

SCHEDULE 1

THE NEW FIREFIGHTERS' PENSION SCHEME (SCOTLAND)

PART 14

MISCELLANEOUS PROVISIONS

Guaranteed minimum pensions, etc.

1.—(1) Subject to paragraph (8), paragraphs (2) to (5) of this rule apply where a member has an entitlement to a guaranteed minimum pension under section 14 of the 1993 Act (the “guaranteed minimum”).

(2) If, apart from this rule—

- (a) no pension would be payable to the member under this Scheme; or
- (b) the weekly rate of the pension payable would be less than the guaranteed minimum,

a pension, the weekly rate of which is equal to the guaranteed minimum, is payable to the member for life from the date on which the member reaches state pensionable age.

(3) Subject to paragraph (4) if, when the member reaches state pensionable age—

- (a) the member is still in employment which entitles the member to be a member of this Scheme (“scheme employment”); or
- (b) where the member is not in scheme employment, the member consents to a postponement of the member’s entitlement under paragraph (2),

paragraph (2) does not apply until the member leaves employment.

(4) If the member—

- (a) continues in employment for a further period of five years after reaching state pensionable age; and
- (b) does not then leave it,

the member is entitled from the end of that period to so much of the member’s pension under this rule as equals the guaranteed minimum, unless the member consents to a further postponement of the entitlement.

(5) Where paragraph (3) or (4) applies, the amount of the pension to which the member is entitled under this rule shall be increased in accordance with section 15 of the 1993 Act.

(6) This paragraph applies where a person has ceased to be in employment that is contracted-out by reference to the Scheme, and either—

- (a) all the person’s rights to benefits under the Scheme, except the person’s rights in respect of the person’s guaranteed minimum or the person’s rights under section 9(2B) of the 1993 Act⁽¹⁾ (“the person’s contracting out rights”), have been transferred under Part 12; or
- (b) the person has no rights to benefits under the Scheme apart from the person’s contracting out rights.

(7) Subject to paragraph (8), where paragraph (6) applies—

- (a) from the date on which the person reaches state pensionable age, the person is entitled to a pension payable for life at a weekly rate equal to the person’s guaranteed minimum; and

(1) Subsection (2B) was inserted by section 136(3) of the Pensions Act 1995 (c. 26).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(b) from the date on which the person reaches normal retirement age the person is entitled to a lump sum and pension in respect of the person's rights under section 9(2B) of the 1993 Act, but a person falling within paragraph (6) is not to be regarded as a pensioner for the purposes of Part 5 (awards on death).

(8) This rule does not apply if—

- (a) any part of the person's pension is withdrawn permanently under rule 5 of Part 9 following the person's conviction of an offence of a description specified in paragraph (3) of that rule (treason and certain offences under the Official Secrets Acts 1911 to 1989); or
- (b) the pension is commuted under rule 10 of Part 3 (commutation: small pensions).

Survivors' guaranteed minimum pensions

2.—(1) Subject to paragraph (3), this rule applies in relation to a firefighter member's surviving spouse or civil partner who has a guaranteed minimum pension under section 17 of the 1993 Act in relation to benefits under Chapter 1 of Part 4 of this Scheme in respect of the deceased member.

(2) If apart from this rule—

- (a) no pension is payable to the surviving spouse or civil partner under this Scheme; or
- (b) the weekly rate of the pension payable is less than his or her guaranteed minimum,

a pension, of which the weekly rate is equal to the guaranteed minimum, is payable to the surviving spouse or civil partner from the date on which the deceased died until the death of the surviving spouse or civil partner.

(3) This rule does not apply if—

- (a) any part of the firefighter member's pension has been withdrawn permanently under rule 5 of Part 9 following the firefighter member's conviction of an offence of a description specified in paragraph (3) of that rule (treason and certain offences under the Official Secrets Acts 1911 to 1989); or
- (b) the firefighter member's pension has been commuted under rule 10 of Part 3; or
- (c) the survivor's pension has been commuted under rule 5 of Part 4.

Information for authorities

3.—(1) An authority may by notice in writing require any person who is in receipt of a pension or may have an entitlement to a pension or a lump sum under this Scheme to provide the authority with such supporting evidence as the authority may reasonably require to establish—

- (a) the identity of that person; and
- (b) the person's continuing or future entitlement to the payment of any amount under this Scheme.

(2) A notice under paragraph (1) shall specify the date by which the supporting evidence is to be provided.

