
SCOTTISH STATUTORY INSTRUMENTS

2015 No. 141

**The Firefighters' Pension Schemes
(Amendment) (Scotland) Regulations 2015**

PART 2

Amendment of the Firefighters' Pension Scheme (Scotland) Regulations 2015

General

2. The Firefighters' Pension Scheme (Scotland) Regulations 2015⁽¹⁾, which establish the Firefighters' Pension Scheme (Scotland) 2015, are amended in accordance with regulations 3 to 22.

Amendment of regulation 3

3. In regulation 3 (interpretation)—

(a) in the appropriate places insert—

“adjusted lower tier ill-health pension” has the meaning given in regulation 66(4) (annual rate of ill-health awards);

“connected member of the NFPS” has the meaning given in rule 1C of Part 2 of the NFPS;

“connected special member of the NFPS” has the meaning given in rule 1D of Part 2 of the NFPS;

“continued pension” means—

(a) in relation to a member of the NFPS, the entitlement to a pension under rule 1B of Part 3 of the NFPS;

(b) in relation to a member of the 1992 Scheme, the entitlement to a pension under rule B2A of the 1992 Scheme;

“deferred member of the 1992 Scheme” means a person who is entitled to a deferred pension under rule B5 of the 1992 Scheme;

“deferred member of the NFPS” has the meaning given in rule 2(1) of Part 1 of the NFPS;

“equivalent amount to the 1992 Scheme lower tier ill-health pension” has the meaning given in regulation 65(4) (entitlement to lower tier ill-health pension and higher tier ill-health pension);

“equivalent amount to the NFPS lower tier ill-health pension” has the meaning given in regulation 65(4) (entitlement to lower tier ill-health pension and higher tier ill-health pension);

“initial period” has the meaning given in regulation 77 (meaning of “initial period”);

“pensionable service in the 2015 scheme” means any continuous pensionable service in relation to the active member’s account in this scheme to which pensionable service in the 1992 Scheme was added for the purposes of regulation 57 (qualifying service) of these Regulations for the period whilst paragraph (7) of rule A3 of the 1992 Scheme continues to apply to that person;” and

(b) in the definition of “retirement pension”, after paragraph (b) insert—

“(c) an ill-health award and the payment of any equivalent amount to the 1992 Scheme lower tier ill-health pension (if any) and the payment of any equivalent amount to the NFPS lower tier ill-health pension (if any)”.

Insertion of regulations 5A to 5E

4. After regulation 5, insert—

“Establishment of pension board

5A.—(1) A pension board (“the Scottish Firefighters’ Pension Board”) is established.

(2) The pension board is responsible for assisting the scheme manager in relation to securing compliance with—

- (a) these Regulations;
- (b) any other legislation relating to the governance and administration of this scheme and any connected scheme; and
- (c) requirements imposed by the Pensions Regulator in relation to this scheme and any connected scheme.

(3) The scheme manager is to determine the process by which the pension board discharges its functions.

Membership of pension board

5B.—(1) Subject to paragraph (2), the scheme manager may determine—

- (a) the membership of the pension board;
- (b) the manner in which the members of the pension board may be appointed and removed; and
- (c) the terms of appointment of the members of the pension board.

(2) The pension board is to include equal numbers of members representing the authority and members of the scheme.

Establishment of scheme advisory board

5C.—(1) A scheme advisory board (“the Scottish Firefighters’ Pension Scheme Advisory Board”) is established.

(2) The scheme advisory board is responsible for providing advice to the scheme manager, at the scheme manager’s request, on the desirability of changes to this scheme.

(3) The scheme manager is to determine the process by which the scheme advisory board discharges its functions.

Membership of scheme advisory board

5D. The scheme manager may determine—

- (a) the membership of the scheme advisory board;
- (b) the manner in which members of the scheme advisory board may be appointed and removed; and
- (c) the terms of appointment of the members of the scheme advisory board.

Conflict of interest

5E.—(1) The scheme manager must be satisfied that—

- (a) any person to be appointed as a member of the pension board does not have a conflict of interest within the meaning of section 5(5) of the 2013 Act;
- (b) any person to be appointed as a member of the scheme advisory board does not have a conflict of interest within the meaning of section 7(5) of the 2013 Act.

(2) The scheme manager must be satisfied from time to time that none of the members of the pension board or of the scheme advisory board has a conflict of interest.

(3) A person who is to be appointed as a member of a relevant board must provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of paragraph (1).

(4) A person who is a member of a relevant board must provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of paragraph (2).”.

Amendment of regulation 6

5. In regulation 6 (scheme employment), for paragraph (3) substitute—

“(3) A person who is a member of the 1992 Scheme or of the NFPS satisfies the requirement in this paragraph.”.

Amendment of regulation 51

6. In regulation 51 (account to specify amount of retirement pension (active members))—

(a) after paragraph (3), insert—

“(3A) Where the active member is entitled to an equivalent amount to the 1992 Scheme lower tier ill-health pension or to an equivalent amount to the NFPS lower tier ill-health pension, the retirement account must specify that amount.”; and

(b) after paragraph (4), insert—

“(4A) For an equivalent amount to the 1992 Scheme lower tier ill-health pension or an equivalent amount to the NFPS lower tier ill-health pension, the retirement account must specify any commutation amount.”.

