

SCHEDULE 1

THE NEW FIREFIGHTERS' PENSION SCHEME (SCOTLAND)

PART 4

SURVIVORS' PENSIONS

CHAPTER 1

SURVIVING SPOUSES, CIVIL PARTNERS AND NOMINATED PARTNERS

Pensions for surviving spouses, civil partners and nominated partners

1.—(1) Subject to the following provisions of this rule, a pension is payable on the death of—

- (a) a firefighter member who satisfies an eligibility condition and dies while employed by an authority; or
- (b) a former firefighter member who—
 - (i) has been awarded a deferred pension under rule 3 of Part 3 which has not come into payment; or
 - (ii) is in receipt of a deferred pension under that rule; or
 - (iii) is in receipt of a pension under any of rules 1, 2, 5 and 6 of Part 3,

to the deceased's spouse, civil partner or nominated partner for the remainder of their life (a "survivor's pension").

(2) A survivor's pension is not payable if the deceased's spouse, civil partner or nominated partner (as the case may be) is convicted of the murder of the deceased; but this is subject to paragraph (4).

(3) Subject to paragraph (5), where the deceased's spouse, civil partner or nominated partner (as the case may be) is convicted of the culpable homicide or manslaughter of the deceased, the authority may, as they think fit, withhold the survivor's pension—

- (a) in whole or in part; and
- (b) permanently or temporarily.

(4) Where a conviction of the description mentioned in paragraph (2) is quashed on appeal—

- (a) a survivor's pension shall be payable from the day after that on which the deceased died; and
- (b) the authority shall, as soon as reasonably practicable after the conviction is quashed, pay the arrears of pension accrued.

(5) Where—

- (a) a conviction of the description mentioned in paragraph (3) is quashed on appeal; and
- (b) the authority have withheld any part of the survivor's pension,

the authority's decision under paragraph (3) shall be treated as revoked and they shall, as soon as reasonably practicable after the conviction is quashed, pay the arrears of pension accrued from the day after that on which the deceased died.

(6) Nothing in paragraph (4) or (5) shall affect the application of paragraph (2) or (3) if the person whose conviction is quashed is subsequently convicted of the murder, culpable homicide or manslaughter of the deceased.

Status: This is the original version (as it was originally made).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

Amount of survivor’s pension: general

- 2.—(1) Subject to rule 3 of this Part, the amount of a survivor’s pension—
- (a) in respect of a firefighter member who satisfies an eligibility condition and dies while employed by an authority, is half of the higher tier ill-health pension to which the firefighter member would have been entitled under rule 2(3) of Part 3 had the firefighter member retired with the benefit of an ill-health award;
 - (b) in any other case, subject to paragraphs (2) and (3), is half of the pension to which the deceased was entitled.
- (2) Where a portion of the deceased’s pension had been commuted under rule 9 of Part 3, the amount of the survivor’s pension is half of the deceased’s pension after commutation.
- (3) Where the deceased had taken member-initiated early retirement, the amount of the survivor’s pension is—
- (a) half of the amount of the pension which the deceased would have received if there had been no actuarial reduction; or
 - (b) where a portion of the deceased’s pension had been commuted, the amount found by dividing by 2 the product of A and B, where—
 - A is the amount which the deceased would have received if there had been no actuarial reduction; and
 - B is the fraction which represents the uncommuted portion of A expressed as a fraction of A.

Amount of survivor’s pension: special cases

- 3.—(1) Subject to paragraph (2), where the person entitled to a survivor’s pension under rule 1 of this Part is more than twelve years younger than the deceased on the day on which the deceased dies, a reduction of 2.5 per cent for each year by which the survivor’s age exceeds, by more than twelve years, that of the deceased, shall be applied to the rule 2 amount.
- (2) Where the application of paragraph (1) would result in the payment of a survivor’s pension of less than 50 per cent of the rule 2 amount, the survivor’s pension shall be 50 per cent of the rule 2 amount.
- (3) Where—
- (a) a pension debit member satisfies an eligibility condition and dies while employed by an authority;
 - (b) a survivor’s pension is payable under rule 1 of this Part on the pension debit member’s death; and
 - (c) a pension sharing order or, in the case of a surviving civil partner, an order to similar effect, had effect on the day on which the pension debit member died,
- the amount of the survivor’s pension shall be ascertained with regard to the terms of that order.
- (4) In paragraphs (1) and (2), “the rule 2 amount” means the amount that would have been ascertained in accordance with rule 2 of this Part if that rule were not subject to paragraphs (1) to (3) of this rule.
- (5) For the purposes of paragraph (1), a part of a year shall be treated as a whole year.

Bereavement pension: survivors

4.—(1) Subject to paragraph (2), a person entitled to a survivor's pension under rule 1 of this Part is also entitled, in respect of each of the 13 weeks following the death, to a bereavement pension of an amount equal to the difference between the weekly rate at which the survivor's pension is paid and—

- (a) if the deceased was a firefighter member when the deceased died, the weekly rate of the firefighter member's pensionable pay when the firefighter member died;
- (b) in any other case, the weekly rate of the deceased's pension or pensions (including any increase under the Pensions (Increase) Act 1971) when the deceased died.

(2) No entitlement arises under paragraph (1) where—

- (a) a contributions election has effect at the date of the deceased's death; or
- (b) the deceased was entitled to a deferred pension that had not come into payment.

Commutation of pensions for surviving spouses, civil partners and nominated partner

5.—(1) A pension payable under this Chapter may, if the person entitled to it so requests, be commuted for a lump sum 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 amount of the lump sum shall be calculated in accordance with tables prepared by the Scheme Actuary and in force when the commutation takes effect.

(3) On the day on which a pension is commuted under this rule, all other entitlements under this Scheme of the person entitled to the pension are extinguished to the extent that they derive from the deceased member.