

## SCHEDULE 1

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

## PART 6

### PENSION SHARING ON DIVORCE

#### **Pension credit member's entitlement to pension**

1.—(1) A pension credit member is entitled to a pension for life which becomes payable—

- (a) when he attains the age of 65, or
- (b) if it is later, when the pension sharing order under which he is entitled to the pension credit takes effect.

(2) The pension must be of such an amount that its actuarial value is equal to the member's pension credit, as calculated from tables prepared by the Scheme Actuary and in accordance with regulations made under paragraph 5(b) of Schedule 5 to the 1999 Act.

#### **Commutation of whole of pension credit benefits**

2.—(1) In the circumstances described in regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000<sup>(1)</sup> (commutation of pension credit benefit: small pensions), the authority may, with the agreement of the pension credit member, commute for a lump sum the whole of the pension to which a pension credit member is entitled under rule 1 if, after commutation, the lump sum would be a trivial commutation lump sum death benefit within the meaning of paragraph 20 of Schedule 29 to the Finance Act 2004.

(2) The lump sum under paragraph (1) is the actuarial equivalent of the pension at normal benefit age, calculated from tables prepared by the Scheme Actuary.

#### **Commutation of part of pension credit benefits**

3.—(1) Subject to paragraph (3), a pension credit member may commute for a lump sum a portion of the pension to which he is entitled or prospectively entitled under rule 1 ("the commuted portion").

(2) The commuted portion must not exceed—

- (a) one quarter of the amount of the pension; or
- (b) the annual rate of the pension for the first year that it is payable, disregarding—
  - (i) the reduction resulting from the application of this rule, and
  - (ii) any reduction resulting from the application of any other provision of this Scheme.

(3) Paragraph (1) does not apply if the pension debit member from whose rights the pension credit member's pension credit is derived has received a lump sum under rule 9 of Part 3 (commutation: general) before the date on which the pension sharing order takes effect.

(4) A person who wishes to commute a portion of a pension under paragraph (1) must give the authority written notice of commutation not later than the day before the pension comes into payment and not earlier than four months before—

- (a) the date on which the person attains normal benefit age, or
- (b) the date on which the pension sharing order takes effect,

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(1) [S.I. 2000/1054](#), amended by [S.I. 2000/2691](#).

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whichever is the later.

- (5) Notice of commutation must specify the commuted portion.
- (6) A person's notice of commutation takes effect on the date on which the pension under rule 1 becomes payable.
- (7) When a person's notice of commutation takes effect, the authority shall—
  - (a) reduce the pension by the commuted portion,
  - (b) calculate the lump sum by multiplying by 12 the amount of the person's pension represented by the commuted portion at the date of retirement, and
  - (c) pay him the lump sum as soon as reasonably practicable after—
    - (i) the date on which he attains normal benefit age, or
    - (ii) the date on which the pension sharing order takes effect,whichever is the later.

#### **Application of general rules**

**4.—**(1) The provisions of this Scheme specified in paragraph (2) apply to pension credit members and awards payable to or in respect of them; but except where other provision is made by this Part or a contrary intention appears—

- (a) this Scheme shall not apply to pension credit members and benefits payable to or in respect of them, except if and to the extent that they are also members of this Scheme in another capacity or dependants of a member, and
  - (b) benefits payable to or in respect of a pension credit member may not be aggregated with benefits payable to or in respect of him—
    - (i) in any other capacity; or
    - (ii) as a pension credit member, deriving from any other pension debit member.
- (2) The provisions are—
- rule 2 of Part 8 (determinations and decisions by fire and rescue authorities),
  - rule 5 of Part 9 (withdrawal of pension on conviction of certain offences),
  - rule 1 of Part 14 (authorities responsible for payment of awards),
  - rule 2 of that Part (deduction of tax and lifetime allowance charges),
  - rule 3 of that Part (payment of awards),
  - rule 5 of that Part (payments for minors and persons incapable of managing their affairs), and
  - rule 6 of that Part (payment of awards: further supplementary provision).

#### **Post-retirement death grant: pension credit members**

- 5.—**(1) Where—
- (a) a pension credit member dies within five years of the pension under rule 1 coming into payment and before his 75th birthday, and
  - (b) there is a difference between—
    - (i) the amount that is five times the pension, calculated at the annual rate effective on the day that it came into payment, and
    - (ii) the aggregate of—
      - (aa) the instalments of pension that have been paid, and

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(bb) any lump sum received on commutation under rule 3,  
the authority shall pay a post-retirement death grant of the amount of that difference.

(2) The grant may be paid, in whole or in part, to such person or persons as the authority think fit.

(3) For the purposes of paragraph (1), any increases which, if the pension had continued in payment, would have been taken into account, shall be disregarded.