

2015 No. 143

FIRE SERVICES

PENSIONS

**The Firefighters' Compensation Scheme and Pension Scheme
(Amendment) (Scotland) Order 2015**

Made - - - - - *24th March 2015*

Laid before the Scottish Parliament *26th March 2015*

Coming into force in accordance with article 1

The Scottish Ministers make the following Order in exercise of the powers conferred by sections 34 and 60 of the Fire and Rescue Services Act 2004(a) and all other powers enabling them to do so.

In accordance with section 34(5) of that Act, they have consulted with such persons as they considered appropriate.

PART 1

General

Citation, commencement and effect

1.—(1) This Order may be cited as the Firefighters' Compensation Scheme and Pension Scheme (Amendment) (Scotland) Order 2015.

(2) Subject to paragraph (3), this Order comes into force on 31st March 2015.

(3) Articles 2 to 15, 21 and 22 come into force on 1st April 2015.

(4) Articles 18(3), 19(2) and (3) and 20 have effect from 1st April 2014 and article 17(3) has effect from 16th December 2014(b).

(a) 2004 c.21. Section 34 was relevantly amended by S.I. 2013/602 and paragraph 27 of Schedule 8 to the Public Service Pensions Act 2013 (c.25). The functions of the Secretary of State as regards Scotland were transferred to the Scottish Ministers by virtue of S.I. 2005/849.

(b) See section 34(3) of the Fire and Rescue Services Act 2004. An order made under this section may take effect from a date which is earlier than that on which the order is made.

PART 2

Amendment of the Firefighters' Compensation Scheme (Scotland) Order 2006

General

2. Schedule 1 to the Firefighters' Compensation Scheme (Scotland) Order 2006^(a) is amended in accordance with articles 3 to 15.

Amendment of Part 1 (interpretation)

3.—(1) Part 1 is amended as follows.

(2) In rule 2(1) (interpretation)—

(a) after the definition of “the 1992 Scheme”, insert—

““active member of the 2015 Scheme” has the meaning given in regulation 19 (active membership) of the 2015 Regulations;

“active member’s account” means the account established under regulation 31 (establishment of active member’s account) of the 2015 Regulations;”;

(b) after the definition of “the 2006 Scheme”, insert—

““the 2015 Regulations” means the Firefighters’ Pension Scheme (Scotland) Regulations 2015^(b);

“the 2015 Scheme” means the Firefighters’ Pension Scheme (Scotland) 2015 set out in the 2015 Regulations;”;

(c) after the definitions of “EEA State”, insert—

““eligible child’s pension” has the meaning given in regulation 84 (eligible child’s pension) of the 2015 Regulations;

“final pay” has the meaning given in regulation 93 (meaning of “final pay”) of the 2015 Regulations;”;

(d) after the definition of “injury”, insert—

““member of the 2015 Scheme” has the same meaning as “member” in regulation 3 (interpretation) of the 2015 Regulations;”;

(e) for the definition of “normal pension age”, substitute—

““normal pension age”, in relation to employees of a fire and rescue authority appointed on terms under which they are or may be required to engage in firefighting—

(a) in relation to the 1992 Scheme, means 55;

(b) in relation to the 2006 Scheme, means 60;

(c) in relation to the 2015 Scheme, means 60^(c);”;

(f) in the definition of “pensionable pay”, at the end insert—

“(c) in relation to the 2015 Scheme, shall be construed in accordance with regulation 17 (pensionable pay) of the 2015 Regulations;

(d) in the case of a person who is not a member of any of these Schemes, shall be construed in accordance with rule 11 of this Part;”;

(g) in the definition of “pensionable service”, at the end insert—

“(c) in relation to the 2015 Scheme, means the continuous period of pensionable service, in relation to an active member’s account for the scheme employment in

(a) S.S.I. 2006/338.

(b) S.S.I. 2015/19.

(c) See section 10(2) of the Public Service Pensions Act 2013 (c.25).

respect of which the award under this scheme is payable and any of the following types of service that have been added to, or transferred to, that account—

- (i) if applicable, any periods of pensionable service in relation to the 1992 Scheme or the 2006 Scheme that relates to the person's employment which is the same as, or most similar to, the employment in respect of which the award is payable;
- (ii) if applicable, any periods of pensionable service relating to any transfer value payments accepted under Part 9 (transfers) of the 2015 Regulations in respect of the person's accrued rights under another occupational pension scheme;
- (iii) if applicable, any periods of service relating to any pension account entries transferred in accordance with Chapter 4 of Part 4 of the 2015 Regulations; and
- (iv) if applicable, any periods of service relating to an added pension account established under regulation 38 (establishment of added pension account) of the 2015 Regulations relating to the member's scheme employment in respect of which the award is payable, such periods of service are to be calculated in accordance with such guidance as is provided for the purpose by the Government Actuary;"

(h) for the definition of "relevant service", substitute—

"“relevant service”, except in rule 1 of Part 7 (servicemen) and rule 1 of Part 7A (reservists), means service which either was, or would have been, reckonable as pensionable service but for—

