

**2015 No.**

**PUBLIC SERVICE PENSIONS**

**The Firefighters' Pension Scheme (Scotland) (Transitional and Consequential Provisions) Regulations 2015**

<i>Made</i>	- - - -	***
<i>Laid before Parliament</i>		***
<i>Coming into force</i>	- -	***

The Scottish Ministers make these Regulations, in exercise of the powers conferred by sections 1(1) and (2)(a), 2(1), 3(1), (2), (3)(a) and (c), (6) and (7), paragraph 6(a) of Schedule 2, Schedule 3 and paragraphs 1(2)(ii), 2(2)(ii) and 5(1) of Schedule 7 to the Public Service Pensions Act 2013(b).

In accordance with section 21 of that Act, the Scottish Ministers have consulted the representatives of such persons as appear to the Scottish Ministers likely to be affected by these Regulations.

**Citation and commencement**

**1.**—(1) These Regulations may be cited as the Firefighters' Pension Scheme (Scotland) (Transitional and Consequential Provisions) Regulations 2015.

(2) These Regulations come into force on 1st April 2015.

**Interpretation**

**2.** In these Regulations—

“1992 Scheme” means the Firefighters' Pension Scheme 1992 as set out in Schedule 2 to the Firemen's Pension Scheme Order 1992(c) as it has effect in Scotland;

“NFPS” means the New Firefighters' Pension Scheme (Scotland) as set out in Schedule 1 to the Firefighters' Pension Scheme (Scotland) Order 2007(d);

“2015 Scheme” means the Firefighters' Pension Scheme 2015 as set out in the Firefighters' Pension Scheme (Scotland) Regulations 2015(e).

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(a) See also section 1(3) and Schedule 1.

(b) 2013 c.25.

(c) S.I. 1992/129. The name of the scheme was changed to the Firefighters' Pension Scheme by article 4(1) of S.I. 2004/2306.

(d) S.I. 2007/199; Schedule 1 is the subject of amendments not relevant to these Regulations.

(e) S.I. 2015/19.

### **Amendment of the Firefighters' Pension Scheme (Scotland) Regulations 2015**

3. The Firefighters' Pension Scheme (Scotland) Regulations 2015(a) which establish the Firefighters' Pension Scheme 2015 shall be amended in accordance with Schedule 1 to these Regulations.

### **Amendment of the Firefighters' Pension Scheme (Scotland) Order 2007**

4. Schedule 1 to the Firefighters' Pension Scheme (Scotland) Order 2007(b) (in which the New Firefighters' Pension Scheme (Scotland) is set out) shall be amended in accordance with Schedule 2 to these Regulations.

### **Amendment of the Firemen's Pension Scheme Order 1992**

5. Schedule 2 to the Firemen's Pension Scheme Order 1992(c) (in which is set out the Firefighters' Pension Scheme), as it has effect in Scotland, shall be amended in accordance with Schedule 3 to these Regulations.

A member of the Scottish Government

St Andrew's House  
Edinburgh

2015

## **SCHEDULES**

### **SCHEDULE 1**

#### **Amendments to the 2015 scheme**

1. In Part 1 (preliminary) in regulation 3 (interpretation) in the appropriate place insert—  
““the adjusted lower tier ill-health pension” has the meaning given in regulation 66(4) (annual rate of ill-health awards);”  
“connected member” has the meaning given in rule 1C of Part 2 of the NFPS;  
“continuous member” has the meaning given in rule A3(7) of the 1992 Scheme;  
“equivalent amount to the lower tier ill-health pension” has the meaning given in regulation 65(4)(c).

2. In Part 2 (Governance) after regulation 5 insert-

#### **“Establishment of pension board**

**5A.**—(1) A pension board (“the Scottish Firefighters’ Pension Board”) is established.

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(a) S.S.I. 2015/19.

(b) S.S.I. 2007/199; Schedule 1 is the subject of amendments not relevant to these Regulations.

(c) S.I. 1992/129;

(2) The Scottish Firefighters' Pension Board is responsible for assisting the scheme manager in relation to securing compliance with—

- (a) these Regulations;
- (b) any other legislation relating to the governance and administration of this scheme and any connected scheme; and
- (c) requirements imposed by the Pensions Regulator in relation to this scheme and any connected scheme.

(3) The scheme manager is to determine the process by which the Scottish Firefighters' Pension Board discharges its functions.

#### **Membership of pension board**

**5B.**—(1) Subject to paragraph (2), the scheme manager may determine—

- (a) the membership of the Scottish Firefighters' Pension Board;
- (b) the manner in which the Scottish Firefighters' Pension Board members may be appointed and removed; and
- (c) the terms of appointment of the Scottish Firefighters' Pension Board members.

(2) The Scottish Firefighters' Pension Board is to include equal numbers of members representing the employers and members.

#### **Establishment of scheme advisory board**

**5C.**—(1) A scheme advisory board (“the Scottish Firefighters' Pension Scheme Advisory Board”) is established.

(2) The Scottish Firefighters' Pension Scheme Advisory Board is responsible for providing advice to the scheme manager, at the scheme manager's request, on the desirability of changes to this scheme.

(3) The scheme manager is to determine the process by which the Scottish Firefighters' Pension Scheme Advisory Board discharges its functions.

#### **Membership of scheme advisory board**

**5D.** (1) The scheme manager may determine—

- (a) the membership of the Scottish Firefighters' Pension Scheme Advisory Board;
- (b) the manner in which members of the Scottish Firefighters' Pension Scheme Advisory Board may be appointed and removed; and
- (c) the terms of appointment of the members of the Scottish Firefighters' Pension Scheme Advisory Board.

#### **Conflict of interest**

**5E.**—(1) The scheme manager must be satisfied that—

- (a) any person to be appointed as a member of the Scottish Firefighters' Pension Board does not have a conflict of interest within the meaning of section 5(5) of the Act;
- (b) any person to be appointed as a member of the Scottish Firefighters' Pension Scheme Advisory Board does not have a conflict of interest within the meaning of section 7(5) of the Act.

(2) The scheme manager must be satisfied from time to time that none of the members of the Scottish Firefighters' Pension Board or of the Scottish Firefighters' Pension Scheme Advisory Board has a conflict of interest.

(3) A person who is to be appointed as a member of a relevant Board must provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of paragraph (1).

(4) A person who is a member of a relevant Board must provide the scheme manager with such information as the scheme manager reasonably requires for the purposes of paragraph (2).”

**3. In Part 5 (retirement benefits) in chapter 4 (ill-health benefits)—**

(a) in regulation 51 (account to specify amount of retirement pension (active members)—

(i) after paragraph (3), insert—

“(3A) Where the active member is entitled to an equivalent amount to the lower tier ill-health pension, the retirement account must specify that amount.”;

(ii) after paragraph (4), insert—

“(4A) For the equivalent amount to the lower tier ill-health pension, the retirement account must specify any commutation amount.

