

## SCHEDULE

Article 2

### AMENDMENTS TO THE FIREMEN'S PENSION SCHEME

#### *Part A: General provisions and retirement*

1. In rule A7 (reckoning of service for purposes of award), after paragraph (4) insert—

“(5) Subject to rule B13 and Part VIA of Schedule 2, any period of service as a part-time member of a brigade shall be treated as service as a whole-time member of a brigade when calculating a person’s pensionable service.”.
2. In rule A8 (aggregate pension contributions for purposes of awards), after paragraph (1)(a), insert—

“(aa) all payments made by him in accordance with an election under rule G2A (optional pension contributions during maternity and adoption leave),”.
3. In rule A9 (qualifying injury), in paragraph (2), for “part-time” substitute “retained or volunteer”.
4. In rule A10 (disablement), after paragraph (1), insert—

“(1A) In determining whether a disablement is permanent, a fire authority shall have regard to whether the disablement will continue until the age at which the person would otherwise be required to retire in accordance with rule A13.”.
5. In rule A13 (compulsory retirement on account of age), for paragraph (1) substitute—

“(1) This rule applies to every regular firefighter.”.
6. In rule A14 (compulsory retirement on grounds of efficiency of brigade)—
  - (a) for “A whole-time member of a brigade” substitute “A regular firefighter”;
  - (b) omit paragraph (a); and
  - (c) in paragraph (c), after “under rule G3” insert “or a failure to make an election under rule G2A”.

#### *Part B: Personal awards*

7. In rule B5 (deferred pension), for paragraph (1)(a) substitute—

“(a) has an earlier period of service as a regular firefighter which, disregarding breaks in service of not more than a month, is continuous and which, after deducting from it—
  - (i) any period during which an election under rule G3 not to pay contributions had effect, and
  - (ii) any period of maternity or adoption leave which does not count as pensionable service as a result of rules F2A or G2A,and aggregating the remainder with his pensionable service, amounts to 2 years or more, or”.
8. In rule B7 (commutation – general provision), in paragraph (5)(a), after “years” insert “pensionable”.
9. In rule B9 (allocation)—
  - (a) in paragraph (6), for “as to his good health” substitute “that he has a normal life expectancy”;
  - (b) in paragraph (7), omit sub-paragraph (a);

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- (c) omit paragraph (9);
- (d) in paragraph (12), for “even if” substitute “unless”;
- (e) after paragraph (12), insert–
  - “(12A) Where–
    - (a) after 1st October 2004, a person becomes entitled to be paid a pension which is reduced under paragraph (12); and
    - (b) the beneficiary dies after that pension becomes payable, from the date of the beneficiary’s death the pension shall no longer be reduced by the allocated portion.”;
- (f) in paragraph (13), omit the word “and” at the end of sub-paragraph (a) and delete sub-paragraph (b); and
- (g) omit paragraphs (14) and (15).

10. After rule B12 (pension debit members), insert–

**“Part-time members**

**B13.** Where a person is entitled to an award under this Part and some or all of his service, by virtue of which his pensionable service is reckonable, was part-time service, his award shall be calculated in accordance with Part VIA of Schedule 2.”.

*Part C: Awards on death – spouses*

11. In rule C1 (spouse’s ordinary pension), paragraph (1) and C6 (widow’s requisite benefit and temporary pension), paragraph (1)(a), for “3 years” substitute “2 years”.

*Part F: Pensionable service and transfer values*

12. In rule F1 (reckoning of and certificates as to pensionable service), in paragraph (3), after “rule” insert “F2A,”.

13. In rule F2 (current service)–

- (a) for paragraph (2)(c) substitute–
  - “(c) subject to paragraph (3) and rule F2A, any period of absence from duty without pay, or
  - (d) any period of maternity or adoption leave in respect of which the person has the right to, but does not, pay contributions under rule G2A.”;
- (b) in paragraph (3), after “duty without pay”, insert “(excluding absence for maternity, paternity or adoption leave)”; and
- (c) after paragraph (3), insert–
  - “(4) Any periods of pensionable service before and after any period of maternity or adoption leave in respect of which the person has the right to, but does not pay, contributions under rule G2A shall be treated as continuous.”.

14. After rule F2 (current service), insert–

**“Maternity, paternity and adoption leave**

**F2A.—**(1) A woman serving as a regular firefighter is entitled to reckon as pensionable service any period of–

- (a) paid maternity leave;
- (b) unpaid ordinary maternity leave; and
- (c) unpaid maternity leave in respect of which she has paid pension contributions to the fire authority in accordance with rule G2A,

taken on or after 23rd June 1994.