- (a) an election under rule G3 of the 1992 Scheme;
- (b) an election under rule 5 of Part 2 of the 2006 Scheme;
- (c) the exercise of an option not to become an active member of the 2015 Scheme in accordance with Chapter 2 (pensionable service) of Part 3 of the 2015 Regulations;
- (d) a failure to elect under—
 - (i) rule G2A(a) of the 1992 Scheme;
 - (ii) rule 4 of Part 11 of the 2006 Scheme; or
 - (iii) regulation 113(3) (contributions during child-related leave) of the 2015 Regulations; or
- (e) a failure to exercise an option to become an active member of the 2015 Scheme in accordance with regulation 12 (opting into this scheme) of the 2015 Regulations;"

(i) after the definition of "retire", insert—

"“scheme employment” has the meaning given in regulation 6 (scheme employment) of the 2015 Regulations;"

(3) In rule 11(1) (determining pensionable pay in certain cases)—

- (a) after "the 2006 Scheme", where these words occur for the first time, insert "or the 2015 Scheme";
- (b) for sub-paragraph (c), substitute—

"(c) regulation 17 of the 2015 Regulations in the case of a person who—

 - (i) exercised an option not to become an active member of the 2015 Scheme in accordance with Chapter 2 of Part 3 of the 2015 Regulations; or
 - (ii) did not exercise an option to become an active member of the 2015 Scheme in accordance with regulation 12 of the 2015 Regulations;
- (d) rule 1 of Part 11 of the 2006 Scheme, where an election had been made at different times under the 1992 Scheme and the 2006 Scheme;

(a) Rule G2A was inserted by S.S.I. 2004/385 and amended by S.I. 2005/566.

- (e) except where sub-paragraph (d) applies, regulation 17 of the 2015 Regulations, in the case of a person who had at different times, in relation to all of the schemes (namely, the 1992 Scheme, the 2006 Scheme and the 2015 Scheme), or a combination of any two of them—
 - (i) made an election referred to in sub-paragraph (a) or sub-paragraph (b); or
 - (ii) exercised or not exercised an option referred to in sub-paragraph (c),
 as the case may be.”;
- (c) after paragraph (3), insert—

“(3A) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 2015 Scheme, the award must be calculated on the basis of the pay which would have been the final pay if he had not, in respect of sub-paragraph (c)(i), exercised an option; or in respect of sub-paragraph (c)(ii) failed to exercise an option.”.

Amendment of Part 2 (injury awards and duty-related compensation)

- 4.—(1) Part 2 is amended as follows.
- (2) In rule 3 (compensation for death or permanent incapacity while on duty), in paragraph (8), after “the 2006 Scheme” insert “or the 2015 Scheme”.
 - (3) In rule 4 (commutation of small compensatory pensions), in paragraph (1)(b), after “the 2006 Scheme”, insert “or regulation 105 of the 2015 Regulations”.

Amendment of Part 3 (awards on death: spouses and civil partners)

- 5.—(1) Part 3 is amended as follows.
- (2) In rule 1 (special award for spouse or civil partner)—
 - (a) in paragraph (3)—
 - (i) for “or, as the case may be, the deceased’s final pensionable pay”, in each place where the words occur, substitute “or the deceased’s final pensionable pay or final pay, as the case may be”;
 - (ii) in sub-paragraph (a)(ii), after “ill health retirement)” insert “or regulation 65 of the 2015 Regulations”;
 - (b) in paragraph (4), for “as the case may be, the deceased’s final pensionable pay” substitute “the deceased’s final pensionable pay or final pay, as the case may be”.
 - (3) In rule 4 (limitation where spouse or civil partner is living apart), for paragraph (1A) substitute—

“(1A) Paragraph (1) does not apply to a person—

 - (a) who is a member of the 2006 Scheme;
 - (b) who first takes up employment with a fire and rescue authority on or after 6th April 2006 and is entitled to be a member of the 2006 Scheme, but elects not to pay pension contributions;
 - (c) who is a member of the 2015 Scheme; or
 - (d) who is eligible to be an active member of the 2015 Scheme and—
 - (i) exercises an option not to become an active member of that scheme in accordance with Chapter 2 of Part 3 of the 2015 Regulations; or
 - (ii) does not exercise an option to become an active member of that scheme in accordance with regulation 12 of the 2015 Regulations.”.

- (4) In rule 5 (effect of new relationship), for paragraph (3) substitute—
- “(3) Paragraphs (1) and (2) do not apply to a person—
- (a) who is a member of the 2006 Scheme;
 - (b) who first takes up employment with the fire and rescue authority on or after 6th April 2006 and is entitled to be a member of the 2006 Scheme, but elects not to pay pension contributions;
 - (c) who is a member of the 2015 Scheme; or
 - (d) who is eligible to be an active member of the 2015 Scheme and—
 - (i) exercises an option not to become an active member of that scheme in accordance with Chapter 2 of Part 3 of the 2015 Regulations; or
 - (ii) does not exercise an option to become an active member of that scheme in accordance with regulation 12 of the 2015 Regulations.”.
- (5) In rule 6 (amount of survivor’s pension: special cases), for paragraph (1) substitute—
- “(1) This rule applies in relation to a person—
- (a) who is a member of the 2006 Scheme on the day on which the person dies;
 - (b) in respect of whom an election under rule 5(1) of Part 2 of the 2006 Scheme not to make pension contributions has effect on the day on which the person dies;
 - (c) who is a member of the 2015 Scheme on the day on which the person dies; or
 - (d) who is eligible to be an active member of the 2015 Scheme and—
 - (i) has exercised an option not to become an active member of that scheme in accordance with Chapter 2 of Part 3 of the 2015 Regulations which has effect on the day on which the person dies; or
 - (ii) has not exercised an option to become an active member of that scheme in accordance with regulation 12 of the 2015 Regulations on the day on which the person dies.”.