(4B) The commutation amount in relation to a member entitled to the equivalent amount to the lower tier ill-health pension under regulation 65(4)(b) is the lump sum calculated in accordance with rule B7 (commutation general provision) and regulation 71 (option to commute part of pension) does not apply to that equivalent amount.

(4C) Where paragraph (4B) applies, the continuous period of pensionable service in relation to which the retirement account was established is added to the pensionable service which that member was entitled to reckon in accordance with rules F2 to F7 of the 1992 Scheme.

(4D) The commutation amount in relation to a member entitled to the equivalent amount to the lower tier ill-health pension under regulation 65(4)(a) who is a special member of the NFPS is the lump sum calculated in accordance with rule 9(2A) of Part 3 of the NFPS and regulation 71 (option to commute part of pension) does not apply to that equivalent amount.”;

(b) in regulation 59 (annual rate of retirement pension (active members) after paragraph (2)(b)(iv), insert—

“(ba) the sum of —

(i) the equivalent amount to the lower tier ill-health pension (if any) specified in the member’s retirement account,

(ii) subtracting the commutation amount (if any) specified in that account in relation to that amount; and”;

(c) in regulation 65 (entitlement to lower tier ill-health pension and higher tier ill-health pension) after paragraph (3) insert—

“(4) Where an active member (A) is entitled to a lower tier ill-health pension and paragraph 22 or paragraph 24 of Schedule 2 to these Regulations applies to A—

(a) if paragraph 22 applies to A, A is also entitled to an amount equivalent to the annual amount of a lower tier ill-health pension that would, if the member were entitled to payment of a lower tier ill-health pension under rule 2(2) of the NFPS, be payable to the member under the NFPS;

(b) if paragraph 24 applies to A, A is also entitled to an amount equivalent to the annual amount of a lower tier ill-health pension that would, if the member were entitled to payment of a lower tier ill-health pension under rule B3 (ill health awards) of the 1992 Scheme, be payable to the member under the 1992 Scheme.

(c) the amount equivalent to the annual amount of a lower tier ill-health pension in sub paragraph (a) and sub-paragraph (b) is referred to in these Regulations as the “equivalent amount to the lower tier ill-health pension”.”;

(d) in regulation 66 (annual rate of ill-health awards), after paragraph (4) insert—

“(5) In the case of an active member (A) to whom paragraph (4)(a) of regulation 65 applies and who has purchased an additional period of service under Part 11 of the NFPS, the adjusted lower tier ill-health pension includes the equivalent amount to the lower tier ill-health pension which has been calculated under paragraph 1 of annex 1 to the NFPS with the subtraction of the amount of additional period of service purchased under Part 11.”;

(e) After regulation 69 (consequences of review), insert—

**“Cessation of payment of equivalent amount to lower tier ill-health pension**

**69A.**—(1) This regulation applies where a pensioner member (P) has been in receipt of an ill-health award under regulation 65 (entitlement to lower tier ill-health pension and higher tier ill-health pension) and paragraph (4) of that regulation applies to the member.

(2) Where regulation 65(4)(a) applies to P and P has reached normal retirement age under the NFPS, the equivalent amount to a lower tier ill-health pension ceases to be payable under that regulation.

(3) Where regulation 65(4)(b) applies to P and P has reached normal pension age under the 1992 Scheme the equivalent amount to the lower tier ill-health pension ceases to be payable under that regulation.”;

(f) In regulation 71 (option to commute part of pension)—

(i) in paragraph (3) for “If a member exercises” substitute “Subject to paragraph (3A) if a member exercises”;

(ii) after paragraph (3) insert—

“(3A) Where a portion of the pension to be exchanged for a lump sum derives from the equivalent amount of the lower tier ill-health pension to which the member is entitled under regulation 65(4)(b), paragraph (3) does not apply to that portion and rule B7 (commutation – general provision) applies to it.”.

**4.** In Part 8 (Contributions) Chapter 1 Member contributions for Regulation 110 sub paragraphs (2) and (3) substitute

“(2) The contribution rate applicable to a scheme employment is as specified in the following table, with the contribution rate specified in the appropriate column for the year to be considered applicable to the band of pensionable pay specified in the first column into which the active member’s annual pensionable pay, rounded down to the nearest whole pound, falls:

<i>Pensionable pay range for an employment</i>	<i>Contribution rate 1st April 2015-31st March 2016</i>
Up to £27,000	10.0%
£27,001 to £50,000	12.2%
£50,001 to £142,500	13.5%
£142,501 or more	14.5%

<i>Pensionable pay range for an employment</i>	<i>Contribution rate 1st April 2016 – 31st March 2017</i>
Up to £27,270	10.0%
£27,271 to £50,500	12.5%
£50,501 to £142,500	13.5%

£142,501 or more	14.5%
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<i>Pensionable pay range for an employment</i>	<i>Contribution rate 1st April 2017 – 31st March 2018</i>
Up to £27,543	10.5%
£27,544 to £51,005	12.7%
£51,006 to £142,500	13.5%
£142,501 or more	14.5%

<i>Pensionable pay range for an employment</i>	<i>Contribution rate from 1st April 2018</i>
Up to £27,818	11.0%
£27,819 to £51,515	12.9%
£51,516 to £142,500	13.5%
£142,501 or more	14.5%

(3) The amount of pensionable pay of a retained or volunteer firefighter for the purpose of the first column of the table must be that firefighter's reference pay.

(4) The amount of pensionable pay of a part-time regular firefighter for the purpose of the first column of the table must be the amount of pensionable pay of a whole-time regular firefighter of equivalent role and length of service.

(5) Where there is a change in scheme employment, or a material change which affects the member's pensionable pay in the course of a financial year and the revised amount of the pensionable pay falls into a different contribution rate band the scheme manager must determine that this rate should be applied and the scheme manager must inform the member of the contribution rate applicable and the date from which it is to be applied.

(6) Where the scheme manager has determined under paragraph (5) that a different contribution rate applies, the member must pay contributions at that rate on the pensionable pay that member is receiving at that time.

(7) For the purposes of identifying which is the applicable contribution rate under this regulation, any reduction in pensionable pay which arises as a consequence of any of the following circumstances is to be disregarded—

- (a) the actual or assumed enjoyment by the member of any statutory entitlement during any period away from work;
- (b) child-related leave;
- (c) leave of absence with permission;
- (d) sick leave;
- (e) leave due to injury;
- (f) reserve forces service leave;
- (g) absence due to a trade dispute; or

(h) circumstances specified by the scheme manager in a particular case.

(8) In these Regulations, “member contributions” means contributions which an active member may pay under this regulation, and regulations 111 to 113 (contributions during absences from work).”

5. Schedule 2 (transitional provisions) is amended as follows—

(a) in Part 1, in paragraph 3(1) for “Subject to paragraphs (2) to (4) ” insert “Subject to paragraphs (2) to (4a)” and after sub-paragraph (4) insert—

“(4a) In the case of a tapered protection member of the NFPS who is a special member of the NFPS, the tapered protection closing date is the date found by applying the relevant date in column 3 of the 1992 Scheme table in Part 4 of this Schedule to the birthday referred to in column 1 and column 2.”;

(b) after Part 3, insert—

## “PART 3A

### Payment of ill-health benefits to transition members

#### **Transition member who has not reached normal pension age under the NFPS**

**22.**—(1) This paragraph applies in relation to a transition member with continuity of service who—

- (a) is a connected member of the NFPS;
- (b) becomes entitled to an ill-health award under this scheme; and
- (c) who has not reached normal pension age under the NFPS.

