



**NOTTINGHAMSHIRE**  
**Fire & Rescue Service**  
*Creating Safer Communities*

Nottinghamshire and City of Nottingham  
Fire and Rescue Authority  
Policy and Strategy Committee

# **RETAINED FIRE FIGHTERS PENSION SETTLEMENT**

Report of the Chief Fire Officer

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**Agenda No:**

**Date:** 02 August 2013

**Purpose of Report:**

To advise Policy and Strategy Committee on a consultation regarding a settlement to the retained fire fighters pension claim.

## **CONTACT OFFICER**

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## 1. BACKGROUND

- 1.1 Following the introduction of the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000, retained fire fighters made a claim for equal treatment with regular fire fighters on their terms and conditions of employment, including pension benefits.
- 1.2 The case was addressed through the Employment Tribunal, the Court of Appeal and ultimately the House of Lords, who delivered their judgement on 1 March 2006 in favour of the claim.
- 1.3 This paper lays out the implications for Nottinghamshire Fire and Rescue Service (NFRS) in respect of the current consultation.

## 2. REPORT

- 2.1 With the introduction of the new fire fighters pension scheme in 2006, retained employees were eligible to enter that scheme. Therefore the individuals who are eligible for the outcome of the settlement are those employees who were employed as a retained fire fighter between 1 July 2000 and 5 April 2006. Those employees who during this period were employed on two contracts as both wholetime and retained are not eligible.
- 2.2 As the scheme prior to the 2006 scheme (the 1992 fire fighters pension scheme) was closed in 2006, the proposed settlement gives access to a scheme which is favourable to the 1992 scheme, but does not give a full retrospective access.
- 2.3 The proposals to this scheme are laid out in the appendix to this report which lays out in full the proposal, along with the draft pension amendment orders required to bring the scheme into being.
- 2.4 The consultation itself runs until 3 September 2013 (six weeks) and poses four questions for comment. These are:
  - Q1: Do the amendments to the New Firefighters' Pension Scheme 2006, the Firefighters' Pension Scheme 1992, and the Firefighters' Compensation Scheme deliver the terms of the proposed new pension arrangements?
  - Q2: Does Annex A set out the correct range of scenarios for potential groups of retained firefighters who will be eligible for access to the pension scheme?
  - Q3: Is any difficulty envisaged by the retrospective commencement of some of the amendments to the Firefighters' Compensation Scheme?
  - Q4: Are there any other considerations applicable to the
- 2.5 Once the consultation has closed government will fully assess the response before responding and laying the necessary legislation before parliament. It

will be the decision of individual members who are eligible as to whether they decide to purchase their relevant service.

2.6 One of the previous fears of any proposed scheme was how it would be financed. The Local Government Association has argued that it should be government, whilst government has generally stated it is a matter for fire and rescue authorities. The consultation document does lay out how government intends to finance this arrangement within Paragraphs 22 and 23 of the consultation document. In summary, it will be funded by government in the short term with an assessment made at the next actuarial valuation of the scheme (due 2016). Government policy is that any scheme deficit will be recovered from employers by adjusting contribution rates over 15 years, unless there is a strong reason why this should be different.

2.7 Policy and Strategy Committee are asked to note the contents of this consultation and the potential future financial implications, and task the Chief Fire Officer with responding on behalf of the Fire Authority.

### **3. FINANCIAL IMPLICATIONS**

The potential financial implications are laid out within this report. At this stage it is impossible to state a direct impact on NFRS until such time as the pension scheme deficit is established, which will not be known until 2016. This will now form part of this Service's risk register until such time as the full impact is known.

### **4. HUMAN RESOURCES & LEARNING AND DEVELOPMENT**

The potential human resources implications could be significant depending on take up of the scheme. The potential transfer rights, contacting the individuals etc., will all have to be addressed once the scheme is introduced.

### **5. EQUALITIES IMPLICATIONS**

The equalities implications relating to this report are contained within the body of the report. The settlement scheme will address a longstanding issue emerging from the Part Time Regulations 2000.

### **6. CRIME AND DISORDER IMPLICATIONS**

There are no crime and disorder implications arising from this report.

### **7. LEGAL IMPLICATIONS**

Once the respective amendment orders are laid before parliament then NFRS will have a duty to respond.

## **8. RISK MANAGEMENT IMPLICATIONS**

There are two primary risks which arise from this report. Firstly, the potential financial impact and secondly the impact on the human resources department, dependant on number of staff who may wish to apply for the scheme. The financial impact will be included in the risk register for post-2016 and in terms of the human resources aspect, this will be maintained pending numbers coming forward. Temporary staff may be an option depending on capacity.

## **9. RECOMMENDATIONS**

It is recommended that Policy and Strategy Committee:

- 9.1 Note the consultation and its contents.
- 9.2 Agree that the risk register be amended to include the potential financial impact from 2016 onwards.
- 9.3 Task the Chief Fire Officer with submitting a response on behalf of the Fire Authority.

## **10. BACKGROUND PAPERS FOR INSPECTION (OTHER THAN PUBLISHED DOCUMENTS)**

None.

Frank Swann  
**CHIEF FIRE OFFICER**



Department for  
Communities and  
Local Government

# **Retained Firefighters' Pension Settlement**

A consultation to provide access to a modified pension scheme.

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# The consultation process and how to respond

## Scope of the consultation

<b>Topic of this consultation:</b>	This document sets out the proposed terms of access to a pension scheme for retained firefighters employed by a fire and rescue authority in England between 1 July 2000 and 5 April 2006.
<b>Scope of this consultation:</b>	The intention of the consultation is to provide regular firefighters with comparable pension rights to those enjoyed by regular firefighters employed during the period 1 July 2000 and 5 April 2006. The proposed terms have been negotiated between the Secretary of State for Communities and Local Government and the Fire Brigades Union. Comments on the proposed pension arrangements and proposed draft amending orders are now invited
<b>Geographical scope:</b>	As the Secretary of State only has responsibility for the firefighters' pension schemes in respect of England, the consultation applies in relation to England only. The devolved administrations will consider their own approach to a settlement.
<b>Impact Assessment:</b>	No impact assessment has been prepared as part of this consultation.

## Basic Information

<b>To:</b>	This consultation is primarily aimed at fire and rescue authorities, retained firefighters, and key employer and employee representative bodies.
<b>Body/bodies responsible for the consultation:</b>	The Department for Communities and Local Government
<b>Duration:</b>	This consultation will run for 6 weeks, from 23 July 2013 to <b>3 September 2013</b> .
<b>Enquiries:</b>	For any enquiries, please contact the Firefighters' Pension Team: <a href="mailto:firepensions@communities.gsi.gov.uk">firepensions@communities.gsi.gov.uk</a> .  Alternatively, please call: Anthony Mooney: 0303 444 2188 Andrew Cornelius: 0303 444 2171  Any complaints about the way this consultation is being handled should be addressed to: <a href="mailto:consultationcoordinator@communities.gsi.gov.uk">consultationcoordinator@communities.gsi.gov.uk</a> .

<b>How to respond:</b>	Please respond by email to: <a href="mailto:firepensions@communities.gsi.gov.uk">firepensions@communities.gsi.gov.uk</a>  Alternatively, please send postal responses to:  Firefighters' Pension Team Zone 5/F6, Eland House Bressenden Place London SW1E 5DU
<b>Additional ways to become involved:</b>	Key interest groups, including fire and rescue authorities and relevant unions, will be engaged directly to ensure their awareness of the consultation.
<b>After the consultation:</b>	A summary of responses to the consultation will be published on the Department's website within three months of the end of the consultation period.
<b>Compliance with the Code of Practice on Consultation:</b>	The consultation complies with the Code of Practice on Consultation.



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## Introduction

1. This document sets out the proposed terms of access to a pension scheme for retained firefighters employed by a fire and rescue authority in England between 1 July 2000 and 5 April 2006 to provide them with comparable pension rights to those enjoyed by regular firefighters during the same period. The proposed terms have been agreed between the Secretary of State for Communities and Local Government and the Fire Brigades Union.
2. This consultation paper sets out the policy context and the terms of the proposed pension arrangements. Also attached, at **Annex A**, is a more detailed summary of these terms.
3. Draft amending orders which seek to implement this proposal are included at **Annex B**, **Annex C** and **Annex D**. Comments on the proposed pension arrangements and proposed draft amending orders are now invited
4. The closing date for responses is **Tuesday 3 September 2013**.

## Policy context

### ***Retained firefighters access to a pension scheme***

5. Retained firefighters provide vital cover from home or their place of work. They perform a vital role, supporting their communities by providing a flexible and effective service. Historically they were not permitted to be members of the now closed Firefighters' Pension Scheme.
6. This document consults on an agreement giving eligible retained firefighters access to fire service pension benefits that are comparable to those that were available to regular firefighters in the Firefighters' Pension Scheme who were employed at the same time.
7. Every part of the public sector needs to play its part in reducing the deficit left by the last administration, which is why the Government is taking steps to reform the pension scheme for all firefighters. However, it is important that there is a fair system that provides a level playing field. This consultation is taking steps to address a long standing anomaly that discriminated against retained firefighters who perform such an important role for their communities and who are the mainstay of many Fire and Rescue Authorities.

### ***Background***

8. Following the introduction of the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 ("the Part Time Workers Regulations"), retained firefighters, supported by the Fire Brigades Union and Retained Firefighters' Union, made a claim for equal treatment with whole-time regular firefighters on their terms and conditions of service, including pension benefits. The primary claim was against the employers, and Kent and Medway Towns Fire Authority and Royal Berkshire Fire and Rescue Service agreed to represent fire and rescue authorities in a test case. The Secretary of State for the Home Department<sup>1</sup> was named as the third Respondent because of his responsibility for the Firefighters' Pension Scheme 1992.
9. The case was heard in the Employment Tribunal in 2002, and the Tribunal found certain similarities and a number of differences between the contractual terms and work of retained and regular firefighters. The Tribunal concluded that retained firefighters could not compare themselves with regular firefighters under the Part-time Workers Regulations. This decision was upheld by the Employment Appeal Tribunal on appeal.
10. The case was then appealed to the Court of Appeal which, in July 2004, held that retained firefighters are employed under the same type of

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<sup>1</sup> As a result of Machinery of Government changes, responsibility for the Firefighters' Pension Schemes now rests with the Secretary of State for Communities and Local Government.

contract of employment as their full-time colleagues but that the Employment Appeal Tribunal was right to conclude that the two groups are not engaged in the same or broadly similar work.

### ***Judgment of the House of Lords***

11. The claimants appealed to the House of Lords. The House of Lords judgment was delivered on 1 March 2006 and, by a three to two majority, the Law Lords found in favour of the claimants.
12. The rationale for the decision of the majority was twofold. They held that (i) retained firefighters were employed under the same type of contract as a regular firefighter, and (ii) that the Tribunal had misdirected itself on the legal approach – i.e. the extent to which the work that the two groups were engaged on was broadly similar. Their Lordships remitted the case back to the Tribunal for reconsideration of whether the retained and regular firefighters were engaged in the same or broadly similar work.

### ***Employment Tribunal re-hearing***

13. On its re-hearing, the Employment Tribunal decided that the claimants were engaged in broadly similar work as their whole-time comparators and had established unfavourable treatment in their terms and conditions of service, including the denial of access to pension rights, which could not be justified. The Fire Brigades Union has been negotiating with the Department to resolve the pensions aspects of these claims. The Employers' were responsible for settling the terms and conditions side of the case.

# Proposals

## ***Terms of the proposed new pension arrangements***

14. The Department has now reached agreement with the Fire Brigades Union on the proposed terms of access to the pension scheme for eligible retained firefighters in England. The main terms of the proposed pension arrangements are:

- a uniform accrual rate of 1/45<sup>th</sup>
- a Normal Pension Age of 55 years
- a deferred pension age of 60 years
- fixed commutation factors to reflect the commutation rates in the Firefighters' Pension Scheme 1992 that are applicable on the day before the amending legislation is made
- the contribution rate payable will be calculated at the rate applicable to the Firefighters' Pension Scheme 1992 in respect of the period of service being purchased (i.e. for service before 1 April 2012 the contribution rate will be 11% of pay; for service from 1 April 2012, it will be the relevant tiered contribution rate)
- a death grant of two times pensionable pay
- a time limited retrospective death grant of 2.5 times pensionable pay in respect of those who would have been eligible to be members if they had not died before 6 April 2006
- an opportunity for eligible members to purchase additional pensionable service in 45<sup>ths</sup>
- the ability for eligible members to convert existing New Firefighters' Pension Scheme 2006 service to the proposed new pension arrangements
- the transfer of external pension benefits into the proposed new pension arrangements will be in accordance with the terms of the New Firefighters' Pension Scheme 2006
- ill-health pension arrangements, lower and higher tier, will be in accordance with the terms of the New Firefighters' Pension Scheme 2006
- the abatement of a member's pension will be in accordance with the terms of the New Firefighters' Pension Scheme 2006
- any member who subsequently opts out of the proposed new pension arrangements will not be permitted to rejoin those arrangements.

15. Those individuals that would be eligible to purchase pension rights under the terms of the new pension arrangements are those individuals that were employed as a retained firefighter between 1 July 2000 and 5 April 2006. Individuals who were employed on retained duties and as a wholetime regular firefighter by the same employer are not eligible to benefit from

these proposed pension arrangements. Membership will be open to all eligible persons - they do not need to have made an employment tribunal claim. A more detailed summary of the proposed provisions, and the implications of the proposed new pension arrangements, is contained in **Annex A**.

### ***New Firefighters' Pension Scheme (England)***

16. The Department and Fire Brigades Union concluded that it was preferable to provide access through a 'modified' section of the New Firefighters' Pension Scheme (England) 2006 as opposed to modifying the Firefighters' Pension Scheme 1992. This is because the New Firefighters' Pension Scheme 2006 already makes legislative provision for retained firefighters and is the more modern scheme. The draft Statutory Instrument to give effect to the proposed new pension arrangements by modifying the New Firefighters' Pension Scheme 2006 is attached at **Annex B**. The draft Statutory Instrument also makes other necessary changes to correct drafting errors with the scheme.

### ***The Firefighters' Compensation scheme***

17. Retained firefighters employed at an earlier date than 6 April 2006, who are medically retired as a consequence of suffering a qualifying injury, currently have a protected right to injury awards calculated on a whole-time basis. The historic reason for this was the lack of access to a pension scheme and, therefore, access to an ill-health pension for retained firefighters.
18. All part-time regular firefighters, and retained firefighters employed on or after 6 April 2006, have their injury awards calculated on a pro-rata basis. The Employment Tribunal has now decided that retained firefighters are engaged in broadly similar work as their whole-time comparators and are part-time workers for the purpose of the Part Time Workers Regulations.
19. Now that all retained firefighters employed between 1 July 2000 and 6 April 2006 are being provided with access to a pension scheme for that period, it is no longer appropriate to continue to provide these members with injury awards based on a whole-time comparator, whilst part-time regular and retained firefighters employed after 6 April 2006 receive injury awards on a pro-rata basis.
20. As part of the agreement to provide access to a pension scheme for the claimants and other eligible retained firefighters, this protected right will be revoked and, in future, all retained firefighters will receive injury awards on a pro-rata basis in the same way as other part-time firefighters and retained firefighters employed on or after 6 April 2006. The revocation of this protected right will not affect those former retained firefighters currently in receipt of injury and ill-health pensions. **Annex C** sets out the draft Statutory Instrument to give effect to this change and to other

necessary changes to correct drafting errors with the compensation scheme.

### ***Firefighters' Pension Scheme 1992 amendment***

21. The proposed new pension arrangements also include provision so that those members who wish to transfer their accrued rights in the Firefighters' Pension Scheme 1992 can do so. Where the eligible retained firefighter meets certain conditions, the transfer is on the basis that a year of pensionable service in the 1992 scheme is a year of pensionable service in the modified New Firefighters' Pension Scheme. If these conditions are not met, the transfer is on public sector transfer terms. **Annex D** sets out the draft Statutory Instrument to give effect to this change.

