



**Isle of Man**

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**PUBLIC SECTOR INJURY BENEFIT SCHEME  
2015**





## PUBLIC SECTOR PENSIONS ACT 2011

### PUBLIC SECTOR INJURY BENEFIT SCHEME 2015

*Approved by Tynwald*

*21 April 2015*

*Coming into operation in accordance with paragraph 2*

The Public Sector Pensions Authority, after consulting the eligible members of this scheme, their representatives, their employers and the Treasury, makes this scheme under section 6(1)(c) of the *Public Sector Pensions Act 2011*.

#### **1. Title**

This scheme is the Public Sector Injury Benefit Scheme 2015.

#### **2. Commencement**

- 2.1 This scheme comes into operation on 1 April 2015.
- 2.2 The Interim Injury Benefit Scheme 2012<sup>1</sup> is revoked.

#### **3. Interpretation**

- 3.1. References to 'rules' shall be to the rules of this scheme unless otherwise specified;
- 3.2. In this scheme, unless otherwise specified:

The terms used shall have the same meaning as in the Rules of the Isle of Man Government Unified Scheme 2011<sup>2</sup>;

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<sup>1</sup> 0137/2012

**“Detached Duty”** means any period of duty at another work place other than the employee’s permanent place of work and other than on a permanent transfer or secondment. The Employing Authority will determine the employee’s permanent place of work.

**“Employee”** means a Public Sector Employee, a Public Servant or a person who has been transferred from the public sector to an organisation outside of the public sector under the terms of an Admission Agreement and to whom this Scheme applies.

**“Employing Authority”** means—

- (i) the employer of a Public Sector employee; or,
- (ii) if the employee is a public sector office holder, means the person for the time being paying the remuneration of the employee; or
- (iii) if the Employee has been transferred under the terms of an Admission Agreement means the organisation outside of the public sector which has entered into the Admission Agreement and to whom Section 14 of GUS does not Apply.

**“Fire Service”** means the Isle of Man Fire and Rescue Service or the Airport Fire Service as the case may be.

**“GUS”** means the Isle of Man Government Unified Scheme 2011 and any amendments made to that scheme.

**“Manual Workers Scheme”** means the Superannuation (Manual Workers) (No.1) Scheme 1973.<sup>3</sup>

**“Pay”** means —

1. in relation to an Employee who is a member of, or eligible to be a member of, Sections 1 (Non CARE members) ,2,3,4 and 7 of the Isle of Man Government Unified Scheme 2011 —
  - (1) the total of all salary, wages, allowances and other regular payments made to the employee on a permanent basis for the service in respect of which this Scheme applies to the employee, for the 12 month period prior to and including the last day of Service.

This is subject to paragraphs (2) to (5).

“Pay” does not include —

- (a) Bonuses, performance or merit payments,
- (b) Payments made to cover expenses,
- (c) Payments for overtime, or

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<sup>2</sup> SD 0389/2011

<sup>3</sup> GC 95/72

- (d) Call out payments
- (2) If, on the last day of Service, the circumstances specified in paragraph (3) apply, the Employee is to be treated as receiving or as having received Pay of an amount equal to that which the Employee would have received if those circumstances did not apply and in this Section the amounts that the Employee is treated as receiving or as having received under this paragraph are referred to as “Assumed Pay”.
- (3) The circumstances are that the Employee is—
- (a) on secondment to a different employer or Employing Authority under an arrangement which provides for the provisions of this Scheme to continue to apply in respect of the Employee, although he or she is paid by that other employer or Employing Authority;
  - (b) on sick leave on reduced pay;
  - (c) receiving statutory maternity allowance;
  - (d) on ordinary maternity leave;
  - (e) on paternity leave;
  - (f) absent from duty because of being called out or recalled for permanent service in the reserve forces or regular forces in pursuance of a call out order made under the Reserve Forces Act 1980 and 1982 (Isle of Man) Order 1986 or the Reserve Forces Act 1996 (Isle of Man) Order 2010;
  - (g) receiving pay at a reduced rate in accordance with arrangements for the Employee required by the Employing Authority where he or she is entitled—
    - (i) to pension benefits under an occupational pension scheme other than GUS or Number 1 Scheme; or
    - (ii) to a payment under this Scheme, in respect of an earlier period of service; or
    - (iii) voluntarily surrendering Pay in whole or in part.
- (4) For the purposes of paragraph (3)(b), “sick leave on reduced pay” does not include a period of leave during which the Employee receives Sick Pay at Pension Rate, that is the Employee is paid at a rate which his or her Employing Authority has determined to be appropriate because it is equivalent to the rate of the ill-health pension or pensions to which the Employee would be entitled under GUS or Manual Workers Scheme if he or she had become entitled to

such a pension or pensions on the day on which the leave paid at that rate began.