(2) If this paragraph applies—

- (a) neither a lower tier ill-health pension nor a higher tier ill-health pension are payable under rule 2 (awards on ill-health retirement) of the NFPS; and
- (b) an ill-health award is payable from this scheme in accordance with this paragraph.

(3) If the member meets the conditions only for a lower tier ill-health pension under this scheme the annual rate of a lower tier ill-health pension payable under this scheme is the sum of—

- (a) the annual rate of a lower tier ill-health pension payable under this scheme; and
- (b) an amount payable under paragraph (4) of regulation 65 (entitlement to lower tier ill-health pension and to higher tier ill-health pension).

(4) If the member meets the conditions for a higher tier ill-health pension under this scheme, the annual rate of the higher tier ill-health pension payable under this scheme is calculated with the inclusion of the amount in sub-paragraph (3)(b) in the amount of the adjusted lower tier ill-health pension in regulation 66(4) (annual rate of ill-health awards).

(5) If, after an ill-health award becomes payable under this paragraph, a transfer payment is made from the NFPS in respect of the member’s rights under that scheme and the transfer relates to a period of service included as qualifying service in relation to the member’s retirement account, the scheme manager must deduct from the ill-health award the amount in respect of service in the NFPS which is equal to the value represented by that transfer payment.

(6) The amount equivalent to the annual amount of a lower tier ill-health pension which would be payable under the NFPS is subject to the same conditions, and ceases to be payable in the same circumstances, as the pension to which the member would have been entitled under the NFPS in accordance with the rules of that scheme.

### **Transition member who reaches normal pension age under the NFPS**

**23.**—(1) This paragraph applies in relation to a transition member with continuity of service who is receiving payment of an ill-health award in accordance with paragraph 22.

(2) When the member reaches normal pension age under the NFPS—

- (a) the equivalent amount to the lower tier ill-health pension specified under regulation 59(2)(ba) (annual rate of retirement pension (active members)) ceases to be payable under this scheme; and
- (b) the member becomes entitled under the NFPS to the immediate payment of a lower tier ill-health pension of the same amount as the amount paid under that regulation on the day before the member reaches normal pension age.

### **Transition member who has not reached normal pension age under the 1992 Scheme**

**24.**—(1) This paragraph applies in relation to a transition member who—

- (a) was in pensionable service in the 1992 Scheme until the day before the transition date; and
- (b) has continued in pensionable service in relevant scheme employment without a break in service until that member became entitled to an ill-health award under this scheme; and
- (c) has not reached normal pension age under the 1992 Scheme the age at which the conditions of that rule are satisfied.

(2) If this paragraph applies—

- (a) neither a lower tier ill-health pension nor a higher tier ill-health pension are payable under rule B3 (ill health awards) of the 1992 Scheme; and
- (b) an ill-health award is payable from this scheme.

(3) If the member meets the conditions for a lower tier ill-health pension only under this scheme, the annual rate of a lower tier ill-health pension payable under this scheme is the sum of—

- (a) the annual rate of a lower tier ill-health pension payable under this scheme; and
- (b) an amount payable under paragraphs (4) of regulation 65 (entitlement to lower tier ill-health pension and to higher tier ill-health pension).

(4) If the member meets the conditions for a higher tier ill-health pension under this scheme, the annual rate of the higher tier ill-health pension payable under this scheme is calculated with the inclusion of the amount in paragraph (3)(b) in the amount of the adjusted lower tier ill-health pension in regulation 66(4) (annual rate of ill-health awards).

(5) If, after an ill-health award becomes payable under this paragraph, a transfer payment is made from the 1992 Scheme in respect of the member's rights under that scheme, the scheme manager must deduct from the ill-health award the amount in respect of service in the 1992 Scheme which is equal to the value represented by that transfer payment.

(6) The amount equivalent to the annual rate of a lower tier ill-health pension which would be payable under the 1992 Scheme is subject to the same conditions, and ceases to be payable in the same circumstances, as the pension to which the member would have been entitled under the 1992 Scheme in accordance with the rules of that scheme.

(7) In this paragraph—

“relevant scheme employment” means the scheme employment which is the most similar to the employment which was pensionable under the 1992 Scheme and to which the pensionable service in the 1992 Scheme was added to that active member's account for the purposes of regulation 57 (qualifying service).



### **Transition member who reaches normal pension age under the 1992 Scheme**

**25.**—(1) This paragraph applies in relation to a transition member who is receiving the payment of an ill-health award in accordance with paragraph 24.

(2) When the member reaches normal pension age under the 1992 Scheme—

- (a) the equivalent amount to the lower tier ill-health pension specified under regulation 59(2)(ba) (annual rate of retirement pension (active members)) ceases to be payable under this scheme; and
- (b) the member becomes entitled under the 1992 Scheme to the immediate payment of a lower tier ill-health pension of the same amount as the amount paid under that regulation on the day before the member reaches normal pension age.

## **PART 3B**

### **Payment of death benefits in respect of transition members**

#### **Annual rate of pensions for surviving partners payable under this scheme when a transition member dies in service with accrued benefits in the NFPS**

**26.**—(1) This paragraph applies in relation to a transition member (T) with continuity of service who is a connected member of the NFPS—

- (a) who dies as an active member of this scheme; and
- (b) whose period of qualifying service for the active member's account is at least 3 months and includes a period of qualifying service from T's membership of the NFPS.

(2) Benefits for surviving spouses, civil partners and nominated partners are not payable under the NFPS in respect of the member and those individuals will receive a surviving partner's pension under regulation 78.

(3) The annual rate of a surviving partner's pension is that provided in regulation 78(3).

(4) Where an individual is entitled to receive a surviving partner's pension, that individual will also be entitled to receive a bereavement pension for the period and amount provided in regulation 81(3) (bereavement pension: surviving partner).

#### **Annual rate of pensions for surviving partners payable under this scheme when certain transition members die in service with accrued benefits in the 1992 Scheme**

**27.**—(1) This paragraph applies in relation to a transition member who—

- (a) was in pensionable service in the 1992 Scheme until the day before the transition date;
- (b) has continued in pensionable service in scheme employment without a break in service until that member dies;
- (c) dies as an active member of this scheme; and
- (d) has a period of qualifying service of at least 2 years.

(2) Benefits for surviving spouses and civil partners are not payable under the 1992 Scheme in respect of that member and those individuals will receive a surviving partner's pension under regulation 78.

(3) The annual rate of the surviving partner's pension is that provided in regulation 78(3).

(4) Where an individual is entitled to receive a surviving partner's pension, that individual will also receive a bereavement pension for the period and amount provided in regulation 81(3) (bereavement pension: surviving partner).