### ***Financing arrangements***

22. In the HM Treasury publication entitled '*Actuarial valuations of public service pension schemes*', the Government announced that public service pension schemes will undertake scheme valuations as at 31 March 2012, with subsequent valuations to take place every four years. In the unfunded public service pension schemes, such as the Firefighters' Pension Schemes, there is no pot of assets which can be valued to determine if sufficient contributions have been paid to meet the cost of rights already accrued. Instead the valuation is done by creating, and tracking the value of, a notional fund. The approach taken is called Superannuation Contributions Adjusted for Past Experience (SCAPE).
23. The Government set out its intention to set up a notional SCAPE fund for the Firefighters' Pension Schemes to track scheme surpluses and deficits. The introduction of the modified section of the New Firefighters' Pension Scheme is likely to create a scheme deficit as members purchase past service rights. The extent of this deficit will be established at subsequent valuations of the Firefighters' Pension Schemes. Government policy is that any scheme deficit will be recovered from employers by adjusting employer contribution rates over a period of 15 years, unless there is a strong reason why this should be different. The spreading period for any deficit from this agreement will be set out in directions issued by HM Treasury.

## Next steps

24. This consultation paper consults on the proposed new pension arrangements for claimants and other eligible retained firefighters that has been agreed between the Secretary of State for Communities and Local Government and the Fire Brigades Union, and the implementation of these arrangements by statutory instrument. In particular, the Department would welcome comments on the following questions:
- Q1. Do the amendments to the New Firefighters' Pension Scheme 2006, the Firefighters' Pension Scheme 1992, and the Firefighters' Compensation Scheme deliver the terms of the proposed new pension arrangements?
  - Q2. Does **Annex A** set out the correct range of scenarios for potential groups of retained firefighters who will be eligible for access to the pension scheme?
  - Q3. Is any difficulty envisaged by the retrospective commencement of some of the amendments to the Firefighters' Compensation Scheme?
  - Q4. Are there any other considerations applicable to the proposed new pension arrangements and their implementation?
25. Once the Department has considered and fully assessed the responses to this consultation, the Department will issue a Government response and make and lay the necessary legislation in Parliament to give effect to the new pension arrangements.
26. Eligible members will then need to go through an options exercise and elect whether or not to purchase their relevant service. The Department will work with fire and rescue authorities in preparation of that options exercise.



# Retained Settlement – Summary of Provisions

## Introduction

Following new employment legislation in 2000, retained firefighters, supported by their unions, submitted Employment Tribunal claims seeking equal treatment with whole-time regular firefighters. The case essentially comprised of two parts, namely a claim for access to membership of the Firefighters' Pension Scheme (*"the 1992 scheme"*), and also to be provided with comparable terms and conditions to those for whole-time regular firefighters. Following a series of appeals against the Tribunal's decision, the case was subsequently referred back by the House of Lords to the employment tribunal which decided that the claimants were entitled to equal treatment with members of the 1992 scheme on the pension's aspects of the claim. It was agreed that the relevant parties should negotiate a settlement agreement on each part of the claim.

The Department for Communities and Local Government was responsible for negotiating the settlement terms on the pension aspects of the claim. The following provides a summary of the agreed terms of the settlement.

## Application

The draft amendment order amending the New Firefighters' Pension Scheme will apply to any firefighter who was employed as a retained firefighter by an English fire and rescue authority on or after 1 July 2000 and before 6 April 2006. Scotland, Northern Ireland and Wales will be responsible for implementing a settlement for relevant retained firefighters in the devolved administrations.

Regular firefighters employed under a single contract that includes both regular and retained duties, which would include duty systems such as 'day crewing', during this period are not recognised as part-time workers. Therefore, firefighters employed under 'day crewing' contracts, between the 1 July 2000 and 5 April 2006 inclusive will not be permitted to join the modified New Firefighters' Pension Scheme (*"the modified scheme"*) for any retained elements of their contract.

## Reforms to the Firefighters' Pension Schemes

Public service pension schemes are being reformed, with most new schemes being introduced from April 2015 (the Local Government Pension Scheme will be introduced from April 2014). The Public Service Pensions Act 2013 prevents benefits from being provided under an existing scheme to or in respect of a person in relation to the person's service after the closing date. The Government has proposed that those individuals who are near to their scheme's Normal Pension Age will be protected from changes, and will see no change in when they can retire or the amount of pension that they expect to receive.

The Government's approach to transitional protections is that, as of 1 April 2012, members of the firefighter pension schemes, or those entitled to be members, who are within 10 years of their Normal Pension Age will be fully protected from the changes. Some public sector schemes have provided additional protections so that scheme members who are within a further 4 years of being fully protected will receive tapered protections.

For members of the modified scheme, this will mean that members, or those entitled to be members, who, on the 1 April 2012, were aged 45 or above will be fully protected and will be able to continue to accrue pension in the modified scheme until retirement. For those members of the modified scheme who, on 1 April 2012, were aged between 41 and 45, this will mean they will be able to continue to accrue pension in the modified scheme on a tapered basis until their closing date. The same taper protection arrangement will apply to modified scheme members as set out in the table for members of the Firefighters' Pension Scheme 1992 in Annex A of the Proposed Final Agreement<sup>2</sup>. Those scheme members who are not protected by the transitional protections will transfer to the new firefighters' pension scheme on 31 March 2015.

Further amendments to the modified scheme will need to be made in respect of those members who are not covered by the transitional protections and those members who are only covered by tapered protections. There will be a further consultation on the amendments proposed.

### Options timetable to join modified scheme

- Fire and rescue authorities will be required to use reasonable endeavours to notify all persons eligible to join the modified scheme **within 2 months** of the enabling legislation coming into force. It will be the fire and rescue authorities that employed the eligible person between the 1 July 2000 and 5 April 2006 inclusive that will be expected to provide the notification.
- Eligible persons will then be required to indicate their interest in joining the scheme, and to submit information (where possible) to confirm their eligibility, details of service during the limited period, levels of historic pay and brigade location etc, **within 2 months** of receiving notification from the fire and rescue authority. For these cases, if an interest is not declared within 2 months of receiving the notification from the fire and rescue authority the opportunity to join the scheme will be lost for that individual.
- Eligible members who have not been notified of their entitlement to join the modified scheme by the relevant fire and rescue authority will have **4 months from the date that the legislation comes into force** to declare their initial interest in joining the scheme, and to submit information (where possible) to confirm their eligibility, details of service during the limited period, levels of historic pay and brigade location etc. For these cases, if an interest is not declared within the 4 month period then the opportunity to join the scheme will be lost for that individual.

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<sup>2</sup> <https://www.gov.uk/government/publications/firefighters-pension-scheme-proposed-final-agreement>

- Fire and rescue authorities will be required to write to each eligible person who indicated an initial interest in joining the modified scheme, **within 6 months** of the date of receiving their notification, setting out the amount of special service that they have entitlement to purchase during the limited period and the associated costs of purchasing that past service rights.
- The eligible person will then be required to confirm to the appropriate fire and rescue authority, **within 6 months** of receiving this information, that they wish to take up membership of the scheme and pay the required historic contributions – they will also be required to elect the date that they wish their special service to begin (the ‘mandatory special period’) and, if they wish to, to elect to transfer in any 1992 scheme benefits into their special membership at this time.

The ‘**mandatory special period**’ will be the period between:

- the date that each eligible person was first employed as a retained firefighter between 1 July 2000 and 5 April 2006 inclusive, or another date within that period from which the person has elected to start their modified scheme membership from, and
- without a break of service, the date that they join the modified scheme\* or, in the case of a person who joins the modified scheme as a special deferred or special pensioner member, the date on which they left service, even if they have subsequently rejoined the fire service as a whole-time or retained firefighter.

*\* for those eligible persons who joined the standard NFPS on or after April 2006 the mandatory period will be the period between the date that each eligible person was first employed as a retained firefighter between 1 July 2000 and 5 April 2006 inclusive, or another date within that period from which the person has elected to start their modified scheme membership from, and the date that they joined the standard 2006 scheme. These members will have an opportunity to convert any standard service to their membership of the modified scheme.*

The amendment order will require fire and rescue authorities to use reasonable endeavours to identify all those current and former firefighters who were employed as retained firefighters between 1 July 2000 and 5 April 2006 that they may be entitled to join the modified scheme.

Fire and rescue authorities are recommended to take all reasonable steps to identify any former employees who are deceased and who would have had eligibility to join the modified scheme and whose date of death was after 1<sup>st</sup> July 2000 and on or before 5<sup>th</sup> April 2006. This will assist in informing their widow/er or children about their eligibility to receive the payment of a death grant.

## **Types of member**

**Special member** – this will include any persons who become a special firefighter member, special deferred member, or a special pensioner member,

**Special firefighter member** – this will include any firefighter who:

- was employed as a retained firefighter for all or part of the period starting on 1 July 2000 and before 6 April 2006, and

- remains employed without a break in service as a retained firefighter\* on the date that they make an election to join the modified scheme.

*\*This will also include employees who are currently employed as a regular firefighter and who previously (post 5<sup>th</sup> April 2006) changed their employment from a retained firefighter without a break in service*

**Special deferred member** – this includes any firefighter who:

- was employed as a retained firefighter for all or part of the period between 1 July 2000 and 5 April 2006, who left employment on a date prior to making an election to join the modified scheme, and who is not entitled to immediate payment of their modified scheme pension on this date; **or**
- joins as a special firefighter member and who subsequently leaves employment or opts out of the modified scheme membership before becoming entitled to payment of their special pension; or
- a special firefighter member who is already a standard member of the 2006 scheme in respect of the same employment and decides not to convert the standard service to modified service i.e. they continue with their standard membership.

**Special pensioner member\*** - this will include any former firefighter who was:

- employed as a retained firefighter for all or part of the period between 1 July 2000 and 5 April 2006 and who had left employment on a date prior to making an election to join the modified scheme; **and** meets one of the following conditions:
  - who, on joining the modified scheme, becomes entitled to the immediate payment of their pension; or
  - any special deferred member after they attain age 60 years; or
  - any special firefighter member or special deferred member who is certified as being permanently disabled prior to attaining ordinary pension age or normal benefit age, respectively; or
  - any special member who attains age 55 years and retires.

*\*any firefighter eligible to immediately join the modified scheme as a special pensioner member will be eligible to receive the backdated payment of their pension (plus interest) from the date they would have first been entitled to receive it i.e. from the Normal Pension Age subject to paying the full employee historic contributions.*

## **Continuity of Service**

Any special firefighter member will be able to continue their membership of the modified scheme provided they remain in continuous pensionable service and do not make a contributions election i.e. opt out of the scheme's membership.

## **Normal Pension Age**

The normal pension age of the modified scheme will be 55 years.

## **Normal Benefit Age**

The normal benefit age of the modified scheme will be 60 years.

## **Pension Credit members**

Where a pension sharing order is issued in respect of a special member's pension benefits in the modified scheme, the respective pension credit member's pension will come into payment from age 60, or the date the pension sharing order took effect, whichever is later.

## **Survivor Benefits**

On the death of a special firefighter, special deferred or special pensioner member, the modified scheme will provide survivor benefits to eligible spouses, civil partners nominated partners, and children where applicable.

## **Accruals**

The whole-time accrual rate for the modified scheme will be 1/45ths. Maximum pensionable service will be capped at 30 years i.e. 30/45ths.

## **Transfers In to the modified scheme**

Subject to the standard 2006 scheme rules, those persons entitled to join the modified scheme as special firefighter members will have the option to transfer pension benefits from other pension schemes into their special membership provided that the member has not already had the option to transfer in such service as a member of the standard 2006 scheme following the options exercise in 2007. The associated service credit will be determined by factor tables and guidance provided by the Scheme Actuary depending on whether the transfer is undertaken on Statutory or Club terms.

The modified scheme does not provide for special deferred or special pensioner members to transfer in pension benefits from another scheme.

## **Transferring accrued 1992 scheme service into the modified scheme**

Any persons who are eligible to join the modified scheme as special firefighter members and who currently have accrued service in the 1992 scheme (in the form of active membership or a deferred pension) may be eligible to transfer this service into the modified scheme. The transfer will be undertaken under the terms of the Public Sector Transfer Club. Any election by a member to transfer this service must be made to the employing fire and rescue authority within one year of receiving notice of details of the costs of purchasing their past service pension rights. The modified scheme's pensionable

service cap of 30/45ths would still apply even if the total of the member's special pensionable service exceeded 30 years at retirement.

The modified scheme does not provide for special deferred or special pensioner members to transfer in accrued service from the 1992 scheme.

### **Transferring deferred 1992 scheme service which is continuous from pre- 6 April 2006 retained service into the modified scheme**

Any persons who are eligible to join the modified scheme as special firefighter members and who have a deferred pension in the 1992 scheme in respect of service that is continuous from their pre-6 April 2006 retained service will have the option to transfer this service into the modified scheme. On transfer the member will receive 1/45<sup>th</sup> special pensionable service for each year accrued in the 1992 scheme. Under this option the special member will have to elect to start his special membership from the date that he was employed as a retained firefighter to ensure that there is no break in service between his employment as a regular firefighter and his subsequent employment as a retained firefighter. The modified scheme's pensionable service cap of 30/45ths would still apply even if the total of the member's special pensionable service exceeded 30 years at retirement.

If the member is interested in considering this option, they must make the request to transfer at the same time as making their election to purchase their special service i.e. within 6 months of the date that the fire and rescue authority provides the member with details of their special service and the cost to purchase it. Otherwise, the transfer will be completed in accordance with the terms of the Public Sector Transfer Club.

### **Purchasing 'special service' during the limited period**

Any persons eligible to join the modified scheme as a special firefighter member will be entitled to elect to pay the historic contributions to count their retained service during the limited period as part of their special pensionable service - the members will be required to pay from a date they select before 6 April but may pay for all their service during the limited period if this is longer. However, where the person has subsequently joined membership of the standard 2006 scheme prior to the end of the limited period they will only be entitled to pay the historic contributions to count their retained service up to the date they joined the standard 2006 scheme as part of their special pensionable service – this will ensure the period in respect of the member's standard membership is not used to simultaneously accrue special pensionable service in the modified scheme. In these cases, any standard 2006 scheme membership may be converted to their modified membership (please refer to section on converting below). The cost of purchasing past service pension will be determined in accordance with guidance provided by the Scheme Actuary.

Any persons eligible to join the modified scheme as a special deferred or special pensioner member will be entitled to elect to pay the historic contributions to count their retained service accrued between 1 July 2000 and the date that they left their retained employment as part of their special pensionable service - the members will be required to

pay from a date they select before 6 April but may pay for all their service during the limited period if this is longer. However, where the person has subsequently joined membership of the standard 2006 scheme prior to leaving their retained employment they will only be entitled to pay the historic contributions to count their retained service up to the date they joined the standard 2006 scheme as part of their special pensionable service – again, this will ensure the period in respect of the member’s standard membership is not used to simultaneously accrue special pensionable service in the modified scheme. In these cases, any standard 2006 scheme membership may be converted to their modified membership (please refer to section on converting below). The cost of purchasing past service pension will be determined in accordance with guidance provided by the Scheme Actuary.

## **Period to pay backdated contributions (periodically or by lump sum)**

### *Persons who join the modified scheme as special pensioner members:*

Those persons who join the modified scheme as a special pensioner member will have the option to pay the cost of historic contributions by means of lump sum only. The lump sum will have to be paid to the employing fire and rescue authority within 6 months of electing to join the modified scheme and before the pension comes into payment.

These persons will have the option of purchasing their past service rights from any commuted lump sum. Where this option is made, the employing fire and rescue authority will deduct the past service costs from the commutation lump sum prior to being paid to the member. If the value of the commuted lump sum is not sufficient to pay the full balance of historic contributions, the person will be required to pay any outstanding balance at the time of becoming entitled to receive payment of their pension. The total level of commuted lump sum, for tax purposes, will be the amount of lump sum, prior to the payment of contributions, not the residual lump sum after contributions have been paid.

Where a member has elected this option and the lump sum has not been received by the fire and rescue authority before the expiration of this 6 month period, the election to join the modified scheme will be revoked.

### *Persons who join the modified scheme as special deferred members:*

Those persons who join the modified scheme as a special deferred member will also have the option to pay the historic contributions by means of lump sum. Under this option, any lump sum would need to be paid within 6 months from the date of giving notice to pay for service during the limited period by lump sum. Where a member has elected this option and the lump sum has not been received by the fire and rescue authority before the expiration of this 6 month period, the election to join the modified scheme will be revoked.

Alternatively, those persons who join as special deferred members will have the option of purchasing their past service rights by means of making periodic contributions over a period of 10 years (which will include interest), or up to the point where they become entitled to receive payment of their deferred pension, whichever comes earlier.