2. in relation to an Employee who is a member of, or eligible to be a member of, Sections 1, (CARE members) 5 and 6 of the Isle of Man Government Unified Scheme 2011 means the yearly average of such amount as would be or would have been his or her up rated earnings within the meaning of GUS;

**“Pension Benefits”** means benefits awarded under GUS or the Manual Workers Scheme as the case may be.

**“PSPA”** means the Public Sector Pensions Authority as established by section 5(1) of the Public Sector Pensions Act 2011.

**“Public Servant”** for the purposes of this scheme means —

- (i) an Employee who is a member of, or eligible to be a member of, Sections 1 (Non CARE Members) ,2,3,4 and 7 of the Isle of Man Government Unified Scheme 2011, including those serving under a contract for a fixed or limited term, except persons whose terms of appointment exclude them from the provisions of this Scheme; or
- (ii) an Employee who is a member of, or eligible to be a member of Sections 1 (CARE Members), 5 and 6 of the Isle of Man Government Unified Scheme 2011; or
- (iii) an Employee who, save for being a Pensioner Member of the Isle of Man Government Unified Scheme 2011, would fall under subparagraph (i) or (ii) above; or
- (iv) an Employee whose employment by an Employing Authority makes them eligible for membership of the Isle of Man Government Unified Scheme 2011, but whose contract or terms and conditions of employment exclude them from membership; or
- (v) a Retained or volunteer firefighters;

**“Relevant Pension Scheme”** means any form of arrangement, whether subsisting by virtue of an Act of Tynwald, trust, contract or otherwise for the provision of pension benefits in connection with employment mentioned in paragraph 5.1, including a personal pension scheme as defined in section 1 of the Pension Schemes Act 1993 as it has effect in the Island, or an additional pension under the Social Security Contributions and Benefits Act 1992 (as it has effect in the Island), but excluding—

- (a) any arrangements for the provision of benefits under legislation related to social security, other than the said additional pension;

- (b) any arrangement for the provision of benefits paid for by additional voluntary contributions under which the rate or amount of benefit payable is calculated by reference to the proceeds of the investment of those contributions;

“**Service**” means –the current period of Continuous Service in an employment to which this Scheme applies, including any period of that service during which the Employee is treated as having received Assumed Pay, any period of unpaid sick absence and any period during which the Employee receives Sick Pay at Pension Rate.

The following periods do not count towards the Employee’s Service but do not result in that period of Service terminating –

- (a) any unauthorised absence;
- (b) any period of unpaid leave; and
- (c) any break in the Employee’s Service which lasts no more than 28 days

#### **4. Determination of Questions**

- 4.1. Any question under this scheme shall be determined by the PSPA, whose decision on it shall be final.
- 4.2. Unless otherwise required to do so under the Public Sector Pensions Act 2011, the PSPA when making a decision or when giving or withholding its agreement or consent or when exercising or not exercising a power in relation to this Scheme must do so at its absolute and uncontrolled discretion.
- 4.3. The decision of the PSPA is final on all questions that are left to its determination or decision in relation to this Scheme and on all matters relating to the management and administration of this Scheme where these Rules are silent.
- 4.4. If the PSPA reduces or varies the benefits under this Scheme relating to a Member with the Member’s agreement (if required), the Member’s agreement binds any other Beneficiary whose benefits under this Scheme relate to that Member.
- 4.5. If it appears to the PSPA that a Member has been incorrectly notified of, including, but not limited to –
  - (a) the benefits to which the Member or a Beneficiary is entitled under this scheme; or
  - (b) the value of pension benefits to which the Member is entitled to under this scheme,

the PSPA must write to the affected Member setting out the extent and nature of the error or errors and the steps the PSPA proposes to take to correct the error.

## 5. Application

### Qualifying conditions

- 5.1. Subject to Paragraph 5.2, benefits in accordance with the provisions of this Scheme may be paid to any public servant to whom this Scheme applies and who after the date that this scheme is made —
- (i) suffers an injury or makes a claim for an injury suffered in the course of official duty, provided that such injury is wholly or mainly attributable to the nature of the duty;
  - (ii) suffers an injury or makes a claim for an injury suffered other than in the course of official duty as a result of an attack or similar act which is directly attributable to his or her being employed, or holding office, as a public servant to whom GUS or the Manual Workers Scheme applies;
  - (iii) contracts a disease to which he or she is exposed wholly or mainly by the nature of his or her duty; or
  - (iv) an injury which is sustained, and to a disease which is contracted, in the course of the person's employment and which is wholly or mainly attributable to his or her employment and also to any other injury sustained and, similarly, to any other disease contracted, if—
    - a) it is sustained while, as a volunteer at an accident or emergency, he or she is providing services which his or her professional training and code of conduct would require him or her to volunteer; or
    - b) it is sustained while he or she is travelling as a passenger in a vehicle to or from his or her place of employment with the permission of employing authority and if in addition—
      - (i) he or she was under no obligation to the employing authority to travel in the vehicle but, if he or she had been, the injury would have been sustained in the course of, and have been attributable to, his or her employment, and
      - (ii) at the time of the injury the vehicle was being operated, otherwise than in the ordinary course of a public transport service, by or on behalf of the employing authority or by another



person by whom it was provided in pursuance of arrangements made with the authority.