**Annual rate of pensions payable to an eligible child under this scheme when a transition member dies in service with accrued benefits in the NFPS**

**28.**—(1) This paragraph applies in relation to a transition member (T) with continuity of service who is a connected member of the NFPS—

- (a) who dies as an active member of this scheme; and
- (b) whose period of qualifying service is at least 3 months.

(2) Benefits for an eligible child are not payable under the NFPS in respect of that member and where a child of the member satisfies the requirements of regulation 85 an eligible child's pension will be payable to that person (E).

(3) The annual rate of the eligible child's pension is that provided in regulation 86(2).

(4) If a surviving partner's pension is not payable on the death of T, a bereavement pension is payable to E for the period and amount provided in regulation 92.

**Annual rate of pensions payable to an eligible child under this scheme when a transition member dies in service with accrued benefits in the 1992 Scheme**

**29.**—(1) This paragraph applies in relation to a transition member who—

- (a) was in pensionable service in the 1992 Scheme until the day before the transition date;
- (b) has continued in pensionable service in scheme employment without a break in service until that member dies;
- (c) dies as an active member of this scheme; and
- (d) has a period of qualifying service of at least 2 years.

(2) Benefits for an eligible child are not payable under the 1992 Scheme in respect of that member and where a child of the member satisfies the requirements of regulation 85 an eligible child's pension will be payable to that person (E).

(3) The annual rate of the eligible child's pension is that provided in regulation 86(2).

(4) If a surviving partner's pension is not payable on the death of T, a bereavement pension is payable to E for the period and amount provided in regulation 92.

**Amount of lump sum death benefit payable under this scheme when a transition member dies in service with accrued benefits in the NFPS**

**30.**—(1) This paragraph applies in relation to a transition member (T) who is a member of the NFPS and who dies as an active member of this scheme.

(2) Where T dies as a connected member of the NFPS—

- (a) a death grant is not payable under rule 1 of Part 4 of the NFPS; and
- (b) a lump sum death grant of an amount specified in regulation 96(2) (lump sum payable on death of active member) of this scheme is payable to those persons that the scheme manager determines under regulation 95 (person to whom lump sum death benefit payable).

(3) Subject to paragraph (4), where T dies as a pensioner member of the NFPS, the amount of the lump sum death benefit payable under this scheme is the greater of the amount of the lump sum death benefit payable under regulation 96(2) and the amount of post-retirement death grant payable under rule 2 (post-retirement death grant) of Part 5 of the NFPS.

(4) Where T at the time of T's death was a pensioner member of this scheme and an active member of this scheme, and regulation 98 (lump sum payable on death in certain cases) applies, in a case where the greater amount of the lump sum death benefit payable is that under regulation 97 (lump sum payable on death of pensioner member), for "regulation 96" in sub-paragraph (3) substitute "regulation 97".

**Amount of lump sum death benefit payable under this scheme when a transition member dies in service with accrued benefits in the 1992 Scheme**

**31.**—(1) This paragraph applies in relation to a transition member (T) who is a member of the 1992 Scheme and who dies as an active member of this scheme.

(2) Paragraph (3) applies where T dies as a continuous member of the 1992 Scheme and a lump sum death grant of an amount specified in regulation 96(2) (lump sum payable on death of active member) of this scheme is payable to those persons that the scheme manager determines under regulation 95 (person to whom lump sum death benefit payable) and—

- (a) a lump sum death grant has been paid under rule E1 of the 1992 Scheme,
- (b) a payment of the balance of contributions has been made under rule E4 of the 1992 Scheme,
- (c) a dependent relative's gratuity has been paid under rule E3 of the 1992 Scheme.

(3) Where this paragraph applies, the payments which have been made and are referred to in sub-paragraphs (a), or (b), or (c) of paragraph (2) must be deducted from the lump sum death grant payable under regulation 96.

(4) Paragraph (5) applies where T dies as a deferred member of the 1992 Scheme or in receipt of a pension from that Scheme and a lump sum death grant of an amount specified in regulation 96(2) of this scheme is payable to those persons that the scheme manager determines under regulation 95 and—

- (a) a dependent relative's gratuities has been paid under rule E3 of the 1992 Scheme,
- (b) an amount of post retirement death grant has been paid under rule E4.

(5) Where this paragraph applies, the payments which have been made and are referred to in sub-paragraphs (a) or (b) of paragraph (4) must be deducted from the amount of lump sum death grant payable under regulation 96.

## PART 3C

### Transitional provisions relating to the NFPS and the 1992 Scheme

#### **Pensionable service under the NFPS**

**32.**—(1) This paragraph applies in relation to a transition member who is a connected member of the NFPS and has continuity of service (T).

(2) The following provisions of chapter 2 (purchase of additional service) of Part 11 (pensionable pay, pension contributions and purchase of additional service) of the NFPS continue to apply after the transition date as if T continued in pensionable service under that scheme—

- (c) the provisions relating to the payment of periodical contributions for the purchase of additional service under rule 6 (election to purchase additional service); and
- (d) the provisions relating to the payment of the mandatory special period pension contributions payable in respect of an election to purchase service during the limited period under rule 6A (election to purchase service during the limited period).

(3) In determining whether T qualifies under the NFPS for retirement benefits (other than an award on ill-health retirement or a deferred pension), T's pensionable service under the NFPS terminates when T's pensionable service under this scheme terminates.

#### **Final salary of transition member for any purposes of the NFPS**

**33.**—(1) This paragraph applies to a transition member with continuity of service (T) who is in pensionable service under this scheme and is a member of the NFPS.

(2) Subject to paragraphs (3) to (5), in determining T's final salary for any purposes of the NFPS under Schedule 7 of the 2013 Act (final salary link), pensionable pay derived from service under this scheme is to be regarded as derived from service under the NFPS.

(3) Where T's pensionable pay derived from service under this scheme at the time when T's final salary is determined for any purposes of the NFPS under Schedule 7 to the 2013 Act (final salary link) is lower than T's pensionable pay derived from service under the NFPS on the day before the transition date, then paragraphs (2) and (4) do not apply and T's final pensionable pay is determined in accordance with rule 2 (final pensionable pay) of Part 11 of NFPS.

(4) Where T's pensionable pay derived from service under this scheme at the time when T's final salary is determined for any purposes of the NFPS under Schedule 7 of the 2013 Act (final salary link) is lower than the pensionable pay for any year after the transition date, the pensionable pay for that year of service before the reduction in pensionable pay is to be regarded for the purposes of Schedule 7 as the pensionable pay derived from service under the NFPS.

(5) The definition of pensionable pay derived from service under this scheme in regulation 17 is modified for the purposes of sub-paragraph (4) and (6) by the omission of paragraph (1)(d) and the addition of paragraphs—

“(3) Where paragraph 33 of Schedule 2 to the 2015 Regulations applies in the case of a transition member (T) who is entitled to a long service increment or to additional pension benefit under rule 7A of Part 3 (additional pension benefit: long service) and paragraph (5A) or (5B) of rule 2 of Part 11 of the NFPS would apply if rule 2 (final pensionable pay) of Part 11 were to apply to T, the addition of the amount calculated in accordance with paragraph (5A) or (5B) as the case may be, must be added to the pensionable pay calculated under this regulation for the purposes of the determination of T's final salary.