Amendment of regulation 59

7. In regulation 59 (annual rate of retirement pension (active members)), after paragraph (2)(b) insert—

“(ba) the sum of—

- (i) the equivalent amount to the NFPS lower tier ill-health pension (if any) or the equivalent amount to the 1992 Scheme lower tier ill-health pension (if any) specified in the member’s retirement account,

- (ii) subtracting the commutation amount (if any) specified in that account in relation to that amount; and”.

Amendment of regulation 62

- 8.** In regulation 62 (employer initiated retirement) after paragraph (3) insert—

“(4) Where the authority is considering making a determination under paragraph (2) in respect of an active member who is a connected member of the NFPS, or a connected special member of the NFPS, in relation to that active member’s pension account, the employer must also consider making a determination under rule 6 (pension on authority-initiated early retirement) of Part 3 of the NFPS.”.

Amendment of regulation 65

- 9.** In regulation 65 (entitlement to lower tier ill-health pension and to higher tier ill-health pension), for paragraph (3) substitute—

“(3) Where an active member (A) is entitled to a lower tier ill-health pension and paragraph 22 (transition member who has not reached normal pension age under the NFPS) or paragraph 24 (transition member who has not reached normal pension age under the 1992 Scheme) of Schedule 2 to these Regulations applies in relation to A—

- (a) if paragraph 22 applies in relation to A, A is also entitled to an amount equivalent to the annual amount of a lower tier ill-health pension that would, if the member were entitled to payment of a lower tier ill-health pension under rule 2(2) of the NFPS, be payable to the member under the NFPS;
 - (b) if paragraph 24 applies in relation to A, A is also entitled to an amount equivalent to the annual amount of a lower tier ill-health pension that would, if the member were entitled to payment of a lower tier ill-health pension under rule B3 (ill health awards) of the 1992 Scheme, be payable to the member under the 1992 Scheme.
- (4) In these Regulations—
- (a) the amount equivalent to the annual amount of a lower tier ill-health pension in sub-paragraph (a) of paragraph (3) is referred to as the “equivalent amount to the NFPS lower tier ill-health pension”;
 - (b) the amount equivalent to the annual amount of a lower tier ill-health pension in sub-paragraph (b) of paragraph (3) is referred to as the “equivalent amount to the 1992 Scheme lower tier ill-health pension”.

Amendment of regulation 66

- 10.** In regulation 66 (annual rate of ill-health awards)—

- (a) after paragraph (3), insert—

“(3A) In the case of a member who is entitled to an equivalent amount to the NFPS lower tier ill-health pension or to an equivalent amount to the 1992 Scheme lower tier ill-health pension, the adjusted lower tier ill-health pension includes the adjusted equivalent amount.”; and

- (b) in paragraph (4), after the definition of “the adjusted lower tier ill-health pension” insert—

““the adjusted equivalent amount” means—

- (a) in the case of a member who is entitled to an equivalent amount to the NFPS lower tier ill-health pension, that amount calculated—

- (i) excluding from the calculation the amount of any additional period of service purchased under Part 11 of the NFPS, and
- (ii) without the deduction of any commuted portion;
- (b) in the case of a member who is entitled to the equivalent amount to the 1992 Scheme lower tier ill-health pension, that amount calculated without the deduction of any commuted portion;”.

Amendment of regulation 69

11. In regulation 69 (consequences of review), after paragraph (6) insert—

“(6A) Where L is entitled to an equivalent amount to the NFPS lower tier ill-health pension or to an equivalent amount to the 1992 Scheme lower tier ill-health pension, paragraphs (3) and (5) apply as if the reference to “lower tier ill-health pension” included an equivalent amount to the NFPS lower tier ill-health pension or an equivalent amount to the 1992 Scheme lower tier ill-health pension, as the case may be.”.

Insertion of regulation 71A

12. After regulation 71, insert—

“Option to commute part of an equivalent amount

71A.—(1) A member who becomes entitled to the immediate payment of an equivalent amount to the NFPS lower tier ill-health pension or to an equivalent amount to the 1992 Scheme lower tier ill-health pension may opt under this regulation to exchange part of the pension for a lump sum.

(2) The option may only be exercised—

- (a) by written notice to the scheme manager which sets out the amount to be commuted; and
- (b) before the first payment of the equivalent amount to the NFPS lower tier ill-health pension or to an equivalent amount to the 1992 Scheme lower tier ill-health pension is made.

(3) Where the person is entitled to the immediate payment of an equivalent amount to the NFPS lower tier ill-health pension and exercises the option to commute under this rule, the lump sum is calculated—

- (a) in the case of a person who is a connected member of the NFPS in accordance with paragraphs (2) and (4) of rule 9 (commutation : general) of Part 3 of the NFPS, and
- (b) in the case of a person who is a connected special member of the NFPS in accordance with paragraphs (2A), (4) and (4A) of rule 9 of Part 3 of that Scheme.”.