Upon becoming entitled to receive payment of their deferred pension, any outstanding balance could be paid at that time from the member's commuted lump sum, or from another source, if the member so elects. As with those persons who join as special pensioner members, if the value of the commuted lump sum is not sufficient to pay the full balance of historic contributions, the member will be required to pay any outstanding balance at the time of becoming entitled to receive payment of their pension. The total level of commuted lump sum, for tax purposes, will be the amount of lump sum, prior to the payment of contributions, not the residual lump sum after contributions have been paid.

*Persons who join the modified scheme as special firefighter members:*

Those persons who join the modified scheme as a special firefighter member will have the option of paying the historic contributions by means of a lump sum payment or periodical contributions. A member that elects to pay by lump sum will have 6 months, from the date of electing to join the modified scheme, to pay the lump sum. Where a member has elected this option and the lump sum has not been received by the fire and rescue authority before the expiration of this 6 month period, the election to join the modified scheme will be revoked.

Alternatively, members will either have a period of 10 years or until they retire, whichever is shorter, to pay the historic contributions by means of periodical contributions (which will include interest). Upon retiring, any outstanding balance could be paid from the member's commuted lump sum or from another source, if the member so elects. The balance should be paid within 3 months.

The total level of commuted lump sum, for tax purposes, will be the amount of lump sum, prior to the payment of contributions, not the residual lump sum after contributions have been paid.

If the special firefighter member was to opt out or cancel the periodic contributions or does not pay the balance due then the member will receive a prorated service credit for the service purchased during the limited period and will become entitled to a deferred pension in the modified scheme. There will be no ability for the member to restart the periodical payment of contributions at a later date.

If the special firefighter member dies during the spreading period and before becoming entitled to receive payment of the special pension then their special pensionable service will be credited with the full amount of service that they elected to purchase. However, if the special firefighter member becomes ill-health retired during the spreading period then they will have the option to pay any outstanding amount (for the past service they elected to purchase) by lump sum - if they choose not to pay an outstanding balance then the past service credit will be prorated to reflect the past service contributions actually paid.

## **Death Grant to those deceased members who would have been eligible**

The surviving spouse or civil partner of any person who was employed as a retained firefighter on or after the 1 July 2000 and continued in that employment until they died on or before the 5 April 2006, will be entitled, on the submission of an application to the relevant fire and rescue authority within 21 months of the date on which the amending



order comes into force, to receive the payment of a death grant equal to 2.5 times the deceased firefighter's pensionable pay in their last year of service, as determined by the fire and rescue authority. As with current death grant payments, the payment of this death grant will be paid from the fire and rescue authority's pension account and will only extend to married spouses and civil partners.

Where there is no surviving spouse or civil partner, an eligible child of the deceased, to be determined as on the date of the deceased's death, may make the application to the fire and rescue authority for the death grant within 21 months of the amending order being made. Where the child is a minor, the legal guardian of the child can make the application on behalf of the child.

## **Determining the relevant special pensionable service during the limited period**

In order to calculate the pensionable service accrued by a special firefighter member, special deferred member or special pensioner member during the limited period and, therefore, the amount of special pensionable service that each member will be entitled to purchase, fire and rescue authorities should, in the following order, consider:

- (i) the relevant employee and pay records that it holds;
- (ii) any relevant documentation provided by the employee where the fire and rescue authority is unable to access historic pay records; or
- (iii) recent pay data and/or turnout rates for retained firefighters at the specific fire stations that each of eligible members was located in order to determine average pay rates.

## **Converting**

### *Converting modified scheme membership to standard 2006 scheme membership*

Any firefighters who are current members of the standard 2006 scheme, who wish to remain standard members, and who are also eligible to join the modified scheme as special members, may be able to convert their special membership for the period before 6 April 2006 to their standard membership. This conversion would be undertaken by direct reference to guidance and bespoke actuarial factors produced by the Scheme Actuary which will reflect the preferential transfer terms on offer to 1992 scheme members who transferred to the standard 2006 scheme as part of the 2007 Options exercise.

The member would also be required to pay contributions in respect to any service accrued after 5 April 2006 up to the date when they joined the standard 2006 scheme which would then be credited to the member's standard service as 1/60<sup>th</sup> for each full year accrued. The employee contributions to be paid will reflect those that the person would have paid had they been a member of the standard 2006 scheme at the time the service was accrued, including interest – this will take account of the contribution tariffs introduced from 1 April 2012.

If the member is interested in considering this option, they must request the associated service credit quote from the fire and rescue authority at the same time as making their application for details about their special membership.

If the historic contributions are not fully paid, any service credit to the member's standard membership will be prorated accordingly.

### Converting standard 2006 scheme membership to modified scheme membership

Any firefighters who are current members of the standard 2006 scheme in respect of service which is linked and continuous to their pre-6 April 2006 retained service will be able to convert their standard membership to their modified membership. This would be conditional on the payment of additional contributions<sup>3</sup>, and the associated interest. On payment of the additional contributions and interest, the service in the standard scheme would be credited to the member's special service at a rate of 1/45<sup>th</sup> for every full year accrued.

If the member is interested in considering this option, they must make the request to transfer at the same time as making their election to purchase their special service i.e. within 6 months of the date that the fire and rescue authority provides the member with details of their special service and the cost to purchase it.

Special members who have an additional membership of the standard 2006 scheme not linked to their pre-6 April 2006 retained service will not have an option to transfer this membership to their modified membership.

### **Purchasing additional service in the modified scheme**

Special firefighter members of the modified scheme may be entitled to purchase additional 45ths outside the limited period by means of periodical contributions or by lump sum, subject to satisfying the scheme rules. The cost associated with purchasing each additional 45ths will be determined by tables and guidance provided by the Scheme Actuary.

The option to purchase additional service in the modified scheme will not extend to special deferred or special pensioner members.

### **Commutation**

Special pensioner members of the modified scheme may elect to commute part of their annual pension for a lump sum. The commutation factor will be age related but fixed, and will reflect the 1992 scheme commutation rates that are in force the day before the amendment order is made. These will be set out in the order. The factors consulted on in

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<sup>3</sup> This would equate to 2.5% of pensionable pay earned prior to 1 April 2012. For any period beyond April 2012 it would reflect the difference between the relevant standard 2006 scheme contribution tariff and the relevant 1992 Scheme contribution tariff which applies to the modified scheme.

relation to Rule 9 of Part 3 and rule 7 of Part 6 will be updated should the 1992 scheme commutation factors change before the scheme is brought into force. The amount that a member can commute will be limited to the amount that is permissible without a scheme chargeable payment being required under Part 4 of the Finance Act 2004.

### **Ill-health pensions**

Special firefighter members of the modified scheme will be eligible to retire on the ill-health terms of the standard 2006 scheme where it is determined that they have been permanently disabled for undertaking their role as a firefighter.

Any former firefighters who are eligible to join the modified scheme and who were medically retired between 1 July 2000 and 5 April 2006 will be entitled to receive the retrospective pension payments associated with a higher tier ill-health retirement (to include both lower tier and higher tier elements) – this will be calculated in accordance with the standard 2006 scheme provisions and based on their special pensionable service up to the point of medical retirement. This entitlement will be subject to the certification by an Independent Qualified Medical Practitioner that the person was permanently disabled for undertaking the role of a firefighter at the date of their dismissal and that the permanent disablement has continued to the date of the medical assessment. Where entitlement has been confirmed, the payment of the ill-health pension will take effect from the date of the member's dismissal or retirement and will be conditional on the payment of all historic contributions and interest by the member. The fire and rescue authority will also pay the member a lump sum for any backdated ill-health pension payments, to include interest.

### **Injury Awards**

The protected right provided by the Firefighters Compensation Scheme 2006 for those firefighters with unbroken retained employment from before 6 April 2006, who suffer a Qualifying Injury, to be treated as whole time regular firefighters will be revoked on the date that the modified scheme legislation comes into force.

As retained firefighters have the right to be treated as part-time firefighters for the purpose of the pension scheme, they should be treated on the same terms as part-time regulars where any injury and/or ill-health awards will be prorated according to the member's service. The revocation of this protected right will not affect those former retained firefighters currently in receipt of injury and ill-health pensions or for those cases where the Qualifying Injury occurred prior to the date that the protected right is revoked and a determination or decision about whether this has caused permanent disablement is not made until after the enabling legislation comes into force.

### **Abatement on re-employment**

The rules for abating any pension paid under the terms of the modified scheme will reflect the corresponding provision of the standard 2006 scheme, as applicable on the date that the amendment order is made. Any application of the abatement rules would only apply prospectively from the date of the amending legislation. If the rules of abatement in the

New Firefighters' Pension Scheme are subsequently amended, the amended rules will apply to the modified scheme.

### **Opting out of modified scheme**

Special members who leave the modified scheme prior to becoming entitled to immediate payment of pension will become entitled to a special deferred pension, payable from age 60 years. They will not be permitted to rejoin the modified scheme but may have the option of joining the standard scheme membership.

### **Death Grant**

The modified scheme will pay a death grant on equivalent terms as that provided by the 1992 Scheme i.e. two times the deceased member's pensionable pay at the time of death, expressed as an annual rate.

2013 No.

**FIRE AND RESCUE SERVICES, ENGLAND**  
**PENSIONS, ENGLAND**

The Firefighters' Pension Scheme (England)(Amendment)  
Order 2013

*Made* - - - - - \*\*\*  
*Laid before Parliament* \*\*\*  
*Coming into force* - - - \*\*\*

This Order is made in exercise of the powers conferred by sections 34 and 60 of the Fire and Rescue Services Act 2004(a).

As required by section 34(5) of that Act, the Secretary of State consulted such persons as the Secretary of State considered appropriate before making the Order.

The Secretary of State makes the following Order:

**Citation, commencement and application**

- 1.—(1) This Order may be cited as the Firefighters' Pension Scheme (England)(Amendment) Order 2013
- (2) This Order shall come into force on [ ] and shall have effect from 1 July 2000.
- (3) This Order applies in relation to England only.

**Amendment of the Firefighters' Pension Scheme (England) Order 2006**

2. Schedule 1 to the Firefighters' Pension Scheme (England) Order 2006(b) shall be amended in accordance with the Schedule to this Order.

Signed by authority of the Secretary of State for Communities and Local Government

Date *Name*  
Parliamentary Under Secretary of State  
Department for Communities and Local Government

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(a) 2004 c.21. Powers under sections 34 and 60 of the Fire and Rescue Services Act 2004 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by section 62 of the Fire and Rescue Services Act 2004. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers.

(b) S.I.2006/3432; amended by S.I.2008/213, S.I. 2012/954 and 2988

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

### 1. In Part 1 (citation and interpretation)—

- (a) in rule 2 (interpretation), in paragraph (1)—
- (i) after the definition of “the 1999 Act” insert—  
“2004 Act” means Finance Act 2004;  
“Actuary” means a fellow of the Institute and Faculty of Actuaries;
  - (ii) in the definition of “child”(a), for “or a pensioner member” substitute “a pensioner member or a special member”;
  - (iii) after the definition of “child”, insert “ “child’s pension” means a pension under rule 6 (child’s pension) of Part 4 (survivors’ pensions);”;
  - (iv) in the definition of “independent qualified medical practitioner” before “means” insert “or IQMP”;
  - (v) after the definition of “independent qualified medical practitioner”, insert—  
“ “initial date” means [date Order comes in to force-date to be inserted before Order made];”;
  - (vi) after the definition of “injury”, insert—  
““limited period” means the period beginning on 1st July 2000 or if later, the date falling before 6th April 2006, on which the person was first employed as a retained firefighter and ending on the earlier of the date on which that person joined this Scheme as a special member or as a standard member in respect of service which he could otherwise reckon as special pensionable service, and the date, if applicable, on which he ceased to be employed as a retained or regular firefighter;  
“limited period pension contributions” means the special pension contribution required in payment of a special member’s service during the mandatory special period under rule 6A of Part 11;
  - (vii) after “lower tier ill-health pension”, insert—  
““lump sum contribution” means the lump sum payable under paragraphs (1), (2) or (3) of rule 6A of Part 11;  
“mandatory special period” means that part of a person’s service during the limited period beginning on the date selected by him before 6<sup>th</sup> April 2006 and ending on the earlier of the date on which he joined this Scheme as a special member or as a standard member in respect of service which he could otherwise reckon as special pensionable service, and the date, if applicable, on which he was dismissed or retired from employment as a regular or retained firefighter.”;
  - (viii) at the end of the definition of “normal benefit age”, insert—

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(a) Definition of child amended by S.I.2008/213.

“or, in the case of a special firefighter member or a special deferred member, has the meaning given in rule 3A(2) of that Part;”;

(ix) at the end of the definition of “opt in”(a), add—

“or, in the case of a special firefighter member has the meaning given in rule 3A(1) of that Part;”;

(x) after the definition of “normal retirement age”, insert—

“ “ordinary pension”, in relation to a standard member, means a pension referred to in rule 1 of Part 3 (personal awards);”

(xi) in the definition of “pensioner”, after “ “pensioner member””, insert “or special pensioner member””;

(xii) after the definition of “role”, insert—

““Scheme Actuary” means the actuary appointed by the Secretary of State to provide actuarial advice and to carry out any statutory functions set out in the Scheme;

“scheme chargeable payment” has the meaning given in section 241 of the 2004 Act;

“special deferred member” has the meaning given by rule 1A(5) of Part 2;

“special eligibility conditions” has the meaning given in rule 2A of Part 2;

“special firefighter member” has the meaning given in rule 1A(1) to (4) of Part 2;

“special membership” means membership of this Scheme as a special firefighter member, special deferred member or special pensioner member as the case may be;

“special member” means a special firefighter member, a special deferred member or a special pensioner member;

“special member’s ordinary pension” means a pension of the description referred to in rule 1A of Part 3;

“special pension contribution” means the pension contribution set out in rule 3(1A) of Part 11;

“special pensionable retained service”, in relation to a retained firefighter who is a special member and any period of special pensionable service, means the same proportion of whole-time service as that which his actual pensionable pay for that period bears to his reference pay for that period;

“special pensionable service” is to be construed in accordance with rules 2A to 5 of Part 10;

“special pensioner member” has the meaning given by rule 1A(6) of Part 2;

“standard member” means a member of this Scheme other than a special member;

“standard membership” means membership of this Scheme as a standard member.”;

(b) in rule 2, after paragraph (1) insert—

“(1A) References in this Scheme to a firefighter member, a deferred member or a pensioner member include references to a special firefighter member, a special deferred member or a special pensioner member, as the case may be, unless the contrary is indicated.”;

(c) in paragraph (3)(b) of rule 3 (disablement) after “deferred pension” insert “or special deferred pension”.

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

(a) in paragraph (4) of rule 1 (scheme membership) after “pensionable service” insert “or special pensionable service”;

(b) after rule 1 insert—

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(a) Definition of “opt in” was inserted by S.I.2012/2988.

### **“Special membership**

**1A.**—(1) Subject to paragraph (3), a firefighter member of any of the following descriptions is also a special firefighter member of this Scheme:

- (a) a person who —
  - (i) having taken up employment as a retained firefighter before 6th April 2006;
  - (ii) having continued in such employment until the date of his election, and
  - (iii) having elected to pay the limited period pension contributions within the period required by rule 6A(4) of Part 11is a special firefighter member of this Scheme ;
- (b) a person who—
  - (i) having taken up employment as a retained firefighter before 6th April 2006;
  - (ii) having continued in such employment until a date on or after 6th April 2006;
  - (iii) having, immediately after the termination of such employment, taken up employment as a regular firefighter and continued in that employment until the date of his election, and
  - (iv) having elected to pay the limited period pension contributions within the period required by rule 6A(4) of Part 11

is a special firefighter member of this Scheme;

(2) A person ceases to be a special firefighter member of this Scheme if he makes a contributions election; he may again become a firefighter member (but not a special member) by virtue of rule 6 of this Part, which shall apply to him with the omission of the word “again”.

(3) A special firefighter member who is entitled to reckon a period as special pensionable service pursuant to rule 5 of Part 10 and resumes service immediately after that period remains a special firefighter member.

(4) A special firefighter member who would be entitled to reckon a period as special pensionable service pursuant to rule 9 of Part 11 if he elected to purchase additional service during that period under rule 6(2) of that Part and subsequently paid the special pension contribution in respect of that period, but does not so elect or pay that special pension contribution, remains a special firefighter member if he resumes service immediately after that period.