(2) A person serving as a regular firefighter is entitled to reckon as pensionable service any period of—

- (a) paternity leave;
- (b) ordinary adoption leave;
- (c) paid additional adoption leave, and
- (d) unpaid additional adoption leave in respect of which he has paid pension contributions to the fire authority in accordance with rule G2A.”.

*Part G: Pensionable pay and contributions*

**15.**—(1) In rule G1 (pensionable pay and average pensionable pay)—

- (a) in paragraph (1), for “his pay” substitute “the pay he receives (whether as a whole-time or part-time member of a brigade)”;
- (b) after paragraph (2), insert—

“(2A) For the purposes of rule G2, the pensionable pay of a regular firefighter during a period of maternity, paternity or adoption leave shall be deemed to be the pay to which the person is entitled for that period including any statutory maternity, paternity or adoption pay under the Social Security Contributions and Benefits Act 1992(1).”;

- (c) in paragraph (3), for “during” substitute “for”; and
- (d) for paragraph (6) substitute—

“(6) For the purposes of paragraphs (3) and (5), any reduction of pensionable pay as a result of any—

- (a) sick leave;
- (b) stoppage of pay by way of punishment;
- (c) ordinary maternity, ordinary adoption or paternity leave;
- (d) paid additional maternity or additional adoption leave; or
- (e) unpaid additional maternity or additional adoption leave where contributions have been paid under rule G2A,

shall be disregarded.”.

**16.** After rule G2 (pension contributions), insert—

**“Optional pension contributions during maternity and adoption leave**

**G2A.**—(1) A regular firefighter who—

- (a) is on maternity or adoption leave, which would not otherwise count as pensionable service under rule F2A; and

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(1) 1992 c. 4.

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- (b) who, for the whole or part of the leave period, is not entitled to receive pay (including any statutory maternity or adoption pay under the Social Security Contributions and Benefits Act 1992),

may elect to pay pension contributions in respect of that leave period.

(2) The contributions shall be calculated by applying rule G2 to the pensionable pay (including any statutory maternity or adoption pay under the Social Security Contributions and Benefits Act 1992) received by him immediately before the start of the unpaid period in question.

(3) An election must be made by giving notice in writing to the fire authority before the expiry of the period of 30 days (or such longer period as the fire authority may allow) beginning with—

- (a) the day on which he returns to work, or
- (b) if he does not return to work after the leave period, the day he ceases to be employed by the fire authority.

(4) Where the person dies before the end of the period in paragraph (3) without having given the required notice, he shall be deemed to have given the notice and to have paid the contributions.

(5) On receipt of the notice, the fire authority shall calculate the amount of contributions due and shall give notice in writing of that amount to the person concerned.

(6) Where the full amount of contributions due has not been paid within 6 months of the date of the notice in paragraph (5), the person concerned shall be entitled to reckon as pensionable service such proportion of the period in respect of which contributions were due, as the contributions paid relate to the total amount of contributions due.

(7) Where the period of additional maternity or additional adoption leave ended prior to 1 October 2004, the provisions of this rule shall apply where the person gives written notice to his fire authority (or, if he has left, to the fire authority by whom he was last employed) by 1 January 2005.”.

**17.** In rule G7 (payment of periodical contributions for increased benefits), after paragraph (3), insert—

“(3A) If the lump sum payment under paragraph (3) is not paid within 3 months of the date that payment of periodical contributions commenced, that portion of the election shall be treated as not having been made.”.

*Part H: Determination of questions and appeals*

**18.** In rule H1 (determination by fire authority)—

- (a) in paragraph (2), for the words “and consider” to the end of the paragraph substitute “the written opinion of an independent qualified medical practitioner selected by them and the opinion of the independent qualified medical practitioner shall be binding on the fire authority.”;

- (b) after paragraph (2), insert—

“(2A) In his written opinion, the independent qualified medical practitioner must certify that—

- (a) he has not previously advised, or given his opinion on, or otherwise been involved in, the particular case for which the opinion has been requested; and
- (b) he is not acting, and has not at any time acted, as the representative of the member, the fire authority, or any other party in relation to the same case.”; and

(c) in paragraph (3), omit “or practitioners.”.

19. In rule H2 (appeal against opinion on a medical issue) in paragraph (3) for “a medical issue” substitute “any issue referred to in sub-paragraphs (a) to (f) of rule H1(2)”.