Amendment of regulation 77

13. In regulation 77 (meaning of “initial period”), for “this Part” substitute “these Regulations”.

Amendment of regulation 78

14. In regulation 78 (surviving partner’s pension payable on death of active member)—

- (a) in paragraph (3), after “Subject to” insert “paragraph (4) and”; and
- (b) after paragraph (3), insert—

“(4) Where the member referred to in paragraph (1) was a transition member who had additional pension benefit under rule 7A or 7B of Part 3 of the NFPS or additional pension benefit under rule B5B or B5C of the 1992 Scheme, half the amount of additional pension benefit is added to the amount of the annual rate of the surviving partner’s pension referred to in paragraph (3).”.

Amendment of regulation 86

15. In regulation 86 (eligible child’s pension on death of active member)—

- (a) in paragraph (2), for “The” substitute “Subject to paragraph (3), the”; and
- (b) after paragraph (2), insert—

“(3) Where the member referred to in paragraph (1) was a transition member who had additional pension benefit under rule 7A or 7B of Part 3 of the NFPS or additional pension benefit under rule B5B or B5C of the 1992 Scheme, the amount of the additional pension benefit is added to the amount of the higher tier ill-health pension referred to in paragraph (2).”.

Amendment of regulation 91

16. In regulation 91 (increase in eligible child’s pension where member was pension debit member), after “WRPA” insert “1999”.

Amendment of regulation 93

17. In regulation 93 (meaning of “final pay”), after paragraph (4) insert—

“(5) Where the member referred to in paragraph (1) is a transition member and was in pensionable service under the 1992 Scheme or the NFPS, as the case may be, during the period referred to in paragraph (1)(a) or (1)(b) and service from that scheme is included in the qualifying service for the pension account in respect of which the lump sum death benefit is paid—

- (a) pensionable pay in paragraph (1)(a) or (1)(b) includes average pensionable pay construed in accordance with rule G1 of the 1992 Scheme where the person was a member of that Scheme or pensionable pay under rule 1 or rule 2 of Part 11 of the NFPS where the person was a firefighter or special firefighter member of the NFPS; and
- (b) pensionable service includes pensionable service construed in accordance with rule F1, where the person was a member of the 1992 Scheme or pensionable service construed in accordance with rules 2 to 5 of Part 10 of the NFPS.”.

Amendment of regulation 96

18. In regulation 96 (lump sum payable on death of active member), after paragraph (3) insert—

“(4) Where the active member’s account in respect of which the lump sum death benefit will be paid included pensionable service reckonable under rule F1 of the 1992 Scheme as qualifying service and a dependent relative’s gratuity has been paid under rule E3 of the 1992 Scheme or the payment of the balance of contributions to a person’s estate has been paid under rule E4 of the 1992 Scheme those amounts must be deducted from the amount of lump sum death benefit payable under this regulation.”.

Amendment of regulation 110

19. In regulation 110 (member contributions), for paragraph (2) substitute—

“(2) The contribution rate applicable to a scheme employment is as specified in the following table, with the contribution rate specified in the appropriate column for the year to be considered applicable to the band of pensionable pay specified in the first column into which the active member’s annual pensionable pay, rounded down to the nearest whole pound, falls:

<i>Pensionable pay range for an employment</i>	<i>Contribution rate 1st April 2015-31st March 2016</i>
Up to £27,000	10.0%
£27,001 to £50,000	12.2%
£50,001 to £142,500	13.5%
£142,501 or more	14.5%

<i>Pensionable pay range for an employment</i>	<i>Contribution rate 1st April 2016 – 31st March 2017</i>
Up to £27,270	10.0%
£27,271 to £50,500	12.5%
£50,501 to £142,500	13.5%
£142,501 or more	14.5%

<i>Pensionable pay range for an employment</i>	<i>Contribution rate 1st April 2017 – 31st March 2018</i>
Up to £27,543	10.5%
£27,544 to £51,005	12.7%
£51,006 to £142,500	13.5%
£142,501 or more	14.5%

<i>Pensionable pay range for an employment</i>	<i>Contribution rate from 1st April 2018</i>
Up to £27,818	11.0%
£27,819 to £51,515	12.9%
£51,516 to £142,500	13.5%
£142,501 or more	14.5%

(2A) The amount of pensionable pay of a retained or volunteer firefighter for the purpose of the first column of the table must be that firefighter’s reference pay.

(2B) The amount of pensionable pay of a part-time regular firefighter for the purpose of the first column of the table must be the amount of pensionable pay of a whole-time regular firefighter of equivalent role and length of service.

(2C) Where there is a change in scheme employment, or a material change which affects the member’s pensionable pay in the course of a financial year and the revised amount of

the pensionable pay falls into a different contribution rate band, the scheme manager must determine that this rate should be applied and the scheme manager must inform the member of the contribution rate applicable and the date from which it is to be applied.

(2D) Where the scheme manager has determined under paragraph (2C) that a different contribution rate applies, the member must pay contributions at that rate on the pensionable pay that member is receiving at that time.

