

---

SCOTTISH STATUTORY INSTRUMENTS

---

**2015 No. 141**

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

**PART 4**

**Amendment of the Firemen's Pension Scheme Order 1992**

**General**

**32.** Schedule 2 to the Firemen's Pension Scheme Order 1992<sup>(1)</sup> (in which the Firefighters' Pension Scheme is set out) as it has effect in Scotland, is amended in accordance with regulations 33 to 41.

**Amendment of Part A**

**33.** In Part A (general provisions and retirement)—

(a) in rule A3 (exclusive application to regular firefighters)—

(i) in paragraph (1), for “paragraphs (3) to (5)” substitute “paragraphs (3) to (6)”; and

(ii) after paragraph (5), insert—

“(6) This paragraph applies to a person who satisfies the requirements of paragraph (5) if that person ceases to be a person who is entitled to reckon service as a firefighter as pensionable service under rule F2 (current service) of this Scheme—

(a) where the person is not a full protection member of this Scheme or a tapered protection member of this Scheme, on the scheme closing date;

(b) where the person is a tapered protection member of this Scheme on the tapered protection closing date, or if earlier, on the date on which the person ceases to be a tapered protection member;

(c) where the person is a full protection member of this Scheme, on the date on which the member retires from scheme employment in the 2015 Scheme, or if earlier on the date on which the person ceases to be a full protection member of this Scheme.

(7) Where paragraph (6) applies, if the person remains in continuous pensionable service under the 2015 Scheme, or is treated as an active member of that Scheme, after the transition date without a break in that service or membership until the date on which that person retires or ceases to be an active member of that Scheme, and the pension account for that scheme employment was the account to which the pensionable service from this Scheme was added, the person is entitled to a pension under rule B1A of this Scheme.

(8) A person who is entitled to the payment of an equivalent amount to the 1992 Scheme lower tier ill-health pension is treated as having been in continuous pensionable service under the 2015 Scheme for the purposes of paragraph (7) of this rule.

(9) Where paragraph (6) applies to a person who was entitled to an ill-health award under this Scheme or under the 2015 Scheme and who accepts an offer of employment made referred to in rule K1A(2)(b) of this Scheme or referred to in regulation 69(3)(b) of the 2015 Scheme, that person is treated as having been in continuous pensionable service under the 2015 Scheme for the purposes of paragraph (7) of this rule.

(10) A person who refuses the offer of employment mentioned in paragraph (9) becomes entitled to a deferred pension under rule B5 of this Scheme and paragraph (7) does not apply to that member.”; and

(b) after rule A13, insert—

“**A13A.** The normal pension age for a regular firefighter to whom paragraph (7) of rule A3 applies is 55.”.

#### **Amendment of Part B**

**34.** In Part B (personal awards)—

(a) in rule B1 (ordinary pension), after paragraph (2)(c) insert—

“; or

(d) a person to whom paragraph (6) of rule A3 applies”; and

(b) after rule B1, insert—

##### **“Continuous service pension**

**B1A.**—(1) Where a person satisfies the requirements of paragraph (7) of rule A3, that person is entitled on retiring from scheme employment in the 2015 Scheme at or after normal pension age to a continuous service pension calculated in accordance with Part 2A of Schedule 2.

(2) A person to whom paragraph (1) applies is not entitled to a pension or award under rule B1 (ordinary pension), B2 (short service award), rule B3 (ill health awards) or B5 (deferred pension).

(3) Where rule B1 (ordinary pension) would have applied to a person to whom paragraph (1) applies if rule A3(6) (exclusive application to regular firefighters) had not applied to that person—

(a) the age at which that person may retire is ascertained by applying rule B1 to that person as if the reference to the “pensionable service” in paragraph (1)(a) included “2015 pensionable service”; and

(b) in paragraph (1) of this rule for “normal pension age” as if the age ascertained in sub-paragraph (a).

**B1B.**—(1) A person to whom rule B1A does not apply and to whom paragraph (6) of rule A3 does apply is entitled to a deferred pension under rule B5 (deferred pension).

(2) A person who is entitled to a deferred pension under paragraph (1) of this rule is not entitled to a pension or award under rule B1A (continuous service pension), rule B1 (ordinary pension), rule B2 (short service award), or rule B3 (ill health awards).

