

## SCHEDULE

### PART II

#### OTHER PROVISIONS

1. In article 5 (aggregate contributions), in paragraph (1)(a) for the words “he is entitled” substitute “he is, or was immediately before electing under article 56A(1) not to pay pension contributions, entitled”.

2. In article 8 (meaning of expressions), in paragraph (1) after the definition of “service pension” insert:

““tax year” means the 12 months beginning with 6th April in any year;”.

3. In article 12 (fireman’s ordinary pension), in paragraph (1) for the words “shall be entitled” substitute “shall, unless immediately before his retirement an election under article 56A(1) not to pay pension contributions had effect, be entitled”.

4. In article 13 (short service award) —

(a) in paragraphs (1) and (4) for the words “shall be entitled” substitute “shall, unless immediately before his retirement an election under article 56A(1) not to pay pension contributions had effect, be entitled”; and

(b) in paragraphs (2) and (4) for the words “5 years” substitute “2 years”.

5. In article 14 (ill-health award) —

(a) in paragraph (1) for the words “shall be entitled” substitute “shall, unless immediately before his retirement an election under article 56A(1) not to pay pension contributions had effect, be entitled”; and

(b) in paragraph (2)(a) for the words “5 years” substitute “2 years”.

6. In article 16 (deferred pension and award where no transfer value and no other award is payable) —

(a) in paragraph (1) after the words “ceased to be a member of a brigade” insert “, or who has elected under article 56A(1) not to pay pension contributions”;

(b) in paragraph (2) after the word “brigade” insert “, or, as the case may be, when the election under article 56A(1) takes effect”; and

(c) in paragraph (3) after the words “ceased to be a member of a brigade” insert “or has, within 3 months of his last becoming a regular fireman, elected under article 56A(1) not to pay pension contributions”.

7. In article 16B (supplementary provisions about deferred pensions) in paragraph (1) —

(a) for the words “five years”, wherever occurring, substitute “2 years”; and

(b) at the end of the proviso insert “nor to the extent, if any, that it comprises a period during which an election under article 56A(1) not to pay pension contributions had effect”.

8. In article 18 (cancellation of ill-health and injury pensions) —

(a) after paragraph (1) insert:

“(1A) The fire authority may also consider as mentioned in paragraph (1) in the case of a person who —

(a) has elected under article 56A(1) not to pay pension contributions, and

(b) is entitled under article 16 to a deferred pension, and

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- (c) has begun to receive payment on account of the pension on being required to retire under article 97 (compulsory retirement on grounds of incapacity).”;
  - (b) in paragraph (2) after the words “ill-health pension” insert  
“or, in a case falling within paragraph (1A), may determine that payment of the deferred pension shall be suspended, that is to say, that the pension shall not be payable in respect of any period before —
    - (a) his 60th birthday, or
    - (b) if sooner, his again becoming permanently disabled”;
  - (c) in paragraph (3) after the word “terminated” insert “, or payment of a deferred pension is suspended,”, and after the word “termination”, wherever occurring, insert “or suspension”;
  - and
  - (d) in paragraph (4) after the words “pension is terminated” insert “, or payment of a deferred pension is suspended,”, and for the words “that pension” substitute “, an ill-health pension”.
- 9.** In article 22 (widow’s ordinary pension), in paragraph (1)(a) after the word “fireman” insert “, unless an election under article 56A(1) not to pay pension contributions had effect at the time of his death”.
- 10.** In article 27 (widow’s award where no other award payable) —
- (a) in paragraph (1) after the words “regular fireman” insert “by whom pension contributions have at any time been payable under article 56”; and
  - (b) in paragraph (2) for the words “or 23” substitute “, 23 or 25”.
- 11.** In article 27A (widow’s temporary and requisite benefit pensions), in paragraph (1) after the words “regular fireman” insert “by whom pension contributions have at any time been payable under article 56 and who was”.
- 12.** In article 33 (child’s ordinary allowance), in paragraph (1)(a) after the word “fireman” insert “, unless an election under article 56A(1) not to pay pension contributions had effect at the time of his death”.
- 13.** In article 47 (current service), in paragraph (a) after the words “1st April 1972” insert “, except a period during which pension contributions were not payable under article 56”.
- 14.** In article 55 (pensionable pay and average pensionable pay) —
- (a) in the proviso to paragraph (1) —
    - (i) after the words “1st June 1989,” insert “except where regulation 4 of the Retirement Benefits Schemes (Tax Relief on Contributions) (Disapplication of Earnings Cap) Regulations 1990(1) applies”, and
    - (ii) for the words from “that pay” to “£60,000” substitute “, in any tax year, the pay determined in accordance with this paragraph exceeds the figure which is the permitted maximum for that year for the purposes of section 594(2) and (3) of the Income and Corporation Taxes Act 1988(2) (that is to say, the figure specified for the year by an order made by the Treasury under section 590C(6) of that Act)”;
  - (b) in paragraph (5) for the words after “pensionable pay” substitute  
“is —

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(1) [S.I. 1990/586](#).