(2E) For the purposes of identifying which is the applicable contribution rate under this regulation, any reduction in pensionable pay which arises as a consequence of any of the following circumstances is to be disregarded—

- (a) the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work;
- (b) child-related leave;
- (c) leave of absence with permission;
- (d) sick leave;
- (e) leave due to injury;
- (f) reserve forces service leave;
- (g) absence due to a trade dispute; or
- (h) circumstances specified by the scheme manager in a particular case.”.

Insertion of regulation 140A

20. After regulation 140, insert—

“Employer cost cap

140A.—(1) The employer cost cap for this scheme is 15.8% of pensionable earnings of members of this scheme.

(2) Where the cost of this scheme, calculated following a valuation in accordance with Treasury directions under section 11 of the 2013 Act, is more than the margins specified in regulations made under section 12(5) of the 2013 Act⁽²⁾ (“the Cost Cap Regulations”) above or below the employer cost cap, the Scottish Ministers must follow the procedure specified in paragraph (3) for reaching agreement with the scheme manager, the authority and members (or representatives of members) as to the steps required to achieve the target cost specified in the Cost Cap Regulations.

(3) The procedure specified for the purposes of section 12(6)(a) of the 2013 Act is consultation for such period as the Scottish Ministers consider appropriate with the Scottish Firefighters’ Pension Scheme Advisory Board with a view to reaching an agreement endorsed by all members of that Board.

(4) If, following such consultation, agreement is not reached within 3 months of the date on which the consultation period ends, the Scottish Ministers must take steps to adjust the rate at which benefits accrue under regulation 34 (amount of pension for a scheme year) so that the target cost of this scheme is achieved.”.

Amendment of regulation 170

21. In regulation 170 (information about payment of annual allowance charge), in paragraph (2) for “Scheme” substitute “Schemes”.

(2) See regulation 3 of [S.I. 2014/575](#).

Amendment of Schedule 2

22. In Schedule 2 (transitional provisions)—

(a) in paragraph 3—

(i) in sub-paragraph (5), for “sub-paragraph (6)” substitute “sub-paragraphs (6) and (7)”; and

(ii) after sub-paragraph (6) insert—

“(7) In the case of a tapered protection member of the NFPS who is a special member of the NFPS, the tapered protection closing date is the date found by applying the relevant date in column 3 of the table 1 in Part 4 of this Schedule to the birthday referred to in column 1 and column 2.”;

(b) in paragraph 9, after sub-paragraph (2) insert—

“(2A) Where P was a full protection member of the 1992 Scheme and after retiring from pensionable service in this scheme became entitled to a continuous service pension under rule B1A, an ordinary pension under rule B1 or a short service award under rule B2 of that scheme or a continued pension under rule B2A, P ceases to be eligible to be a full protection member of the NFPS.”;

(c) in paragraph 15, after sub-paragraph (1) insert—

“(1A) Where P was a full protection member of the 1992 Scheme and after retiring from pensionable service in this scheme became entitled to a continuous service pension under rule B1A, an ordinary pension under rule B1 or a short service award under rule B2 or a continued pension under rule B2A of that scheme, P ceases to be eligible to be a tapered protection member of the NFPS.”; and

(d) after Part 3, insert—

“PART 3A

Payment of ill-health benefits to transition members

Transition member who has not reached normal pension age under the NFPS

22.—(1) This paragraph applies in relation to a transition member with continuity of service who—

(a) is a connected member of the NFPS or a connected special member of the NFPS;

(b) becomes entitled to an ill-health award under this scheme in relation to relevant scheme employment; and

(c) who has not reached normal pension age under the NFPS.

(2) If this paragraph applies—

(a) neither a lower tier ill-health pension nor a higher tier ill-health pension are payable under rule 2 (awards on ill-health retirement) of the NFPS; and

(b) an ill-health award is payable under this scheme in accordance with this paragraph.

(3) If the member meets the conditions only for a lower tier ill-health pension under this scheme the annual rate of a lower tier ill-health pension payable under this scheme is the sum of—

(a) the annual rate of a lower tier ill-health pension payable under this scheme; and

(b) an amount payable under regulation 65(3) (entitlement to lower tier ill-health pension and to higher tier ill-health pension).

(4) Where the member meets the conditions for a higher tier ill-health pension under this scheme, the adjusted lower tier ill-health pension in regulation 66(4) (annual rate of ill-health awards) includes the amount in sub-paragraph (3)(b) for the purposes of the calculation of the annual rate of the higher tier ill-health pension.

(5) If, after an ill-health award becomes payable under this scheme, a transfer value payment is made under Chapter 2 (transfers out of the Scheme) of Part 12 (transfers into and out of the Scheme) of the NFPS in respect of the member's rights under that Scheme and the transfer relates to a period of service included as qualifying service in relation to the member's retirement account, the scheme manager must deduct from the ill-health award the amount in respect of service in the NFPS which is equal to the value represented by that transfer value payment.

(6) In this paragraph—

“relevant scheme employment” means the continuous period of pensionable service in scheme employment in relation to the active member's account to which the qualifying service for that connected member of the NFPS, or connected special member of the NFPS, was added for the purposes of regulation 57 (qualifying service).

Transition member who reaches normal pension age under the NFPS

23.—(1) This paragraph applies in relation to a transition member with continuity of service who is receiving payment of an ill-health award in accordance with paragraph 22.