(5) A person who satisfies the conditions in paragraph (a) is a special deferred member of this Scheme;

- (a) the conditions are that he –
  - (i) took up employment as a retained firefighter before 6th April 2006;
  - (ii) was employed as a retained firefighter on or after 1st July 2000;
  - (iii) was dismissed or retired from that employment before the date of his election to join this Scheme as a special deferred member;
  - (iv) was younger than 55 years on the date of the dismissal or his retirement; and
  - (v) is not entitled to an ill-health award under rule 2 or 2A of Part 3; and
  - (vi) has elected to pay the limited period pension contributions within the period required by rule 6A(4) of Part 11;
- (b) a person who—
  - (i) satisfies the requirements of paragraph (1)(a); and
  - (ii) has joined this Scheme as a standard member in respect of service which would otherwise be eligible to be special pensionable service before electing to join this Scheme as a special member; and
  - (iii) does not elect to convert his standard membership to his special membership



joins this Scheme as a special deferred member;

(c) a person who was a special firefighter member of this Scheme immediately before paragraph (1) of rule 3 of Part 3 applied to him is then a special deferred member of this Scheme.

(6) A person who satisfies the conditions in paragraph (a) is a special pensioner member of this Scheme;

(a) the conditions are that he—

(i) took up employment as a retained firefighter before 6th April 2006;

(ii) was employed as a retained firefighter on or after 1st July 2000;

(iii) retired from that employment before the date of his election to join this Scheme as a special member;

(iv) has elected to pay the limited period pension contributions within the period required by rule 6A(4) of Part 11; and

(v) one of the conditions of subparagraph (b) is satisfied;

(b) the conditions of this sub-paragraph are that

(i) he retired having attained the age of 55;

(ii) he was dismissed or retired by reason of permanent disability and the conditions of rule 2A of Part 3 (retrospective award on ill-health retirement) are capable of being satisfied; or

(iii) he has attained the age of 60.

(c) a person who was a special firefighter member of this Scheme immediately before he retired and to whom rule 1A of Part 3 applies is a special pensioner member of this Scheme;

(d) a person who was a special deferred member of this Scheme immediately before he retired and who satisfies the requirements of paragraph (4) of rule 3 of Part 3 is a special pensioner member of this Scheme;

(e) a person who was a special deferred member of this Scheme immediately before his 60th birthday is a special pensioner member after that date;

(f) a person who was a special firefighter member of this Scheme immediately before he left his employment by reason of permanent disablement and is entitled under rule 2 (award on ill-health retirement) of Part 3 (personal awards) to a lower tier ill-health pension or a higher tier ill-health pension, is a special pensioner member of this Scheme.”;

(c) after rule 2 (eligibility conditions) insert—

#### “Special eligibility conditions

**2A.**—(1) A firefighter member who is a special firefighter member is eligible for a special member’s ordinary pension or a pension under rule 2 (award on ill-health retirement) or rule 3 (deferred pension) as a special member under this Scheme if—

(a) he pays the special pension contribution; and

(b) an eligibility condition is satisfied.

(2) A special deferred member or a special pensioner member is eligible for a special member’s ordinary pension or a pension under rule 2 (award on ill-health retirement) or a rule 2A (retrospective award on ill-health retirement) if an eligibility condition is satisfied

(3) A special deferred member who was a special firefighter member immediately before he satisfied the requirements of paragraph (1) of rule 3 of Part 3 and in respect of whom an eligibility condition is satisfied is entitled to a special member’s ordinary pension.”;

- (d) in rule 3 (normal retirement age and normal benefit age) after “members” in each place where it occurs, insert “who are not special firefighter members”;
- (e) after rule 3 (normal retirement age and normal benefit age) insert—

**“Normal retirement age and normal benefit age of special members**

**3A.**—(1) The normal retirement age of firefighter members who are special firefighter members, or for persons who joined this scheme as special pensioner members, is 55 years.

(2) The normal benefit age of firefighter members who are special firefighter members, or of special deferred members, is 60 years.”

**3. In Part 3 (personal awards)—**

- (a) in rule 1 (ordinary pension) in paragraph (1), for “paragraph (2)” substitute “ paragraph (2) and rule (1A) (special member’s ordinary pension)”;
- (b) after rule 1 insert—

**“Special member’s ordinary pension**

**1A.**—(1) Subject to paragraph (2), this rule applies to a member of this Scheme who is a special member and who satisfies one of the special eligibility conditions and retires or has retired.

(2) This rule does not apply to a special firefighter member whose notice of retirement states that he is retiring for the purpose of taking up employment as a firefighter with another authority.

(3) Where a special member to whom this rule applies—

- (a) is not entitled to an ill health award under rule 2 or 2A;
- (b) attains or has attained the age of 55 and
- (c) he retires;

he is entitled to a special member’s ordinary pension.

(4) A special member who is not entitled to a special member’s ordinary pension under paragraph (3) or an ill health award under rule 2 or 2A is entitled to a special member’s ordinary pension when he attains or has attained the normal benefit age.

(5) Where a special member to whom this rule applies becomes entitled to a special member’s ordinary pension in respect of service as a retained firefighter, his special member’s ordinary pension shall be calculated by multiplying his final pensionable pay by his special pensionable retained service and dividing the resultant amount by 45.

(6) Where a special member to whom this rule applies has special pensionable service as a regular firefighter accrued whilst he was a special member, he becomes entitled on retiring to a special member’s ordinary pension calculated by multiplying that part of his special pensionable service which is attributable to his service as a regular firefighter by his final pensionable pay and dividing the resultant amount by 45.

(7) Where paragraph (6) applies, the amount calculated under that paragraph shall be added to the amount calculated under paragraph (5).

(8) Where a person joins this Scheme as a special pensioner member and is entitled to a pension under this rule, the authority shall pay to him a lump sum equal to the value, together with interest, of the pension payments he would have received up to the date of payment of the lump sum if at the date of his retirement he had been a member of this Scheme who had made contributions equivalent to his contributions under rule 6A of Part 11 and shall thereafter pay him a special member’s ordinary pension.

(9) A lump sum payable under paragraph (8) shall be paid with interest at a rate calculated by the Scheme Actuary.

(10) A member of this Scheme entitled to a special member's ordinary pension is not entitled to an ordinary pension in respect of the same service .”;

(c) in rule 2 (award on ill-health retirement)(a)—

(i) in paragraph (2) for “Every firefighter” substitute “Subject to paragraph (5), every firefighter”;

(ii) after paragraph (4), add—

“(5) In the case of a firefighter member who is a special firefighter member, paragraph (2) shall apply with the substitution of “one of the special eligibility conditions” for “an eligibility condition”.”;

(d) after rule 2, insert—

#### **“Retrospective award on ill-health retirement**

**2A.**—(1) This rule applies to a person who elects to join this Scheme as a special deferred member or a special pensioner member and who had been dismissed on the grounds of ill-health or had retired from employment as a retained firefighter before 6th April 2006.

(2) A person to whom this rule applies may apply to the authority which last employed him as a retained firefighter to be assessed by an IQMP selected by it to determine whether he was permanently incapable of performing the duties of a firefighter on the date on which he was dismissed on the grounds of ill-health or retired and whether he has become capable of performing those duties since that date.

(3) An application under paragraph (2) shall be made during the period of 3 months beginning with the day on which the notice was served by the authority under paragraph (13) of rule 5A (purchase of service during the limited period) of Part 11.

(4) The authority shall obtain a written opinion from an IQMP on whether the person was at the date of his dismissal or retirement permanently incapable of performing the duties of a firefighter and if so, whether he has become capable of performing those duties since that date.

(5) The authority shall determine whether the person is entitled to a retrospective award for ill-health retirement on the basis of the written opinion of the IQMP and may only determine that a person is entitled to an award where the IQMP gives an opinion that the person was permanently incapable of performing the duties of a firefighter on the date of his dismissal or retirement and has not become capable of performing those duties since that date.

(6) The IQMP must certify in his opinion under paragraph (4) —

(i) that 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

(ii) that he is not acting, and has not at any time acted, as the representative of the employee, the authority, or any other party in relation to the same case.

(7) Where the IQMP has given an opinion under paragraph (4), it shall be subject to review under rule 3 (review of medical opinion) of Part 8 (determination of questions and appeals) and to the outcome of an appeal under rule 4 (appeals against decisions based on medical advice) in Part 8 (determination of questions and appeals).

(8) An IQMP's opinion under paragraph (4) shall be binding on the authority unless it is superseded by his response under rule 3 or the outcome of an appeal under rule 4 as mentioned in paragraph (7).

(9) If —

(i) the person concerned wilfully or negligently fails to submit himself to medical examination by the IQMP selected by the authority, and

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(a) Rule 2 amended by S.I. 2008/213.

- (ii) the IQMP is unable to give an opinion on the basis of the medical evidence available to him,

the authority may make a decision on the issue on such other medical evidence as they think fit, or without medical evidence.

(10) If the authority determine that the person is entitled to a retrospective award following ill-health retirement, they shall give written notice to him within 14 days of their determination together with a copy of the IQMP's opinion.

(11) Where the authority do not determine that the person is entitled as mentioned in paragraph (10) to a retrospective award following ill-health retirement, it shall—

- (i) give written notice to him within 14 days of their determination;
- (ii) provide him with a copy of the IQMP's opinion; and
- (iii) inform him that he can apply for a review of that opinion under rule 3 (review of medical opinion) or appeal against that decision under rule 4 (appeals against decisions based on medical advice) of Part 8 (determination of questions and appeals).

(12) Where a person has satisfied one of the special eligibility conditions and the authority have determined that he is entitled to a retrospective award following ill-health retirement, the authority shall pay to him a lump sum equal to the value, together with interest, of the payments of higher tier ill-health pension he would have received up to the date of payment of the lump sum if at the date of his retirement he had been a member of this Scheme who had made contributions equivalent to his contributions under rule 6A of Part 11 and shall thereafter pay him a higher tier ill-health pension.

(13) A lump sum payable under paragraph (12) shall be paid with interest at a rate calculated by the Scheme Actuary.

(14) A member of this Scheme entitled to a retrospective award under this rule is not entitled to an ordinary pension or a special member's ordinary pension in respect of the same special pensionable service.”;

- (e) in rule 3 (deferred pension)—
  - (i) in paragraph (1) for “This rule applies” substitute “Subject to paragraph (7), this rule applies”;
  - (ii) after paragraph (6) insert—

“(7) In the case of a firefighter member who is a special firefighter member, paragraph (1) shall apply with the substitution, in paragraph (a), of “one of the special eligibility conditions” for “an eligibility condition” and with the substitution in paragraph (3) of “45” for “60” and “special pensionable service” for “pensionable service.”;
- (f) in rule 4 (cancellation of deferred pension)(a)—
  - (i) in paragraph (2), for “Where an authority” substitute “Subject to paragraph (2A), where an authority”;
  - (ii) after paragraph (2), insert—

“(2A) Where, immediately before he rejoins this Scheme, the person was a special deferred member of it—

    - (a) on rejoining he shall become a firefighter member who is not a special firefighter member;
    - (b) the authority shall use tables provided by the Scheme Actuary to convert his special pensionable service into the service of a standard member.”;
- (g) in paragraph (1) of rule 5 (pension on member-initiated early retirement), after “firefighter member” insert “other than a special member”;

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(a) Rule 4 amended by S.I. 2008/213.

- (h) in rule 6 (pension on authority-initiated early retirement), after paragraph (2) insert—  
“(3) This rule does not apply to a firefighter member who is a special firefighter member.”;
- (i) in rule 7 (entitlement to two pensions)—  
(i) in paragraph (1) for “Subject to paragraph (6)” substitute “Subject to paragraphs (6) and (9)”;  
(ii) after paragraph (8), insert—  
“(9) In the case of a special member, this rule applies with the substitution of “45” for “60” in paragraphs (3), (4) and (7), with the substitution of “special pensionable service” for “pensionable service” wherever it occurs and with the substitution of (1A) for “1” in paragraph (5) .”;
- (j) in rule 7B (additional pension benefit: continual professional development), in paragraph (2), after “Scheme Actuary” add “and separate guidance and tables shall be provided for special members”;
- (k) in rule 9 (commutation: general)(a) —  
(i) in paragraph 2 for “The lump sum” substitute “Subject to paragraph (2A), the lump sum”;  
(ii) after paragraph 2, insert—  
“(2A) In the case of a pension payable in respect of a special pensioner member the lump sum shall be calculated by multiplying the amount of the person’s pension represented by the commuted portion at retirement by the factor specified in the table in Annex ZA by reference to his age.  
(2B) A lump sum payable to a special pensioner member shall be reduced to the extent necessary to prevent the payment of it resulting in a scheme chargeable payment for the purposes of Part 4 of the 2004 Act.”;  
(iii) after paragraph (8), insert—  
“(8ZA) In relation to a pension payable to a person who joins this Scheme as a special pensioner member, paragraphs (6) and (7) of this rule have effect as if references to the day of retirement and the effective date were references to the date on which the pension comes into payment.”;  
(iv) after paragraph (8C), insert—  
“(8D) Where paragraph (8B) applies and the person entitled to that other pension is a special pensioner member, paragraph (8B) shall apply with the substitution of “special pensionable service” for “pensionable service”.”.
- 4. In Part 4 (survivors’ pensions)—**  
(a) in paragraph (1) of rule 1 (pensions for surviving spouses, civil partners and nominated partners)—  
(i) after sub-paragraph (a) insert—  
“(aa) a special firefighter member who satisfies one of the special eligibility conditions and dies while employed by an authority; or”  
(ii) in paragraph (1)(b)(iii) after “rules 1”, insert “1A,” and after “2” insert “2A,”;
- (b) in rule 2 (amount of survivor’s pension: general) after paragraph (3) insert—  
“(4) In the case of a firefighter member who is a special firefighter member, this rule applies with the substitution in paragraph 1(a) of “one of the special eligibility conditions” for “an eligibility condition”.”
- (c) in rule 3 (amount of survivor’s pension: special cases)—

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(a) Rule 9 amended by S.I. 2008/213.

- (i) in paragraph (1) for “for each year by which the survivor’s age exceeds, by more than twelve years, that of the deceased” substitute “for each year by which the deceased’s age exceeds, by more than twelve years, that of the survivor”;
- (ii) in paragraph (3) after “condition” insert “or, in the case of a special member, satisfies special eligibility conditions”;
- (d) in rule 6 (child’s pension) in paragraph (a), after “eligibility conditions” insert “or, in the case of a special member, satisfies special eligibility conditions”.

**5. In Part 5 (awards on death)—**

**(a) in rule 1 (death grant)(a)—**

- (i) in paragraph (2), after “paragraphs”, for “(3)” substitute “(2A)”;
- (ii) after paragraph (2), insert—

“(2A) In the case of a firefighter member who is a special firefighter member, paragraph (2) shall apply with the substitution of “twice” for “three times”.”;

- (iii) in paragraph (3), for “Where” substitute “Subject to paragraph 3A, where” and for “the product of the following formula is greater than three times that of” substitute “the product of the following formula is an amount greater than three times” ;

- (iv) after paragraph (3) insert—

“(3A) In the case of a firefighter member who was a special firefighter member, paragraph (3) shall apply with the substitution of “twice” for “three times”, of “2” for “3” and “special pensionable service” for “pensionable service” where appropriate in the formula.”;

- (v) in paragraph (4), for “Where the deceased” substitute “Subject to paragraph 4A, where the deceased”;

- (vi) after paragraph (4) insert—

“(4A) In the case of a firefighter member who was a special firefighter member, paragraph (4) shall apply with the substitution in sub-paragraph (a) of “twice” for “three times”, of “2” for “3” and “special pensionable service” for “pensionable service” where appropriate in the formula.”;

- (vii) in paragraph (5) for “Where the deceased” substitute “Subject to paragraph (5A), where the deceased”;

- (viii) after paragraph (5) insert-

“(5A) In the case of a firefighter member who was a special firefighter member, paragraph (5) shall apply with the substitution, in sub-paragraph (b)(i), of “twice” for “three times” and with the modifications to paragraphs (3) and (4) applied by paragraphs (3A) and (4A).”;

- (b) after rule 1 (death grant) insert—

**“Death grant for limited period**

**1A.—(1) This rule applies—**

- (a) where a person was employed as a retained firefighter on or after 1st July 2000; and
- (b) continued in such employment until he died before 6th April 2006.