- (c) in rule B2 (short service award)—
  - (i) in paragraph (1), for “This rule” substitute “Subject to paragraph (3), this rule”; and
  - (ii) after paragraph (2), insert—
    - “(3) This rule does not apply to a person to whom paragraph (6) of rule A3 applies.”;
- (d) after rule B2, insert—

**“Continued pension**

**B2A.** Where a person to whom paragraph (7) of rule A3 applies is entitled to an equivalent amount of 1992 lower tier ill-health pension under regulation 65(4)(a) (entitlement to lower tier ill-health pension and to higher tier ill-health pension) of the 2015 Regulations and that person reaches normal pension age under this Scheme or the age for retirement ascertained in accordance with rule B1A(3)(i), that person is entitled to a continued pension of an amount equal to the annual rate of the equivalent amount to the 1992 Scheme lower tier ill-health pension.”;

- (e) in rule B3 (ill health awards)—
  - (i) in paragraph (1), for “This rule” substitute “Subject to paragraph (1A), this rule”;
  - (ii) after paragraph (1) insert—
    - “(1A) This rule applies to a person if paragraph (6) of rule A3 applies to that person and the requirements of paragraph (7) of that rule are not satisfied.”;
- (f) in rule B5 (deferred pension), after paragraph (1) insert—
  - “(1A) This rule applies to a person to whom paragraph (6) of rule A3 applies if paragraph (7) of that rule does not apply to that person.”;
- (g) in rule B5A (entitlement to two pensions), after paragraph (8) insert—
  - “(9) Where a person to whom this rule applies is a person to whom paragraph (10) of rule G1 applies, in paragraph (3) for “E is the firefighters’ average pensionable pay for the year ending with his last day of service” substitute “E is the firefighters’ average pensionable pay as modified by paragraph (10) of rule G1 for the year ending with his last day of service in the 2015 scheme”.”;
- (h) in rule B5D (additional pension benefit: supplementary provisions)—
  - (i) in paragraph (1), after “paragraphs” insert “(1A),”;
  - (ii) after paragraph (1), insert—
    - “(1A) Where additional pension benefit under rule B5B or B5C is payable to a person, who is entitled to a continuous service pension under rule B1A, it is payable from normal pension age or at the age ascertained in accordance with paragraph (3) (i) of rule B1A if that is earlier.”;
  - (iii) after paragraph (2), insert—
    - “(2A) Where a person to whom paragraph (6) of rule A3 applies is not entitled to a continuous service pension under rule B1A or to an ill health award under regulation 65 of the 2015 Regulations, paragraph (2) of this rule applies to that person as if that person were a firefighter who had resigned or been dismissed or made an election under rule G3.”; and
  - (iv) after paragraph (3), insert—
    - “(3A) Where the firefighter is entitled to an ill-health award under regulation 65 of the 2015 Regulations additional pension benefit is payable under this Scheme

at the same time as the equivalent amount to the 1992 Scheme lower tier ill-health pension.”;

(i) in rule B7 (commutation - general provision)—

(i) after paragraph (1), insert—

“(1A) This rule also applies to a pension under rule B1A and to the equivalent amount to the 1992 Scheme lower tier ill-health pension where that amount is included in the annual rate of a retirement pension for a person under regulation 59(2)(ba) (annual rate of retirement pension (active members)) of the 2015 Regulations.”;

(ii) in paragraph (2), for “paragraph (2A)” substitute “paragraphs (2A) and (2B)”;

(iii) after paragraph (2A), insert—

“(2B) Where a person is entitled to a continued pension under rule B2A, that person may not commute a portion of that pension under this rule.”;

(iv) in paragraph (5) for “In the case” substitute “Subject to paragraph (5A), in the case”; and

(v) after paragraph (5) insert—

“(5A) In the case of a person who is entitled to a pension under rule B1A or to the equivalent amount to the 1992 Scheme lower tier ill-health pension where the annual rate of a retirement pension (active members) under regulation 59(2)(ba) of the 2015 Regulations includes that amount, the reference to “pensionable service” in sub-paragraph (a) of paragraph (5) includes “2015 pensionable service”.”;

(j) in rule B9 (allocation), after paragraph (1) insert—

“(1A) This rule applies to a pension under rule B1A.”.

### **Amendment of Part C**

**35.** In Part C (awards on death - spouses), in rule C1 (spouse’s ordinary pension)—

(a) in paragraph (1) for “This rule” substitute “Subject to paragraph (1A), this rule”; and

(b) after paragraph (1) insert—

“(1A) This rule does not apply to a person who dies leaving a spouse or civil partner while serving as a regular firefighter if paragraph (6) of rule A3 applied to that person.”.