(2) When the member reaches normal pension age under the NFPS—

(a) the equivalent amount to the NFPS lower tier ill-health pension specified under regulation 59(2)(ba) (annual rate of retirement pension (active members)) ceases to be payable under this scheme; and

(b) the member becomes entitled under the NFPS to the immediate payment of a continued pension of a sum equal to the annual rate of the equivalent amount to the NFPS lower tier ill-health pension payable immediately the day before the member reaches normal pension age.

Transition member who has not reached normal pension age under the 1992 Scheme

24.—(1) This paragraph applies in relation to a transition member who—

(a) was in pensionable service in the 1992 Scheme until the day before the transition date; and

(b) has continued in pensionable service in relevant scheme employment, or has been treated as an active member of this scheme in relation to that employment, until that member became entitled to an ill-health award under this scheme; and

(c) has not reached normal pension age under the 1992 Scheme or the age at which the conditions of rule B1 (ordinary pension) as modified by rule B1A (continuous service pension) of that Scheme are satisfied.

(2) If this paragraph applies—

(a) neither a lower tier ill-health pension nor a higher tier ill-health pension are payable under rule B3 (ill health awards) of the 1992 Scheme; and

- (b) an ill-health award is payable from this scheme.
- (3) If the member meets the conditions only for a lower tier ill-health pension under this scheme, the annual rate of a lower tier ill-health pension payable under this scheme is the sum of—
 - (a) the annual rate of a lower tier ill-health pension payable under this scheme; and
 - (b) an amount payable under regulation 65(3) (entitlement to lower tier ill-health pension and to higher tier ill-health pension).
- (4) If the member meets the conditions for a higher tier ill-health pension under this scheme, the adjusted lower tier ill-health pension in regulation 66(4) (annual rate of ill-health awards) includes the amount in sub-paragraph (3)(b) for the purposes of the calculation of the annual rate of the higher tier ill-health pension.
- (5) If, after an ill-health award becomes payable under this scheme, a transfer value payment is made under rule F9 (payment of transfer value) of the 1992 Scheme in respect of the member's rights under that Scheme and the transfer relates to a period of service included as qualifying service in relation to the member's retirement account, the scheme manager must deduct from the amount of the ill-health award an amount in respect of service in the 1992 Scheme which is equal to the value represented by that transfer value payment.
- (6) In this paragraph—
 - “relevant scheme employment” means the continuous period of pensionable service in scheme employment in relation to the active member's account to which the pensionable service in the 1992 Scheme was added for the purposes of regulation 57 (qualifying service).

Transition member who reaches normal pension age under the 1992 Scheme

- 25.—**(1) This paragraph applies in relation to a transition member who is receiving the payment of an ill-health award in accordance with paragraph 24.
- (2) When the member reaches normal pension age under the 1992 Scheme or the age for retirement ascertained under rule B1A(3)(a) of that Scheme—
 - (a) the member ceases to be entitled to the immediate payment of the equivalent amount to the 1992 Scheme lower tier ill-health pension under regulation 65(3) (b) (entitlement to lower tier ill-health pension and to higher tier ill-health pension) under this scheme; and
 - (b) the member becomes entitled under the 1992 Scheme to the immediate payment of a continued pension of a sum equal to the annual rate of the equivalent amount of the 1992 Scheme lower tier ill-health pension payable immediately before the date on which the member reaches normal pension age or the age for retirement ascertained under rule B1A(3)(a) of the 1992 Scheme.

PART 3B

Payment of death benefits in respect of transition members

Annual rate of pensions for surviving partners payable under this scheme when certain transition members die in service with accrued benefits in the 1992 Scheme

- 26.—(1) This paragraph applies in relation to a transition member who—
- (a) was in pensionable service in the 1992 Scheme until the day before the transition date;
 - (b) has continued in pensionable service in scheme employment, or to be treated as an active member of this scheme, until that member dies; and
 - (c) dies as an active member of this scheme.
- (2) Awards for surviving spouses and civil partners are not payable under Part C (awards on death- spouses) of the 1992 Scheme in respect of a member to whom this paragraph applies.
- (3) A surviving spouse or civil partner of a member to whom this paragraph applies is not entitled to receive a bereavement pension under rule E8 of the 1992 Scheme.

Annual rate of pensions payable to an eligible child under this scheme when a transition member dies in service with accrued benefits in the NFPS

- 27.—(1) This paragraph applies in relation to a transition member with continuity of service who is a connected member of the NFPS or a connected special member of the NFPS—
- (a) who dies as an active member of this scheme; and
 - (b) whose period of qualifying service is at least 3 months.
- (2) Pensions for an eligible child are not payable under the NFPS in respect of that member.

Annual rate of pensions payable to an eligible child under this scheme when a transition member dies in service with accrued benefits in the 1992 Scheme

- 28.—(1) This paragraph applies in relation to a transition member who—
- (a) was in pensionable service in the 1992 Scheme until the day before the transition date;
 - (b) has continued in pensionable service in scheme employment, or has been treated as an active member of this scheme, until that member dies; and
 - (c) dies as an active member of this scheme.
- (2) Awards for an eligible child are not payable under Part D (awards on death-children) and a bereavement pension is not payable under rule E8A of the 1992 Scheme in respect of that member.