(2) Where the deceased was married, or a member of a civil partnership, at the time of his death, his spouse or civil partner may apply to the authority for a death grant during the period of 21 months beginning with the initial date.

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(a) Rule 1 was amended by S.I. 2008/213.

(3) Subject to paragraph (4), where the deceased was not married, or a member of a civil partnership, at the time of his death or where his spouse or civil partner has died since his death, a child of the deceased may apply to the authority for a death grant during the period of 21 months beginning with the initial date.

(4) A person shall not be eligible for a child's death grant under this rule if he would not have been eligible for a child's pension by virtue of anything in rule 7 of Part 4 at the time of the death of the deceased.

(5) The authority shall request such information required to enable the authority to determine the deceased's pensionable pay, or, where no information is provided, the authority shall determine the amount of pensionable pay from their records.

(6) The amount of the death grant shall be equal to the product of 2.5 and the amount of pensionable pay which the authority determine the deceased received in his last year of service.

(7) Where the authority decide to make a payment of death grant, the authority shall pay the death grant during the period of 3 months beginning with the date on which the application for a death grant was received.

(8) Subject to paragraph (9) the authority may pay the death grant, in whole or in part, to such person, or persons as the authority think fit.

(9) The authority must not pay any part of the death grant to a person who is convicted of the murder or manslaughter of the deceased, but this is subject to paragraph (9).

(9) Where a conviction of the description mentioned in paragraph (8) is quashed on appeal, the authority may, if they have not then paid the death grant in full, pay part of it to the person whose conviction is quashed.

(10) Where this rule applies, there is no entitlement to a death grant under rule 1 (death grant) or a post-retirement death grant under rule 2 of this Part or to a survivor's pension or a bereavement pension or a child's pension under Part 4 (survivors' pensions).";

(c) in paragraph (2) of rule 2 (post-retirement death grant), for "Paragraphs (9) to (11)" substitute "Paragraphs (10) to (12)".

**6. In Part 6 (pension sharing on divorce) —**

(a) in rule 1 (pension credit member's entitlement to pension), in paragraph (1)(a) after "65", insert "or the age of 60 where the pension debit member is a special member.";

(b) in rule 3 (commutation of part of pension credit benefits),(a)—

(i) in paragraph (4) for "normal benefit age" substitute "the age of 65 or the age of 60 where the pension debit member is a special member,";

(ii) in paragraph (7), for "When a person's notice" substitute "Subject to paragraph (7A), when a person's notice";

(iii) after paragraph (7), add—

"(7A) (a) Where the pension debit member in relation to the pension to be commuted under paragraph (1) is a special member, the lump sum shall be calculated under sub-paragraph (b) of this paragraph and sub-paragraph (b) of paragraph (7) shall not apply;

(b) subject to paragraph (c), the lump sum shall be calculated by multiplying the amount of the person's pension represented by the commuted portion at the time when the pension becomes payable under rule 1 by the factor specified in the table in Annex ZA by reference to his age at that time.

(c) A lump sum payable under paragraph (b) shall be reduced to the extent necessary to prevent the payment of it resulting in a scheme chargeable payment for the purposes of Part 4 of the 2004 Act."

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(a) Rule 3 was amended by S.I. 2008/213.

7. In Part 8 (determination of questions and appeals) in paragraph (1) omit “ “IQMP” means independent qualified medical practitioner; and”.

8. In Part 9 (review, withdrawal and forfeiture of awards)—

- (a) in rule 4 (withdrawal of early payment of deferred pension) for the words “A person who” substitute “Subject to rule 4A, a person who”;
- (b) after rule 4, insert—

**“Withdrawal of early payment of deferred pension for special members**

**4A.** In the case of a special member, rule 4 applies with the substitution of “60” for “65”.

9. In Part 10 (qualifying service and pensionable service)—

- (a) in rule 1 (qualifying service) —
  - (i) at the end of paragraph (f) omit the word “and”;
  - (ii) at the end of paragraph (g) insert “and”;
  - (iii) after “and” insert—

“(h) any period of service during the limited period in respect of which the person has paid the limited period pension contributions.”.
- (b) in paragraph (1) of rule 2 (reckoning of pensionable service)(a) for “Subject to paragraph (6)” substitute “Subject to paragraph (6) and rule 2A”.
- (c) after rule 2 (reckoning of pensionable service), insert—

**“Reckoning of special pensionable service**

**2A.**—(1) Subject to the following paragraphs of this rule, for the purposes of this Scheme, the special pensionable service of a special member accrues as special pension contributions or limited period pension contributions are paid, and consists of —

- (a) any period in respect of which he has paid special pension contributions as a special firefighter member;
- (b) subject to paragraph (4), any period during the limited period which he is entitled to reckon as special pensionable service under rule 6A (election to purchase service during the limited period) of Part 11;
- (c) any period which he is entitled to reckon as special pensionable service under rule 5 (reckoning of maternity, paternity and adoption leave, etc) of this Part or rules 5, and 6 to 9 of Part 11;
- (d) any period of special pensionable service taken into account for the purposes of a lower tier ill-health award under rule 2 of Part 3 where-
  - (i) the award is cancelled under rule 2 of Part 9; and
  - (ii) he remains a member of this Scheme (whether or not as an employee of the authority which made the award);
- (e) where the special member has transferred-in pensionable service from another pension scheme, the period of special pensionable service calculated in accordance with rule 11(1) (calculation of transferred-in pensionable service ) of Part 12;
- (f) where the person was a member of the 1992 Scheme, and the period of service used for determining his eligibility to an award under that Scheme, was transferred to his special membership of this Scheme under rule 11A of Chapter 3A of Part 12, that period of service;

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(a) Rule 2 was amended by S.I. 2008/213.



- (g) where the person was a standard member of this Scheme and converted the pensionable service accrued as a standard member of this Scheme to his membership of this Scheme as a special member, the special pensionable service that person is treated as having accrued under rule 17 of Part 12;
  - (h) where a member has two pensions with special pensionable service in relation to the second pension under rule 7 of Part 3 (entitlement to two pensions), the period of special pensionable service taken into account in calculating the first pension under that rule.
- (2) Subject to paragraph (3), the special pensionable service of a special member may not exceed 30 years.
- (3) A special firefighter member may not buy additional service, except service during the limited period, if that service would increase his special pensionable service to more than 30 years by normal retirement age.
- (4) Any additional period of service purchased or in the process of being purchased under Part 11 is reckonable as special pensionable service where the appropriate special pension contributions are paid; but where only a portion of the special pension contributions payable in respect of a period of additional service have been paid, only the equivalent portion of the period is reckonable as special pensionable service.
- (5) Subject to paragraph (6), an additional period of service purchased under Part 11 is to be taken into account for the purposes of determining—
- (a) the amount of pension payable to the special firefighter member or to his survivors; and
  - (b) the amount of service a special firefighter member has or may accrue in the Scheme.
- (6) An additional period of service purchased under rule 5 of Part 11 is not to be taken into account in assessing—
- (a) the amount of the higher tier ill-health pension included in a higher tier ill-health award under Part 3; or
  - (b) the amount of a death grant under rule 1 of Part 5.
- (7) A period of service which is reckonable as special pensionable service is not reckonable as pensionable service under rule 2 of Part 10.”;
- (d) in rule 3 (non-reckonable service) for “not reckonable as pensionable service”, substitute “not reckonable as pensionable service or as special pensionable service”;
  - (e) in rule 5 (reckoning of maternity, paternity and adoption leave, etc) after paragraph (3) add—
    - “(4) If the firefighter member was a special firefighter member immediately before any period which he is entitled to reckon under this rule, he is entitled to reckon that period as special pensionable service.”;
  - (f) in rule 6 (calculation of pensionable service), after paragraph (6) add—
    - “(7) Where the firefighter member is a special firefighter member, this rule shall apply with the substitution of “special pensionable service” for “pensionable service” and with the substitution of “rule 2A(2) and (3)” for “rule 2(2) and (3)”.”.
- 10. In Part 11 (pensionable pay, pension contributions and purchase of additional service)-**
- (a) in Chapter 1, rule 2 (final pensionable pay)(a) after paragraph (7) add—
    - “(8) In the case of a special member, paragraph (2)(b) applies with the substitution of “special pensionable service” for “pensionable service”.

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(a) Rule 2 was amended by S.I. 2008/213.

- (9) In the case of a person who joined this Scheme as a special deferred member or a special pensioner member, his final pensionable pay shall be the amount determined by the authority and set out in the notice given by the authority under rule 5A(13) of this Part.”;
- (b) in rule 3 (pension contributions)—
- (i) in paragraph (1), for “A firefighter member” substitute “Subject to paragraph (1A), a firefighter member”;
  - (ii) after paragraph (1) insert—
 

“(1A) A firefighter member who is a special member shall pay pension contributions to the authority at the rate of 11% of his pensionable pay in respect of a period ending with 31st March 2012 and after that date at the specified percentage of his pensionable pay for the time being, as set out in the Table in Annex AB1.”;
  - (iii) in paragraph (2), for “paragraph (1)” substitute “paragraph (1) or (1A)”
- (c) in rule 4 (optional pension contributions during maternity and adoption leave)—
- (i) in paragraph (1)(a) for “pensionable service under rule 2 of Part 10” substitute “pensionable service under rule 2 of Part 10 or as special pensionable service under rule 2A of Part 10;”
  - (ii) in paragraph (5) for “pensionable service” substitute “pensionable service or as special pensionable service”.
- (d) In Chapter 2, in rule 5 (purchase of additional service), after paragraph (6) insert—
- “(7) In the case of a special firefighter member—
- (a) this rule applies —
    - (i) in paragraph (2)(c) with the substitution of “30 years special pensionable service” for “40 years’ pensionable service”;
    - (ii) in paragraph (3) with the substitution of “special pensionable service” for “pensionable service” and “30 years” for “40 years”;
  - (b) in paragraph (4)(a) the Scheme Actuary shall provide different tables for special members and in paragraph (4)(b) the determination by the Scheme Actuary shall take account of the purchase being made by a special member.”;
- (e) after rule 5, insert—

**“Purchase of service during the limited period**

**5A.**—(1) A special member who satisfies the conditions specified in paragraph (2) may, in accordance with the following provisions of this Chapter, elect to pay pension contributions in respect of his service during the limited period.

- (2) The conditions are that—
- (a) the person is entitled to join this Scheme as a special member;
  - (b) the service is—
    - (i) as a retained firefighter; or
    - (ii) as a regular firefighter where he took up employment after 5<sup>th</sup> April 2006 as a regular firefighter immediately after the termination of his employment as a retained firefighter; or
    - (iii) with the agreement of the authority, as a regular firefighter, but not as a retained firefighter, where he had been employed by an authority as a retained firefighter and then required by that authority after 5<sup>th</sup> April 2006 to remain in employment as a retained firefighter whilst taking up employment as a regular firefighter.
- (3) Where paragraph (1) applies—
- (a) subject to rule 6A(3)(f) of this Part, limited period pension contributions shall be paid in respect of the person’s service during the mandatory special period; and

- (b) limited period pension contributions shall be paid for the period required by rule 6A(3)(e) of this Part, where a person has elected to transfer his accrued rights in the 1992 Scheme to his special membership; but
  - (c) the period of service referred to in subparagraph (a) or (b) does not include any period of service in respect of which he paid pension contributions under the 1992 Scheme or under this Scheme as a standard member.
- (4) Within 2 months of the initial date, the authority shall use reasonable endeavours to notify all those existing employees and former employees who may be entitled to join this Scheme as a special member that they may be so entitled.
- (5) Within 2 months of receiving the notification in paragraph (4), or if no notification has been received, within 4 months of the initial date, a person may apply to the authority by which he was employed in service falling within paragraph (2) above for a statement of the service in respect of which he may become entitled to pay contributions under this rule and the limited period pension contributions which he would be required to pay in respect of it.
- (6) An application under paragraph (5) shall state—
- (a) the date on which the applicant took up employment as a retained firefighter;
  - (b) where he has retired from that employment, the date on which he retired;
  - (c) where he took up employment as a regular firefighter, the date on which he took up that employment;
  - (d) if he joined this Scheme as a standard member or joined the 1992 Scheme, the date on which he joined the Scheme and, if it was the case, the date on which he made an election not to pay pension contributions under rule 5 of Part 2 of this Scheme or under rule G3 of the 1992 Scheme (as the case may be).
- (7) An authority shall determine the period of the person's service during the limited period from their records.
- (8) Where an authority are not able to determine the period of the person's service during the limited period from their records, the person may provide the authority with documents to assist them to determine the person's period of service during the limited period.
- (9) Where an authority are not able to determine the period of the person's service during the limited period and the authority does not hold records of that person's pay for that period, and the person cannot provide the authority with the necessary documents, the authority may estimate the person's pensionable pay for that period from the records which they hold and may in particular estimate this on the basis of the average of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period.
- (10) Where the authority have estimated the pay of a person in accordance with paragraph (9), the authority shall determine that person's period of pensionable service during the limited period.
- (11) Where the service is as a retained firefighter, the authority shall determine the person's retained pensionable service during the limited period by calculating the same proportion of whole-time service as that which his actual pensionable pay or, as the case may be, his pensionable pay as estimated by the authority under paragraph (9), bears to his reference pay for each year of service during that period.
- (12) The authority shall calculate the amount of the limited period pension contributions payable in respect of special pensionable service during the limited period by applying a rate determined by the Scheme Actuary having regard to the rate required by paragraph (1A) of rule 3 (pension contributions) for the appropriate period to the person's pensionable pay.
- (13) Within 6 months of receiving an application under paragraph (5), the authority shall give the applicant a notice setting out the period of service during the limited period which he may purchase, the amount of limited period pension contributions payable in respect of

the mandatory special period, the amount of limited period pension contribution payable in respect of the remainder of his service during the limited period, the pensionable pay and in appropriate cases the final pensionable pay which the authority have determined was paid during the limited period.”;

(f) in Chapter 2—

- (i) in paragraph (1) of rule 6 (election to purchase additional service) for “An election” substitute “Subject to rule 6A, an election”;
- (ii) after that rule, insert—

**“Election to purchase service during the limited period**

**6A.—(1)(a)** A person who intends to join this Scheme as a special pensioner member shall elect to pay limited period pension contributions in respect of his service during the mandatory special period;

- (b) a special pensioner member shall pay the limited period pension contributions by way of a lump sum contribution which the special pensioner member may request the authority to deduct from any lump sum which he is entitled under this Scheme—
  - (i) pursuant to a notice to commute a portion of his pension under rule 9 (commutation: general) of Part 3; and
  - (ii) under paragraph (7) of rule 1A (special member’s ordinary pension) or under paragraph (10) of rule 2A (retrospective award on ill-health retirement) of Part 3;
- (c) Where the lump sum contribution is not paid the election shall be treated as not having been made.

**(2)(a)** A person who intends to join this Scheme as a special deferred member shall elect to pay limited period pension contributions in respect of his service during the mandatory special period;

- (b) the limited period pension contributions may be paid by periodic contributions which shall be calculated in accordance with tables provided by the Scheme Actuary so as to discharge his liability over a period of 10 years or may be paid by way of a lump sum contribution;
- (c) a special deferred member shall cease to pay periodic contributions referred to in sub-paragraph (b) on the date on which his special deferred pension becomes payable, and he may then pay within three months of that date a lump sum of an amount equivalent to the contributions which would otherwise be paid calculated in accordance with tables;
- (d) where sub-paragraph (c) applies, a special deferred member may pay all or part of the lump sum required by that sub-paragraph by deduction from any lump sum which he may be entitled to receive pursuant to a notice to commute a portion of his pension under rule 9 (commutation: general) or rule 10 (commutation: small pensions) of Part 3.