Amendment of Part 5 (awards on death: additional provisions)

6. In Part 5, in rule 5 (increase of pensions and allowances during first 13 weeks)—
- (a) at the end of paragraph (2)(b), omit “and”;
 - (b) at the end of paragraph (2)(c), insert—
 - “and
 - (d) any eligible child’s pension under the 2015 Regulations,”;
 - (c) in paragraph (5), after “the 2006 Scheme”, insert “or an eligible child’s pension under the 2015 Regulations”;
 - (d) in paragraph (7), after “the 2006 Scheme”, insert “or the 2015 Scheme”.

Amendment of Part 7 (servicemen)

7. In Part 7, in rule 2 (awards to servicemen), in paragraph (3)(b) after “the 2006 Scheme”, insert “or the 2015 Scheme”.

Amendment of Part 7A (reservists)

- 8.—(1) Part 7A is amended as follows.
- (2) In rule 1 (interpretation of Part 7A), in paragraph (1)(a)(ii), after “the 2006 Scheme” insert “or the 2015 Scheme”.

(3) In rule 2 (awards to reservists)—

(a) in paragraph (2), for “has effect”, substitute, “and regulation 65 (entitlement to lower tier ill-health pension and higher tier ill-health pension) of the 2015 Regulations have effect”.

(b) for paragraph (3)(a), substitute—

“(a) pay the reservist, instead of an ill-health pension under rule 2 of Part 3 of the 2006 Scheme or under regulation 65 of the 2015 Regulations, a pension at the rate of one twelfth of the reservist’s final pensionable pay or final pay, as the case may be;”.

(4) In rule 3 (awards on death of reservists), at the end of paragraph (2) insert “or increase any pension or eligible child’s pension payable under Chapter 3 of Part 6 of the 2015 Regulations.”.

Amendment of Part 8 (special cases)

9. In Part 8, in rule 2 (award for or in relation to a volunteer firefighter)—

(a) in paragraph (2), after “the 2006 Scheme”, insert “or the 2015 Scheme”;

(b) for paragraph (3), substitute—

“(3) The following provisions apply in relation to the awards to which a person, by virtue of paragraph (2), may be entitled—

(a) rules B7 (commutation), B9 (allocation) and B10 (limitation of commuted or allocated portion) of the 1992 Scheme;

(b) rule 9 (commutation: general) or rule 11 (allocation of pension) of Part 3 of the 2006 Scheme;

(c) regulation 109 (commutation of part of pension) or Chapter 6 (allocation of part of pension) of Part 5 of the 2015 Regulations.”;

(c) for paragraph (4), substitute—

“(4) Subject to paragraph (4A)—

(a) a person to whom paragraph (1) applies shall be treated for the purposes of rule B3 (ill-health awards) of the 1992 Scheme as having been a regular firefighter falling within the description in paragraph (10) below; and rules B7 (commutation), B9 (allocation), B10 (limitation of commuted or allocated portion), K1 (review of ill-health and certain deferred pensions), K1A (consequences of review) and K3 (reduction of award in case of default) of the 1992 Scheme apply accordingly in relation to the awards to which the person is thus entitled;

(b) if a person to whom paragraph (1) applies—

(i) has become a member of the 2006 Scheme, rule 9 or 11 of Part 3 of the 2006 Scheme, rule 1 of Part 9 of that Scheme (review of ill-health pension) and rule 2 of that Part (consequences of review) shall apply accordingly in relation to the awards to which the person is thus entitled;

(ii) has become a member of the 2015 Scheme, regulation 109 (commutation of part of pension), Chapter 6 (allocation of part of pension) of Part 5, regulation 68 (review of ill-health award or early payment of retirement pension) and regulation 69 (consequences of review) of the 2015 Regulations shall apply accordingly in relation to the awards to which the person is thus entitled.”;

(d) in paragraph (4A)—

(i) after “the 2006 Scheme”, where these words occur for the first time, insert “or the 2015 Scheme”;

(ii) after “ill-health retirement”, insert “or under regulation 65 (entitlement to lower tier ill-health pension and higher tier ill-health pension) of the 2015 Regulations”.

Amendment of Part 9 (review, withdrawal and forfeiture of awards)

10. In Part 9, in rule 2 (reduction of award in case of default)—

- (a) after paragraph (2)(b)(ii), insert—
 - “or
 - (iii) if the person is a member of the 2015 Scheme, that person’s state pension age, or 65th birthday if that is higher(a),”;
- (b) in paragraph (3), after “the 2006 Scheme”, insert “or Chapter 7 of Part 4 of the 2015 Regulations”.