Amount of lump sum death benefit payable under this scheme when a transition member dies in service with accrued benefits in the NFPS

29.—(1) This paragraph applies in relation to a transition member (T) who is a member of the NFPS and who dies as an active member of this scheme.

(2) Subject to paragraph (3), where T dies as a pensioner member of the NFPS, the amount of the lump sum death benefit payable under this scheme is the greater of the amount of the lump sum death benefit payable under regulation 96(2) and the amount of post-retirement death grant payable under rule 2 (post-retirement death grant) of Part 5 of the NFPS.

(3) Where T at the time of T's death was a pensioner member of this scheme and an active member of this scheme, and regulation 98 (lump sum payable on death in certain cases) applies, in a case where the greater amount of the lump sum death benefit payable is that under regulation 97 (lump sum payable on death of pensioner member), "regulation 96" in sub-paragraph (2) is to be read as "regulation 97".

Amount of lump sum death benefit payable under this scheme when a transition member dies in service with accrued benefits in the 1992 Scheme

30.—(1) This paragraph applies in relation to a transition member (T) who is a member of the 1992 Scheme and who dies as an active member of this scheme.

(2) Sub-paragraph (3) applies where paragraph (7) of rule A3 of the 1992 Scheme applied to T immediately before T died and a lump sum death grant of an amount specified in regulation 96(2) (lump sum payable on death of active member) of this scheme is payable to those persons that the scheme manager determines under regulation 95 (person to whom lump sum death benefit payable) and—

- (a) a lump sum death grant has been paid under rule E1 of the 1992 Scheme;
- (b) a payment of the balance of contributions has been made under rule E4 of the 1992 Scheme; or
- (c) a dependent relative's gratuity has been paid under rule E3 of the 1992 Scheme.

(3) Where this sub-paragraph applies, any payments which are referred to in sub-paragraphs (a), (b) or (c) of paragraph (2) and which have been made must be deducted from the lump sum death grant payable under regulation 96.

(4) Sub-paragraph (5) applies where T dies as a deferred member of the 1992 Scheme or in receipt of a pension from that Scheme and a lump sum death grant of an amount specified in regulation 96(2) of this scheme is payable to those persons that the scheme manager determines under regulation 95 and—

- (a) a dependent relative's gratuity has been paid under rule E3 of the 1992 Scheme, or
- (b) a payment has been made under rule E4 of that Scheme.

(5) Where this sub-paragraph applies, the payments which are referred to in sub-paragraphs (a) or (b) of paragraph (4) and which have been made must be deducted from the amount of lump sum death grant payable under regulation 96.

PART 3C

Transitional provisions relating to the NFPS and the 1992 Scheme

Pensionable service under the NFPS

31.—(1) This paragraph applies in relation to a transition member (T) who is a connected member of the NFPS, or a connected special member of the NFPS, and has continuity of service.

(2) The following provisions of Chapter 2 (purchase of additional service) of Part 11 (pensionable pay, pension contributions and purchase of additional service) of the NFPS continue to apply after the transition date as if T continued in pensionable service under that scheme—

- (a) the provisions relating to the payment of periodical contributions for the purchase of additional service if T had made an election to purchase additional service under rule 6 (election to purchase additional service) or if T returns to pensionable service as a firefighter after a period of unpaid service or absence and T elects to purchase additional service in respect of the period before the transition date under that rule;
- (b) the provisions relating to the payment of the mandatory special period pension contributions payable in respect of an election to purchase service during the limited period under rule 6A (election to purchase service during the limited period).

(3) In determining whether T qualifies under the NFPS for retirement benefits (other than an award on ill-health retirement or a deferred pension), T's pensionable service under the NFPS terminates when T's pensionable service under this scheme terminates.

Final salary of certain transition members for any purposes of the NFPS

32.—(1) This paragraph applies to a transition member (T) with continuity of service who is in pensionable service under this scheme and is a member of the NFPS.

(2) Subject to sub-paragraphs (3) to (5), in determining T's final pensionable pay for any purposes of the NFPS under Schedule 7 to the 2013 Act (final salary link)—

- (a) the provisions of paragraph 1 or paragraph 2 of that Schedule apply as if "final salary" were a reference to "final pensionable pay"; and
- (b) pensionable pay derived from service under this scheme is to be regarded as derived from service under the NFPS.

(3) Where T's pensionable pay derived from service under this scheme at a time when T's final pensionable pay is determined for any purposes of the NFPS under Schedule 7 (final salary link) to the 2013 Act is lower than T's pensionable pay derived from service under the NFPS on the day before the transition date—

- (a) sub-paragraph (2) does not apply; and
- (b) T's final pensionable pay is determined in accordance with rule 1 (pensionable pay) and rule 2 (final pensionable pay) of Part 11 of the NFPS.

(4) Where T's pensionable pay derived from service under this scheme at the time when T's final pensionable pay is determined for any purposes of the NFPS under Schedule 7 to the 2013 Act (final salary link) is lower than the pensionable pay for any year after

the transition date, the pensionable pay for the year of service before the reduction in pensionable pay is to be regarded for the purposes of Schedule 7 as the pensionable pay derived from service under the NFPS.