- (v) having been recruited in the Isle of Man, is injured while in an area outside the Isle of Man for the purposes of his or her employment by an injury which is directly attributable to the existence in or near that area of a state of war, revolution, or serious and widespread internal disturbance, or is a direct result of deliberate acts of the local population or of sporadic political disturbances,
- 5.2. Benefits will not be payable if the said injury or disease, or aggravation, is wholly or mainly due to or is seriously aggravated by his or her own serious and culpable negligence or misconduct.
- 5.3. References in rule 5.1 to “duty” include activities reasonably incidental to the duty.
- 5.4. Subject to paragraph (i) below, an injury suffered in the course of a journey between the person's place of residence and his or her place of employment shall not be treated as falling within rule 5.1(i).
- (i) An injury suffered in the course of a duty journey shall be treated as an injury in the course of official duty. For the purposes of this paragraph, a duty journey includes a journey:
    - (a) between the normal place of employment and the detached duty location, and between any two points of detached duty;
    - (b) between the place of residence at the head office location and the detached duty location;
    - (c) between the temporary place of residence on the detached duty location and the place of employment on the detached duty location, for the first 30 days only of detached duty;
    - (d) between the place of residence and the place of employment, if required for official purposes and additional to the journeys required for the individual's normal attendance at work.
  - (ii) Any injury unrelated to the nature of a person's official duty and suffered during his or her main meal break, whether or not on official premises, shall not be treated as falling within rule 5.1(i).
- 5.5. Any reference in the following provisions of this scheme to ‘injury’ will be taken to include a reference to ‘disease’, and references to a person being

injured and to the date on which an injury is sustained will be construed respectively as including references to his or her contracting a disease and to the date on which the disease is contracted. In this Scheme in the case of a public servant whose benefits fall to be calculated under rule 19 of GUS 'Pay' means Pay in his or her last period of service and 'qualifying service' means the whole of his or her qualifying service.

### **Eligibility for benefit**

- 5.6. Subject to the provisions of this Scheme, any person to whom this Scheme applies whose earning capacity is permanently impaired by more than 10% because of injury and:
- (i) whose service ends before the age 65 years (or age 55 years if they are a Firefighter) and who does not fall within paragraph (ii) below, may be paid an annual allowance and lump sum according to the PSPA Medical Adviser's medical assessment of the impairment of his or her earning capacity, the length of his or her service, and his or her Pay when his or her service ends;
  - (ii) who has not retired but because of his or her injury is employed in a lower grade or in a different capacity with loss of earnings, may be paid an annual allowance in accordance with the PSPA Medical Adviser's medical assessment of impairment of earning capacity of an amount which when added to the amount of the pension to which he or she would have been entitled had he or she retired on ill health grounds at the date of his or her re-employment with loss of earnings, any of the national insurance benefits specified in 5.10 (ii), and any occupational pension payable from public funds, or where he or she has opted out of GUS or Manual Workers Scheme, any personal pension or state earnings-related pension (as the case may be), equals the appropriate guaranteed minimum income provided in rule 5.9;
  - (iii) who had retired because of injury and to whom an annual allowance under this scheme is in payment may, on re-employment in an Alternative Comparable Employment or any other Gainful Employment either in or outwith of the Public Service, continue to receive that allowance; except that for the purposes of this rule the amount of such allowance when added to any occupational pension

payable from public funds, or where the public servant has opted out of GUS, any personal pension or state earnings-related pension (as the case may be) shall be subject to suspension or abatement as follows:

- (a) If upon being re-employed the public servant's pay is equal to, or higher than, his or her old pay, the whole of the allowance will be suspended. If he or she is re-employed at a level of pay lower than his or her old pay, the allowance in payment (including any increase under an Annual Pensions (Increase) Order) will be reduced to the amount by which his or her old pay exceeds his or her pay on his or her first day of re-employment.
- (b) While the public servant is re-employed, the allowance in payment will attract pensions increase but will not be otherwise adjusted, unless there is a change to the public servants terms and conditions that
  - i. results in an increase in pay, and before the change the whole of his or her allowance was in payment; or
  - ii. results in a decrease in pay, and before the change the whole of his or her allowance was suspended;

where the public servant will be treated for the purposes of this rule as having been newly re-employed on the date of the change.

In applying this rule, no account shall be taken of any decrease in pension resulting from an election made under rule 41 of GUS.

- (iv) who has sustained an injury in circumstances which satisfy the conditions of this scheme and for which no allowance or a lump sum, has been paid under this scheme, and who subsequently retires on age grounds, may be paid an annual allowance and lump sum as provided by this scheme in accordance with the demonstrated impairment of his or her earning capacity, the length of his or her service and his or her Pay at the date of his or her retirement.

