

## SCHEDULE 1

### THE NEW FIREFIGHTERS' PENSION SCHEME (ENGLAND)

## PART 13

### FIREFIGHTERS' PENSION FUND

#### **Firefighters' Pension Fund: payments, receipts and transfers**

1.—(1) The Firefighters' Pension Fund established and maintained by the authority for the purposes of the 1992 Scheme<sup>(1)</sup> ("the FPF"), shall be used also for the purposes of payments and receipts required or authorised to be made by or under any provision of this Scheme.

(2) Without prejudice to the generality of paragraph (1), there shall be credited to the FPF or, where a transfer is made to the FPF from any other fund maintained by the authority, credited to the FPF and debited to that other fund—

- (a) sums receivable from firefighters in respect of periods treated as reckonable by virtue of rule 4 of Part 10 (reckoning of periods of unpaid leave or unauthorised absence),
- (b) sums receivable under rule 10 of Chapter 3 of Part 12 (receipt of transfer value payments),
- (c) sums receivable from a Scottish or Welsh fire and rescue authority or the Northern Ireland Fire and Rescue Service Board by way of transfer value payments in respect of persons who take up employment with the authority, and
- (d) amounts of the descriptions mentioned in paragraphs (2) and (3) of rule 2 of this Part.

(3) Without prejudice to the generality of paragraph (1), there shall be payable out of the FPF or, if a transfer is made from the FPF to any other fund maintained by the authority, debited to the FPF and credited to that other fund—

- (a) sums payable under rule 8 of Part 3 (repayment of aggregate of employee's contributions),
- (b) awards payable under any provision of this Scheme (including the commuted portion of a pension to which rule 9 of Part 3 (commutation: general) applies); and
- (c) sums payable under Chapter 2 of Part 12 by way of transfer value payments.

(4) Every amount paid or repaid to or by an authority under this Part shall be credited or, as the case may be, debited, to their FPF.

(5) In this Part—

- (a) references to the total amount payable out of an authority's FPF do not include references to any amount which the Secretary of State required the authority to pay to him under any of rules 5 to 8;
- (b) references to the total amount credited to the authority's FPF do not include references to any amount which the Secretary of State pays to the authority for crediting to their FPF under any of rules 5 to 8.

#### **Payments and transfers into Firefighters' Pension Fund**

2.—(1) Each authority shall make transfers into their FPF in accordance with the following paragraphs of this rule.

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(1) See Part LA of the 1992 Scheme, inserted by [S.I. 2006/1810](#).

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(2) In each financial year beginning with the financial year ending on 31st March 2007, each authority shall, by transfer to their FPF from any other fund maintained by them, make a contribution towards the discharge of their future liability for the payment of pensions under this Scheme.

(3) The amount of the contribution under paragraph (2) shall be such percentage of the authority's estimate of the aggregate of the pensionable pay, as regards the year in respect of which the contribution is made, of those firefighters employed by the authority who are required to make pension contributions in that year, as shall have been determined and notified to them for that year by the Secretary of State.

(4) In respect of each firefighter employed by the authority who retires with an entitlement to immediate payment of a higher tier ill-health pension under rule 2 of Part 3, the authority shall transfer into the FPF such amount as shall be determined and notified to them by the Secretary of State as the higher tier ill-health charge applicable in respect of that pension.

(5) In respect of each firefighter employed by the authority who retires—

(a) with an entitlement to immediate payment of a lower tier ill-health pension under rule 2 of Part 3; and

(b) with no entitlement to a higher tier ill-health pension,

the authority shall transfer into the FPF such amount as shall be determined and notified to them by the Secretary of State as the lower tier ill-health charge applicable in respect of that pension.

(6) The amount to be transferred under paragraph (4) or (5) shall be transferred in three equal instalments.

(7) The first instalment shall be transferred on the date on which the employee retires.

(8) The second instalment shall be transferred on 1st April in the financial year that follows the financial year in which the first instalment was transferred.

(9) The third instalment shall be transferred on 1st April in the financial year that follows the financial year in which the second instalment was transferred.

(10) Where a pension is paid under rule 6 of Part 3 (authority-initiated early retirement), an amount equal to the difference between the amount of the pension paid and the amount that would have been paid had a pension been payable from the same date under rule 5 of that Part (member-initiated early retirement), shall be transferred to the FPF from any other fund maintained by the authority.

### **Transfers from Firefighters' Pension Fund**

3.—(1) Where, in consequence of a review under rule 1 of Part 9—

(a) a higher tier ill-health pension is cancelled before all the instalments of the higher tier ill-health charge in respect of that pension have been transferred in accordance with rule 2 of this Part; and

(b) a lower tier ill-health pension continues to be paid,

the amount referred to in paragraph (2) shall be transferred from the FPF to any other fund maintained by the authority.