(5) The definition of pensionable pay derived from service under this scheme in regulation 17 (pensionable pay) is modified for the purposes of sub-paragraphs (2) and (4) by the omission of paragraph (1)(d) of that regulation and in a case where T is being paid an allowance or supplement within the meaning of paragraph (6) of rule 1 to Part 11 of the NFPS which the employer would have treated as pensionable under that Scheme were the member still a firefighter member of that Scheme, that amount is treated as included in pensionable pay for the purposes of determining T's final pensionable pay under the NFPS.

Final salary of certain transition members for any purposes of the 1992 Scheme

33.—(1) This paragraph applies in relation to a transition member (T) with continuity of service who is in pensionable service under this scheme and is a member of the 1992 Scheme.

(2) Subject to sub-paragraphs (3) to (5), in determining T's average pensionable pay for any purposes of the 1992 Scheme under Schedule 7 to the 2013 Act (final salary link)—

- (a) the provisions of paragraph 1 of that Schedule apply as if "final salary" were a reference to "average pensionable pay"; and
- (b) pensionable pay derived from service under this scheme is to be regarded as derived from service under the 1992 Scheme.

(3) Where T's pensionable pay derived from service under this scheme at the time when T's average pensionable pay is determined for any purposes of the 1992 Scheme under Schedule 7 to the 2013 Act (final salary link) is lower than T's pensionable pay derived from service under the 1992 scheme on the day before the transition date—

- (a) paragraph (2) does not apply; and
- (b) T's average pensionable pay is determined in accordance with rule G1 (pensionable pay and average pensionable pay) of the 1992 Scheme.

(4) Where T's pensionable pay derived from service under this scheme at the time when T's average pensionable pay is determined for any purposes of the 1992 Scheme under Schedule 7 to the 2013 Act (final salary link) is lower than the pensionable pay for any year after the transition date, the pensionable pay for the year of service before the reduction in pensionable pay is to be regarded for the purposes of Schedule 7 as the pensionable pay derived from service under the 1992 Scheme.

(5) The definition of pensionable pay derived from service under this scheme in regulation 17 is modified for the purposes of sub-paragraphs (2) and (4) by the omission of paragraph (1)(d) of that regulation and in a case where the member of the 1992 Scheme is being paid an allowance or supplement within the meaning of paragraph (9) of rule G1 (pensionable pay and average pensionable pay) which the employer would have treated as pensionable pay under that Scheme were the member still entitled to reckon pensionable service in that Scheme, that amount is included in pensionable pay for the purposes of determining T's average pensionable pay under the 1992 Scheme.

Continuous pensionable service under the 1992 Scheme

34.—(1) This paragraph applies to a transition member (T) who was in pensionable service under the 1992 Scheme on the date before that member's transition date and joined this scheme on the transition date, and has remained in pensionable service under this

scheme until the date on which T qualifies under the 1992 Scheme for an award under that Scheme.

(2) The requirement in paragraph (1) that T has remained in pensionable service under this scheme is satisfied where T has been or is treated as an active member of this scheme.

(3) In determining whether T qualifies under the 1992 Scheme for retirement benefits (other than an award on ill-health retirement or to a deferred pension), T's pensionable service under the 1992 Scheme terminates when T's pensionable service under this scheme terminates.

(4) For the purposes of calculating the pension under rule B1A of the 1992 Scheme and for the commutation under rule B7 (commutation – general provision) of that Scheme, pensionable service under this scheme is reckonable under rule F2 (current service) of that Scheme as 2015 pensionable service.

(5) Where T had elected to pay periodical contributions for increased benefits under rule G6 (election to purchase increased benefits) of the 1992 Scheme, these continue to be payable as if T continued in pensionable service under the 1992 Scheme until T leaves pensionable service under the 2015 Scheme.

(6) If after the transition date T returns to work following a period of maternity or adoption leave and is entitled to elect to pay pension contributions under rule G2A (optional pension contributions during maternity and adoption leave) of the 1992 Scheme in respect of that period, the election may only be made in respect of the period before the transition date.

(7) Where this paragraph applies and T is entitled to an ordinary pension under rule B1 (ordinary pension) of the 1992 Scheme or a short service award under rule B2 (short service award) of that Scheme, T's ordinary pension, or short service award, as the case may be, is calculated in accordance with Part 2A of Schedule 2 of the 1992 Scheme and Part 1 and Part 2 of Schedule 2 to that Scheme do not apply.

Deferred member of the 1992 Scheme

35. A transition member with accrued benefits in the 1992 Scheme to whom paragraph 34 does not apply is a deferred member of the 1992 Scheme.

Deferred member of the NFPS

36.—(1) A transition member with continuity of service (T), who is a connected member of the NFPS or a connected special member of the NFPS, does not become a deferred member of that Scheme unless T becomes a deferred member of this scheme in relation to the active member's account to which the qualifying service for that connected member of the NFPS or connected special member of the NFPS was added.