(4) Where T's pensionable pay received for 2015 scheme employment for the period in respect of which paragraph 33 of Schedule 2 applies was for service as a retained or volunteer firefighter, T's pensionable pay for the purposes of the determination of T's final salary must be calculated by reference to the pensionable pay of a regular firefighter employed in a similar role and with equivalent length of service.”.

### **Final salary of certain transition members for any purposes of the 1992 Scheme**

**34.—**(1) This paragraph applies in relation to a transition member with continuity of service (T) who is in pensionable service under this scheme and is a member of the 1992 Scheme.

(2) Subject to paragraphs (3) to (5), in determining T's final salary for any purposes of the 1992 Scheme under Schedule 7 of the 2013 Act (final salary link), pensionable pay derived from service under this scheme is to be regarded as derived from service under the 1992 Scheme.

(3) Where T's pensionable pay derived from service under this scheme at the time when T's final salary is determined for any purposes of the 1992 Scheme under Schedule 7 to the 2013 Act (final salary link) is lower than T's average pensionable pay derived from service under the 1992 scheme on the day before the transition date, then paragraph (2) does not apply and T's average pensionable pay is determined in accordance with rule G1 (pensionable pay and average pensionable pay) of the 1992 Scheme.

(4) Where T's pensionable pay derived from service under this scheme at the time when T's final salary is determined for any purposes of the 1992 Scheme under Schedule 7 of the 2013 Act (final salary link) is lower than the pensionable pay for any year after the transition date, the pensionable pay for the year of service before the reduction in pensionable pay is to be regarded for the purposes of Schedule 7 as the pensionable pay derived from service under the 1992 Scheme.

(5) The definition of pensionable pay derived from service under this scheme in regulation 17 is modified for the purposes of sub-paragraphs (2) and (4) by the omission of paragraph (1)(d) and the insertion of paragraphs—

“(3) Where paragraph 34 of Schedule 2 applies in the case of a transition member (T) who is entitled to a long service increment or to additional pension benefit under rule B5B (additional pension benefit: long service increment) and paragraph (7A) or (7B) of rule G1 of the 1992 Scheme would apply if rule G1 were to apply to T, the addition of the amount calculated in accordance with paragraph (7A) or (7B) as the case may be, must be added to the pensionable pay calculated under this regulation for the purposes of the determination of T’s final salary.

### **Continuous pensionable service under the 1992 Scheme**

**35.**—(1) This paragraph applies to a transition member (T) who was in pensionable service under the 1992 Scheme on the date before that member’s transition date and joined this scheme on the transition date, and has remained in pensionable service under this scheme until the date on which T qualifies under the 1992 Scheme for an award under that Scheme.

(2) In determining whether T qualifies under the 1992 Scheme for retirement benefits (other than an award on ill-health retirement or to a deferred pension), T’s pensionable service under the 1992 Scheme terminates when T’s pensionable service under this scheme terminates.

(3) Where T is paying periodical contributions for increased benefits under G7, these continue to be payable as if T continued in pensionable service under the 1992 Scheme until T leaves pensionable service under the 2015 Scheme.

(4) Where this paragraph applies and T is entitled to an ordinary pension under rule B1 (ordinary pension) or a short service award under rule B2 (short service award), T’s ordinary pension, or short service award, as the case may be, is calculated in accordance with Part 2A of Schedule 2 and Part 1 and Part 2 of Schedule 2 to the 1992 Scheme do not apply.

(5) Where this paragraph applies and T is a continuous member of the 1992 scheme who becomes entitled to an equivalent amount to the lower tier ill-health pension, paragraphs (4B) and (4C) of regulation 51 (account to specify amount of retirement pension (active members)) of the 2015 Regulations apply.

### **Deferred member of the 1992 Scheme**

**36.** A transition member with accrued benefits in the 1992 Scheme to whom paragraph 28 does not apply is a deferred member of the 1992 Scheme.

### **Deferred member of the NFPS**

**37.**—(1) A transition member with continuity of service (T), who is a connected member, does not become a deferred member of the NFPS unless T becomes a deferred member of this scheme in relation to the active member’s account that the qualifying service was added under regulation 57 of this scheme.

(2) If T opts out of this scheme in relation to a scheme employment, or leaves scheme employment before being entitled to a pension in relation to that pensionable service, and T has at least 3 months’ qualifying service—

- (a) T becomes a deferred member of the NFPS in relation to pensionable service under that scheme; and
- (b) any periodical payments for additional service under the NFPS cease to be payable.

(3) If T re-enters pensionable service under this scheme after a gap in service not exceeding 5 years, T ceases to be a deferred member of the NFPS.

(4) For the purposes of sub-paragraph (3), T is not on a gap in service while T is in service which is pensionable in a scheme under section 1 of the 2013 Act or a new public body pension scheme.

#### **Scheme manager determines member of the NFPS is not entitled to an ill-health award**

**38.**—(1) This paragraph applies if the authority has decided to obtain the written opinion of an IQMP concerning whether a member of the NFPS is permanently disabled, or able to undertake regular employment before making a determination as to whether a member is entitled to an ill-health award, and the determination has not been made before the member's transition date.

(2) If this paragraph applies, the member joins this scheme on whichever is the later of—

- (a) the member's transition date;
- (b) the expiry of 28 days from the date on which the member received the last of the documents which the authority is required to supply under rule 4 (appeals against decisions based on medical advice) of Part 8 of the NFPS, if the member decides not to appeal;
- (c) the date of the withdrawal of the appeal, if the appeal is not heard; and
- (d) the expiry of 28 days of the receipt of the report by the board of medical referees, or where the board reconsiders its decision the notice confirming the decision or the revised decision.

#### **Scheme manager determines member of the 1992 Scheme is not entitled to an ill-health award**

**39.**—(1) This paragraph applies if the authority has decided to obtain the written opinion of an IQMP concerning whether a member of the 1992 Scheme is permanently disabled, or able to undertake regular employment before making a determination as to whether a member is entitled to an ill-health award, and the determination has not been made before the member's transition date.

(2) If this paragraph applies, the member joins this scheme on whichever is the later of—

- (a) the member's transition date;
- (b) the expiry of 28 days from the date on which the member received the last of the documents which the authority is required to supply under rule H2 (4) of Part H (Determination of Questions and Appeals) of the 1992 Scheme, if the member decides not to appeal;
- (c) the date of the withdrawal of the appeal, if the appeal is not heard; and
- (d) the expiry of 28 days of the receipt of the report by the board of medical referees, or where the board reconsiders its decision the notice confirming the decision or the revised decision.

#### **Repayment of contributions under the NFPS**

**40.** If a transition member with continuity of service (T) opts out of this scheme and T has less than 3 months' qualifying service in the NFPS and this scheme—

- (a) T must be repaid pension contributions and special pension contribution and mandatory special period pension contributions paid under the NFPS; and
- (b) any periodical payments for additional service paid under the NFPS cease to be payable.