*Part I: Servicemen*

20. In rule I3 (awards on death of servicemen), after paragraph (2), insert–

“(2A) Subject to paragraph (3), where this rule applies, rule D1 (child’s ordinary allowance) has effect as if the serviceman had died in the circumstances mentioned in rule D1(1).”.

*Part J: Special cases*

21. In rule J3 (whole-time member of brigade who is not a regular firefighter)–

- (a) in the heading, after “whole-time” insert “or part-time”;
- (b) in paragraph (1), after “whole-time” insert “or part-time”; and
- (c) in paragraph (3), omit the words from “, or if the deceased was a woman” to the end of the paragraph.

22. In rule J4 (part-time member of brigade)–

- (a) for “part-time” substitute “retained or volunteer” in each place where it appears;
- (b) in paragraph (4), for “and E5 (gratuity in lieu)” substitute “, E5 (gratuity in lieu) and E8 (increase of pensions and allowances during first 13 weeks)”;
- (c) in paragraph (5) omit “, subject to paragraph (6),” and for “and E6 (gratuity in lieu)” substitute “, E6 (gratuity in lieu) and E8 (increase of pensions and allowances during first 13 weeks)”;
- (d) omit paragraph (6); and
- (e) in paragraph (7), after “is one who” insert “is a whole-time member of a brigade and”.

*Part K: Revision and withdrawal of awards*

23. In rule K1 (cancellation of ill-health and injury pensions), in paragraph (2), omit sub-paragraph (a).

24. In rule K4 (withdrawal of pension during service as regular firefighter), after “or any part of the pension” insert “, except a pension under Part C (awards on death – spouses),”.

*Part L: Payment of awards and financial provisions*

25. In rule L4 (prevention of duplication), in paragraph (4), at the end of sub-paragraph (b), insert– “or

(c) to pensions as the surviving child of both parents who served as members of a brigade,”.

*Schedule 1: Interpretation*

26. In Part I of Schedule 1 (glossary of expressions)–

- (a) in the meaning of “Regular firefighter”–
  - (i) after “29th February 1992” insert “but before 1st October 2004”; and

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(ii) add at the end—

“In relation to any time on or after 1st October 2004, the expression means a whole-time or part-time member of a brigade, other than a retained or volunteer member of a brigade, appointed on terms under which he is, or may be, required to engage in firefighting or, without a break in continuity of such an appointment, may be required to perform other duties as appropriate to his role as a firefighter (other than, or in addition to, engaging in firefighting) and whose appointment is not a temporary one.”; and

(b) insert in the appropriate places in alphabetical order—

“Adoption leave	Leave under sections 75A and 75B of the Employment Rights Act 1996(2) (and ordinary adoption leave and additional adoption leave shall be construed accordingly).
“EEA State”	“EEA State” means a Member State, Norway, Iceland or Liechtenstein.
Independent qualified medical practitioner	A medical practitioner holding a diploma in occupational medicine or an equivalent qualification issued by a competent authority in an EEA State (for the purposes of this definition, “a competent authority” has the meaning given by the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003 (3)) or being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine(4) or an equivalent institution of an EEA State.
Maternity leave	In respect of any period prior to 22nd August 1996, leave under section 33 of the Employment Protection (Consolidation) Act 1978(5) and in respect of any period on or after that date, leave under sections 71 and 73 of the Employment Rights Act 1996(6) (and “ordinary maternity leave” and “additional maternity leave” shall be construed accordingly).
Paternity leave	Leave under regulation 4 or 8 of the Paternity and Adoption Leave Regulations 2002(7).
Retained member of a brigade	A member of a brigade who— (a) is obliged to attend— (i) at the station to which he is attached for training and

(2) 1996 c. 18; sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c. 22).

(3) S.I.2003/1250 as amended by S.I. 2004/1947.

(4) The faculty of Occupational Medicine is a registered charity no. 1035415

(5) 1978 c. 44. section 33 was amended by section 23 of the Trade Union Reform and Employment Relations Act 1993 (c. 19) and repealed with effect from 22nd August 1996 by Schedule 3 to the Employment Rights Act 1996 (c. 18)

(6) 1996 c. 18; sections 71 and 73 were substituted by section 7 of, and Part 1 of Schedule 4 to, the Employment Relations Act 1999 (c. 26) and amended by section 17 of the Employment Act 2002 (c. 22).

(7) S.I. 2002/2788.

