

SCHEDULE 1

THE NEW FIREFIGHTERS' PENSION SCHEME (SCOTLAND)

PART 2

SCHEME MEMBERSHIP, CESSATION AND RETIREMENT

Scheme membership

1.—(1) Subject to paragraph (2), a person of any of the following descriptions is a firefighter member of this Scheme—

- (a) a person who, on or after 6th April 2006, takes up employment with an authority as a firefighter, and whose role on taking up that employment includes—
 - (i) resolving operational incidents; or
 - (ii) leading and supporting others in the resolution of operational incidents;
- (b) a person who—
 - (i) having taken up employment as a firefighter before 6th April 2006;
 - (ii) having continued in such employment until the date of the person's election; and
 - (iii) having been a member of the 1992 Scheme,

elects to become a member of this Scheme; and

- (c) a person to whom article 3(3) refers.

(2) A person may not be a firefighter member of this Scheme if the person makes a contributions election (but may again become a firefighter member by virtue of rule 6(4) of this Part).

(3) A person is a deferred member of this Scheme if the person is entitled to a deferred pension under rule 3 of Part 3.

(4) A person is a pensioner member of this Scheme if the person is in receipt of a pension or other benefits under the Scheme in respect of the person's pensionable service or by reason of service credited to the Scheme under Part 12.

(5) A person is a dependent member of this Scheme if the person is—

- (a) the spouse or civil partner of a deceased firefighter member;
- (b) the nominated partner of a deceased firefighter member;
- (c) a pension credit member in relation to a firefighter member;
- (d) the child of a person who is a member of the Scheme by virtue of sub paragraph (a) or (b) of paragraph (1), whose dependency on that person satisfies the conditions specified in paragraph 15(2) and (3) of Schedule 28 to the Finance Act 2004⁽¹⁾; or
- (e) is in receipt of a portion of a firefighter's pension allocated under rule 11 of Part 3.

(6) Subject to paragraph (8), for the purposes of paragraph (5), a firefighter member may nominate a person (a "nominated partner") who—

- (a) has been living with the firefighter member, otherwise than as the firefighter member's spouse or civil partner, in a long-term relationship; and
- (b) at the date on which the question of the person's status in relation to the firefighter member falls to be considered—

(1) 2004 c. 12.

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- (i) is not the spouse or civil partner of any other person;
- (ii) is registered with the scheme administrator as the firefighter member's nominated partner; and
- (iii) is financially dependent on the firefighter member or is, with the firefighter member, in a state of mutual financial dependency.

(7) In paragraph (6)–

- (a) “long-term relationship” means a relationship that has continued, to the exclusion of any other relationship, for the period of two years ending with the date on which the question of the person's status in relation to the firefighter member falls to be considered, or such shorter period as the authority may in any particular case think fit; and
- (b) “scheme administrator” has the meaning given by section 270 of the Finance Act 2004⁽²⁾.

(8) A firefighter member may not make a nomination under paragraph (6) if (under Scots law) the firefighter member is prohibited from marrying or, as the case may be, becoming the civil partner of the person the firefighter member wishes to nominate.

(9) A nomination ceases to have effect if the firefighter member or the person nominated marries or enters into a civil partnership (whether with each other or with another person).

(10) Where a person who is–

- (a) employed by more than one authority; or
- (b) employed by a particular authority under more than one contract of employment,

is entitled to be a member of this Scheme, that person shall be a member of it in respect of each employment; but shall not be a member by virtue of any employment in respect of which that person makes a contributions election that is not cancelled.

Eligibility conditions

2.—(1) A firefighter member is eligible for a pension under this Scheme if the firefighter member–

- (a) has at least three months' qualifying service;
- (b) transfers into the Scheme with personal pension rights which qualify the firefighter member for benefits under the Scheme; or
- (c) reaches normal retirement age.

(2) In paragraph (1)(b) “personal pension rights” has the meaning given by section 71 of the 1993 Act.

Normal retirement age and normal benefit age

3.—(1) The normal retirement age of firefighter members is 60.

(2) The normal benefit age of firefighter members is 65.

Last day of membership

4.—(1) Where a firefighter member leaves the Scheme, the firefighter member's last day of membership shall be taken to be–

- (a) where the firefighter member leaves on retirement at normal retirement age, the firefighter member's last day of service; and

(2) See also Schedule 36 to the Finance Act 2004, amended by the Finance Act 2005 (c. 7), Schedule 10.

(b) in any other case, subject to paragraph (2), the last day on which the firefighter member pays contributions.

(2) Where a firefighter member is on unpaid leave or absent without permission on the day on which the firefighter member leaves the Scheme, the firefighter member's last day of membership shall be taken to be such date as may be agreed with the authority.

Election not to make pension contributions

5.—(1) A firefighter member may at any time, by giving notice in writing to the firefighter member's employing authority, elect to make no further pension contributions (referred to in this Scheme as a "contributions election").

(2) Subject to paragraph (3)–

(a) a contributions election takes effect on the day on which begins the first pay period falling after the date on which the notice under paragraph (1) is received; and

(b) that person's membership of the Scheme ceases on the day on which the contributions election takes effect.

(3) A person who makes a contributions election within three months of joining the Scheme, shall be treated as if that person had never been a member of it.

(4) A person whose membership of the Scheme ceases as mentioned in paragraph (2)(b) remains entitled to any deferred benefits accrued while that person was a member.

Rejoining the Scheme

6.—(1) Subject to paragraphs (2) and (3), a person who has made a contributions election may cancel it by giving written notice to the authority.

(2) Paragraph (1) does not apply where the person–

(a) is entitled to reckon 40 or more years of pensionable service for the purposes of the Scheme; or

(b) has previously given notice under this rule, unless the authority have declined to accept it.

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

(4) Where an contributions election under rule 5(1) of this Part is cancelled–

(a) the person shall resume the making of pension contributions; and

(b) shall again be a firefighter member of the Scheme,

with effect from the day on which begins the first pay period falling after the date on which the notice under paragraph (1) of this rule is received.