(2) [1988 c. 1](#); section 590C was inserted, and section 594 amended, by the Finance Act [1989 \(c. 26\)](#), section 75 and Schedule 6, paragraphs 4 and 6.

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- (a) in the case of an award under article 15 (injury awards), 23 (widow's special award), 27 (widow's award where no other award payable), 31 (dependent relative's special pension), 34 (child's special allowance) or 35 (child's special gratuity), the date of his last day of service as a regular fireman, and
- (b) in any other case, the date of his last day of service in a period during which pension contributions were payable under article 56.”.

15. In article 56 (pension contributions) after the word “shall” insert “, except while an election under article 56A(1) has effect,”.

16. After article 56 insert:

**“Election not to pay pension contributions**

**56A.**—(1) Subject to paragraph (8), a regular fireman may at any time, by giving written notice to the fire authority, elect that article 56 is not to apply in his case.

(2) Subject to paragraph (3), an election under paragraph (1) takes effect on the first date after the notice is received on which an instalment of pay falls due.

(3) In the case of a person who —

(a) last became a regular fireman on a date (“the material date”) later than 5th April 1988, and

(b) has given notice under paragraph (1) within 3 months after the material date, the election shall be treated as having taken effect on the material date.

(4) Where an election is to be treated as having taken effect on the material date —

(a) the fire authority shall repay the person the pension contributions paid by him since that date, and

(b) for the purposes of articles 27 and 27A pension contributions shall be taken not to have been payable by him at any time.

(5) Subject to paragraph (6), a person who has made an election under paragraph (1) may, not later than his 45th birthday, cancel it by giving written notice to the fire authority.

(6) The fire authority may resolve that a person's election may not be cancelled unless he has undergone a medical examination, at his own expense, and satisfied them as to his good health.

(7) Where an election is cancelled it ceases to have effect on the first date after the notice is received on which an instalment of pay falls due.

(8) A person who has cancelled an election made under paragraph (1) may not make a further election under that paragraph during the same period of service as a regular fireman.

**Supplementary provision as to elections not to pay pension contributions**

**56B.**—(1) Any written notification given to a fire authority in anticipation of article 56A shall be treated as having been a notice given under that article.

(2) A notification is one given in anticipation of article 56A if —

(a) it was given after 5th April 1988 and before 1st October 1990,

(b) it expressed a wish not to pay, or as the case may be a wish to resume payment of, pension contributions, and

(c) it was given on the understanding that if this Scheme were varied so as to contain provisions for the making and cancellation, by notice, of elections not to pay

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pension contributions it would be treated as having been a notice given under those provisions.

(3) In the case of a person who —

- (a) was serving as a regular fireman on 6th April 1988,
- (b) gave a written notification treated by virtue of paragraph (1) as notice of an election under article 56A(1) not to pay pension contributions, and
- (c) attained the age of 45 before 6th April 1989,

a written notification given in anticipation of article 56A before 6th April 1989 expressing a wish to resume payment of pension contributions shall be treated as having been an effective notice of cancellation given under article 56A(5) even if it was not given before his 45th birthday.”.

**17.** In article 58 (additional and further payments) in paragraph (5) —

(a) for the words “cease to be payable on retirement” substitute

“cease to be payable —

- (a) on retirement, or
- (b) if he elects under Article 56A(1) not to pay pension contributions, on the date on which the election takes effect”; and

(b) after the words “Schedule 1” insert “, and if an election made under article 56A(1) is cancelled any contributions that were payable under this article immediately before the election took effect become payable again from the date on which it ceases to have effect”.

**18.** In article 80C (purchase of additional benefits by lump sum payment), in paragraph (1) after the words “serving as a regular fireman” insert “and paying pension contributions under article 56”.

**19.** In article 80D (purchase by periodical contributions) —

(a) in paragraph (1) after the words “serving as a regular fireman” insert “and paying pension contributions under article 56”;

(b) after paragraph (2)(b) insert: “or

(c) the date on which any election under article 56A(1) not to pay pension contributions takes effect,”; and

(c) in paragraph (4) for the words from “and who” to “as such, the” substitute

“and —

- (a) having retired with an ill-health pension before his retirement date, resumes service as such, or
- (b) having elected under article 56A(1) not to pay pension contributions, cancels that election,

the”.