5.7. Eligibility for Benefits and allowance under this Scheme shall cease on the date the individual attains pensionable age.

- 5.8. In Rule 5.7 “pensionable age” has the meaning given by the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995<sup>4</sup> (as that Act of Parliament has effect on the Isle of Man)<sup>5</sup>

### **Scale of benefits**

- 5.9. Subject to rule 5.11, the annual allowance under rule 5.6 will be the amount which when added to the benefits specified below, will provide an income of not less than the guaranteed minimum shown in the table below and appropriate to the circumstances of the case expressed as an annual amount of the percentage of his or her pay shown in whichever column of the table hereunder is appropriate to his or her service in relation to the degree by which his or her earning capacity is impaired.

For the purposes of this scheme:

- where a person is employed part-time, his or her pay for the purpose of determining the guaranteed minimum income, will be scaled down by the ratio that hours worked for the 12 month period up to and including the last day of service bear to full-time hours;
- where a person has opted out of GUS or Manual Workers Scheme, his or her service shall be treated as service in GUS or Manual Workers Scheme as the case may be;
- references to "qualifying service" shall be deemed to be references to "qualifying service" as defined in GUS;
- the service of a person who has opted out of GUS shall be treated as service as a Section 1 member of GUS
- the service of a person who has opted out of the Manual Workers Scheme shall be treated as service as a member of the Manual Workers Scheme.

The benefits to be taken into account are:

- (i) any occupational pension payable to him or her out of public funds, except that
  - (a) where a person has commuted an ill health pension under rule 41.5 of GUS, the pre commutation value of the ill health pension shall be used;

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<sup>4</sup> 1995 c 26

<sup>5</sup> SD 501/97

- (b) the value of a pension payable to him or her under GUS shall be deemed to be the amount which would be payable to him or her if he or she had not exchanged such part of his or her pension as was necessary to give the maximum lump sum payable under rule 41.1 of GUS;
- (ii) any of the benefits specified in rule 5.10 (ii) which are payable to him or her; and
- (iii) where he or she has opted out of GUS or the Manual Workers Scheme, any personal pension or state earnings-related pension (as the case may be) to which he or she may be entitled.

In applying this rule no account shall be taken of any personal pension or state earnings-related pension payable as a result of an individual's employment outside of the Public Service.

**TABLE**

	<b>Guaranteed Minimum Income</b>			
	Proportion of pay Length of service or qualifying service if longer			
Impairment of earning capacity	Less than 5 years	5 years or more but less than 15 years	15 years or more but less than 25 years	25 years or more
<b>Slight Impairment</b> (More than 10% but not more than 25%)	15%	30%	45%	60%
<b>Impairment</b> (More than 25% but not more than 50%)	40%	50%	60%	70%
<b>Material Impairment</b> (More than 50% but not more than 75%)	65%	70%	75%	80%
<b>Total Impairment</b> (More than 75%)	85%	85%	85%	85%

If the total of benefits payable under (i), (ii) and (iii) above exceeds the guaranteed minimum income ascertained from the table, no annual allowance is payable under rule 5.6.

5.10. The pensions and benefits referred to in rule 5.9 are taken to be of the amounts as at (as the case may be)

- the date of retirement, or
- the date of movement from a higher to a lower substantive grade, or
- the date the annual allowance under this scheme begins:
  - (i) the annual amount of any occupational pension payable from public funds, or the annual amount of any personal pension or state earnings-related pension to which the person may be entitled consequent on his or her having opted out of GUS;
  - (ii) the annuity value or the annual value, as appropriate, of any rights which have accrued or probably will accrue from the injury by way of industrial disablement benefit, or incapacity benefit; except that no account will be taken of any increase of the disablement pension or unemployability supplement.
  - (iii) the annual amount or annuity value of payments made under any insurance for which the premium was paid wholly or partly from public funds

5.11. Subject to rule 5.12, the lump sum will be calculated according to the degree of impairment of earning capacity and the amount of pay as follows:

<b>Impairment of earning capacity</b>	<b>Proportion of pay</b>
Slight impairment	12.5%
Impairment	25%
Material impairment	37.5%
Total impairment	50%

Where any person is employed part-time, the pay used to determine the lump sum due will be scaled down by the ratio that hours for the 12 month period up to and including the last day of service worked bear to full-time hours.

5.12. Where rule 5.1 (i) or (ii) above applies and the injury is mainly but not wholly attributable to the nature of the duty, the PSPA shall, having regard to guidelines at any time agreed by the PSPA with representatives of persons who are likely to be affected, reduce the amount of any benefits payable under this scheme to take account of the extent to which the injury is not wholly attributable to the nature of the duty.