(2) If T opts out of this scheme in relation to a scheme employment, or leaves scheme employment before being entitled to a pension in relation to that pensionable service, and T has at least 3 months' qualifying service—

- (a) T becomes a deferred member of the NFPS in relation to pensionable service under that scheme; and
- (b) any periodical payments for additional service under the NFPS cease to be payable.

(3) If T re-enters pensionable service under this scheme after a gap in service not exceeding 5 years, T ceases to be a deferred member of the NFPS.

Scheme manager determines member of the NFPS is not entitled to an ill-health award

37.—(1) This paragraph applies if the authority has decided to obtain the written opinion of an IQMP concerning whether a member of the NFPS is permanently disabled, or able to undertake regular employment before making a determination as to whether a member is entitled to an ill-health award, and the determination has not been made before the member's transition date.

(2) If this paragraph applies, the member joins this scheme on whichever is the latest of—

- (a) the member's transition date;
- (b) if the member decides not to appeal, the expiry of 28 days from the date on which the member received the last of the documents which the authority is required to supply under rule 4 (appeals against decisions based on medical advice) of Part 8 of the NFPS;
- (c) if the member withdraws the appeal, the date of the withdrawal of the appeal; and
- (d) where the member's appeal has been heard, the expiry of 28 days of the receipt of the report by the board of medical referees where no statement has been supplied by the authority to the Scottish Ministers, or where the board reconsiders its decision, the notice confirming the decision or the revised decision.

Scheme manager determines member of the 1992 Scheme is not entitled to an ill-health award

38.—(1) This paragraph applies if the authority has decided to obtain the written opinion of an IQMP under rule H1 (determination by fire authority) of the 1992 Scheme concerning whether a member of that Scheme is permanently disabled, or able to undertake regular employment before making a determination as to whether a member is entitled to an ill-health award, and the determination has not been made before the member's transition date.

(2) If this paragraph applies, the member joins this scheme on whichever is the latest of—

- (a) the member's transition date;
- (b) if the member decides not to appeal, the expiry of 28 days from the date on which the member received the last of the documents which the authority is required to supply under rule H2(4) of the 1992 Scheme;
- (c) if the member withdraws the appeal, the date of the withdrawal of the appeal; and
- (d) where the member's appeal has been heard, the expiry of 28 days of the receipt of the report by the board of medical referees, or where the board reconsiders its decision, the notice confirming the decision or the revised decision.

Repayment of contributions under the NFPS

39. If a transition member with continuity of service (T) opts out of this scheme and T has less than 3 months' qualifying service in the NFPS and this scheme—

- (a) T must be repaid pension contributions and special pension contributions and mandatory special period pension contributions paid under the NFPS; and

- (b) any further periodical payments for additional service to be paid under the NFPS cease to be payable.

Qualifying for retirement benefits under the NFPS

40. In determining whether a transition member with continuity of service qualifies for retirement benefits under the NFPS, the member’s qualifying service includes the total of—

- (a) the member’s qualifying service under the NFPS; and
- (b) the member’s qualifying service under this scheme.

Qualifying for retirement benefits under the 1992 Scheme

41. In determining whether a transition member with continuity of service qualifies for retirement benefits under the 1992 Scheme, the member’s qualifying service includes the total of—

- (a) the member’s qualifying service under the 1992 Scheme; and
- (b) the member’s qualifying service under this scheme.

Final salary link not to apply again to a pension in payment under the NFPS

42. Where any element of a pension under the NFPS which is in payment under that Scheme has been calculated by reference to Schedule 7 (final salary link) to the 2013 Act, that element of the pension is not recalculated by reference to Schedule 7 in consequence of a subsequent period of pensionable public service (within the meaning of paragraph 3 of Schedule 7 to the 2013 Act).

Final salary link not to apply again to a pension in payment under the 1992 Scheme

43. Where any element of a pension under the 1992 Scheme which is in payment under that Scheme has been calculated by reference to Schedule 7 (final salary link) to the 2013 Act, that element of the pension is not recalculated by reference to Schedule 7 (final salary link) to the 2013 Act in consequence of a subsequent period of pensionable public service (within the meaning of paragraph 3 to Schedule 7 to the Act).

PART 3D

Transfer of final salary benefits

Meaning of “final salary benefit”

44.—(1) In this Part, “final salary benefit” means benefit accrued under a final salary scheme, subject to sub-paragraph (2).

(2) Where only part of the pension entitlement payable under a final salary scheme to or in respect of person which is based on the pensionable service of that person is or may be determined by reference to the person’s final salary, “final salary benefit” means the benefit in respect of which the pension entitlement is so determined.

Acceptance of club transfer value payments

45. Any part of a club transfer value payment from another scheme that relates to a member's final salary benefit must be paid into the NFPS.

Member of this scheme or the NFPS

46.—(1) This paragraph applies to a person who transfers final salary benefits into the NFPS.

(2) Unless the person is a protected member of the NFPS the person's service in relation to the final salary benefits which have been transferred into the NFPS is taken to be qualifying service for the purposes of this Scheme and, the person—

- (a) becomes a member of this scheme; and
- (b) is taken to be a transition member with continuity of service.”.