

Part V: Application to persons affected by local government re-organisation or combination scheme

12. Transitional and other matters

PART A

GENERAL PROVISIONS AND RETIREMENT

Citation and commencement

A1. This Scheme (which is in force from 1st March 1992) may be cited as the Firemen's Pension Scheme 1992.

Interpretation

A2.—(1) Part I of Schedule 1 to this Scheme contains a glossary of expressions; and in this Scheme, unless the context otherwise requires, any expression for which there is an entry in the first column of that Schedule has the meaning given against it in the second column or is to be construed in accordance with directions given against it in that column.

(2) Part II of Schedule 1 has effect for construing references in this Scheme to certain expressions related to the National Insurance and Social Security Acts.

(3) In this Scheme, unless the context otherwise requires, any reference to a rule, Part or Schedule identified by a letter or number or both ("an indicator") is to be construed as a reference to the rule, Part or Schedule, as the case may be, identified by that indicator in this Scheme, and any reference to a numbered paragraph in a rule or a Schedule to this Scheme is to be construed as a reference to the paragraph bearing that number in that rule or, as the case may be, that Schedule.

(4) Where this Scheme requires anything to be done within a specified period after or from a specified day or event, the period begins immediately after the specified day or, as the case may be, the day on which the specified event occurs.

Exclusive application to regular firefighters

A3.—(1) Subject to paragraph (3), this Scheme applies in relation to regular firefighters and their spouses and dependants to the exclusion of pension provision under any enactment other than section 26 of the principal Act and the Social Security Act 1975(a).

(2) In paragraph (1) "pension provision" means any provision for the payment of a pension, allowance or gratuity, on cessation of employment or on death, in respect of employment as a regular firefighter.

(3) A person who is not a member of a brigade but whose employment is, under rule A4 or A5, treated for the purposes of this Scheme as employment as a regular firefighter is not a regular firefighter for the purposes of this rule.

Application to temporary employment connected with fire services

A4.—(1) This rule applies in the case of a person who has ceased to perform duties as a regular firefighter and has entered relevant employment.

(2) For the purposes of this rule relevant employment is temporary employment, on duties connected with the provision of fire services—

- (a) as an instructor at the central training institution or any training centre maintained by the Secretary of State, or
- (b) as an inspector, assistant inspector or other officer appointed under section 24 of the principal Act, or
- (c) in pursuance of arrangements made by the Secretary of State in connection with the training in fire-fighting of members of the armed forces of the Crown, or
- (d) in pursuance of arrangements made by the Secretary of State, or made after 31st March 1968 but before 15th November 1970 by the Minister of Overseas Development, in connection with the training and organisation of fire-fighting forces in any country or territory outside the United Kingdom.

(a) 1975 c.14.

(3) Where this rule applies the person's relevant employment shall be treated for the purposes of this Scheme as employment as a member of a brigade and this Scheme applies in relation to the relevant employment as if—

- (a) he were, and his duties were duties as, a regular firefighter,
- (b) his pay and rank were the same as they would have been had he not ceased to perform duties as a regular firefighter or, where section 10 of the Fire Services Act 1959(a) applies, the same as his pay and rank as a member of a brigade,
- (c) any reference to a brigade were a reference to the relevant employment,
- (d) rules A13 to A15 and L2 were omitted, and
- (e) any reference to a fire authority were a reference to the Secretary of State.

Application to permanent employment as instructor

A5.—(1) This rule applies in the case of a person who has ceased to perform duties as a regular firefighter and has entered relevant employment.

(2) For the purposes of this rule relevant employment is permanent employment, on duties connected with the provision of fire services, as an instructor at the central training institution or any training centre maintained by the Secretary of State.

(3) Where this rule applies the person's relevant employment shall be treated for the purposes of this Scheme as employment as a member of a brigade and this Scheme applies in relation to the relevant employment as if—

- (a) he were, and his duties were duties as, a regular firefighter,
- (b) any reference to a brigade were a reference to the relevant employment,
- (c) any reference to a fire authority were a reference to the Secretary of State, and
- (d) rules A13 to A15 and L2 were omitted.

No application to auxiliary firefighters

A6. This Scheme does not apply in relation to a member of a brigade who is enrolled for service in the brigade which is restricted, except in a war emergency, to such duties as are desirable for training.

Reckoning of service for purposes of awards

A7.—(1) Subject to paragraph (3), for the purpose of calculating an award payable to or in respect of a member of a brigade by reference to any period in years (including a period of pensionable or other service) the period shall be reckoned as—

$$A + \frac{B}{365} \text{ years}$$

where—

A is the number of completed years in the period, and

B is the number of completed days in any remaining part of a year,

and accordingly a part of a year which includes 29th February in a leap year and comprises 365 days shall be treated as a whole year.

(2) Where, for the purpose of calculating an award payable to or in respect of a regular firefighter—

(a) it is necessary to determine his pensionable service reckonable by reason of service or employment before or after a particular date ("the material date"), and

(b) by virtue of the receipt by a fire authority of a transfer value, he is entitled to reckon a period of pensionable service ("the credited period") by reason of service or employment for a period ("the previous employment period") which includes that date,

the credited period counts as pensionable service reckonable by reason of service or employment before and after the material date in the same proportion as that between the parts of the previous employment period falling before and after the material date.

(3) In the case of a person who ceased to serve as a member of a brigade before 1st May 1975, Part III of Schedule 11 has effect and this rule does not apply.

(a) 1959 c.44.