(2) The amount is an amount equal to the difference between—

(a) the aggregate of such instalments of the higher tier ill-health charge as have been transferred in accordance with rule 2; and

(b) the aggregate amount that would have been transferred if—

(i) the lower tier ill-health charge had always applied in respect of the pension, and

(ii) instalments of that charge had been transferred on the dates on which instalments of the higher tier ill-health charge were transferred.

(3) For the purposes of ascertaining the amount to be transferred in accordance with paragraph (2), the authority concerned shall request the Secretary of State to determine the amount of the notional lower tier ill-health charge in respect of the pension concerned.

(4) Where a person declines an offer of employment under rule 2(3)(b) of Part 9 and does not again take up employment with an authority in England—

(a) paragraph (4) or (5) of rule 2 of this Part (as the case may be), shall be disregarded in his case (to the extent that it remains to be complied with); and

(b) the authority which made the offer—

(i) shall not make any transfer into the FPF in respect of him as regards any time after the date on which they receive notice that the offer has been rejected; and

(ii) shall transfer from the FPF to any other fund maintained by them an amount equal to the aggregate of the instalments that have been transferred to the FPF in respect of the pension that has been terminated.

(5) Where—

(a) a higher tier ill-health pension or a lower tier ill-health pension is wholly and permanently withdrawn under any provision of Part 9; and

(b) the former recipient of that pension does not again take up employment with an authority in England,

paragraph (4) or (5) of rule 2 of this Part (as the case may be), shall be disregarded in his case (to the extent that it remains to be complied with); and the authority shall transfer from the FPF to any other fund maintained by them an amount equal to the aggregate of the instalments that have been transferred to the FPF in respect of the pension that has been cancelled.

#### **Excess amounts: information**

4.—(1) Beginning with the financial year ending on 31st March 2007, each authority shall, in relation to each financial year, send the following information in writing to the Secretary of State —

(a) the total amount that the authority estimate will be payable out of their FPF in that year,

(b) the total amount that the authority estimate will be credited to their FPF in that year,

(c) the authority's un-audited statement of accounts for that year, prepared and approved in accordance with regulations under section 27 of the Audit Commission Act 1998(2),

(d) the authority's statement of accounts for that year, as it is after the authority's auditor issues his certificate and opinion, including or together with that certificate and opinion,

(e) the total amount payable out of the authority's FPF in that year, and

(f) the total amount credited to the authority's FPF in that year.

(2) In relation to the financial year ending on 31st March 2007, the authority shall send the information referred to in sub-paragraphs (a) and (b) of paragraph (1) to the Secretary of State not later than 15th January 2007 ("the 2007 estimate").

(3) In relation to the financial year ending on 31st March 2008—

(a) the authority shall send the information referred to in sub-paragraphs (a) and (b) of paragraph (1) to the Secretary of State not later than 31st March 2007 ("the 2008 estimate"), and

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(2) 1998 c. 18. See regulations 7 and 10 of the Accounts and Audit Regulations 2003 (S.I. 2003/533, amended by 2004/556 and 2006/564).

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- (b) if the authority revise the information referred to in those sub-paragraphs after they send the estimate to the Secretary of State, may send that revised information to the Secretary of State in September 2007 (“the 2008 revised estimate”).
- (4) In relation to each financial year ending on or after 31st March 2009, the authority—
  - (a) shall send the information referred to in sub-paragraphs (a) and (b) of paragraph (1) to the Secretary of State in September in the financial year before the year in question (“the estimate”); and
  - (b) if the authority revise the information referred to in those sub-paragraphs after they send the estimate to the Secretary of State, may send that revised information to the Secretary of State in September during the year in question (“the revised estimate”).
- (5) The authority shall send the information referred to in sub-paragraphs (c), (e) and (f) of paragraph (1) to the Secretary of State in July in the financial year following the year in question (“the un-audited information”).
- (6) The authority shall send to the Secretary of State as soon as reasonably practicable after the authority’s auditor issues his certificate and opinion on the authority’s accounts for the year in question (“the audited information”)—
  - (a) the information referred to in sub-paragraph (d) of paragraph (1); and
  - (b) if the authority revise the information referred to in sub-paragraphs (e) and (f) of paragraph (1) after they have sent the un-audited information to the Secretary of State, that information as revised.
- (7) For the purposes of this rule, the auditor issues his certificate and opinion when, in accordance with section 9 of the Audit Commission Act 1998<sup>(3)</sup>—
  - (a) he enters on the authority’s statement of accounts for the relevant year—
    - (i) a certificate that he has completed the audit in accordance with that Act, and
    - (ii) his opinion on the statement; or
  - (b) where he makes a report to the authority under section 8 of that Act at the conclusion of the audit, he includes the certificate and opinion referred to in sub-paragraph (a) in that report instead of making an entry on the statement.