**(3) (a)** Subject to sub-paragraphs (e) and (f), a person who elects to join this Scheme as a special firefighter member shall elect to pay limited period pension contributions in respect of his service during the mandatory special period;

- (b) the limited period pension contributions may be paid by periodic contributions which shall be calculated in accordance with tables provided by the Scheme Actuary so as to discharge his liability over a period of 10 years or may be paid by way of a lump sum contribution [text here may require taking account of the interest rates consistent with those used in comparable Preston cases by other public service pension schemes].
- (c) if a special firefighter member makes a contributions election, or retires, his payment of periodic contributions will cease and he may pay within three months

of that date a lump sum of an amount equivalent to the contributions which would otherwise be paid calculated in accordance with tables provided by the Scheme Actuary

- (d) where sub-paragraph (c) applies so that a lump sum may be payable as a result of his retirement, he may pay all or part of the lump sum required by that sub-paragraph by deduction from any lump sum which he may be entitled to receive pursuant to a notice to commute a portion of his pension under rule 9 (commutation: general) or rule 10 (commutation: small pensions) of Part 3;
- (e) A special firefighter member who elects under paragraph (5) of rule 11A of Part 12 to transfer his accrued rights in the 1992 Scheme to his special membership of this Scheme shall pay limited period pension contributions for the period of his service during the limited period from the later of the date on which his pensionable service under the 1992 Scheme ended and 1 July 2000;
- (f) a special firefighter member who elects under paragraph (5) of rule 16 of Part 12 to convert his accrued rights as a special firefighter member to his standard membership, shall pay limited period pension contributions for the period of his service during the limited period before 6th April 2006 and from that date shall pay pension contributions as a standard member until the date on which he joined this Scheme as a standard member.

(4) An election under this rule shall be given by written notice during the period of 6 months beginning with the date on which the authority gave notice under rule 5A(13).

(5) In preparing the tables required by paragraphs (2)(b) and (3)(b) the Scheme Actuary must have regard to the rate of contribution referable to the period in respect of which the contribution relates and must use such other factors as he considers appropriate.

(6) The period of a person's service referred to in paragraph (1) (a), or (2) (a) or (3) (a) shall be that part of the service set out in the authority's notice to him under rule 5A (13) in respect of which he elects to pay limited period pension contributions from a date selected by him before 6 April 2006, or which applies under paragraph (3)(f) and ending on the earlier of the date on which he joined this Scheme as a special member or a standard member and the date, if applicable, on which he was dismissed or retired from employment as a regular or retained firefighter.

(7) Where a person has elected under paragraph (2)(b) or (3)(b) to pay a lump sum contribution and this sum has not been paid within 6 months of his election, his election to join this Scheme as a special deferred member or a special firefighter member shall be treated as not having been made.

(8) Subject to paragraphs (9) and (12), where paragraph (2)(c) or (3)(c) applies, and the special deferred member or special firefighter member, as the case may be, does not pay the lump sum within the period specified in that sub-paragraph, the period of service purchased shall be treated as if it were the period ascertained in accordance with the formula—

$A \times (B/C)$ , where—

A is the number of 45ths of special pensionable service which he elected to purchase,

B is the period in respect of which limited period pension contributions have been made in accordance with his election, and

C is the period in respect of which limited period pension contributions would have been made in accordance with his election.

(9) In the case of a firefighter to whom paragraph (3)(f) applies—

- (i) his pension contribution as a standard member during the limited period shall be calculated as though these were limited period pension contributions under paragraph (3)(b);
- (ii) where paragraph (3)(c) applies, and the special firefighter member does not pay the lump sum within the period specified in that sub-paragraph, the period of service purchased as a standard member shall be treated as if it were the period ascertained in accordance with the formula—

A x (B/C), where—

A is the number of 60ths of pensionable service as a standard member which he elected to purchase,

B is the period in respect of which pension contributions as a standard member have been paid during the limited period, and

C is the period in respect of which limited period pension contributions would have been made in accordance with his election.

(10) Where periodic contributions cease as mentioned in paragraph (2)(c) or (3)(c) when a pension becomes payable, the pension shall not be paid until the earlier of the date on which the lump sum mentioned in that paragraph has been paid or the special member has given notice that he will not pay the lump sum or the period mentioned in that paragraph has expired.

(11) Where service is purchased by the payment of periodic contributions under paragraph (2)(b) or (3)(b), the service shall accrue at the end of each year in accordance with the contributions paid.

(12) An election under this rule—

- (a) takes effect on the day on which the notice of the election is received by the authority; and
- (b) is irrevocable once the lump sum has been paid or, as the case may be, the first contribution has been paid.

(13) Where the special member dies before the limited period pension contributions due in respect of his elected service have been paid, those contributions shall be treated as paid and that elected service shall be special pensionable service.”;

(g) in rule 7 (duration of periodical contributions and premature cessation )—

- (i) in paragraph (3) for “Where a sub-paragraph of paragraph (2) applies” substitute “Where a sub-paragraph of paragraph (2) applies and the additional service is not special pensionable service.”;

(ii) after paragraph (3) insert—

“(3A) Where a sub-paragraph of paragraph (2) applies and the additional service is special pensionable service, paragraph (3) applies with the substitution of

“A” is the number of 45ths of additional special pensionable service which the special member elected to purchase.”.

(iii) in paragraph (4)—

(aa) after paragraph (a) insert—

“(za) where the person qualifies for a special member’s ordinary pension (rule 1A of Part 3), as part of the special pensionable service on which the special member’s ordinary pension is calculated;”

(bb) in paragraph (b) for “pensionable service” substitute “pensionable service or special pensionable service, as the case may be.”;

- (iv) in paragraph (5) for “pensionable service” substitute “pensionable service or special pensionable service, as the case may be.”.
- (h) in rule 8 (discontinuance and resumption of periodical contributions)—
  - (i) in paragraph (4) for “The period of additional service” substitute “Subject to paragraph (4A), the period of additional service”;
  - (ii) after paragraph (4), insert —
 

“(4A) Where the firefighter member is a special member, in paragraph (4) “A” is the number of 45ths of additional special pensionable service which the special member elected to purchase.”;
- (i) in rule 9 (periodical contributions in respect of periods of unpaid service or absence)(a) in paragraph (1) for “pensionable service” substitute “ pensionable service or special pensionable service as the case may be.”;
- (j) in rule 10 (effect of purchasing additional service by lump sum payment) in paragraphs (1) and (2) for “pensionable service” substitute “pensionable service or special pensionable service”.

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

- (a) in paragraph (3) of rule 2 (entitlement to transfer value payment) for “pensionable service” substitute “pensionable service or special pensionable service”;
- (b) in paragraph (5)(b) of rule 4 (applications for transfer value payments)(b) for “pensionable service” substitute “pensionable service, or special pensionable service.”;
- (c) in rule 6 (calculating amounts of transfer value payments)—
  - (i) in paragraph (1) after “the guarantee date”, insert “and different guidance and tables shall be provided for standard and special members.”;
  - (ii) in paragraph (4), after sub-paragraph (b) insert “and” and—
 

“(c) any limited period pension contributions.”;
- (d) in paragraph (3) of rule 8 (applications for acceptance of transfer value payment from another scheme) for “pensionable service” substitute “pensionable service or as special pensionable service”;
- (e) in rule 9 (procedure for applications under rule 8)(c)—
  - (i) in paragraph (1)(c) for “paragraph (2)” substitute “paragraphs (2) and (3)”;
  - (ii) in paragraph (2), for “In the case” substitute “Subject to paragraph (3), in the case”;
  - (iii) after paragraph (2) insert—
 

“(3) (a) Where the application under rule 8 is made by a special firefighter member, who was not already a member of this Scheme when he elected to become a special firefighter member, sub-paragraph (b) shall apply and sub-paragraph (c) of paragraph (1) and paragraph (2) shall not apply.;

(b) In the case of a transfer value payment to be made under public sector transfer arrangements, the application under rule 8 must be made by a person to whom paragraph (a) applies during the period of one year beginning with the day on which the authority gave the applicant the notice required by rule 5A (13).”;
- (f) in rule 10 (acceptance of transfer value payments)(d) for “pensionable service” substitute “pensionable service or special pensionable service”;
- (g) in rule 11 (calculation of transferred-in pensionable service)—

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(a) Rule 9 was amended by S.I. 2008/213.  
 (b) Rule 4 was amended by S.I. 2008/213.  
 (c) Rule 9 was amended by S.I. 2008/213.  
 (d) Rule 10 was amended by S.I. 2008/213.

- (i) for “pensionable service” substitute “pensionable service or special pensionable service”;
- (ii) after paragraph (4), insert—  
“(4A) The Scheme Actuary may provide different guidance and tables for the purpose of this rule in the case of special members.”;
- (h) In rule 12 (transfer of pension history between English authorities)(a) for “pensionable service” substitute “pensionable service or special pensionable service”;
- (i) After Chapter 3, insert—

**“CHAPTER 3A**

**TRANSFER OF ACCRUED RIGHTS UNDER THE 1992 SCHEME TO SPECIAL MEMBERSHIP OF THIS SCHEME**

**11A.**—(1) A person who is a deferred member of the 1992 Scheme and took up employment as a retained firefighter immediately after the termination of his employment as a regular firefighter and who is entitled to join this Scheme as a special firefighter member, may apply to the authority by which he is employed for a statement of the amount of service to be treated as accrued if he were to elect to transfer his accrued rights under the 1992 Scheme to his special membership of this Scheme.

(2) Where the application under paragraph (1) is made at the same time as an application under paragraph (5) of rule 5A (purchase of service during the limited period) of Part 11 the authority shall provide a statement of the amount of service to be treated as special pensionable service if the applicant were to elect to transfer his accrued rights under the 1992 Scheme to his special membership of this Scheme at the same time as the authority give the notice under rule 5A(13) of Part 11.

(3) Where an application under paragraph (1) is not made at the time specified in paragraph (2), it shall be made during the period of one year beginning with the day on which the authority gave the applicant the notice required by rule 5(13).

(4) Where paragraph (3) applies to the application, the authority shall provide a statement of the amount of service to be treated as special pensionable service if the applicant were to elect to transfer his accrued rights under the 1992 Scheme to his special membership of this Scheme within three months of the date of his application.

(5) A person who receives a statement under paragraph (2) or (4) may elect to transfer his accrued rights under the 1992 Scheme to his special membership of this Scheme.

(6) Where the application is made within the time specified in paragraph (2) and the election to transfer his accrued rights in the 1992 Scheme is made at the same time as the election to pay limited period pension contributions under rule 6A of Part 11, the period of the applicant’s pensionable service accrued under the 1992 Scheme shall be treated as special pensionable service accrued in this Scheme.

(7) Where the application is made within the time specified in paragraph (3), the transfer value payment shall be accepted under the public sector transfer arrangements and the period of special pensionable service which the member shall be entitled to count shall be calculated in accordance with those arrangements.”

- (j) In Part 12 (transfers into and out of the Scheme) after Chapter 5, add—

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(a) Rule 12 was amended by S.I. 2008/213.



## “CHAPTER 6

### **CONVERTING MEMBERSHIP FROM SPECIAL MEMBERSHIP TO STANDARD MEMBERSHIP AND FROM STANDARD MEMBERSHIP TO SPECIAL MEMBERSHIP**

**16.**—(1) A person who is entitled to join this Scheme as a special firefighter member and is a standard member of this Scheme in respect of service which he would otherwise be able to reckon as special pensionable service may apply to the authority for a statement of the amount of service to be treated as accrued if he converted his special membership to standard membership of this Scheme.

(2) Any application under paragraph (1) shall be made at the same time as an application under paragraph (5) of rule 5A (purchase of service during the limited period) of Part 11.

(3) At the same time as the authority give the notice under rule 5A (13) of Part 11, the authority shall provide a statement of the additional service to be treated as pensionable service if he converted his special membership to standard membership.

(4) For the purpose of calculating the pensionable service that a person would be treated as having accrued in this scheme as a standard member on the conversion of his accrued rights as a special firefighter member, the authority shall have regard to the guidance and tables provided by the Scheme Actuary under paragraph 3 of Schedule 2 to this Order applied taking account of his age on 6 April 2006.

(5) Where the applicant elects in writing to convert his special membership to standard membership, the election shall be given at the same time as the election to purchase service during the limited period under rule 6A(3) and may not be made at any other time.

(6) An authority must not accept a person’s election to convert his membership from special membership to standard membership if the aggregate of—

- (a) his pensionable service treated as accrued; and
- (b) his prospective pensionable service, on the assumption that he continues to be a standard member of this scheme until he reaches normal retirement age;

would exceed 40 years by the time of his 60th birthday.

(7) When the payments required by paragraph (3) of rule 6A of Part 11 have been made—

- (a) the additional pensionable service notified by the authority under paragraph (3) shall be added to his pensionable service as a standard member;
- (b) from the date the authority add that service, he shall cease to be a special firefighter member.

**17.**—(1) Where a person who is entitled to join this Scheme as a special firefighter member is a standard member of this Scheme in respect of pensionable service which is eligible to be special pensionable service, he may apply to the authority for the service accrued as a standard member of this Scheme to be added to the service accrued as a special member on payment of the difference between the pension contribution paid under paragraph (1) and that due under paragraph (1A) of rule 3 (pension contributions) of Part 11.

(2) A special firefighter member may apply to the authority for a statement of the amount of service to be treated as special pensionable service if he converted his standard membership to special membership and the amount of the payments required by sub-paragraphs (b) and (c) of paragraph (5).

(3) An application under paragraph (2) shall be made at the same time as an application under paragraph (5) of rule 5A (purchase of service during the limited period) of Part 11.

(4) At the same time as the authority give the notice under rule 5A(13) of Part 11, the authority shall provide—

(a) a statement of the amount of service to be treated as special pensionable service if the applicant were to elect to convert his accrued rights as a standard member to his special membership;

(b) a statement of the amount of the payments required by paragraph (5).

(5) Where the member elects to transfer his accrued rights as a standard member of this Scheme to his special membership—

(a) he may only give his election at the same time as he gives his election to pay limited period pension contributions under rule 6A of Part 11 ;

(b) he shall pay an amount representing the difference between the pension contribution under paragraph (1) of rule 3 of Part 11 which he has paid as a standard member and the pension contribution required to be paid as a special member under paragraph (1A) of that rule;

(c) he shall pay interest at the rate notified by the Scheme Actuary on the amount payable under sub-paragraph (b).

(d) he shall pay those amounts in the same manner in which he elects to pay limited period pension contributions under rule 6A of that Part.

(6) When the payments required by paragraph (5) have been paid, the member's pensionable service as a standard member shall be converted to special pensionable service.

(7) Subject to paragraph (8), where paragraph (3)(c) of rule 6A (election to purchase service during the limited period) of Part 11 applies, and the member does not within the period specified in that paragraph pay a lump sum equivalent to the balance of the payment referred to in paragraph 5(b), ascertained in accordance with tables provided by the Scheme Actuary, the period of service as a standard member converted to special pensionable service shall be treated as if it were the period ascertained in accordance with the formula—

$A \times (B/C)$ , where—

A is the period of service as a standard member which he elected to convert,

B is the period of that service in respect of which the payment referred to in paragraph 5(b) has been paid, and

C is the period of that service in respect of which the payment referred to in paragraph 5(b) would have been paid in accordance with his election.

(8) Where the special member dies before the payment referred to in paragraph 5(b) has been made in full, it shall be treated as having been made in full and the period of service as a standard member which he had elected to convert shall be special pensionable service. ”

12.—(1) Before Annex A1 insert—

## Annex ZA

Years	<i>Age in years and completed months on day pension commences</i>											
	0	1	2	3	4	5	6	7	8	9	10	11
Below 50	23.4											
50	22.4	22.3	22.3	22.3	22.3	22.2	22.2	22.2	22.2	22.1	22.1	22.1
51	22.1	22.0	22.0	22.0	22.0	21.9	21.9	21.9	21.9	21.8	21.8	21.8
52	21.8	21.7	21.7	21.7	21.7	21.6	21.6	21.6	21.6	21.5	21.5	21.5
53	21.5	21.4	21.4	21.4	21.3	21.3	21.3	21.3	21.2	21.2	21.2	21.1
54	21.1	21.1	21.1	21.1	21.0	21.0	21.0	20.9	20.9	20.9	20.9	20.8
55	20.8	20.8	20.8	20.8	20.7	20.7	20.6	20.6	20.6	20.5	20.5	20.5
56	20.4	20.4	20.4	20.4	20.3	20.3	20.3	20.2	20.2	20.2	20.1	20.1

57	20.1	20.0	20.0	20.0	19.9	19.9	19.9	19.8	19.8	19.8	19.7	19.7
58	19.7	19.6	19.6	19.6	19.5	19.5	19.5	19.4	19.4	19.4	19.3	19.3
59	19.3	19.2	19.2	19.2	19.1	19.1	19.1	19.0	19.0	19.0	18.9	18.9
60	18.9	18.8	18.8	18.8	18.7	18.7	18.6	18.6	18.6	18.5	18.5	18.5
61	18.4	18.4	18.4	18.4	18.3	18.2	18.2	18.2	18.1	18.1	18.1	18.0
62	18.0	18.0	17.9	17.9	17.8	17.8	17.8	17.7	17.7	17.7	17.6	17.6
63	17.5	17.5	17.5	17.5	17.4	17.4	17.3	17.3	17.2	17.2	17.2	17.1
64	17.1	17.1	17.0	17.0	16.9	16.9	16.9	16.8	16.8	16.8	16.7	16.7
65	16.6											

(2) After Annex A1, insert—

## “Annex AB1

Part 11, rule 3 (1A)

### Pension contributions for special members

**1.** The rate of the pension contribution mentioned in rule 3(1A) of Part 11 is that specified in the Table below by reference to the amount of the pensionable pay of the special firefighter member in the first column of the Table.