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	<p>maintenance duties for an average of 2 hours each week (or such less time as the officer in charge of the station, subject to any orders of the Chief Officer, considers necessary) and promptly, at any time, in response to a call; and</p> <p>(ii) at any other station for reserve or standby duties in accordance with any orders he receives; and</p> <p>(b) receives a retaining fee and such other fees as appropriate in respect of those duties.</p>
Volunteer member of a brigade	A member of a brigade who is obliged to carry out the duties set out in paragraph (a) of the meaning of “Retained member of a brigade”, but does not receive a retaining fee or other fees as appropriate in respect of those duties.”.

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#### *Schedule 2: Personal awards*

**27.** In Parts I, II and III of Schedule 2 (ordinary pension, short service pension and ill-health pension), after “Subject to Parts” insert “VIA,” in each place where it appears.

**28.** In Part V of Schedule 2 (injury awards)–

- (a) in paragraph 1(1), add at the beginning, “Subject to Part VIA of this Schedule,”;
- (b) in paragraph 1(2), after “rule G3” insert “or a failure to elect under rule G2A”; and
- (c) in paragraph 2(1), after “rule G3 had effect” insert “or the person failed to make an election under rule G2A”.

**29.** In Part VI of Schedule 2 (deferred pension), in paragraph 1(1), for “Parts VII and VIII” substitute “Parts VIA, VII and VIII”.

**30.** After Part VI of Schedule 2 (deferred pensions), insert–

### “PART VIA

#### CALCULATION OF AWARDS FOR PART-TIME SERVICE

**1.** Where some or all of a person’s service, by virtue of which his pensionable service is reckonable, is part-time service, his–

- (a) ordinary pension under Part I,
- (b) short-service pension under Part II,
- (c) ill-health pension under Part III,
- (d) injury gratuity under Part V,
- (e) injury pension under Part V, and
- (f) deferred pension under Part VI,

as appropriate, shall be calculated in accordance with this Part.

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2.—(1) The amount of an award listed in paragraph 1 is—

$$\frac{A \times (B + C)}{D}$$

where—

A is the amount of that award calculated under the relevant Part if the average pensionable pay was the pay the person would have received had he been a whole-time member of a brigade;

B is the period in years of his pensionable service as a whole-time member of a brigade;

C is the period in years of his pensionable service as a part-time member of a brigade, expressed as a fraction, where the numerator is the total number of contractual hours during the part-time service and the denominator is the total number of contractual hours for one year of whole-time service; and

D is the period in years of his pensionable service.

(2) Neither (B + C) nor D shall exceed 30 years.”.

*Schedule 3: Awards on death – spouses*

31. In Part I of Schedule 3 (spouse’s ordinary pension), in paragraph 1(2), add at the end “but taking into account the provisions of Part VIA of Schedule 2 (calculation of awards for part-time service)”.

32. For Part II of Schedule 3 (spouse’s special pension) substitute—

“1. Subject to paragraph 2, the weekly amount of a special pension is 45% of the deceased’s average pensionable pay for a week.

2.—(1) Where some or all of the deceased’s service, which is reckonable as pensionable service, was part-time service, the amount of special pension shall, subject to (2), be calculated using the formula in paragraph 2 of Part VIA of Schedule 2.

(2) In making the calculation mentioned in paragraph (1), for the value of A there shall be substituted “A is the amount calculated under paragraph 1 of Part II of Schedule 3 if the average pensionable pay was the pay the deceased would have received had he been a whole-time member of a brigade”.”.

33. In Part III of Schedule 3 (spouse’s accrued pension), in paragraph 2(3), after “this paragraph” insert “account shall be taken of Part VIA of Schedule 2 (calculation of awards for part-time service), but”.

34. In Part IV of Schedule 3 (pension for widow of post-retirement marriage), in paragraph 2—

(a) at the beginning of sub-paragraph (2)(b) insert “subject to sub-paragraph (3),”; and

(b) after sub-paragraph (2) insert—

“(3) Where some or all of the deceased’s service, which is reckonable as pensionable service, was part-time service, the amount at sub-paragraph (2)(b) shall, subject to (4), be calculated using the formula in paragraph 2 of Part VIA of Schedule 2.

(4) In making the calculation mentioned in sub-paragraph (3), for the value of A there shall be substituted “A is the amount calculated under paragraph 2(2)(b) of Part IV of Schedule 3 if the average pensionable pay was the pay the deceased would have received had he been a whole-time member of a brigade” and in relation to B, C and D only pensionable service after 5th April 1978 shall be counted.”.