### **Amendment of Part D**

**36.** In Part D (awards on death - children), in rule D1 (child’s ordinary allowance)—

(a) in paragraph (1) for “This rule” substitute “Subject to paragraph (1A), this rule”; and

(b) after paragraph (1), insert—

“(1A) This rule does not apply to a person who dies leaving a child while serving as a regular firefighter if paragraph (6) of rule A3 applied to that person.”.

### **Amendment of Part E**

**37.** In Part E (awards on death – additional provisions)—

(a) in rule E1 (lump sum death grant)—

(i) in paragraph (1), for “On the death of” substitute “Subject to paragraph (1A) on the death of”; and

(ii) after that paragraph, insert—

- “(1A) This rule does not apply to a person who dies while serving as a regular firefighter if paragraph (6) of rule A3 applied to that person.”;
- (b) in rule E3 (dependent relative’s gratuity)—
- (i) in paragraph (1), for “This rule” substitute “Subject to paragraph (1A), this rule”; and
- (ii) after that paragraph, insert—
- “(1A) This rule does not apply to a person who dies while serving as a regular firefighter if paragraph (6) of rule A3 applied to that person.”; and
- (c) in rule E4 (payment of balance of contributions to estate)—
- (i) in paragraph (1), for “This rule” substitute “ Subject to paragraph (1A), this rule”; and
- (ii) after that paragraph, insert—
- “(1A) This rule does not apply to a person who dies while serving as a regular firefighter if paragraph (6) of rule A3 applied to that person.”.

#### **Amendment of Part F**

**38.** In Part F (pensionable service and transfer values)—

- (a) in rule F2 (current service)—
- (i) in paragraph (1), after sub-paragraph (a) insert—
- “(ab) any period of service as a regular firefighter beginning with the day on which paragraph (6) of rule A3 applies to that person, or”; and
- (ii) after paragraph (7) insert—
- “(8) A person to whom paragraph (7) of rule A3 applies is entitled to reckon as 2015 pensionable service any continuous pensionable service in relation to the active member’s account in the 2015 Scheme to which pensionable service in this Scheme was added for the purpose of regulation 57 (qualifying service) of the 2015 Regulations for the period whilst paragraph (7) of rule A3 continues to apply.”; and
- (b) in rule F9 (payment of transfer values)—
- (i) in paragraph (1), for “paragraphs (2) to (8A)” substitute “paragraphs (1A) to (8A)”; and
- (ii) after paragraph (1) insert—
- “(1A) A transfer value may not be paid if —
- (a) paragraph (6) of rule A3 applies to the person, and
- (b) paragraph 1(1) of Schedule 7 of the 2013 Act applies to that person by virtue of the person’s pensionable service in the 2015 Scheme so that person’s final salary falls to be determined by reference to paragraph 1(2) of that Schedule.
- (1B) A transfer value may not be paid if paragraph (7) of rule A3 applies to the person and that person is receiving payment of the equivalent amount to the 1992 Scheme lower tier ill-health pension from the 2015 Scheme under the 2015 Scheme.”.

#### **Amendment of Part G**

**39.** In Part G (pensionable pay and contributions)—

- (a) in rule G1 (pensionable pay and average pensionable pay)—

- (i) in paragraph (1), for “paragraph (2)” substitute “paragraphs (2) and (9)”;
- (ii) after paragraph (8), insert—

“(9) Where paragraph (6) of rule A3 (exclusive application to regular firefighters) applies to a regular firefighter and paragraph 1 of Schedule 7 (final salary link) to the 2013 Act applies to that person, paragraph (1) of this rule does not apply and the average pensionable pay is determined in accordance with Schedule 7 so that the member’s pensionable pay under the 2015 Regulations, as modified by paragraph 34 of Schedule 2 to those Regulations, derived from service in the 2015 Scheme is to be regarded as derived from service in this Scheme.

(10) Where paragraph (9) and paragraph 34(4) of Schedule 2 to the 2015 Regulations apply to a member of this Scheme, the pensionable pay to be regarded as derived from service in this Scheme is the pensionable pay derived from service in the 2015 Scheme under the 2015 Regulations as modified by paragraph 34 of Schedule 2 to those Regulations for the last year of pensionable service before the reduction in pensionable pay.

(11) Where the pensionable pay under the 2015 Regulations is the pensionable pay of the person employed as a retained firefighter or as a volunteer firefighter for the purposes of paragraphs (9) and (10) the pensionable pay under the 2015 Regulations is that of a wholtime regular firefighter employed in a similar role and with equivalent qualifying service.

(12) Where paragraph 34(3) of Schedule 2 to the 2015 Regulations applies to a person to whom paragraph (6) of rule A3 applies, average pensionable pay is determined in accordance with paragraph (3) of this rule and paragraph (9) does not apply in the case of that person.