### **Qualifying for retirement benefits under the NFPS**

**41.** In determining whether a transition member with continuity of service qualifies for retirement benefits under the NFPS, the member's qualifying service includes the total of—

- (a) the member's qualifying service under the NFPS; and
- (b) the member's qualifying service under this scheme.

### **Qualifying for retirement benefits under the 1992 Scheme**

**42.** In determining whether a transition member with continuity of service qualifies for retirement benefits under the 1992 Scheme, the member's qualifying service includes the total of—

- (a) the member's qualifying service under the 1992 Scheme; and
- (b) the member's qualifying service under this scheme.

### **Final salary link not to apply again to a pension in payment under the NFPS**

**43.** Where any element of a pension under the NFPS which is in payment under that Scheme has been calculated by reference to Schedule 7 (final salary link) to the 2013 Act, that element of the pension is not recalculated by reference to Schedule 7 in consequence of a subsequent period of pensionable public service (within the meaning of paragraph 3 of Schedule 7 to the 2013 Act).

### **Final salary link not to apply again to a pension in payment under the 1992 Scheme**

**44.** Where any element of a pension under the 1992 Scheme which is in payment under that Scheme has been calculated by reference to Schedule 7 (final salary link) to the 2013 Act, that element of the pension is not recalculated by reference to Schedule 7 (final salary link) to the 2013 Act in consequence of a subsequent period of pensionable public service (within the meaning of paragraph 3 to Schedule 7 to the Act).

## **PART 3D**

### **Transfer of final salary benefits**

#### **Meaning of “final salary benefit”**

**45.—(1)** In this Part, “final salary benefit” means benefit accrued under a final salary scheme, subject to sub-paragraph (2).

(2) Where only part of the pension entitlement payable under a final salary scheme to or in respect of person which is based on the pensionable service of that person is or may be determined by reference to the person's final salary, “final salary benefit” means the benefit in respect of which the pension entitlement is so determined.

#### **Acceptance of club transfer value payments**

**46.** Any part of a club transfer value payment from another scheme that relates to a member's final salary benefit must be paid into the NFPS.

#### **Member of this scheme or the NFPS**

**47.—(1)** This paragraph applies to a person who transfers final salary benefits into the NFPS.

(2) Unless the person is a protected member of the NFPS the person's service in relation to the final salary benefits which have been transferred into the NFPS is taken to be qualifying service for the purposes of this Scheme and, the person—

- (a) becomes a member of this scheme; and
- (b) is taken to be a transition member with continuity of service.”.

## SCHEDULE 2

### Amendment of Schedule 1 to the Firefighters' Pension Scheme (Scotland) Order 2006

1. In Part 1 (citation and interpretation), in rule 2(1)—

(a) in the appropriate places insert—

“ “the 2013 Act” means the Public Service Pensions Act 2013;

“the 2015 Regulations” means the Firefighters' Pension Scheme (Scotland) Regulations 2015 which establish the 2015 Scheme;

“the 2015 Scheme” means the Firefighters' Pension Scheme (Scotland) 2015 which is established in the Firefighters' Pension Scheme (Scotland) Regulations 2015(a);

“connected member” has the meaning given in rule 1C of Part 2;

“continuity of service” has the meaning given in paragraph 2 of Schedule 2 to the 2015 Regulations;

“final salary link” means the final salary link which applies when the requirements of paragraph 1 or paragraph 2 of Schedule 7 to the 2013 Act are met;

“full protection member of this Scheme” means a person to whom any of paragraphs 12 to 14 of Schedule 2 to the 2015 Regulations apply in relation to this Scheme and to whom paragraph 9(2) of that Schedule has not yet applied;

“scheme closing date” means 31st March 2015;

“tapered protection member of this Scheme” means a person to whom any of paragraphs 18 to 21 of Schedule 2 to the 2015 Regulations apply in relation to this Scheme and to whom paragraph 15(2) of that Schedule has not yet applied;

“transition date” means—

(a) if the firefighter member or the special firefighter member is a tapered protection member of this Scheme, the date after the tapered protection closing date for that member;

(b) if the firefighter member or special firefighter member is not a full protection member of this Scheme or a tapered protection member of this Scheme, the date after the scheme closing date; or

(c) the date on which the member ceased to be a full protection member of this Scheme;

“transition member” has the meaning given in paragraph 1 of Schedule 2 to the 2015 Regulations;”;

(b) omit the definition of “Scheme Actuary” and insert after the definition of “role”—

““Scheme Actuary” means the actuary appointed by the Scottish Ministers under regulation 140 (Appointment of scheme actuary and actuarial valuations) of the 2015 Regulations;”.



2. In Part 1, after rule 3, insert -

4 Marriage of a same sex couple

(1) In this scheme-

- (a) a reference to civil partnership is to be read as including a reference to marriage of a same sex couple;
- (b) a reference to civil partners is to be read as including a reference to married same sex couple and
- (c) a reference to a person who is in a civil partnership is to be read as including a reference to a person who is married to a person of the same sex.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as reference to a civil partnership that has ended, or a reference to a person whose civil partnership has ended) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

(4) Section 4 of Chapter 1, Part 1 of the Marriage and Civil Partnership (Scotland) Act 2014 does not apply to the interpretation of this scheme.

5 Living together as a same sex couple

(1) In this Scheme-

- (a) a reference to persons who are not in a civil partnership but are living together as civil partners is to be read as including a reference to a same sex couple who are not married but are living together as a married couple, and
- (b) a reference to a person who is living with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

3. In Part 2 (scheme membership, cessation and retirement)—

- (a) after rule 1A (special membership), insert rule 1B (cessation of firefighter membership and special firefighter membership)—

**“Cessation of firefighter membership and special firefighter membership**

**1B.**—(1) A person ceases to be a firefighter member or a special firefighter member of this scheme—

- (a) where the member is not a full protection member of this Scheme or a tapered protection member of this Scheme, on the scheme closing date;
- (b) where the member is a tapered protection member of this Scheme on the tapered protection closing date, or if earlier, on the date on which the member ceases to be a tapered protection member;

- (c) where the member is a full protection member of this Scheme on the date on which the member retires from scheme employment in the 2015 Scheme, or if earlier on the date on which the member ceases to be a full protection member of this Scheme.

#### **Membership of this scheme after the transition date**

##### **1C.—(1) Where rule 1B applies—**

- (a) if the person joins the 2015 Scheme with continuity of service and remains in pensionable service in that scheme, that person is a connected member of this Scheme;
- (b) if the person (P) opts out of pensionable service in the 2015 Scheme or leaves scheme employment under the 2015 Scheme before reaching normal retirement age, P is a deferred member of this Scheme;
- (c) if P opts into the 2015 Scheme or takes up scheme employment under the 2015 Scheme and paragraph (2) applies, P is again a connected member of this Scheme.

