period to the date that the member’s special member’s ordinary pension or ill-health pension, as the case may be, becomes payable and which is eligible to be treated as special pensionable service, was treated as special pensionable service.

(7) Where a member’s pensionable service includes a period (“the transferred in period”) which the member is entitled to count as pensionable service in accordance with rules 10 and 11 of this Part, the transferred in period shall be converted to special pensionable service in accordance with guidance and tables provided by the Scheme Actuary for the purposes of this paragraph.

(8) Subject to paragraph (9), where rule 6A(5) or (9) (election to purchase service during the limited period) of Part 11 applies, and the member does not within the period specified in that paragraph pay a lump sum equivalent to the balance of the payment referred to in paragraph (5)(b), ascertained in accordance with tables provided by the Scheme Actuary, the period of service as a standard member converted to special pensionable service shall be treated as if it were the period ascertained in accordance with the formula—

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

Where—

- A is the period of service as a standard member which he or she elected to convert,
- B is the period of that service in respect of which the payment referred to in paragraph (5)(b) has been paid; and
- C is the period of that service in respect of which the payment referred to in paragraph (5)(b) would have been paid in accordance with his or her election.

(9) Where the special member dies before the payment referred to in paragraph (5) (b) has been made in full, it shall be treated as having been made in full and the period

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of service as a standard member which he or she had elected to convert shall be special pensionable service.

(10) This paragraph applies where—

- (a) a member's pensionable service as a standard member has been converted to special pensionable service in accordance with this rule; and
- (b) the lump sum due in respect of the amount payable in accordance with paragraph (5)(b) has not been paid within six months of the election under paragraph (5) or such longer period as the authority may notify in writing to the person.

(11) Where paragraph (10) applies—

- (a) the election to convert shall be treated as having been revoked; and
- (b) any amount that the member has paid in respect of the amount due under paragraph (5)(b) shall be credited against the mandatory special period pension contributions payable by the member.

(12) Interest on the amount referred to in paragraph (5)(b) ("the relevant amount") is calculated as follows—

- (a) for the purposes of this paragraph, it shall be assumed that the pension contributions due under rule 3(1A) of Part 11 (pension contributions) were payable at the same time as the contributions which the member paid under rule 3(1) of that Part;
- (b) interest starts to accrue on the relevant amount from the beginning of the period of pensionable service which is to be treated as special pensionable service in accordance with this rule and ceases to accrue on the calculation date;
- (c) where the relevant amount is to be paid by lump sum, interest shall be calculated by applying the past interest rate to that amount compounded monthly between the month each contribution under rule 3(1A) of Part 11 would have been made in accordance with sub-paragraph (a) until the calculation date;
- (d) where the relevant amount is to be paid by periodic contribution—
 - (i) interest shall be calculated as for lump sum payment 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 relevant amount 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%;

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(iii) “past interest rate” is a rate equivalent to the interest available on the most recent issue of five-year fixed interest savings certificate from National Savings and Investments available on the 15th day of each month which would have been applicable to the period in question.

(13) An election under paragraph (5) shall be made by giving written notice to the authority and shall take effect on the day on which the notice is received by the authority”.