35. For Part V of Schedule 3 (spouse’s requisite benefit pension) substitute—

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“1. Subject to paragraph 2, the amount of a requisite benefit pension is 1 divided by 160 of the deceased’s average pensionable pay multiplied by the period in years of so much of his pensionable service as is reckonable by virtue of service or employment after 5th April 1978.

2. Where some or all of the deceased’s service, which is reckonable as pensionable service, was part-time service, the amount of a requisite benefit pension shall, subject to 3, be calculated using the formula in paragraph 2 of Part VIA of Schedule 2.

3. In making the calculation mentioned in paragraph 2, for the value of A there shall be substituted “A is the amount calculated under paragraph 1 of Part V of Schedule 3 if the average pensionable pay was the pay the deceased would have received had he been a whole-time member of a brigade” and in relation to B, C and D only pensionable service after 5th April 1978 shall be counted.”.

*Schedule 4: Awards on death – children*

36. In Part 1 of Schedule 4 (child’s ordinary allowance), in paragraph 1(4), add at the end “but taking account of Part VIA of Schedule 2 (calculation of awards for part-time service)”.

37. In Part II of Schedule 4 (child’s special allowance)–

- (a) at the beginning of paragraph 1 insert “Subject to paragraph 4,”; and
- (b) after paragraph 3 insert–

“4.—(1) Where some or all of the deceased’s service, which is reckonable as pensionable service, was part-time service, the amount of special allowance shall, subject to (2), be calculated using the formula in paragraph 2 of Part VIA of Schedule 2.

(2) In making the calculation mentioned in sub-paragraph (1), for the value of A there shall be substituted “A is the amount calculated under paragraphs 1 to 3 of Part II of Schedule 4 if the average pensionable pay was the pay the deceased would have received had he been a whole-time member of a brigade”.”.

38. In Part III of Schedule 4 (child’s accrued allowance), in paragraph 4, after “paragraph 2 or 3” insert “account shall be taken of Part VIA of Schedule 2 (calculation of awards for part-time service), but”.

*Schedule 5: Awards on death – additional provisions*

39. In Part 1 of Schedule 5 (adult dependent relative’s special pension)–

- (a) in paragraph 1, for “paragraph 2” substitute “paragraphs 2 and 3”; and
- (b) after paragraph 2 insert–

“3.—(1) Where some or all of the deceased’s service, which is reckonable as pensionable service, was part-time service, the amount of the deceased’s average pensionable pay shall be calculated using the formula in paragraph 2 of Part VIA of Schedule 2.

(2) In making the calculation mentioned in sub-paragraph (1), for the value of A there shall be substituted “A is the average pensionable pay the deceased would have received had he been a whole-time member of a brigade”.”.

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*Schedule 6: Pensionable service and transfer values*

**40.** In Part I of Schedule 6 (payments in respect of previous service), in paragraph 2(1), after “when he again became a regular firefighter,” insert “or if he is a part-time member of a brigade, the annual pensionable pay he would have received had he been a whole-time member.”

**41.** In Part II of Schedule 6 (service reckonable on receipt of transfer value), add at the end–

“4. In this Part–

- (a) annual pensionable pay, in the case of a part-time member of a brigade, is the pay the person would have received had he been a whole-time member of a brigade; and
- (b) periods of reckonable pensionable service shall be treated as periods of whole-time service.”

*Schedule 9: Appeals*

**42.** In Part I of Schedule 9 (appeal to board of medical referees)–

(a) in paragraph 4–

- (i) in paragraph (1)(a), after “interview”, insert “and medically examine” and in paragraph (1)(b), for “interview him or cause him to be interviewed” substitute “interview or medically examine him or cause him to be interviewed or medically examined”;
- (ii) in sub-paragraph (2), after “interview”, insert “and medical examination”;
- (iii) in sub-paragraph (3), omit “submit himself at the interview to”; and
- (iv) in sub-paragraph (4), for “interview” insert “interview and medical examination” in both places where it occurs;

(b) after paragraph 8(2), insert–

“(2A) Where the appellant gives notice to the board of withdrawing the appeal within a period of 10 working days prior to the date appointed for an interview or medical examination by the board under paragraph 4(2), the fire authority may require the appellant to pay such sum as they think fit, not exceeding the board’s total fees and allowances under paragraph 7(1).”;

(c) in sub-paragraph 8(4)(a) for “interview” substitute “interview and medical examination”.

**43.** In Part II of Schedule 9 (appeal tribunals), in paragraph 2(2), for “counsel, a solicitor” substitute “counsel, a solicitor, an advocate”.