(2) This paragraph applies if the person re-enters pensionable service under the 2015 Scheme after a gap in pensionable service not exceeding 5 years disregarding any period in public pensionable service.

(3) P is a connected member in relation to the pension entitlement in this Scheme that the qualifying service was added to the active member's account in the 2015 Scheme under regulation 57 of the 2015 Regulations.”;

- (b) in rule 3 (normal retirement age and normal benefit age) after paragraph (3) insert—

“(4) The normal retirement age of connected members, who are not special members, is 60.

(5) The normal retirement age of connected members, who are special members, is 55.”;

- (c) in rule 4 (last day of membership)—

- (i) in paragraph (1) for “Where a firefighter member” substitute “Subject to paragraph (3) to (5) where a firefighter member”;

- (ii) after paragraph (2) insert—

“(3) The last day of membership of a firefighter member or a special firefighter member, who is not a full protection member of this Scheme or a tapered protection member of this Scheme, is the scheme closing date.

(4) The last day of membership of a firefighter member or a special firefighter member, who is a tapered protected member of this Scheme, is the tapered protection closing date or if earlier, the date on which that member ceases to be a tapered protection member.

(5) The last day of membership of a firefighter member or a special firefighter member who is a full protection member of this Scheme is the date on which that member ceases to be a full protection member of this Scheme.”.

#### **4. In Part 3 (personal awards)—**

- (a) in rule 1 (ordinary pension) after paragraph (1) insert—

“(1A) Subject to paragraph (2), this rule applies to a connected member of this Scheme who was a firefighter member of this Scheme and satisfies an eligibility condition and retires from scheme employment in the 2015 Scheme having reached normal retirement age under this Scheme.”;

- (b) in rule 1A (special member's ordinary pension) after paragraph (1) insert—

“(1A) This rule applies to a connected member of this Scheme who was a special firefighter member and who satisfies a special eligibility condition and retires from scheme employment in the 2015 Scheme having reached normal retirement age for a special firefighter member under this Scheme.”;

- (c) in rule 2 (award on ill-health retirement) after paragraph (1) insert—
- “(1A) A connected member who is entitled to an ill-health award under regulation 65 (entitlement to lower tier ill-health pension and higher tier ill-health pension) of the 2015 Regulations is not entitled to an award on ill-health retirement under this Scheme.
- (1B) Where a connected member is entitled to the payment of an equivalent amount to a lower tier ill-health pension under regulation 65(4) (entitlement to lower tier ill-health pension and to higher tier ill-health pension) of the 2015 Regulations and that member reaches normal retirement age under this Scheme, a sum equal to the equivalent amount to a lower tier ill-health pension must be payable from this Scheme.”;
- (d) in rule 3 (deferred pension) after paragraph (1) insert paragraph (1A)—
- “(1A) Subject to paragraph (1B), this rule applies to a person who ceases to be a firefighter member or a special firefighter member under rule 1B (Cessation of firefighter membership and special firefighter membership) of Part 2.
- (1B) This rule applies to a connected member who—
- (a) opts out of pensionable service in the 2015 Scheme,
  - (b) leaves scheme employment under the 2015 Scheme before reaching normal retirement age, or
  - (c) ceases to be entitled to a lower tier ill-health pension or a higher tier ill-health pension under the 2015 Scheme in consequence of a review under regulation 69 of the 2015 Regulations and declines the offer of employment made by the authority under regulation 69(3)(b) of those regulations.
- (1C) This rule ceases to apply to a connected member who re-joins the 2015 Scheme after a gap in pensionable service not exceeding 5 years.”;
- (e) in rule 4 (cancellation of deferred pension)—
- (i) in paragraph (1) for “Where” substitute “Subject to paragraph (4), where”;
  - (ii) after paragraph (3) insert—
- “(4) Where the person entitled to receive a deferred pension is not a protected member of this Scheme, the member may not instruct the authority to cancel his deferred pension.
- (5) Where the person entitled to receive a deferred pension was a connected member of this Scheme and re-joins the 2015 Scheme after a gap in pensionable service not exceeding 5 years, that person may by written notice to the authority instruct the authority to cancel his deferred pension.”;
- (f) in rule 6 (pension on authority-initiated retirement) after paragraph (3) insert—
- “(4) Where an authority is considering making a determination under regulation 62 (employer initiated retirement) of the 2015 Regulations that an active member of that scheme who has attained the age of 55 should receive the payment of a pension without the early payment reduction, the authority must also consider making a determination under paragraph (1) of this rule that the payment of pension under this Scheme must be calculated in accordance with rule 1.”;
- (g) in rule 11 (allocation of pension) in paragraph (1) after “A firefighter member” insert “or a connected member”.

**5.** In Part 8 (determination of questions and appeals) in rule 2 (determinations and decisions by Scottish fire authority) after paragraph (1) insert—

“(1A) where a person, who is entitled to the payment of an amount equivalent to the annual amount of a lower tier ill-health pension under regulation 65(4) (entitlement to lower tier ill-health pension and to higher tier ill-health pension) of the 2015 Regulations, reaches normal retirement age under this Scheme, that amount must be paid under rule 2 of this Scheme and no further determination of the authority is required.”.

**6.** In Part 10 (qualifying service and pensionable service)—

- (a) in rule 1(qualifying service) after sub-paragraph (h) omit “and” and after sub-paragraph (i) insert—
  - “and
  - (j) any period of pensionable service for the active member’s account under the 2015 Scheme to which the person’s qualifying service had been added for the purposes of qualifying service in the 2015 Scheme.”;
- (b) after rule 3 (non-reckonable service) insert—

**“Period after transition date**

**3A.** A period of service or of leave or unpaid leave after a person’s transition date is not reckonable as pensionable service or as special pensionable service under this Scheme.”.

**7.** In Part 11 (pensionable pay, pension contributions and purchase of additional service) in chapter 1 (pensionable pay and pension contributions)—

- (a) in rule 2 (final pensionable pay)—
  - (i) in paragraph (2) for “Subject to paragraph (3)” substitute “Subject to paragraphs (3) and (3A);
  - (ii) after paragraph (3) insert—
    - “(3A) In the case of a connected member or a deferred member who is also a member of the 2015 Scheme, “the relevant date” means—
    - (a) where the final salary link applies, the last day of pensionable service in the 2015 Scheme when the requirements of Schedule 7 paragraphs (1) or (2) are met, or
    - (b) where paragraph 33(3) of Schedule 2 to the 2015 Regulations applies, the last day of pensionable service in this Scheme,
    - (c) where paragraph 33(4) to Schedule 2 to the 2015 Regulations applies, the last day of pensionable service in the 2015 Scheme before the reduction of pensionable pay in the 2015 Scheme,
    - (d) where sub-paragraph (a) , (b) or (c) do not apply, the last day of pensionable service in this Scheme, or the date of death.”;
  - (iii) after paragraph (9), insert—
    - “(10) Where paragraph 33 of Schedule 2 to the 2015 Regulations applies to a connected member or a deferred member, that member’s final pensionable pay is determined according to that paragraph.”;
- (b) in rule 7 (duration of periodical contributions and premature cessation)—
  - (i) at the end of sub-paragraph (c) of paragraph (2) omit “or” and after sub-paragraph (d) insert—
    - “or
    - (e) in the case of a connected member on the date that member ceases to be in pensionable service under the 2015 scheme.”.