### **Review of awards**

- 5.13. Subject to rule 5.14, where a person is in receipt of an injury allowance, the PSPA shall, under Rule 6.11 and at such intervals as they think fit, review and consider whether the degree of his or her impairment of earning capacity has substantially altered. If they find that it has, the allowance shall be reassessed accordingly and the annual allowance may be reviewed and the benefits adjusted up or down as the case may be:
- (i) if the beneficiary's condition attributable to his or her injury improves or deteriorates; or
  - (ii) if any change is made in the class or level of benefit payable to him or her under the Social Security Acts, such as substitution of retirement pension for incapacity benefit, or cessation of a dependant's allowance, or reassessment of benefit rate; or
  - (iii) when re-employment ends; or
  - (iv) on modification of pension on account of national insurance pension; or
  - (v) when there comes into payment a retirement pension payable wholly or partly out of public funds.
- 5.14. Failure to attend a medical review or submit information for an assessment under Rule 5.13 will result in the suspension of all allowances from this scheme until the PSPA is satisfied that that person's impairment of earning capacity has not altered and the allowance can be reassessed.
- 5.15. In accordance with rule 5.7, allowances paid under this scheme will cease on the date the individual reaches state pension age.

### **Temporary service outside the Isle of Man**

- 5.16. If a person to whom this Scheme applies and who is normally employed in the Isle of Man, is injured while serving outside the Isle of Man he or she may be paid
- (i) the rate of benefit which would have been payable to him or her under the Social Security Contributions and Benefits Act 1992 (as it has effect in the Island);
  - (ii) the award which would have been payable to him or her under the Criminal Injuries Compensation Scheme; or
  - (iii) the benefits which would have been provided by this scheme,
- if the injury had been sustained in analogous circumstances in the Isle of Man, whichever is the most favourable. In calculating the sums payable under this rule no account will be taken of any benefit which would have

reduced the sum payable if the injury had been sustained in analogous circumstances in Isle of Man unless there is in fact any present or future entitlement to that benefit.

## **Death of an Injured Person**

### **Dependant's benefits**

- 5.17. If a person to whom this Scheme applies in any of the circumstances set out in rule 5.1, dies as the direct result of his or her injury, an annual allowance and a lump sum may be paid in accordance with rules 5.17 to 5.21 as follows:
- (a) An annual allowance may be paid to a Surviving Adult Dependant, and the allowance will begin once the payment of any short term pension, payable on the death of a member of GUS in accordance with rules 50.3 to 50.5 of GUS stops. The allowance will be paid under the same conditions as those specified in rule 50.6 of GUS in respect of a Surviving Adult Dependent's Pension.
  - (b) An annual allowance may be paid for each 'eligible child' as defined in rule 55 of GUS up to a maximum of four children at any one time. If there is no eligible Surviving Adult Dependent and if he or she dies in service the allowance will begin on the day after the date of his or her death.
- 5.18. The allowance payable under this scheme to a Surviving Adult Dependent will be reduced by the annual value of any rights which may accrue to him or her by way of industrial death benefit under the Social Security Contributions and Benefits Act 1992 (as it has effect in the Island) at the date when industrial death benefit first comes into payment. The allowance may not thereafter be further reduced because of any subsequent change in the annual value of those rights.
- 5.19. A lump sum may be paid to a Surviving Adult Dependent. Where there is no eligible Surviving Adult Dependent a lump sum may be paid for the benefit of any Children of the deceased person who are entitled to an allowance under this scheme, and if there is more than one Child the lump sum shall be paid for the benefit of them equally. Where there is neither an eligible Surviving Adult Dependent nor eligible Children a lump sum will not be payable to the deceased estate.
- 5.20. An eligible Child may receive a children's allowance in respect of not more than two deceased persons to each of whom this Scheme applies. If an eligible Child is eligible for Children's allowances in respect of three or more persons to each of whom this Scheme applies, the Child will count as



eligible in respect of only two persons, in the way which gives the most favourable overall result.

**Scale of dependants' benefits**

5.21. Subject to rule 5.23 and 7.1 to 7.5, the annual allowance under rule 5.16 will be an amount which, when added to any pension to which the dependant is entitled under GUS or any occupational pension payable from public funds, or any personal pension or state earnings-related pension payable as a consequence of the deceased having been eligible to join GUS but opted out of GUS, will provide an income not less than the guaranteed minimum income at the rate provided in the following Table. If any pension in issue exceeds the appropriate guaranteed minimum income, no allowance will be payable under this rule.

**TABLE**

Beneficiary	Guaranteed minimum income Proportion of pay	
Surviving Adult Dependent	45%	
	Where there is a Surviving Adult Dependent eligible for benefit	Where there is no Surviving Adult Dependent eligible for benefit
(b) Children during the period of childhood and full-time education up to a maximum of 4 at any one time	10% for each child	20% for each child

Allowances for incapacitated children may be paid in addition to the maximum number of children's allowance laid down in (b) and (d) above. The total of allowances awarded for the death of a person may not exceed 100% of his or her pay.