Amendment of Part 10 (payment of awards and financial provisions)

11.—(1) Part 10 is amended as follows.

(2) In rule 3 (prevention of duplication)—

- (a) in paragraph (1)(b), after “the 2006 Scheme” insert “or the 2015 Scheme”;
- (b) in paragraph (2)—
 - (i) in sub-paragraph (a), after “the 2006 Scheme” insert “or Chapter 6 of Part 5 of the 2015 Regulations”;
 - (ii) in sub-paragraph (b), after “entitlement to pension)” insert, “or regulation 105 (entitlement to pension credit members’ pension) of the 2015 Regulations”;
 - (iii) in sub-paragraph (c), after “minimum pensions)” insert, “or regulation 166 (guaranteed minimum pension) of the 2015 Regulations”;
- (c) in paragraph (3) for “as the case may be, rule 4 of Part 13 of the 2006 Scheme” substitute “rule 4 of Part 13 of the 2006 Scheme, or regulation 8 (service in two or more scheme employments) and regulation 9 (application of Chapter 2 – Pensionable service) of the 2015 Regulations, as the case may be”;
- (d) in paragraph (4)(a), at the end, insert—
 - “or
 - (iii) under regulation 58 or 65 of the 2015 Regulations, a retirement pension or a lower tier ill-health pension or a higher tier ill-health pension;”.

(3) In rule 4 (prevention of duplication: other injury awards)—

- (a) in paragraph (1), after the definition of “Part 8 award”, insert—
 - ““regulation 65 award” means an entitlement to a lower tier ill-health pension or a higher tier ill-health pension under regulation 65 of the 2015 Regulations;”;
- (b) in paragraph (2)(b)(i), after “a rule 2 award,”, insert “a regulation 65 award,”;
- (c) in paragraphs (3) and (4), for “or, as the case may be, the rule 2 award” in each place where the words occur substitute “or the rule 2 award or the regulation 65 award, as the case may be,”.

(4) In rule 5 (prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters)—

- (a) at the end of paragraph (3)(k), omit “and”;
- (b) after paragraph (3)(l), insert—
 - “(m) a surviving partner’s pension under regulation 78, 79 or 80 of the 2015 Regulations;
 - (n) a surviving partner’s bereavement pension under regulation 81 of the 2015 Regulations;

(a) See section 10 of the Public Service Pensions Act 2013 (c.25) for meaning of “state pension age”.

- (o) an eligible child's pension under regulations 86, 87 or 88 of the 2015 Regulations;
- (p) an eligible child's bereavement pension under regulation 92 of the 2015 Regulations;
- (q) a lump sum payable on death under regulations 96 and 97 of the 2015 Regulations.”.

Amendment of Schedule 1 (injury awards and duty-related compensation)

12.—(1) Schedule 1 is amended as follows.

(2) In Part 1 (calculation of awards for full-time service)—

- (a) in paragraph 1, in the headings in the Table, for “or, as the case may be, final pensionable pay” in both places substitute “, final pensionable pay or final pay, as the case may be”;
- (b) after paragraph 1, insert—

“**1A.**—(1) In the event that an award becomes payable in respect of a qualifying injury sustained in the course of employment in relation to which a person is or is eligible to be an active member in the 2015 Scheme, relevant service, in the Table, means the total of—

- (a) any relevant service in relation to the 2015 Scheme that relates to the person's scheme employment which is the same as, or most similar to, the scheme employment in respect of which the award is payable; and
- (b) if applicable, any relevant service in relation to the 1992 Scheme or the 2006 Scheme that relates to the person's employment which is the same as, or most similar to, the employment in respect of which the award is payable.

(2) In the event that an award is payable to a person who is not an active member of the 2015 Scheme, or has elected not to make pension contributions under the 2006 Scheme or the 1992 Scheme, when calculating an award payable under this scheme, the person's 'relevant service' is determined according to the pension scheme the person would have been eligible to be a member of when the person sustained the qualifying injury.

(3) In sub-paragraph (2), “eligible to be a member” means a person's eligibility to be a member of any of the 1992 Scheme, the 2006 Scheme and the 2015 Scheme, pursuant to rule A3 (exclusive application to regular firefighters) of the 1992 Scheme, rule 1 of Part 2 of the 2006 Scheme or regulation 7 of, or Schedule 2 to, the 2015 Regulations, as the case may be.”;

- (c) in paragraph 2(1), after “the 2006 Scheme”, insert “or regulation 65 of the 2015 Regulations”;
- (d) in paragraph 2(2), after “the 2006 Scheme”—
 - (i) where the words occur for the first time, insert “or the exercise of an option not to become an active member of the 2015 Scheme in accordance with Chapter 2 of Part 3 of the 2015 Regulations”;
 - (ii) where the words occur for the second time, insert “or regulation 113(3) of the 2015 Regulations or failed to exercise an option to become an active member of the 2015 Scheme in accordance with regulation 12 of the 2015 Regulations”;
- (e) in paragraph 2(3)(a), after “the 2006 Scheme”, insert “or regulation 109 (commutation of part of pension) or Chapter 6 (allocation of part of pension) of Part 5 of the 2015 Regulations”.