(3) Where a person fails to comply with the requirements of a notice given in accordance with paragraph (1), the authority may withhold the whole or part of any amount that they consider to be payable under the Scheme.

Annual benefit statements

4.—(1) An authority shall issue an annual benefit statement to each of their firefighter, deferred and pension credit members.

(2) The first such statements must be issued on or before 1st April 2008, and subsequent statements must be issued on or before each 1st April thereafter.

(3) An annual benefit statement shall contain an illustration of the amount of benefit entitlement, in respect of the rights that may arise under the Scheme, which—

- (a) has been accrued by the member at the relevant date; and
- (b) in the case of a firefighter member, is capable of being accrued by the firefighter member if the firefighter member remains in the Scheme until the firefighter member's normal retirement date.

(4) The illustration shall be calculated—

- (a) in the case of a firefighter member, on the member's pay (or, in the case of a part time firefighter member, the whole-time equivalent) for the twelve-month period ending with the relevant date;
- (b) in the case of a deferred member, on the member's final pay; and
- (c) in the case of a pension credit member, in accordance with rule 1 of Part 6, as if the pension credit member were to become entitled to the pension on the pension credit member's 65th birthday.

(5) For the purposes of this rule, the relevant date—

- (a) in the case of a pension credit member, is that of the pension credit member's 65th birthday; or
- (b) in any other case, is 31st March of the period in respect of which the statement is issued, or such later date as the authority may choose.

Death of retained or volunteer firefighter before Firefighters' Pension Scheme (Scotland) Order 2007 in force

5.—(1) This rule applies where a retained or volunteer firefighter dies on or after 6th April 2006 and before the Firefighters' Pension Scheme Amendment (Scotland) Order 2007(2) comes into force.

(2) Chapters 1 and 2 of Part 4 of this Scheme (survivors' pensions), rule 1 of Part 5 of this Scheme (death grant) and rule 3 of Part 11 (pension contributions) shall have effect in respect of the retained or volunteer firefighter as if—

- (a) the retained or volunteer firefighter had become a member of this Scheme—
 - (i) where that firefighter was employed by an authority immediately before 6th April 2006, on that date; or
 - (ii) in any other case, on the date on which that firefighter took up employment with the authority;
- (b) the retained or volunteer firefighter had not made a contributions election; and
- (c) the retained or volunteer firefighter's qualifying service and that firefighter's pensionable service began on whichever is the later of—
 - (i) the date on which that firefighter took up employment; and
 - (ii) 6th April 2006,and ended on the date of that firefighter's death.

(3) Where—

- (a) in anticipation of the coming into force of this Scheme, the retained or volunteer firefighter nominated a nominated partner; and

(2) S.S.I. 2007/

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(b) the nomination was received and accepted by the authority before that firefighter died, that firefighter's nominated partner shall be entitled to the same benefits under this Scheme as if the nomination had effect for the purposes of this Scheme.

(4) The authority shall deduct from the death grant payable by virtue of paragraph (2) the amount of the pension contributions that would have been payable under rule 3 of Part 11; and rule 1 of that Part shall have effect for determining that firefighter's pensionable pay for that purpose.

(5) The authority shall notify the personal representatives of the amount deducted.

Death on or before 31st March 2007 of retained or volunteer firefighter employed before 6th April 2006

6.—(1) This rule applies where a retained or volunteer firefighter employed by an authority immediately before 6th April 2006 dies on or before 31st March 2007 without having made an election as to membership of this Scheme.

(2) Chapters 1 and 2 of Part 4 of this Scheme (survivors' pensions), rule 1 of Part 5 of this Scheme (death grant) and rule 3 of Part 11 (pension contributions) shall have effect in respect of the retained or volunteer firefighter as if—

- (a) that firefighter had elected to become a member of this Scheme on 6th April 2006 and had not made a contributions election; and
- (b) that firefighter's qualifying service and that firefighter's pensionable service began on 6th April 2006 and ended on the date of that firefighter's death.

(3) Where—

- (a) in anticipation of the coming into force of this Scheme, the retained or volunteer firefighter nominated a nominated partner; and
- (b) the nomination was received and accepted by the authority before that firefighter died, that firefighter's nominated partner shall be entitled to the same benefits under this Scheme as if the nomination had effect for the purposes of this Scheme.

(4) The authority shall deduct from the death grant payable by virtue of paragraph (2) the amount of the pension contributions that would have been payable under rule 3 of Part 11; and rule 1 of that Part shall have effect for determining his or her pensionable pay for that purpose.

(5) The authority shall notify the personal representatives of the amount deducted.