Aggregate pension contributions for purposes of awards

A8.—(1) A regular firefighter's aggregate pension contributions comprise—

- (a) all payments made by him to a fire authority that fall within paragraph (2),
- (b) all payments made by him in accordance with an election under rule G6 (election to purchase increased benefits), and
- (c) if paragraph (3) applies, the amount of the notional award described in paragraph (4).

(2) The payments that fall within this paragraph are payments under this Scheme or a previous Scheme that relate to a period of service which the regular firefighter is, or was immediately before electing under rule G3 not to pay pension contributions, entitled to reckon as pensionable service and have not been refunded to him, including payments made—

- (a) by way of rateable deductions from pay,
- (b) by way of such additional and further payments as were mentioned in articles 57 to 59 of the 1973 Scheme, or
- (c) in accordance with such an undertaking as is mentioned in Part I of Schedule 6.

(3) This paragraph applies where the regular firefighter is, or was immediately before electing under rule G3 not to pay pension contributions, entitled to reckon pensionable service by reason of a period of service or employment otherwise than as a regular firefighter ("the previous employment period").

(4) The notional award mentioned in paragraph (1)(c) is the award by way of return of contributions or analogous payment that would have been made to him if, at the end of the previous employment period, he had voluntarily retired in circumstances entitling him to such an award under the applicable superannuation arrangements.

Qualifying injury

A9.—(1) Except in rule J4, references in this Scheme to a qualifying injury are references to an injury received by a person without his own default in the execution of his duties as a regular firefighter.

(2) In rule J4, unless the context otherwise requires, references to a qualifying injury are references to an injury received by a person without his own default in the exercise of his duties as a part-time member of a brigade.

(3) An injury shall be treated as having been received by a person without his default unless the injury is wholly or mainly due to his own serious and culpable negligence or misconduct.

Disablement

A10.—(1) References in this Scheme to a person's being permanently disabled are references to his being disabled at the time when the question arises for decision and to his disablement being at that time likely to be permanent.

(2) Subject to paragraph (3), disablement means incapacity, occasioned by infirmity of mind or body, for the performance of duty, except that in relation to a child it means incapacity, so occasioned, to earn a living.

(3) Where it is necessary to determine the degree of a person's disablement, it shall be determined by reference to the degree to which his earning capacity has been affected as a result of a qualifying injury; if, as a result of such an injury, he is receiving in-patient treatment at a hospital he shall be treated as being totally disabled.

(4) Where a person has retired before becoming disabled and the date on which he becomes disabled cannot be ascertained, it shall be taken to be the date on which the claim that he is disabled is first made known to the fire authority.

Death or infirmity resulting from injury

A11.—(1) A person shall be taken to have died from the effects of an injury if it appears that had he not suffered that injury he would not have died when he did.

(2) In the case of a person who has died or become permanently disabled, any infirmity of mind or body shall be taken to have been occasioned by an injury if the injury caused or substantially contributed to the infirmity or, as the case may be, the person's death.

Relevant service in the armed forces

A12. References in this Scheme to relevant service in the armed forces are references to—

- (a) service specified in Schedule 1 to the Reserve and Auxiliary Forces (Protection of Civil

- Interests) Act 1951(a) ("the 1951 Act"), other than service specified in paragraph 5(b) of that Schedule,
- (b) part-time service under the National Service Act 1948(b), otherwise than pursuant to a training notice under that Act, and
 - (c) service for the purposes of training only performed by a person mentioned in paragraph 7 of Schedule 1 to the 1951 Act for a period shorter than 7 days.

Compulsory retirement on account of age

A13.—(1) This rule applies to every whole-time member of a brigade appointed on terms under which he is or may be required to engage in fire-fighting.

(2) Subject to paragraph (3), a person to whom this rule applies shall retire—

- (a) if he holds the rank of assistant divisional officer or a higher rank, on attaining the age of 60, or
- (b) if he holds the rank of station officer or a lower rank, on attaining the age of 55.

(3) In special cases the fire authority may extend the service of a person to whom this rule applies for a further period if they are satisfied that such extension would be in the interests of efficiency.

Compulsory retirement on grounds of efficiency of brigade

A14. A whole-time member of a brigade who—

- (a) was appointed on terms under which he is or may be required to engage in fire-fighting, and
- (b) has attained the age of 50, and
- (c) has, or but for an election under rule G3 would have, completed 25 years' pensionable service,

may be required by the fire authority to retire on the grounds that his retention in the brigade would not be in the general interests of its efficiency.

Compulsory retirement on grounds of disablement

A15.—(1) Subject to paragraph (2), a regular firefighter may be required by the fire authority to retire on the date on which the authority determine that he ought to retire on the ground that he is permanently disabled.

(2) A retirement under this rule is void if, on an appeal against the medical opinion on which the fire authority acted in determining that he ought to retire, the medical referee decides that the appellant is not permanently disabled.

Effective date of retirement

A16. For the purposes of this Scheme a member of a brigade shall be taken to retire immediately after his last day of service.

PART B

PERSONAL AWARDS

Ordinary pension

B1.—(1) Subject to paragraph (2), this rule applies to a regular firefighter who retires if he then—

- (a) has attained the age of 50, and
- (b) is entitled to reckon at least 25 years' pensionable service, and
- (c) does not become entitled to an ill-health award under rule B3.

(2) This rule does not apply—

- (a) to a person whose notice of retirement states that he is retiring for the purpose of joining another brigade, or
- (b) unless his notice of retirement was given with the permission of the fire authority, to a chief officer, or in Scotland a firemaster, who retires before attaining the age of 55, or

(a) 1951 c.65.

(b) 1948 c.64.