**Excess amounts: estimated deficits**

5.—(1) Where, having taken into account the 2007 estimate, the 2008 estimate, the 2008 revised estimate or the estimate (as the case may be), and any other relevant information available to him, it appears to the Secretary of State that the total amount likely to be payable out of an authority’s FPF in the year in question will exceed the total amount likely to be credited to the authority’s FPF in that year, he shall pay to the authority an amount equal to 80 per cent of the likely deficit.

(2) Subject to paragraph (3), where, having taken into account any revised estimate and any other relevant information available to him, it appears to the Secretary of State that—

- (a) the total amount likely to be payable out of the authority’s FPF in the year in question will exceed the total amount likely to be credited to the authority’s FPF in that year; and
- (b) 80 per cent of the likely deficit is more than—
  - (i) the amount paid or payable by him to the authority by virtue of paragraph (1) in relation to the relevant year; or
  - (ii) where no such amount was paid or payable by him, zero,

he may pay to the authority such amount as he thinks fit.

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(3) 1998 c.18.

(3) The aggregate of the amounts paid to an authority under paragraphs (1) and (2) in relation to a particular year shall not exceed 80 per cent of the authority's likely deficit for that year.

(4) Where the Secretary of State pays an amount to the authority under paragraph (2), any amount paid or payable to him in relation to the year in question under rule 6(1) shall not be payable and, if already paid, the Secretary of State shall repay it to the authority.

(5) An amount payable to the authority under paragraph (1) shall be paid—

(a) where the year in question ends on 31st March 2007, on or before that date;

(b) where the year in question ends on or after 31st March 2008, in July in the year in question.

(6) Any amount payable or repayable by the Secretary of State to an authority under paragraph (2) or (4) shall be paid or repaid before the end of the year in question.

### **Excess amounts – estimated surpluses**

6.—(1) Where, having taken into account the 2007 estimate, the 2008 estimate, the 2008 revised estimate or the estimate (as the case may be), and any other relevant information available to him, it appears to the Secretary of State that the total amount likely to be credited to an authority's FPF in the year in question will exceed the total amount likely to be payable out of their FPF in that year, he shall require the authority to pay to him an amount equal to 80 per cent of the likely surplus.

(2) Subject to paragraph (3), where, having taken into account any revised estimate and any other relevant information available to him, it appears to the Secretary of State that—

(a) the total amount likely to be credited to the authority's FPF in the year in question will exceed the total amount likely to be payable out of the authority's FPF in that year; and

(b) 80 per cent of the difference between those total amounts is more than—

(i) the amount paid or payable by the authority to him under paragraph (1) in relation to the year in question; or

(ii) where no such amount was paid or payable by the authority, zero,

he may require the authority to pay to him such amount as he may by notice specify.

(3) The aggregate of the amounts paid to the Secretary of State under paragraphs (1) and (2) in relation to a particular year shall not exceed 80 per cent of the authority's likely surplus for that year.

(4) Where the Secretary of State requires the authority to pay an amount to him by virtue of paragraph (2), any amount paid or payable by the Secretary of State to the authority under rule 5(1), shall not be payable and, if already paid, the authority shall repay it to the Secretary of State.

(5) The Secretary of State shall give to the authority, on or before 3rd March in the year in question, written notice of the amount of any payment that he requires the authority to make under paragraph (1) or (2).

(6) An amount payable or repayable by the authority to the Secretary of State under paragraph (1), (2) or (4) shall be paid or repaid in March in the year in question.

### **Excess amounts – actual deficits**

7.—(1) Where, having taken into account the un-audited information and any other relevant information available to him, it appears to the Secretary of State that the total amount likely to be payable out of an authority's FPF in the year in question exceeds the total amount likely to be credited to the authority's FPF in that year—

(a) where the likely deficit ("the un-audited deficit") exceeds the total of any amounts paid or payable to the authority in relation to that year under rule 5(1) or (2) ("the rule 5 total"), he shall pay to the authority the amount of the un-audited deficit less the rule 5 total;