5.22. Subject to rule 5.23, the lump sum under rule 5.19 will be equal to six months' pay

5.23. (i) Subject to paragraph (ii), where the deceased's death was a direct result of an injury of the kind described in rule 5.1 (i) or 5.1 (iii) and the injury was mainly but not wholly attributable to the nature of his or her duty, the PSPA shall, having regard to guidelines at any time agreed by the PSPA with representatives of persons who are likely to be affected, reduce the annual allowance under rule 5.17 and the

lump sum under rule 5.19 to take account of the extent to which the injury was not attributable to the nature of the duty.

- (ii) No reduction will be made to the annual allowance under rule 5.17 or the lump sum under rule 5.18 if the person died without having been awarded benefits under this scheme in respect of the injury.

### **Damages**

- 5.24. (i) Where the PSPA is satisfied that damages have been or will be recovered by any person in respect of an injury for which benefits may be paid under this scheme, or damages in respect of the death of a person to whom this scheme applies, the PSPA will take those damages into account against any benefit which might otherwise be payable under this scheme and will withhold or reduce the allowance and lump sum payable under this scheme accordingly.
- (ii) Damages will, for the purpose of this rule, include payment received by a person to whom this scheme applies as a result of a claim in respect of an injury for which benefits may be paid under this scheme, or received by the estate or dependants of such a person as a result of a claim in respect of his or her death, whether or not payment is made in pursuance of a judgment or order of a court of any jurisdiction or by way of settlement or compromise of the claim and whether or not proceedings are instituted to enforce the claim.
- (iii) Where compensation is paid
- (a) under a Criminal Injuries Compensation Scheme in the Isle of Man, or
  - (b) under a scheme of injury compensation provided under local legislation or otherwise in respect of an injury to, or the death of, a person injured in an area outside the Isle of Man in the circumstances described in rule 5.1 (iv), or circumstances resulting in a payment under rule 5.16 (ii),

the person to whom or for whose benefit the compensation is paid shall be deemed to recover damages and the compensation paid shall be deemed to be the damages recovered.

## **6. Miscellaneous**

### **Offset for crime, negligence or fraud**

- 6.1. If a loss to public funds occurs as a result of the criminal, negligent or fraudulent act or omission of a person to whom this Scheme applies, the

PSPA may reduce any benefit under this Scheme payable to, or in respect of, that person by an amount equal to this loss.

- 6.2. If the loss to public funds is equal to or greater than the value of the benefit under this Scheme payable to or in respect of the person, a reduction under paragraph 6.1 may result in the benefits ceasing to be payable.
- 6.3. The PSPA shall give the person a certificate specifying the amount of the loss to public funds and of the reduction in benefits.
- 6.4. If the amount of the loss is disputed, no reduction in benefits will be made until the person's obligation to make good the loss has become enforceable under the order of a court or arbitrator.
- 6.5. Where the loss referred to in paragraph 6.2 is suffered by an employing authority, the amount of the reduction in benefits will be paid to the employing authority.

#### **Avoidance of duplicate benefits**

- 6.6. If the PSPA is of the opinion that an injury or disease has been, or will be, taken into account for the purpose of any corresponding scheme the benefits of which are payable out of public funds, the PSPA may make such deduction from the benefits under this Scheme as may appear to the PSPA to be equitable in order to secure that there may not be payable in respect of the same injury or disease benefits under this Scheme as well as benefits under a corresponding scheme.

#### **Claims for benefits**

- 6.7. No person shall be entitled to any benefit under this Scheme unless, in addition to any other conditions relating to that benefit being satisfied, that person makes a claim for it—
  - (a) in writing (or in such other manner as the PSPA may from time to time accept), and
  - (b) within—
    - (i) 6 months commencing with the day on which the other conditions relating to the benefit in question are satisfied, or
    - (ii) such other longer period as the PSPA may from time to time accept.
- 6.8.
  - (i) If during the whole or part of the period mentioned in paragraph 6.7(b) the person—
    - (a) lacks capacity (within the meaning of the Mental Capacity Act 2005, (an Act of Parliament) or

- (b) is prevented by fraud or concealment from discovering the facts entitling that person to apply for a benefit,
- a claim may be made at any time before the end of the period of 6 months from the date on which that person no longer lacks capacity or, as the case may be, could with reasonable diligence have discovered those facts
- 6.9. For the purposes of paragraph 6.8 a person lacks capacity in relation to a matter if at the material time he or she is unable to make a decision for him or herself in relation to the matter because of an impairment of, or a disturbance in the functioning of, the mind or brain.
- (ii) It does not matter whether the impairment or disturbance is permanent or temporary.
- 6.10. A person claiming to be entitled to benefits under this Scheme and his or her employing authority, including any previous employing authority of his or her, shall provide such—
- (a) evidence of entitlement; and
- (b) authority or permission as may be necessary for the release by third parties of information in their possession relating to that person or that entitlement,
- as the PSPA may from time to time require for the purposes of this Scheme.