**20.** In article 80H (reckoning of additional benefits) —

(a) in paragraph (1) for the words from “save that where” to “article 80G” substitute

“save that where —

- (a) he had discontinued payment on grounds of financial hardship under article 80G, or
- (b) he had made an election under article 56A(1) which was subsequently cancelled under article 56A(5),”;

(b) after paragraph (1) insert —

“(1A) Paragraph (1) does not have effect in relation to a regular fireman who has at any time made an election under article 56A(1) which has not been cancelled under article 56A(5).”; and

(c) in paragraph (2) —

(i) after the words “that election” insert “either”, and

(ii) after the words “article 16D” insert “or elects under article 56A(1) not to pay pension contributions”.

**21.** In article 91A (contracting-out) —

(a) in paragraph (3) for the words from “a widow” to “birthday, her” substitute “a person entitled to a pension under paragraph (4)(b) or (c) remarries before attaining insured pensionable age, the”;

(b) in paragraph (4)(b) for the word “where” substitute “in the case of a man, where”; and

(c) after paragraph (4)(b) insert: “and

(c) in the case of a woman who has died after 5th April 1988 leaving a widower, then, unless any pension to which she had become entitled has been so withdrawn, the widower is entitled to a pension at a rate equal to one half of that part of her guaranteed minimum which is attributable to earnings factors for the tax year 1988—89 and subsequent tax years.”.

**22.** After article 91A insert —

**“Revaluation of guaranteed minimum**

**91AA.**—(1) This article applies where a person —

(a) has ceased to serve as a regular fireman, or

(b) has elected under article 56A(1) not to pay pension contributions,

and has taken a right to a cash equivalent by exercising the option conferred by paragraph 13(2) of Schedule 1A to the Social Security Pensions Act 1975(3) (“the Pensions Act”) wholly or partly in the way specified in paragraph 13(2)(b) (purchase of annuity).

(2) Where this article applies, to the extent that the person’s guaranteed minimum is other-wise appropriately secured within the meaning of section 52C(4) of the Pensions Act(4)—

(a) for the purposes of section 35(2) of that Act (amount of guaranteed minimum) his earnings factors shall be determined by reference to the last order under section 21 of that Act to come into force before the end of the tax year in which he ceased to serve or, as the case may be, in which his election under article 56A(1) took effect and without reference to any subsequent order, and

(b) the weekly equivalent mentioned in section 35(2) of that Act shall be increased in accordance with any additional requirements for the time being prescribed for the purposes of section 45(1)(b) (exclusion from liability to pay a limited revaluation premium).”.

**23.** In article 96 (compulsory retirement), in paragraph (4) after the words “50 years and” insert “has, or but for an election under article 56A(1) would have,”.

(3) 1975 c. 60; Schedule 1A was inserted by the Social Security Act 1985 (c. 53), Schedule 1, paragraph 3, and amended by the Social Security Act 1986 (c. 50), Schedule 10, paragraphs 29 and 30.

(4) Section 56C was inserted by the Social Security Act 1985, Schedule 1, paragraph 2, and amended by the Social Security Act 1986, Schedule 10, paragraph 26.

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**24.** In Part V of Schedule 1 (injury awards) —

(a) in paragraph 2 —

(i) for the words “the number of his completed years of pensionable service”, and

(ii) for the words “his completed years of pensionable service” in the second place in which they occur,

substitute “the number of years of pensionable service he has, or but for an election under article 56A(1) would have, completed”; and

(b) in paragraph 3(1) after the words “qualifying injury” insert “or, where an election under article 56A(1) had effect, by the amount of any other pension which would otherwise have been so calculated”.

**25.** In Part VI of Schedule 1 (deferred pension), in paragraph (1)(b) after the words “he would” insert “,or would but for an election under article 56A(1),”.

**26.** In Part IV of Schedule 2 (widow’s accrued pension), in the proviso to paragraph 3 —

(a) after the words “shall not apply” insert “where an election under article 56A(1) had effect at the time of the death, nor shall it apply”; and

(b) for the words “five years” substitute “2 years”.

**27.** In Part III of Schedule 3 (child’s accrued allowance), after paragraph 1 insert:

“**1A.** Where an election under article 56A(1) had effect at the time of the death, paragraphs 1(4) and 2(4) of Part I of this Schedule (election for flat-rate allowance) do not apply for the determination under this Part of an accrued allowance.”.

**28.** In Schedule 10A (modifications to Scheme in its application to widower) delete paragraph 4.