**2.** The amount of pensionable pay of a retained firefighter for the purpose of the first column of the Table shall be that firefighter’s reference pay.

**3.** The amount of pensionable pay of a part-time regular firefighter for the purpose of the first column of the Table shall be the amount of pensionable pay of a whole-time regular firefighter of equivalent role and length of service.

**4.** Where there has been a permanent material change to the terms and conditions of a firefighter member’s employment which affects his pensionable pay, from the date of that change pensionable pay shall be calculated by reference to the revised amount.

**5.** Pensionable pay in the first column of the Table below does not include payments made to a regular firefighter by the fire and rescue authority in respect of his continual professional development, but those payments will be included in his pensionable pay for the purposes of the application of the rate specified in the second column.

<i>Pensionable pay</i>	<i>Contribution rate from 1st April 2012</i>
Up to and including £15,000	11.0% of pensionable pay
More than £15,000 and up to and including £30,000	11.6% of pensionable pay
More than £30,000 and up to and including £40,000	11.7% of pensionable pay
More than £40,000 and up to and including £50,000	11.8% of pensionable pay
More than £50,000 and up to and including £60,000	11.9% of pensionable pay
More than £60,000 and up to and including £100,000	12.2% of pensionable pay
More than £100,000 and up to and including £120,000	12.5% of pensionable pay
More than £120,000	13.0% of pensionable pay

(3) In Annex 1 (ill-health pensions)(a), after paragraph 2 insert—

“3. Where a special deferred member or a special pensioner member is entitled to a retrospective award on ill-health retirement, paragraph 2 shall apply with the substitution of “45” for “60”, “30” for “40” and “special pensionable service” for “pensionable service”.

4.—(1) Where the person entitled to a lower tier ill-health pension or a higher tier ill-health pension, is a special member, who is not also a standard member, paragraphs 1 and 2 shall apply with the substitution of “45” for “60”, “30” for “40” and “special pensionable service” for “pensionable service”.

(2) Where a person to whom sub-paragraph (1) of this paragraph applies is a retained firefighter, sub-paragraph (3) of paragraph (1) shall apply with the insertion after “actual pensionable pay” of “during his special pensionable service”.

5. In the case of a person who joined this Scheme as a special pensioner member or a special deferred member his final pensionable pay is the amount determined by the authority and set out in the notice given under rule 5A(13) of Part 11.”.

### EXPLANATORY NOTE

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

This Order amends Schedule 1 to the Firefighters’ Pension Scheme (England) Order 2006. Some of the amendments make minor corrections to the New Firefighters’ Pension Scheme (England) (“the Scheme”) set out in that Schedule. Most of the provisions amend the Scheme to provide those persons who were employed in England as retained firefighters between 1 July 2000 and 5 April 2006 inclusive with access to a pension scheme for that period following the judgment of the employment tribunal in 2005 in *Matthews and Others v Kent and Medway Towns Fire Authority and Others*.

The Order has effect from 1 July 2000. Power to give the Order retrospective effect is conferred by section 34 of the Fire and Rescue Services Act 2004.

The amendments specified in paragraph 2 of the Schedule to this Order amend Part 2 (scheme membership, cessation and retirement) of the Scheme to enable eligible retained firefighters to join the Scheme from the date their service began or from 1<sup>st</sup> July 2000 if later. Those eligible persons who decide to join the Scheme and have retired from employment as a retained firefighter on the grounds of ill-health or who have attained the retirement age will join the Scheme as special pensioner members. Those eligible persons who have not attained the retirement age but are no longer employed as retained firefighters may join the Scheme as special deferred members. Those eligible persons, who are still employed as retained firefighters or, in certain cases, as regular firefighters, may join the Scheme as special firefighter members.

Paragraph 2 also amends the normal retirement age and normal benefit age for special members (rule 3A).

Paragraph 3 inserts rule 1A to Part 3 (personal awards) which sets out the conditions for a special member to receive a special member’s ordinary pension and rule 2A which sets out the conditions for receipt of a retrospective award on ill-health retirement. The retrospective award on ill-health retirement may be paid to a retained firefighter who had been dismissed from employment on grounds of ill-health between the period of 1 July 2000 and 5 April 2006 inclusive or had retired from employment during this period, and who has been assessed by the independent qualified medical practitioner as being permanently incapable of performing the duties of a firefighter on the date on which he was dismissed on the grounds of ill-health or retired and has not become capable of performing those duties since that date.

Paragraph 3 also amends the following rules of Part 3 so that they apply to special members-

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(a) Annex 1 was amended by S.I. 2008/213.

- rule 2 (award on ill-health retirement)
- rule 3 (deferred pension)
- rule 4 (cancellation of deferred pension)
- rule 7 (entitlement to two pensions)
- rule 7B (additional pension benefit: continual professional development)
- rule 9 (commutation).

Paragraph 4 adapts Part 4 (survivor's pensions) for special members.

Paragraph 5 adapts Part 5 (awards on death) for special members and inserts rule 1A (death grant for limited period). The death grant for limited period is payable in respect of a person employed as a retained firefighter on or after 1<sup>st</sup> July 2000 who died whilst still in employment on a date before 6<sup>th</sup> April 2006.

Paragraph 6 amends Part 6 (pension sharing on divorce) in respect of special members.

Paragraph 8 amends Part 9 (review, withdrawal and forfeiture of awards) in respect of special members.

Paragraph 9 amends the following rules of Part 10 (qualifying service and pensionable service) so that they apply to special members-

- rule 1 (qualifying service) so that service during the limited period may be qualifying service where the appropriate pension contribution has been paid;
- inserts rule 2A (reckoning of special pensionable service) which sets out the periods of service which may be accrued as special pensionable service by special members on payment of the limited period pension contributions or the special pension contributions;
- rule 3 (non-reckonable service), rule 5 (reckoning of maternity, paternity and adoption leave, etc) and rule 6 (calculation of pensionable service).

Paragraph 10 amends Part 11 (pensionable pay, pension contributions and purchase of additional service) to provide for special members by-

- amendments to rule 3 (pension contributions) to require special members to pay a different rate of pension contributions to that prescribed for standard members of the Scheme;
- insertion of rule 5A (purchase of service during the limited period);
- insertion of rule 6A (election to purchase service during the limited period) which sets out the periods of payment for different types of special members and other conditions;
- amendments to rule 2 (final pensionable pay), rule 4 (optional pension contributions during maternity and adoption leave) rule 5 (purchase of additional service), rule 7 (duration of periodical contributions and premature cessation), rule 8 (discontinuance and resumption of periodical contributions), rule 9 (periodical contributions in respect of periods of unpaid service or absence) and rule 10 (effect of purchasing additional service by lump sum payment);

Paragraph 11 amends part 12 (transfers into and out of the Scheme) by-

- amendments to rule 9 ( procedure for applications under rule 8) to enable more generous time limits to apply for applications by certain special members for acceptance of a transfer value payment from another pension scheme;
- the insertion of chapter 3A and rule 11A (transfer of accrued rights under the 1992 scheme to special membership of this scheme) which permits a deferred member of the Firefighters' Pension Scheme 1992 who joins this Scheme as a special firefighter member to request a transfer value payment to be made in certain circumstances to his special membership of this Scheme. The basis

for the calculation of the amount of his special pensionable service accrued as a result of the transfer will depend on when the application and election for the transfer are made by the member;

- the insertion of chapter 6 (converting membership from special membership to standard membership and from standard membership to special membership) and rule 16 which enables a standard member of this Scheme in respect of service which he would otherwise be able to reckon as special pensionable service, who joins this Scheme as a special firefighter member to convert his special membership to standard membership of this Scheme;

- the insertion of rule 17 which enables a standard member of this Scheme in respect of service which he would otherwise be able to reckon as special pensionable service, who joins this Scheme as a special firefighter member, to convert his standard membership of this Scheme to his special membership on payment of the additional pension contribution;

- amendments to rule 2 (entitlement to transfer value payment), rule 6 (calculating amounts of transfer value payment), rule 8 (applications for acceptance of transfer value payment from another scheme), rule 10 (acceptance of transfer value payments), rule 11 (calculation of transferred-in pensionable service), rule 12 (transfer of pension history between English authorities) so that these rules apply to special members.

Paragraph 12 inserts Annex AB1 which provides for the calculation of pension contributions for special members and amends annex 1 so that it applies to special members.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

2013 No.

**FIRE AND RESCUE SERVICES, ENGLAND**  
**PENSIONS, ENGLAND**

The Firefighters' Compensation Scheme (England)  
(Amendment) Order 2013

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

This Order is made in exercise of the powers conferred by sections 34 and 60 of the Fire and Rescue Services Act 2004(a).

Before making this Order, and in accordance with section 34(5) of that Act, the Secretary of State consulted such persons as he considered appropriate.

The Secretary of State makes the following Order:

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Firefighters' Compensation Scheme (England) (Amendment) Order 2013.

(2) This Order shall come into force on [intended to be on the same date as the draft statutory instrument in annex B] but the amendments made by article 2 and

- (a) sub-paragraphs (a), (b), (c)(i), the paragraphs (bb), (cc) and (dd) of sub-paragraph (c)(ii), paragraph (i)(bb) of sub-paragraph (d) and sub-paragraph (e) of paragraph 1 shall have effect from 6<sup>th</sup> April 2006;
- (b) sub-paragraphs (a) and (c) of paragraph 2 shall have effect from 6<sup>th</sup> April 2006;
- (c) paragraphs 3, 4 and 5 shall have effect from 6<sup>th</sup> April 2006;
- (d) sub-paragraph (a)(ii) and sub-paragraph (c) of paragraph 7 shall have effect from 6<sup>th</sup> April 2006;
- (e) paragraphs 8, 9, 10 and 11 shall have effect from 6<sup>th</sup> April 2006.

(3) In this Order—

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(a) 2004 c.21. The powers conferred by sections 34 and 60 of the Fire and Rescue Services Act 2004 are now vested in Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by virtue of section 62 of that Act. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers. Powers under sections 34 and 60 of the Fire and Rescue Services Act 2004 are now vested in Scottish Ministers so far as they are exercisable in relation to Scotland (S.I. 2005/849).

“the Compensation Scheme” means the Scheme set out in Schedule 1 to the Firefighters’ Compensation Scheme (England) Order 2006(a);

“retained firefighter” has the meaning given in the Compensation Scheme (as amended by this Order).

### **Amendment of the Firefighters’ Compensation Scheme (England) Order 2006**

2. Schedule 1 to the Firefighters’ Compensation Scheme (England) Order 2006 is amended in accordance with the Schedule to this Order.

### **Transitional provisions**

3.—(1) The amendments made by article 2 and paragraphs 6 (award for or in relation to a retained or volunteer firefighter) and 7 (prevention of duplication) of the Schedule to this Order shall not have effect in relation to a person in respect of whom a determination or decision relevant to whether death or permanent disablement has been occasioned by a qualifying injury (coming within the meaning of rule 7 of Part 1 of the Compensation Scheme) has been made before the coming into force of this Order.

(2) The amendments made by article 2 and paragraphs 6 (award for or in relation to a retained or volunteer firefighter) and 7 (prevention of duplication) of the Schedule to this Order shall not have effect in relation to a person who has been in continuous employment as a retained firefighter since 5 April 2006 and has sustained an injury in the performance of his duties as a firefighter before the coming into force of this Order where it is subsequently determined that that injury is a qualifying injury (coming within the meaning of rule 7 of Part 1 of the Compensation Scheme) and that he is permanently disabled as a result of that injury.

(3) In a case to which paragraph (1) or (2) applies and in relation to the provisions mentioned in that paragraph, the provisions of the Compensation Scheme, in the form in which they existed immediately before the coming into force of this Order, shall continue to have effect in relation to such a person.

Signed by authority of the Secretary of State for Communities and Local Government

Date

Parliamentary Under Secretary of State  
Department for Communities and Local Government

## **SCHEDULE**

Article 2

### **Amendments to the Firefighters’ Compensation Scheme (England) 2006**

1. In Part 1 (general provisions)—

(a) in rule 2(1) (interpretation)—

(i) for the definition of “pensionable pay” substitute—

“ “pensionable pay”—

(a) in relation to a person who is a member of the 1992 Scheme (b), shall be construed in accordance with rule G1(a) of that Scheme;

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(a) S.I. 2006/1811; amended by S.I. 2006/3434.

(b) S.I. 1992/129; amended by 1997/2309 and 2581, 1998/1010, 2001/3649 and 3691, 2004/1912, 2006/1810 and 3433, 2008/214 and 2012/953. The Scheme was made under section 26 of the Fire Services Act 1947 (c.41). That Act was



- (b) in relation to a person who is a member of the 2006 Scheme**(b)**, shall be construed in accordance with rule 1(c) of Part 11 of that Scheme;
- (c) in the case of a person who is not a member of either scheme, the modifications in rule 11 of this Part shall apply.”;
- (ii) after the definition of “regular firefighter” insert—
  - “ “relevant service”, except where the context otherwise requires, means service which either was, or would but for an election under rule G3(d) of the 1992 Scheme or rule 5(e) of Part 2 of the 2006 Scheme or a failure to elect under rule G2A(f) of the 1992 Scheme or rule 4 of Part 11 of the 2006 have been, reckonable as pensionable service;”
- (iii) for the definition of “retained firefighter” and “retained or volunteer firefighter” substitute—
  - ““retained firefighter” means a person who is employed by a fire and rescue authority—
    - (a) as a retained firefighter, but not as a regular firefighter or a volunteer firefighter,
    - (b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),
    - (c) otherwise than in a temporary capacity, and
    - (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives;”;
- (iv) after the definition of “surviving spouse” insert—
  - ““volunteer firefighter” means a person who carries out operational firefighting duties for a fire and rescue authority—
    - (a) as a volunteer firefighter but not as a regular firefighter or a retained firefighter,
    - (b) on terms under which he is, or may be, required to engage in fire-fighting or may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),
    - (c) otherwise than in a temporary capacity, and
    - (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives; ”;
- (b) in rule 3—
  - (i) for the heading substitute “Exclusive application to regular and retained firefighters”;
  - (ii) in paragraph (1) for “regular firefighters” substitute “regular and retained firefighters”;
  - (iii) in paragraph (2) for “regular firefighter” substitute “regular or retained firefighter”;
- (c) in rule 6 (reckoning of service for purpose of awards)—
  - (i) in paragraph (2) for “regular firefighter” substitute “regular or retained firefighter”;
  - (ii) in paragraph (3)—
    - (aa) for “retained or volunteer firefighter” substitute “volunteer firefighter”;

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repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c.21). Subsections (1) to (5) of section 26 were continued in force, for the purposes of the scheme established under that section as the Firemen’s Pension Scheme, by S.I. 2004/2306. The name of the scheme was changed, in relation to England and Scotland, by article 4(1) of S.I. 2004/2306.

- (a) S.I. 1992/129; relevant amending instruments are 2004/1912, 2005/2980, 2006/1810 and 2008/214.
- (b) S.I. 2006/3432; amended by 2008/213, 2012/954 and 2988.
- (c) S.I. 2006/3432; relevant amending instrument is 2008/213.
- (d) S.I. 1992/129; relevant amending instruments are 1997/2851, 2005/2980, 2006/1810 and 2008/214.
- (e) S.I. 2006/3432; amended by S.I. 2008/213; there are other amending instruments but none is relevant.
- (f) S.I. 1992/129; inserted by S.I. 2004/1912 and amended by 2005/2980.