#### **Medical examination**

- 6.11. The PSPA may require any person entitled, or claiming to be entitled, to an allowance under this Scheme on the grounds that he or she is incapable by reason of permanent ill-health or infirmity of mind or body of earning his or her own living, to submit to a medical examination by a registered medical practitioner selected by the PSPA, and in that event the PSPA shall also offer the person an opportunity of submitting a report from his or her own medical adviser as a result of an examination by him or her, and the PSPA shall take that report into consideration together with the report of the medical practitioner selected by the PSPA.

#### **Benefits not assignable**

- 6.12. Subject to the provisions of any enactment in that behalf, any benefit to which a person becomes entitled under this Scheme shall be payable to, or in trust for, that person and shall not be assignable.

#### **Payment to personal representatives**

- 6.13. Where, on the death of any person, any sum not exceeding £1,000 or such higher amount as would for the time being be applicable in relation to the death if this Scheme were an enactment to which section 60 of the

Administration of Estates Act 1990 applied, is due to or in respect of that person under this Scheme, the PSPA may dispense with proof of the title of the personal representatives of that person and pay that sum to the personal representatives or to the person, or to or among any one or more of any persons, appearing to the PSPA on such evidence as the PSPA deems satisfactory to be entitled by law to a beneficial interest therein and any person to whom such a payment is made, and not the PSPA, shall thereafter be liable to account for any amount so paid.

### **Decisions by medical practitioners and other persons**

- 6.14. The PSPA may make arrangements for its functions under this Scheme in relation to—
- (a) a decision whether a person has sustained an injury or contracted a disease to which paragraph 5.1 applies and, if so, by what degree his or her earning ability has been permanently reduced for the purpose of the payment of an allowance referred to in Rule 5.9;
  - (b) a decision whether a person has sustained an injury or contracted a disease to which paragraph 5.1 applies for the purpose of the payment of an allowance referred to in paragraph 5.9,
  - (c) a decision whether a person who has sustained an injury or contracted a disease to which paragraph 5.1 applies has died as a result of, or his or her death was substantially hastened by, the injury or disease, for the purpose of the payment of an allowance referred to in paragraphs 5.21 and 5.23.

to be discharged by the person or authority specified in paragraph 6.15

- 6.15. In the case of—
- (a) a decision specified in paragraph 6.14 (a) or (c), the function may be discharged by—
    - (i) a registered medical practitioner (whether practising on his or her own or as part of a group); or
    - (ii) a body corporate or unincorporate employing such practitioners (whether under a contract of service or for services),  
approved by the PSPA to act on his or her behalf
  - (b) a decision specified in paragraph 6.14(b), the function may be discharged by the employing authority of that person or by—
    - (i) a registered medical practitioner (whether practising on his or her own or as part of a group); or

- (ii) a body corporate or unincorporate employing such practitioners (whether under a contract of service or for services),

approved by the PSPA.

### **Notification requirements**

- 6.16. Where a person recovers any damages or compensation mentioned in rules 5.24 and 6.6, that person shall, within 14 days of a right to and the amount of such damages or compensation finally being determined, provide written notice to the PSPA containing—
- (a) the person's full name;
  - (b) the person's national insurance number; and
  - (c) the total amount of damages or compensation recovered.
- 6.17. Where a person fails to provide the notice required by paragraph 6.16, no benefits shall be payable under this Scheme in respect of the period from the expiry of the 14th day mentioned in paragraph 6.16 until the date on which the notice is received by the PSPA, and where benefits have been paid to the person before the failure to give notice has been determined by the PSPA, the PSPA shall withhold all or part of any further benefits payable to the person under this Scheme until the amount of the payments made by the PSPA in respect of that period has been recovered.

### **Option to persons detrimentally affected by this Scheme**

- 6.18. This paragraph applies in relation to any benefit which is payable to or in respect of a person who, having served in an employment or office, service in which qualified persons to participate in the benefits provided under previous Injury Benefit provisions, ceased to serve therein before this Scheme came into force.
- 6.19. Where, in a case to which this paragraph applies, any provision of this Scheme would operate in relation to any person so as to place that person in a worse position than he or she would have been if that provision had not applied, that person may elect that the provision shall not apply by giving notice in accordance with paragraph 6.21.
- 6.20. A notice given pursuant to paragraph 6.20 shall be in writing and shall be delivered to the PSPA within 6 months of the coming into force of this Scheme or such longer period as the PSPA may allow.
- 6.21. An election pursuant to paragraph 6.20 shall have effect in relation to the benefit referred to in paragraph 6.19 only to the extent that such benefit has accrued by virtue of periods of service rendered prior to the cessation referred to in paragraph 6.19 (or, if there has been more than one such

cessation, the last of them before the coming into force of this Scheme) and in determining entitlement to, and the amount of, the benefit to that extent, such person shall be treated as if he or she had never recommended service at any time after that cessation (or, as the case may be, the last such cessation).