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- (b) where the un-audited deficit is less than the rule 5 total, the amount of the rule 5 total less the un-audited deficit shall not be payable under rule 5(1) or (2) and, if already paid, the authority shall repay that amount to the Secretary of State;
  - (c) where no amount was paid or payable by him to the authority in relation to the year in question under rule 5(1) or (2), he shall pay to the authority the amount of the un-audited deficit; and
  - (d) any amount paid or payable to him in relation to that year under rule 6(1) or (2), shall not be payable and, if already paid, the Secretary of State shall repay it to the authority.
- (2) Where, having taken into account the audited information and any other relevant information available to him, it appears to the Secretary of State that the total amount paid or payable out of an authority's FPF in the year in question exceeds the total amount credited to their FPF in that year—
- (a) where the difference between those total amounts (“the audited deficit”) exceeds the total of any amounts paid (but not repaid or repayable) or payable to the authority in relation to that year under paragraph (1)(a) or (c) or rule 5(1) or (2) (“the un-audited total”), he shall pay to the authority the amount of the audited deficit less the un-audited total;
  - (b) where the audited deficit is less than the un-audited total, the amount of the un-audited total less the audited deficit shall not be payable under paragraph (1)(a) or (c) or rule 5(1) or (2) and, if already paid, the authority shall repay it to the Secretary of State;
  - (c) where no amount was paid or payable by him to the authority in relation to the year in question under paragraph (1)(a) or (c) or rule 5(1) or (2), he shall pay to the authority the amount of the audited deficit; and
  - (d) any amount paid or payable to him in relation to the year in question under rule 6(1) or (2) or rule 8(1)(a) or (c), shall not be payable and, if already paid, the Secretary of State shall repay it to the authority.
- (3) An amount payable or repayable by the Secretary of State to an authority, or vice versa, under paragraph (1), shall be paid or repaid in July in the financial year following the year in question (“the second year”).
- (4) An amount payable or repayable by the Secretary of State to an authority, or vice versa, under paragraph (2), shall be paid or repaid in July in the financial year following the second year.

### **Excess amounts – actual surpluses**

- 8.—(1)** Where, having taken into account the un-audited information and any other relevant information available to him, it appears to the Secretary of State that the total amount credited to an authority's FPF in the year in question exceeds the total amount paid out of the authority's FPF in that year—
- (a) where the difference between those total amounts (“the un-audited surplus”) exceeds the total of any amounts paid or payable to him by the authority in relation to that year under rule 6(1) or (2) (“the rule 6 total”), he shall require the authority to pay to him the amount of the un-audited surplus less the rule 6 total;
  - (b) where the un-audited surplus is less than the rule 6 total, the amount of the rule 6 total less the un-audited surplus shall not be payable under rule 6(1) or (2) and, if already paid, the Secretary of State shall repay it to the authority;
  - (c) where no amount was paid or payable to him by the authority in relation to the year in question under rule 6(1) or (2), he shall require the authority to pay to him the amount of the un-audited surplus; and
  - (d) any amount paid or payable by him to the authority in relation to that year under rule 5(1) or (2), shall not be payable and, if already paid, the authority shall repay it to the Secretary of State.

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(2) Where, having taken into account the audited information and any other relevant information available to him, it appears to the Secretary of State that the total amount credited to an authority's FPF in the year in question exceeds the total amount payable out of the authority's FPF in that year—

- (a) where the difference between those total amounts ("the audited surplus") exceeds the total of any amounts paid (but not repaid or repayable) or payable to him by the authority in relation to that year under paragraph (1)(a) or (c) or rule 6(1) or (2) ("the un-audited rule 6 total"), he shall require the authority to pay to him out of their FPF the amount of the audited surplus less the un-audited rule 6 total;
- (b) where the audited surplus is less than the un-audited rule 6 total, the amount of the un-audited rule 6 total less the audited surplus shall not be payable under paragraph (1)(a) or (c) or rule 6(1) or (2) and, if already paid, the Secretary of State shall repay it to the authority;
- (c) where no amount was paid or payable to him by the authority in relation to the year in question under paragraph (1)(a) or (c) or rule 6(1) or (2), he shall require the authority to pay to him the amount of the audited surplus; and
- (d) any amount paid or payable by him to the authority in relation to that year under rule 5(1) or (2) or rule 7(1)(a) or (c) shall not be payable and, if already paid, the authority shall repay it to the Secretary of State.

(3) The Secretary of State shall give to the authority, on or before 3rd July in the financial year after the year in question ("the second year"), written notice of the amount of the payment that he requires the authority to make under paragraph (1)(a) or (c).

(4) An amount payable or repayable by the authority to the Secretary of State, or vice versa, under paragraph (1), shall be paid or repaid in July in the second year.

(5) The Secretary of State shall give to the authority, on or before 3rd July in the financial year that is the second financial year after the year in question ("the third year"), written notice of the amount of any payment that he requires the authority to make under paragraph (2)(a) or (c).

(6) An amount payable or repayable by the authority to the Secretary of State, or vice versa, by virtue of paragraph (2), shall be paid or repaid in July in the third year.

### **Duty to provide information**

**9.**—(1) An authority shall provide the Secretary of State with such information relevant to the exercise of his functions under this Part as he may, by written notice to the authority, require.

(2) An authority shall respond to a request under paragraph (1) within such period as the Secretary of State shall specify in his notice under that paragraph, or such longer period as he may in any particular case allow.

### **Duty to have regard to guidance**

**10.** An authority shall have regard to such guidance as may be issued by the Secretary of State from time to time for the purposes of this Part.