- (bb) after “Part 2 of Schedule 2” insert “ and except where the context otherwise requires,”;
- (cc) after “any period of service” insert “as a retained firefighter or”
- (dd) for “pensionable service” substitute “relevant service”;
- (d) in rule 7 (qualifying injury)—
  - (i) in paragraph (1)—
    - (aa) in paragraph (1)(b) omit “retained or”;
    - (bb) for “regular firefighter” substitute “regular or retained firefighter”;
  - (ii) in paragraph (3) omit the words—
    - (aa) “and paragraph (4) of rule 3 of Part 10”; and
    - (bb) “retained or”.
- (e) after rule 10 (effective date of retirement), insert—

**“Application of pensionable pay**

**11.**—(1) Where an award is to be calculated in respect of a person who is not, or was not, a member of the 1992 Scheme or the 2006 Scheme, the definition of “pensionable pay” shall be construed in accordance with—

- (a) rule G1 of the 1992 Scheme in the case of a person who elected not to pay pension contributions under rule G3 of that Scheme;
- (b) rule 1 of Part 11 of the 2006 Scheme in the case of a person who elected not to pay pension contributions under rule 5 of Part 2 of that Scheme;
- (c) rule 1 of Part 11 of the 2006 Scheme, where an election had been made at different times under both schemes.

(2) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 1992 Scheme, his award shall be calculated on the basis of the pay which would have been his average pensionable pay if he had not made an election.

(3) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 2006 Scheme, his award shall be calculated on the basis of the pay which would have been his final pensionable pay if he had not made an election.”

**2.** In Part 2 (injury awards and duty-related compensation), in rule 2 (part-time, retained and volunteer firefighters)—

- (a) in paragraph (1) for “this Part” substitute “rule 1” and omit “by virtue of which his pensionable service is reckonable”;
- (b) in paragraph (2)(a) omit “retained or”;
- (c) in paragraph (2)(b) for “this Part” substitute “rule 1”;
- (d) after paragraph (2) insert—
  - “(3) Where a person—
    - (a) is employed as a retained firefighter; and
    - (b) is entitled to an award under rule 1,
 his award shall be calculated in accordance with Part 3 of Schedule 1.”.

**3.** In Part 3 (awards on death: spouses and civil partners)—

- (a) in rule 1 (special award for spouse or civil partner)—
  - (i) in paragraph (1) and paragraph (3) for “regular firefighter” in each place where it occurs substitute “regular or retained firefighter”;

- (b) in rule 2 (augmented award for spouse or civil partner), in paragraph (1), for “regular firefighter” substitute “regular or retained firefighter”.

**4. In Part 4 (awards on death: children)—**

- (a) in rule 1(1) (child’s special allowance) and rule 2(1) (child’s special gratuity) for “regular firefighter” in each place where it occurs substitute “regular or retained firefighter”;
- (b) in rule 3(1) (child’s special allowance or gratuity: limitations) for “be a regular firefighter” substitute “be either a regular or retained firefighter”.

**5. In Part 5 (awards on death: additional provisions) in rule 1(1) (adult dependent relative’s special pension), rule 2(1)(a) (dependent relative’s gratuity) and rule 5(1)(a) (increase of pensions and allowances during first 13 weeks) for “regular firefighter” in each place where it occurs substitute “regular or retained firefighter”.**

**6. In Part 8 (special cases) in rule 2 (award for or in relation to a retained or volunteer firefighter)—**

- (a) in the heading to the rule “(award for or in relation to a retained or volunteer firefighter)” omit “retained or”;
- (b) in paragraph (1)(a) omit “retained firefighter or”;
- (c) in paragraphs (5)(b) and (10)(a) and (b) omit “retained or” in each place where it occurs.

**7. In Part 10 (payment of awards and financial provisions)—**

- (a) in rule 3 (prevention of duplication)—
  - (i) in paragraph (4)(a)(ii) for “rule 1” substitute “rule 1, 1A”;
  - (ii) in paragraph (6) for “regular firefighter” substitute “regular or retained firefighter”;
- (b) in rule 4 (prevention of duplication: other injury awards for persons who are both regular and retained firefighters)—
  - (i) in paragraph (2)—
    - (aa) for “both a regular firefighter and” substitute “a volunteer firefighter and a retained firefighter or a regular firefighter”;
    - (bb) omit the words in sub-paragraph (a);
    - (cc) in paragraph (b)(i) after “regular firefighter” insert “or a retained firefighter”;
    - (dd) in paragraph (b)(ii) for “retained firefighter” substitute “volunteer firefighter”;
  - (ii) in paragraph (3)—
    - (aa) after “regular firefighter” insert “or a retained firefighter”;
    - (bb) for “retained firefighter” substitute “volunteer firefighter”;
  - (iii) in paragraph (4) for “retained firefighter” substitute “volunteer firefighter”;
- (c) in rule 5 (prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters) at the end of paragraph (3) insert—
  - “(g) a survivor’s pension under rule 1 of Part 4 of the 2006 Scheme,
  - (h) a survivor’s bereavement pension under rule 4 of Part 4 of the 2006 Scheme,
  - (i) a child’s pension under rule 6 of Part 4 of the 2006 Scheme,
  - (j) a child’s bereavement pension under rule 9 of Part 4 of the 2006 Scheme,
  - (k) a death grant under rule 1 of Part 5 of the 2006 Scheme,
  - (l) a post-retirement death grant under rule 2 of Part 5 of the 2006 Scheme.”.

**8. In Schedule 1 (injury awards and duty-related compensation)—**

- (a) in Part 1 (calculation of awards for full-time service) omit sub-paragraph (2) of paragraph 1;
- (b) in Part 2 (calculation of awards for part-time service)—

- (i) in paragraph 1 omit “by virtue of which his pensionable service is reckonable”;
- (ii) in paragraph 2(1) in the definitions of “B”, “C” and “D”, for “pensionable service” substitute “relevant service”;
- (c) in Part 3 (calculation of awards for retained or volunteer service) for “paragraph 1(2)” substitute “paragraph 1” and for “pensionable service” substitute “relevant service”.

**9.** In Part 1 (special pension) of Schedule 2 (awards for spouses and civil partners)—

- (a) in paragraph 1 for “Subject to paragraph 2” substitute “Subject to paragraphs 2 and 3”;
- (b) in paragraph 2, in the definitions of “B”, “C” and “D”, for “pensionable service” substitute “relevant service”;
- (c) after paragraph 2, insert —

“**3.**—(1) Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of his death, the amount of special pension shall be calculated in accordance with the formula—

A x B / C where—

A is the amount calculated under paragraph 1 as if the final pensionable pay was the pay the deceased would have received had he been a whole-time employee of a fire and rescue authority;

B is the period in years of his pensionable retained service; and

C is the period in years of his relevant service.

(2) Where the person was a member of the 2006 Scheme, neither B nor C shall exceed 40 years.”.

**10.** In Schedule 3 (awards on death: children), in Part 1 (child’s special allowance)—

- (a) in paragraph 1, for “Subject to paragraph 4” substitute “Subject to paragraphs 4 and 5”;
- (b) in paragraph 4 omit “which is reckonable as pensionable service.”;
- (c) after paragraph 4, insert—

“**5.** Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of his death, the amount of the special allowance shall be calculated in accordance with the formula—

A x B/C, where—

A is the amount calculated under paragraph 1 to 3 of this Part as if the final pensionable pay was the pay the deceased would have received had he been a whole-time employee of a fire and rescue authority;

B is the period in years of his pensionable retained service

C is the period in years of his relevant service.”.

**11.** In Schedule 4 (awards on death: additional provisions), in Part 1 (adult dependent relative’s special pension)—

- (a) in paragraph 1, for “Subject to paragraphs 2 and 3” substitute “Subject to paragraphs 2, 3 and 4”;
- (b) in paragraph 3 omit “which is reckonable as pensionable service.”;
- (c) after paragraph 3, insert—

“**4.** Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of his death, paragraphs 1 and 2 shall apply with the modification that for any reference to his final pensionable pay there shall be substituted the product of the formula—

A x B/C, where —

A is the amount of pay the deceased would have received had he been a whole-time employee of a fire and rescue authority;

B is the period in years of his pensionable retained service

C is the period in years of his relevant service.”.

### **EXPLANATORY NOTE**

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

This Order amends the Schedule 1 to the Firefighters’ Compensation Scheme (England) Order 2006. Some of the amendments make corrections to the Firefighters’ Compensation Scheme (England) 2006 (“the compensation scheme”) set out in that schedule.

Article 3 of the Order contains transitional provisions in relation to the amendments made by article 2 and paragraphs 6 (award for or in relation to a retained or volunteer firefighter) and 7 (prevention of duplication) of the Schedule to this Order.

Article 3 provides for the Compensation Scheme in its unamended form to continue to apply in relation to these three sets of amendments in the following circumstances in relation to a person:

-in respect of whom a determination or decision has been made before the coming into force of this Order as to whether death or permanent disablement had been occasioned by a qualifying injury sustained;

-who has been in continuous employment as a retained firefighter since 5 April 2006 and has sustained an injury

in the performance of his duties as a firefighter before the coming into force of this Order

where that injury is a qualifying injury

and he is permanently disabled as a result of that injury.

The amendments made to rule 2 (award for or in relation to a retained or volunteer firefighter) of Part 8 (special cases) remove the right of a retained firefighter who was employed as a retained firefighter before 6 April 2006 to an injury award calculated as though he were a wholetime firefighter from the date of commencement of the Order.

The amendments to rule 6 (reckoning of service for purpose of awards) and rule 7 (qualifying injury) of Part 1 (general provisions) and those to rule 4 of Part 10 are consequential on the amendments to rule 2.

The various amendments which substitute “regular or retained firefighters” for a reference to “regular firefighter” correct the general terms of the Compensation Scheme which were intended to apply to retained firefighters who took up employment as a retained firefighter after 5 April 2006. The effect of the amendments made to rule 2 of Part 8 by this Order is that the general provisions of the Compensation Scheme apply to all retained firefighters who do not fall within the transitional provisions.

The amendments to

- Part 1(special pension) of Schedule 2 (awards for spouses and civil partners)

-Part 1 (child’s special allowance) of Schedule 3 (awards on death: children)

-Part 1 (adult dependent relative’s special pension) of Schedule 4 (awards on death: additional provisions)

make a correction by inserting a formula to calculate an award in respect of retained firefighters.

DRAFT

**2013 No.**

**FIRE AND RESCUE SERVICES, ENGLAND**

**PENSIONS, ENGLAND**

**The Firefighters' Pension Scheme  
(Amendment)(No.[ ])(England)Order 2013**

*Made* - - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force* - - -

The Secretary of State, in exercise of the powers conferred by sections 26(1) to (5) of the Fire Services Act 1947(a) makes the following Order:

**Citation and commencement**

**1.**—(1) This Order may be cited as the Firefighters' Pension Scheme (Amendment)(No[ ])(England) Order 2013.

(2) This Order shall come into force on [ ] .

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

**2.** Schedule 2 to the Firemen's Pension Scheme Order 1992(b) (in which the Firefighters' Pension Scheme is set out), as it has effect in England(c), is amended in accordance with articles 3 and 4 of this Order.

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(a) 1947 c.41, repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c.21). Subsections (1) to (5) of section 26 continue to have effect, in relation to England and Scotland, for the purposes of the scheme established under that section as the Firemen's Pension Scheme and set out in the Firemen's Pension Scheme Order 1992 (S.I. 1992/129), by article 3 of S.I. 2004/2306. The name of the scheme was changed to the Firefighters' Pension Scheme, by article 4(1) of S.I. 2004/2306. Section 26 of the 1947 Act was amended by section 1 of the Fire Services Act 1951 (c.27), section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c.65), section 33 of, and Schedule 3 to, the Theft Act 1968 (c.60), sections 16 and 29 of, and Schedule 8 to, the Superannuation Act 1972 (c.11), section 100 of, and Schedule 27 to, the Social Security Act 1973 (c.38), section 1 of, and Schedule 1 to, the Social Security (Consequential Provisions) Act 1975 (c.18), section 32 of the Magistrates' Courts Act 1980 (c.43), section 1 of the Police and Firemen's Pensions Act 1997 (c.52), and Schedule 25 to the Civil Partnership Act 2004 (c.33), and article 2 of the Social Security (Modification of Fire Services Act 1947) Order 1976 (S.I. 1976/551).

(b) S.I. 1992/129; amended by 1997/2309 and 2851, and 1998/1010, 2001/3649 and 3691, 2004/1912, 2006/1810 and 3433, 2008/214 and 2012/953. The Scheme was made under section 26 of the Fire Services Act 1947 (c.41).

(c) The Secretary of State's functions under section 26 of the Fire Services Act 1947, in so far as they were exercisable in relation to Scotland, were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (c.46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 (S.I. 1999/1750). The Secretary of State's functions under section 3(5) of the Fire Services Act 1947 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); see the entry for the Fire Services Act 1947 in Schedule 1 to that Order. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers.

3. In Schedule 1 (interpretation), in Part 1 (glossary of expressions)(a) insert, after the entry for the expression “mixed-rate service”—

- (a) in the first column “New Firefighters’ Pension Scheme (England)”, and
- (b) in the second column, “the New Firefighters’ Pension Scheme (England) set out in Schedule 1 to the Firefighters’ Pension Scheme (England) Order 2006(b).”.

4. In Schedule 6 (pensionable service and transfer values)(c), in Part 4 (amount of transfer value) —

- (a) in paragraph 2 for “Where” substitute “Subject to paragraph 7, where”;
- (b) after paragraph 6, insert—

“7. Where a transfer value is payable to the scheme managers of the New Firefighters’ Pension Scheme (England) in the case of a person who—

- (a) immediately after the termination of his employment as a regular firefighter on or after 1<sup>st</sup> July 2000, took up employment as a retained firefighter;
- (b) has elected to become a special firefighter member of the New Firefighters’ Pension Scheme (England) under rule 1A(1) of Part 2 (scheme membership, cessation and retirement) of that Scheme from 1<sup>st</sup> July 2000, or if later, from the date before 6<sup>th</sup> April 2006 on which he took up employment as a retained firefighter;
- (c) has elected under rule 6A (election to purchase service during the limited period) of Part 11 (pensionable pay, pension contributions and purchase of additional service) of the New Firefighters’ Pension Scheme (England) to pay the pension contributions required as a special firefighter member from that date;
- (d) has elected under rule 11A (transfer of accrued rights under the 1992 Scheme to special membership under this Scheme) of Part 12 (transfers into and out of the Scheme) of the New Firefighters’ Pension Scheme (England) to transfer his accrued rights under this Scheme to his special membership of the New Firefighters’ Pension Scheme (England) at the same time as his election under rule 6A of that Scheme;

the amount of the transfer value is the equivalent value to the total of A/45 of pensionable service where A is the total in years of pensionable service.”

Signed by authority of the Secretary of State for Communities and Local Government

	<i>Name</i>
Address	Parliamentary Under Secretary of State
Date	Department for Communities and Local Government

### EXPLANATORY NOTE

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

This Order amends the Firefighters’ Pension Scheme 1992 (set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992) as it has effect in England.

The amendment in article 4 is consequential on the amendments made to the New Firefighters’ Pension Scheme (England) by S.I. 2013/ which provide those persons who were employed in England as retained firefighters between 1 July 2000 and 6 April 2006 with access to a pension

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(a) Part 1 of Schedule 1 was amended by S.I. 2001/3691,2004/1912, 2005/2980,3228, 2006/1810, and 3433, Sch. para. 9.  
(b) S.I. 2006/3432, amended by 2008/213 , 2012/954 and 2988.  
(c) Schedule 6 was amended by S.I. 2001/3961, 2004/1912, 2005/2980 and 3228.



scheme for that period following the judgment of the employment tribunal in 2005 in *Matthews and Others v Kent and Medway Towns Fire Authority and Others*.

Article 4 amends Part 4 of Schedule 6 to the 1992 Scheme to provide a different amount of transfer value where the member of the 1992 Scheme meets certain requirements.

These are:

1) the member of the 1992 Scheme took up employment as a retained firefighter immediately after the termination of his employment as a regular firefighter:

2) the member elected to pay the limited period pension contributions under rule 6A of Part 11 of the New Firefighters' Pension Scheme (England) as a special firefighter member at the same time as he elected under rule 11A of Part 12 to transfer his accrued rights under the 1992 Scheme.

If the member of the 1992 Scheme meets these conditions the amount of his transfer value is the equivalent value to 1/45 for each year of pensionable service in the 1992 Scheme.

A full impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.