### **Forfeiture of award**

6.22. A person who has been convicted of an offence under Section 14 of the Public Sector Pensions Act 2011, or to whom Rule 71 of GUS, (Forfeiture) applies, forfeits the whole or part of an award or sum obtained by him under this scheme, as the PSPA think fit.

## **7. Special Cases**

### **Augmented award for spouse or civil partner**

- 7.1. This rule applies where a person who is or has been a firefighter dies from the effects—
- (a) of a qualifying injury, or
  - (b) of infirmity of mind or body occasioned by a qualifying injury,
- leaving a surviving adult dependent, and one of the conditions in paragraph 7.2 is satisfied.
- 7.2. The conditions are—
- (a) that the injury was received in the execution of duties performed, in circumstances in which there was an intrinsic likelihood of his or her receiving a fatal injury, for the immediate purpose of saving the life of another person or of preventing loss of human life, or
  - (b) that the PSPA is of the opinion that the preceding condition may be satisfied and that this rule should apply, or
  - (c) that the PSPA is of the opinion that the injury was received in such circumstances that it would be inequitable if this rule were not to apply.
- 7.3. Where this rule applies, paragraphs 5.17 to 5.23 of this Scheme apply with the modifications set out in paragraphs 7.4 and 7.5 below.
- 7.4. For the purpose of calculating the special pension, Rule 5.21 has effect with the substitution for “45%” of “50%”.
- 7.5. Unless they produce a more favourable result, Rule 5.22 does not apply, and the amount of the gratuity is twice the annual pay, at the date of the death, of a regular Firefighter and entitled to reckon 30 years’ service for the purposes of pay.

### **Award for or in relation to a retained or volunteer firefighter**

- 7.6. This paragraph applies to a person—
- (a) who was employed by a fire service as a retained firefighter or volunteer firefighter, and
  - (b) has retired, and
  - (c) is permanently disabled,
- if the infirmity that occasioned his incapacity for the performance of duty was occasioned by a qualifying injury.
- 7.7. A person to whom paragraph 7.6 applies shall be treated for the purposes of paragraphs 5.9 to 5.12 (scale of benefits) as having been a firefighter falling within the description in paragraph 7.11 below; but an award under paragraphs 5.9 to 5.12 shall be reduced by 75 per cent of any other pension that is then in payment.
- 7.8. This paragraph applies where—
- (a) a person dies from the effects of a qualifying injury or infirmity of mind or body occasioned by a qualifying injury, and
  - (b) he or she has been employed by a fire service as a retained or volunteer firefighter.
- 7.9. Where paragraph 7.8 applies and the deceased leaves a surviving adult dependent, the deceased shall be treated for the purposes of paragraphs 5.17, 5.17(a)(Dependant's Benefits) and 7.1 to 7.5 (special and augmented awards) as having been a firefighter falling within the description in paragraph 7.11 below.
- 7.10. Where paragraph 7.8 applies and the deceased leaves a child, the deceased shall be treated for the purposes of paragraphs 5.17, 5.17 (b), 5.19 and 5.21 (Dependant's Benefits) as having been a firefighter falling within the description in paragraph 7.11 below.
- 7.11. The firefighter mentioned in paragraph 7.7, 7.8 and 7.10 is one who is a whole-time employee of a fire service and—
- (a) was employed in the same role as the retained or volunteer firefighter and had the same service in that role; and
  - (b) was entitled to reckon as pensionable service a period equal to the retained or volunteer member's service as such.



**MADE - 4 February 2015**

**J CARTER**

*Chairman of the Public Sector Pensions Authority*

### **Explanatory Note**

(This note is not part of the Regulations)

1. This Scheme revokes and replaces the Interim Injury Benefit Scheme 2012. It provides for the payment, by the PSPA, of injury benefits to or in respect of any of the following Public Servants:
  - (i) who is a member of, or eligible to be a member of, Sections 1 (Non CARE Members) ,2,3,4 and 7 of the Isle of Man Government Unified Scheme 2011, including those serving under a contract for a fixed or limited term, except persons whose terms of appointment exclude them from the provisions of this Scheme; or
  - (ii) who is a member of, or eligible to be a member of Sections 1 (CARE Members), 5 and 6 of the Isle of Man Government Unified Scheme 2011; or
  - (iii) who, save for being a Pensioner Member of the Isle of Man Government Unified Scheme 2011, would fall under sub-paragraph (i) or (ii) above; or
  - (iv) whose employment by an Employing Authority makes them eligible for membership of the Isle of Man Government Unified Scheme 2011, but whose contract or terms and conditions of employment exclude them from membership; or
  - (v) a Retained or volunteer firefighters;
2. Such injury benefits are paid to those public servants whose earning ability is reduced or who dies as a result of an injury suffered or a disease contracted in the course of his or her duties.