**8.** In Part 12 (transfers into and out of the Scheme)—

- (a) in Chapter 1 (interpretation of Part 12 and entitlement to transfer value payment)—
  - (i) in rule 1 (interpretation of Part 12) in the appropriate place insert—
    - “ “final salary benefit” means benefit accrued under a final salary scheme as defined in section 37 (general interpretation) of the 2013 Act;”;
  - (ii) in rule 2 (entitlement to transfer value payment), in paragraph (2) before “A firefighter member or deferred member” insert “Subject to paragraph (2A), and after paragraph (2) insert—
    - “(2A) A transition member of the 2015 Scheme (T), who is a connected member of this Scheme or has received a lower tier ill-health pension under the 2015 Scheme, is not

entitled to require the payment of a transfer value in respect of the rights to benefits that have accrued to or in respect of T under this Scheme.”;

(b) in Chapter 3 (transfers into the Scheme)—

(i) in rule 8 (applications for acceptance of transfer value payment for another scheme) after paragraph (3) insert—

“(4) A person who is a protected member of this Scheme, or a person who becomes an active member of the 2015 scheme, may apply for a transfer value payment from another public service pension scheme which is a final salary scheme, or includes final salary benefit, to be accepted by the authority for the purposes of this Scheme.”;

(ii) in rule 9 (procedure for applications under rule 8) in paragraph (2) for “Subject to paragraph (4)” substitute “Subject to paragraphs (4) and (5),” and after paragraph (4) insert—

“(5) Where the application is made by a person to whom paragraph (4) of rule 8 applies, the application must be made within one year of the person becoming a firefighter member of this Scheme or within one year of the person becoming an active member of the 2015 Scheme, as the case may be.”.

9. In Part 15 (miscellaneous provisions) after rule 4 (annual benefit statements) insert—

#### **“Actuarial valuations**

**4A.** Where the scheme actuary appointed by the Scottish Ministers for the purposes of the 2015 Scheme is carrying out a valuation of the 2015 Scheme and is required to carry out a valuation of this Scheme, the authority must provide the scheme actuary with any data that the scheme actuary requires in order to carry out a valuation and prepare a report on the valuation.”.

10. In Annex 1 (ill-health pensions) after paragraph (6), insert—

“(7) Where a connected member of this Scheme is entitled to the payment of an equivalent amount to a lower tier ill-health pension, that amount shall be calculated in accordance with paragraph (1) of this annex.”.

## SCHEDULE 3

### Amendments to Schedule 2 to the Firemen’s Pension Scheme Order 1992

1. In Part A (general provisions and retirement)—

(a) in rule A3 (exclusive application to regular firefighters) in paragraph (1) for “Subject to paragraphs (3) to (5)” substitute “Subject to paragraphs (3) to (6)” and after paragraph (5) insert—

“(6) A person who satisfies the requirements of paragraph (5) ceases to be a person to whom this Scheme applies—

(a) where the person is not a full protection member of this Scheme or a tapered protection member of this Scheme, on the scheme closing date

(b) where the person is a tapered protection member of this Scheme on the tapered protection closing date, or if earlier, on the date on which the person ceases to be a tapered protection member;

(c) where the person is a full protection member of this Scheme, on the date on which the member retires from scheme employment in the 2015 Scheme, or if earlier on the date on which the person ceases to be a full protection member of this Scheme.

(7) Where paragraph (6) applies, if the person remains in continuous pensionable service under the 2015 Scheme after the transition date and pension account for that scheme employment was the account to which the pensionable service from this Scheme was

added, the person is a continuous member of this Scheme in relation to that pension account.”;

(b) In Part B (personal awards) at the beginning, insert—

“**AB.** Rules B1 and B2 do not apply to a continuous member of this Scheme.”.

(c) Further amendments to be made equivalent to those provided for the NFPS.

2. In Schedule 1, after Part 2, insert -

Part 3 Provision relating to same sex couples

1 Marriage of a same sex couple

(1) Subject to paragraph 3, in this scheme-

- (a) a reference to civil partnership is to be read as including a reference to marriage of a same sex couple,
- (b) a reference to civil partners is to be read as including a reference to married same sex couple, and
- (c) a reference to a person who is in a civil partnership is to be read as including a reference to a person who is married to a person of the same sex.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as reference to a civil partnership that has ended, or a reference to a person whose civil partnership has ended) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

(4) Section 4 of Chapter 1, Part 1 of the Marriage and Civil Partnership (Scotland) Act 2014 does not apply to the interpretation of this scheme.

2 Living together as a same sex couple

(1) In this Scheme-

- (a) a reference to persons who are not in a civil partnership but are living together as civil partners is to be read as including a reference to a same sex couple who are not married but are living together as a married couple, and
- (b) a reference to a person who is living with another person as if they were in a civil partnership is to be read as including a reference to a person who is living with another person of the same sex as if they were married.

(2) Where paragraph (1) requires a reference to be read in a particular way, any related reference (such as a reference to persons formerly living together as civil partners) is to be read accordingly.

(3) For the purposes of paragraphs (1) and (2) it does not matter how a reference is expressed.

(4) Section 4 of Chapter 1, Part 1 of the Marriage and Civil Partnership (Scotland) Act 2014 does not apply to the interpretation of this scheme.

3 Continuation of marriage where scheme member acquires new legal gender

Where -

- (a) a deceased Scheme member was a woman by virtue of a full gender recognition certificate having been issued under the Gender Recognition Act 2004, and
- (b) at the time of the member's death, she was married to a woman and that marriage subsisted before the time when the certificate was issued,

the Scheme member's widow is to be treated for the purposes of this Scheme as if the certificate had not been issued.

3. In Schedule 2 after Part 2, insert—

## “PART 2A

1.—(1) Subject to Parts 6A and 8 of this Schedule, the amount of an ordinary pension or a short service pension of a continuous member of this Scheme is—

$$A/60 \times B/C \times FS$$

Where—

B is the period in years of T’s pensionable service in this Scheme until the day before T’s transition date,

C is the period in years of T’s pensionable service in this Scheme and in the 2015 Scheme (subject to a maximum of pensionable service of 40 years),

FS is the final salary determined in accordance with paragraph 34 of Schedule 2 to the 2015 Regulations,

$$A \text{ is the sum of } E + (F \times 2)$$

Where—

E is the period in years of T’s pensionable service in this Scheme and in the 2015 Scheme up to 20 years,

F is the period in years by which T’s pensionable service in this Scheme and in the 2015 Scheme exceeds 20 years, and

the sum of E and F must not exceed 40 years.

(2) A person’s pensionable service in the 2015 Scheme is the period of continuous pensionable service in relation to the pension account mentioned in rule A3(7). ”.

### EXPLANATORY NOTE

*(This note is not part of the Regulations)*

[To be added]