(3) In Part 2 (calculation of awards for part-time service)—

- (a) in paragraph 2(1), for “or, as the case may be, the final pensionable pay”, substitute “, final pensionable pay or final pay, as the case may be”;
- (b) after paragraph 2(2), insert—

“(3) Where the person is or is eligible to be an active member in the 2015 Scheme, “relevant service” in B, C and D means the total of the service referred to in paragraph 1A(1)(a) and (b) of Part 1 of Schedule 1.”.

(4) In Part 3 (calculation of awards for retained or volunteer service), in paragraph 1, for “paragraph 1 of Part 1”, substitute “the Table in paragraph 1 of Part 1 of this Schedule”;

Amendment of Schedule 2 (awards for spouses and civil partners)

13.—(1) Schedule 2 is amended as follows.

(2) In Part 1 (special pension)—

(a) in paragraph 1, for “or, as the case may be, final pensionable pay”, substitute “, final pensionable pay or final pay, as the case may be”;

(b) in paragraph 2—

(i) in sub-paragraph (1), for “or, as the case may be, the final pensionable pay”, substitute “, the final pensionable pay or the final pay, as the case may be”;

(ii) after sub-paragraph (2) insert—

“(3) Where the person is or is eligible to be an active member in the 2015 Scheme, “relevant service” in B, C and D means the total of the service referred to in paragraph 1A(1)(a) and (b) of Part 1 of Schedule 1.”.

(c) after paragraph 3(2) insert—

“(3) Where the person is or is eligible to be an active member in the 2015 Scheme, “relevant service” in C means the total of the service referred to in paragraph 1A(1)(a) and (b) of Part 1 of Schedule 1.”.

(3) In Part 2 (award for surviving spouse of post-retirement marriage where deceased a member of the 1992 scheme but not a member of the 2006 scheme), in paragraph 1(1)(b), after “2006 Scheme”, insert “or the 2015 Scheme”.

Amendment of Schedule 3 (awards on death: children)

14. In Part 1 (child’s special allowance) of Schedule 3—

(a) in paragraph 1, for “or, as the case may be, the deceased’s final pensionable pay”, substitute “, the deceased’s final pensionable pay or final pay, as the case may be”;

(b) in paragraph 4(2), for “or, as the case may be, the deceased’s final pensionable pay”, substitute “the deceased’s final pensionable pay or final pay, as the case may be”;

(c) in paragraph 5—

(i) the existing provision becomes sub-paragraph (1);

(ii) after sub-paragraph (1), insert—

“(2) Where the person is or is eligible to be an active member in the 2015 Scheme, “relevant service” in C means the total of the service referred to in paragraph 1A(1)(a) and (b) of Part 1 of Schedule 1.”.

Amendment of Schedule 4 (awards on death: additional provisions)

15. In Part 1 (adult dependent relative’s special pension) of Schedule 4—

(a) in paragraphs 1, 2 and 3, for “or, as the case may be, the deceased’s final pensionable pay”, in each place where the words occur, substitute “or the deceased’s final pensionable pay or final pay, as the case may be”.

(b) in paragraph 4—

(i) the existing provisions become sub-paragraph (1);

(ii) after “final pensionable pay”, insert “or final pay”;

(iii) before “relevant service”, omit “his”;

(iv) after sub-paragraph (1), insert—

“(2) Where the person is or is eligible to be an active member in the 2015 Scheme, “relevant service” in C means the total of the service referred to in paragraph 1A(1)(a) and (b) of Part 1 of Schedule 1.”.

PART 3

Amendment of the Firefighters’ Pension Scheme (Scotland) Order 2007

General

16. Schedule 1 to the Firefighters’ Pension Scheme (Scotland) Order 2007(a) is amended in accordance with articles 17 to 22.

Amendment of Part 1 (citation and interpretation)

17.—(1) Part 1 is amended as follows.

(2) In rule 2(1) (interpretation)—

(a) after the definition of “the 2004 Act”, insert—

““the 2015 Regulations” means the Firefighters’ Pension Scheme (Scotland) Regulations 2015(b) which established the Firefighters’ Pension Scheme (Scotland) 2015;

“the 2015 Scheme” means the Scheme established by the 2015 Regulations;”;

(b) after the definition of “firefighter member”, insert—

““full protection member of this Scheme” means a person who is a full protection member of this Scheme by virtue of paragraph 9 of Schedule 2 to the 2015 Regulations;”;

(c) for the definition of “limited period”, substitute—

““limited period” means the period beginning on 1st July 2000 or if later, the date falling before 6th April 2006, on which the person was first employed as a retained firefighter and ending on—

(a) the earlier of—

(i) the date on which that person joined this Scheme as a special member or as a standard member in respect of service which he or she could otherwise reckon as special pensionable service, and

(ii) the date, if applicable, on which he or she ceased to be employed as a retained or a regular firefighter;

(b) in the case of a person who joins this Scheme as a provisionally enrolled member on 31st March 2015 and who on or after 1st April 2015—

(i) does not become a full protection member of this Scheme or a tapered protection member of this Scheme, 31st March 2015,

(ii) becomes a full protection member of this Scheme, the date on which that person joins this Scheme as a special member,

(iii) becomes a tapered protection member of this Scheme, the earlier of the date the person joins this Scheme as a special member, and the member’s tapered protection closing date, within the meaning given in paragraph 3 of Schedule 2 to the 2015 Regulations;”;

(a) S.S.I. 2007/199.