(13) Subject to paragraph (12), where paragraph (9) applies—

- (a) in sub-paragraph (a) of paragraph (4), “the date of the person’s last day of service as a regular firefighter” is to be read as “the date of the person’s last day of service in scheme employment in the 2015 Scheme”;
- (b) in sub-paragraph (b) of paragraph (4), “in a period during which contributions were payable under rule G2” is to be read as “in a period during which member contributions were payable under regulation 110 of the 2015 Regulations”; and
- (c) in sub-paragraph (e) of paragraph (6), where any unpaid period of additional maternity leave or adoption leave is within a period for which the pensionable pay derived from 2015 scheme service is treated as pensionable pay derived from this Scheme, “contributions have been paid under rule G2A” is to be read as “where contributions have been paid under regulation 113 of the 2015 Regulations”.

(14) In a case where paragraphs (1) and (10) apply, in sub-paragraph (a) of paragraph (4) “the date of the person’s last day of service as a regular firefighter” is to be read as “the date of the person’s last day of service in scheme employment in the 2015 Scheme before the reduction of pensionable pay.”;

- (b) in rule G2A, after paragraph (3) insert—

“(3A) Where the regular firefighter returns to work, or ceases to be employed, after the date on which paragraph (6) of rule A3 applies to that person, the election under paragraph (3) may only be made in respect of the period before paragraph (6) applied to that person.”;

- (c) in rule G7, after paragraph (3) insert—

- “(4) In the case of a person to whom paragraph (7) of rule A3 applies—
- (a) periodical payments continue to be payable whilst paragraph (7) applies;
  - (b) where the person is entitled to the payment of an equivalent amount to the 1992 Scheme lower tier ill-health pension under regulation 65 of the 2015 Regulations and following review of that award under regulation 68 of those Regulations, accepts the offer of employment, the contributions again become payable.”; and
- (d) in rule G8—
- (i) in sub-paragraph (a) of paragraph (1), after “pension under rule” insert “B1A,”; and
  - (ii) after “B5 (“ insert “continued”.

### **Amendment of Schedule 1**

**40.** In Part 1 (glossary of expressions) of Schedule 1 (interpretation), in the appropriate place insert—

<i>“Expression</i>	<i>Meaning</i>
The 2013 Act	The Public Service Pensions Act 2013
The 2015 Regulations	The Firefighters’ Pension Scheme (Scotland) Regulations 2015
2015 pensionable service	Construe in accordance with rule F2(8)
The 2015 Scheme	The Firefighters’ Pension Scheme (Scotland) 2015 which is established in the 2015 Regulations
Continued pension	Construe in accordance with rule B2A
Continuous service pension	Construe in accordance with rule B1A
Equivalent amount to the 1992 lower tier ill-health pension	Construe in accordance with regulation 65(4) of the 2015 Regulations
Full protection member of this Scheme	A person who is a full protection member of this Scheme by virtue of paragraph 9 of Schedule 2 to the 2015 Regulations
Scheme closing date	31st March 2015
Tapered protection closing date	Construe in accordance with paragraph 3 of Schedule 2 to the 2015 Regulations
Tapered protection member of this Scheme	A person who is a tapered protection member of this Scheme by virtue of paragraph 15 of Schedule 2 to the 2015 Regulations”.

### **Amendment of Schedule 2**

- 41.** In Schedule 2—
- (a) after Part 2 (short service pension), insert—

## “PART 2A

### Continuous service pension

Subject to Parts 6A and 8 of this Schedule, the amount of a continuous service pension of a member of this Scheme to whom paragraph (7) of rule A3 applies, or has applied, is—

$$A/60 \times B/C \times APP$$

Where—

APP is the person’s average pensionable pay,

B is the period in years of the person’s pensionable service until the day before his transition date,

C is the period in years of his pensionable service and of his 2015 pensionable service (subject to a maximum of pensionable service of 40 years),

A is the sum of E + (F x 2) and must not exceed 40 years

Where—

E is the period in years of his pensionable service and of his 2015 pensionable service up to 20 years,

F is the period in years by which his pensionable service and his 2015 pensionable service exceeds 20 years.”; and

(b) in Part 6A—

(i) in paragraph 1, after sub-paragraph (b) insert—

“(ba) continuous service pension under Part 2A.”; and

(ii) after paragraph 2, insert—

“3. Where the award listed in paragraph 1 is a continuous service pension, the reference to “pensionable service” in paragraphs 1 and 2 includes 2015 pensionable service.”.