(b) S.S.I. 2015/19.

- (d) after the definition of “personal pension scheme”, insert—
 - ““provisionally enrolled member” has the meaning given in rule 1(11) of Part 2;”;
 - (e) in the definition of “special deferred member”, for “1A(5) to (8)” substitute “1A(6) to (9)”;
 - (f) in the definition of “special eligibility conditions”, for “has the meaning given” substitute “means the conditions specified”;
 - (g) in the definition of “special firefighter member”, for “1A(1) to (4)” substitute “1A(1) to (5)”;
 - (h) in the definition of “special pensioner member”, for “1A(9) to (13)” substitute “1A(10) to (14)”;
 - (i) after the definition of “survivor’s pension”, insert—
 - ““tapered protection member of this Scheme” means a person who is a tapered protection member of this Scheme by virtue of paragraph 15 of Schedule 2 to the 2015 Regulations;”.
- (3) After rule 3, insert—

“Marriage of a same sex couple

4.—(1) In this Scheme—

- (a) a reference to civil partnership is to be read as including a reference to marriage of a same sex couple;
- (b) a reference to civil partners is to be read as including a reference to a married same sex couple; and
- (c) a reference to a person who is in a civil partnership is to be read as including a reference to a person who is married to a person of the same sex.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to a civil partnership that has ended, or a reference to a person whose civil partnership has ended) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2), it does not matter how a reference is expressed.

Living together as a same sex couple

5.—(1) In this Scheme—

- (a) a reference to persons who are not in a civil partnership but are living together as civil partners is to be read as including a reference to a same sex couple who are not married but are living together as a married couple; and
- (b) a reference to a person who is living with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.”.

Amendment of Part 2 (scheme membership, cessation and retirement)

18.—(1) Part 2 is amended as follows.

- (2) In rule 1 (scheme membership), after paragraph (10) insert—
- “(11) A person is a provisionally enrolled member of this Scheme if the person—
- (a) satisfies the conditions in rule 6C(2) of Part 11; and
 - (b) is not eligible to become a provisionally enrolled member pursuant to rule 6C(3) of Part 11”.
- (3) In rule 2A(2) (special eligibility conditions)—
- (a) for “a rule 2A” substitute “rule 2A”; and
 - (b) after “(retrospective award on ill-health retirement)” insert “of Part 3”.

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

19.—(1) Part 11 is amended as follows.

(2) In rule 5A(1) (purchase of service during the limited period) omit “member”.

(3) In rule 6A (election to purchase service during the limited period), after paragraph (13) insert—

“(14) In respect of the pension contributions referred to in paragraph (12), interest is payable in respect of contributions payable from and including 6th April 2006, until the date on which the person joins this Scheme as a standard member (“the assumed standard period”).

(15) Interest is payable in respect of the pension contribution required to be paid in respect of a special member’s service during the assumed standard period as follows—

- (a) for the purposes of calculating interest under this paragraph it shall be assumed that in respect of the assumed standard period, pension contributions were payable by monthly periodic contributions from the date that the member’s first standard monthly contributions would have been paid;
- (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), (8) of this rule;
- (c) in relation to assumed standard 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(1) 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 assumed standard 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—

“assumed special period pension contributions” means the pension contribution payable in respect of a special member’s service during the assumed standard period under rule 6A of Part 11;

“calculation date” means—

- (a) in the case of a lump sum contribution, the date when the lump sum is paid; and

- (b) in the case of payment of the assumed standard period pension contribution by periodic contribution, the date when the member joined this Scheme as a special member;

“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%;

“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.”.

(4) In rule 6B (election to purchase service during the limited period: supplemental provision), at the end of paragraph (2) insert “except where an election is made by a provisionally enrolled member, in which case the election may not take effect after 30th September 2015”.

(5) After rule 6B insert—

“Election to purchase service: provisional enrolment

6C.—(1) Subject to paragraph (3), a person who satisfies the conditions in paragraph (2) of this rule joins this Scheme as a provisionally enrolled member on 31st March 2015.

(2) The conditions are that on or before 31st March 2015—

- (a) the person has been notified by the authority, that he or she may be entitled to join this Scheme as a special member, pursuant to rule 5A(4) of this Part; or
- (b) the authority referred to in rule 5A(4) of this Part has received from the person an application for a statement of service, pursuant to rule 5A(5) of this Part.

(3) A person cannot become a provisionally enrolled member if, on or before 31st March 2015, the person—

- (a) has become a special member of this Scheme;
- (b) has informed the authority that the person does not want to elect to join this Scheme as a special member; or
- (c) has been notified by the authority that the person is no longer eligible to join this Scheme as a special member.

(4) On or before 31st May 2015, the authority must give a provisionally enrolled member a notice as referred to under rule 5A(13) of this Part, unless the authority has already provided the person with such a notice.

(5) Subject to rule 6B(12) of this Part, if a provisionally enrolled member—

- (a) gives the authority written notice of an election to pay mandatory special period pension contributions in respect of service during the mandatory special period under rule 6A of this Part, the election takes effect on the day on which the notice of election is received by the authority, and the person ceases to be a provisionally enrolled member of this Scheme and becomes a special member of this Scheme;
- (b) does not give the authority written notice on or before 30th September 2015 of an election to pay mandatory special period pension contributions in respect of service during the mandatory special period under rule 6A of this Part, the person ceases to be a provisionally enrolled member of this Scheme.”.

Amendment of Annex ZA (commuted portion: special members)

20. In Annex ZA, for the table substitute—

“Years	<i>Age in years and completed months on day pension commences</i>											
	0	1	2	3	4	5	6	7	8	9	10	11
Below 50	23.4											
50	22.4	22.3	22.3	22.3	22.3	22.2	22.2	22.2	22.2	22.1	22.1	22.1
51	22.1	22.0	22.0	22.0	22.0	21.9	21.9	21.9	21.9	21.8	21.8	21.8
52	21.8	21.7	21.7	21.7	21.7	21.6	21.6	21.6	21.6	21.5	21.5	21.5
53	21.5	21.4	21.4	21.4	21.3	21.3	21.3	21.3	21.2	21.2	21.2	21.1
54	21.1	21.1	21.1	21.0	21.0	21.0	21.0	20.9	20.9	20.9	20.9	20.8
55	20.8	20.8	20.8	20.7	20.7	20.7	20.6	20.6	20.6	20.5	20.5	20.5
56	20.4	20.4	20.4	20.4	20.3	20.3	20.3	20.2	20.2	20.2	20.1	20.1
57	20.1	20.0	20.0	20.0	19.9	19.9	19.9	19.8	19.8	19.8	19.7	19.7
58	19.7	19.6	19.6	19.6	19.5	19.5	19.5	19.4	19.4	19.4	19.3	19.3
59	19.3	19.2	19.2	19.2	19.1	19.1	19.1	19.0	19.0	19.0	18.9	18.9
60	18.9	18.8	18.8	18.7	18.7	18.7	18.6	18.6	18.6	18.5	18.5	18.5
61	18.4	18.4	18.4	18.3	18.3	18.2	18.2	18.2	18.1	18.1	18.1	18.0
62	18.0	18.0	17.9	17.9	17.8	17.8	17.8	17.7	17.7	17.7	17.6	17.6
63	17.5	17.5	17.5	17.4	17.4	17.4	17.3	17.3	17.2	17.2	17.2	17.1
64	17.1	17.1	17.0	17.0	16.9	16.9	16.9	16.8	16.8	16.8	16.7	16.7
65	16.6”											

Amendment of Annex A1 (pension contributions)

21. For the Table in paragraph 5 of Annex A1, substitute—

<i>“Pensionable pay</i>	<i>Contribution rate from 1st April 2015 to 31st March 2016 (percentage of pensionable pay)</i>
Up to and including £15,150	8.5%
More than £15,150 and up to and including £21,210	9.4%
More than £21,210 and up to and including £30,300	10.4%
More than £30,300 and up to and including £40,400	10.9%
More than £40,400 and up to and including £50,500	11.2%
More than £50,500 and up to and including £60,600	11.3%
More than £60,600 and up to and including £101,000	11.7%
More than £101,000 and up to and including £121,200	12.1%
More than £121,200	12.5%

<i>Pensionable pay</i>	<i>Contribution rate from 1st April 2016 to 31st March 2017 (percentage of pensionable pay)</i>
Up to and including £15,301	8.5%
More than £15,301 and up to and including £21,422	9.4%
More than £21,422 and up to and including £30,603	10.4%
More than £30,603 and up to and including £40,804	10.9%
More than £40,804 and up to and including £51,005	11.2%
More than £51,005 and up to and including £61,206	11.3%
More than £61,206 and up to and including £102,010	11.7%
More than £102,010 and up to and including £122,412	12.1%
More than £122,412	12.5%

<i>Pensionable pay</i>	<i>Contribution rate from 1st April 2017 to 31st March 2018 (percentage of pensionable pay)</i>
Up to and including £15,454	8.5%
More than £15,454 and up to and including £21,636	9.4%
More than £21,636 and up to and including £30,909	10.4%
More than £30,909 and up to and including £41,212	10.9%
More than £41,212 and up to and including £51,515	11.2%
More than £51,515 and up to and including £61,818	11.3%
More than £61,818 and up to and including £103,030	11.7%
More than £103,030 and up to and including £123,636	12.1%
More than £123,636	12.5%

<i>Pensionable pay</i>	<i>Contribution rate from 1st April 2018 (percentage of pensionable pay)</i>
Up to and including £15,609	8.5%
More than £15,609 and up to and including £21,852	9.4%
More than £21,852 and up to and including £31,218	10.4%
More than £31,218 and up to and including £41,624	10.9%
More than £41,624 and up to and including £52,030	11.2%
More than £52,030 and up to and including £62,436	11.3%

More than £62,436 and up to and including £104,060	11.7%
More than £104,060 and up to and including £124,872	12.1%
More than £124,872	12.5%

Amendment of Annex AB1 (pension contributions for special members)

22.—(1) Annex AB1 is amended as follows.

(2) In the table in paragraph 6, in the heading of the fourth column after “2014” insert “to 31st March 2015”.

(3) After that table, insert—

<i>“Pensionable pay</i>	<i>Contribution rate from 1st April 2015 to 31st March 2016 (percentage of pensionable pay)</i>
Up to and including £15,150	11.0%
More than £15,150 and up to and including £21,210	12.2%
More than £21,210 and up to and including £30,300	14.2%
More than £30,300 and up to and including £40,400	14.7%
More than £40,400 and up to and including £50,500	15.2%
More than £50,500 and up to and including £60,600	15.5%
More than £60,600 and up to and including £101,000	16.0%
More than £101,000 and up to and including £121,200	16.5%
More than £121,200	17.0%

<i>Pensionable pay</i>	<i>Contribution rate from 1st April 2016 to 31st March 2017 (percentage of pensionable pay)</i>
Up to and including £15,301	11.0%
More than £15,301 and up to and including £21,422	12.2%
More than £21,422 and up to and including £30,603	14.2%
More than £30,603 and up to and including £40,804	14.7%
More than £40,804 and up to and including £51,005	15.2%
More than £51,005 and up to and including £61,206	15.5%
More than £61,206 and up to and including £102,010	16.0%
More than £102,010 and up to and including £122,412	16.5%
More than £122,412	17.0%

<i>Pensionable pay</i>	<i>Contribution rate from 1st April 2017 to 31st March 2018 (percentage of pensionable pay)</i>
Up to and including £15,454	11.0%
More than £15,454 and up to and including £21,636	12.2%
More than £21,636 and up to and including £30,909	14.2%
More than £30,909 and up to and including £41,212	14.7%
More than £41,212 and up to and including £51,515	15.2%
More than £51,515 and up to and including £61,818	15.5%
More than £61,818 and up to and including £103,030	16.0%
More than £103,030 and up to and including £123,636	16.5%
More than £123,636	17.0%

<i>Pensionable pay</i>	<i>Contribution rate from 1st April 2018 (percentage of pensionable pay)</i>
Up to and including £15,609	11.0%
More than £15,609 and up to and including £21,852	12.2%
More than £21,852 and up to and including £31,218	14.2%
More than £31,218 and up to and including £41,624	14.7%
More than £41,624 and up to and including £52,030	15.2%
More than £52,030 and up to and including £62,436	15.5%
More than £62,436 and up to and including £104,060	16.0%
More than £104,060 and up to and including £124,872	16.5%
More than £124,872	17.0%''

JOHN SWINNEY
A member of the Scottish Government

St Andrew's House,
Edinburgh
24th March 2015

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 1 to the Firefighters' Compensation Scheme (Scotland) Order 2006 (S.S.I. 2006/338) which provides for a compensation scheme for firefighters and dependants of firefighters in Scotland ("the Compensation Scheme"). The amendments to the Compensation Scheme set out in Part 2 of this Order are consequential on the coming into force of the Firefighter's Pension Scheme 2015 ("the 2015 Scheme") set out in the Firefighters' Pension Scheme (Scotland) Regulations 2015 (S.S.I. 2015/19) for firefighters employed by the Scottish Fire and Rescue Authority ("the authority").

This Order also amends Schedule 1 to the Firefighters' Pension Scheme (Scotland) Order 2007 (S.S.I. 2007/199) which sets out the New Firefighters' Pension Scheme (Scotland) ("the 2006 Scheme").

The main effects of the amendments to the Compensation Scheme made by Part 2 of this Order are the insertion of references to relevant provisions of the 2015 Scheme to ensure that the provisions of the Compensation Scheme apply to members of the 2015 Scheme, the 2006 Scheme and the Firefighters' Pension Scheme (set out in Schedule 2 to S.I. 1992/129).

The main effects of the amendments to the 2006 Scheme made by Part 3 of this Order are to:

- (a) update provisions and terminology as a consequence of the coming into force of the 2015 Pension Scheme;
- (b) introduce provisions dealing with same sex marriage;
- (c) make minor amendments to clarify references in the definitions of special deferred member, special eligibility criteria, special firefighter member, and special pensioner member;
- (d) clarify provisions relating to the payment of interest;
- (e) extend the time available to the authority to complete the options exercise for the 'modified scheme' up to a maximum of 6 months. The 2006 Scheme was amended in April 2014 to introduce provisions enabling individuals employed as retained firefighters during the period 1st July 2000 and 5th April 2006, to purchase pension benefits in respect of this employment ("the Modified Scheme"). The authority had until 31st March 2015 to undertake and conclude an options exercise to identify all those former and current employees with an entitlement to join the Modified Scheme. The provisions extend this time period by 6 months;
- (f) amend the commutation factors table set out in Annex ZA to reflect the commutation factors as on 31st March 2014;
- (g) uprate the contribution bands by 1% per annum each year until 1st April 2018. Annex A1 of the 2006 Scheme sets out the contribution rates payable by members which are determined by reference to the applicable pensionable pay band. Annex AB1 sets out the contribution rates for special members. This Order amends both tables to provide an annual one per cent uplift in the pay bands until 2018.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private sector or voluntary sectors is foreseen and the impact on the public sector is minimal.

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