
WELSH STATUTORY INSTRUMENTS

2014 No. 3242 (W. 329)

**FIRE AND RESCUE SERVICES, WALES
PENSIONS, WALES**

**The Firefighters' Pension (Wales)
Scheme (Amendment) Order 2014**

<i>Made</i>	- - - -	<i>8 December 2014</i>
<i>Laid before the National Assembly for Wales</i>	- -	<i>10 December 2014</i>
<i>Coming into force</i>	- -	<i>31 December 2014</i>

The Welsh Ministers, in exercise of the powers conferred upon the Secretary of State by section 26(1) to (5) of the Fire Services Act 1947(1) and section 12 of the Superannuation Act 1972(2) as applied by section 16(3)(3) of that Act, and now vested in them(4), make the following Order:

Title, commencement and interpretation

1.—(1) The title of this Order is the Firefighters' Pension (Wales) Scheme (Amendment) Order 2014.

(2) This Order comes into force on 31 December 2014, but, subject to paragraphs (3) to (5), has effect from 1 July 2013(5).

(3) Paragraph 12(c) of the Schedule to this Order, and so much of article 2 as relates to that provision, has effect from 25 September 2009.

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- (1) 1947 c. 41, repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c. 21).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 Wales, 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 virtue of article 3 of S.I. 2004/2918 (W. 257). By article 4 of that instrument the name of the Scheme was changed to the Firefighters' Pension (Wales) Scheme. Section 26 of the 1947 Act was amended by various Acts but those amendments are not relevant to this Order.
- (2) 1972 c. 11; section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).
- (3) Section 16 was repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 but continues to have effect, in relation to Wales, by virtue of article 3(2) of the Fire and Rescue Services Act 2004 (Firefighters' Pension Scheme) (Wales) Order 2004 S.I. 2004/2918 (W. 257).
- (4) The Secretary of State's functions under section 26 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 paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.
- (5) Power to give retrospective effect is conferred by section 12(1) of the Superannuation Act 1972 (c. 11).

(4) The following provisions of the Schedule to this Order, and so much of article 2 as relates to those provisions, have effect from 11 April 2011—

- (a) paragraph 2(f)(ii),(iii) and (iv); and
- (b) paragraph 2(g) (which inserts rule B5C (additional pension benefit)), so far as it relates to the additional pension benefit under paragraph (3) of rule B5C, and the definitions of “beginning date” and “following relevant tax year” in paragraph (6) of rule B5C.

(5) The following provisions of the Schedule to this Order, and so much of article 2 as relates to those provisions, have effect from 1 April 2014—

- (a) paragraph 15(f), (k) and (l); and
- (b) paragraph 20(b).

(6) In this Order—

“the 1992 Order” (“*Gorchymyn 1992*”) means the Firemen’s Pension Scheme Order 1992(6); “relevant fire and rescue authority” (“*awdurdod tân ac achub perthnasol*”) in relation to a person entitled to a pension, or in respect of whom a pension is payable, means—

- (a) the fire and rescue authority by whom that person was last so employed; or
- (b) where that person’s employment ceased before 1 October 2004, the fire and rescue authority which inherited the liabilities of the fire authority which last employed that person; and

“the Scheme” (“*y Cynllun*”) means the Firefighters’ Pension (Wales) Scheme as set out in Schedule 2 to the 1992 Order.

Amendment to the Firemen’s Pension Scheme Order 1992

2. Schedule 2 to the 1992 Order (in which is set out the Firefighters’ Pension (Wales) Scheme) is amended in accordance with the Schedule to this Order.

Transitional provisions

3.—(1) The amendments made by paragraph 14(a)(iv) of the Schedule to this Order, so far as they relate to the insertion of paragraph (9) to rule LA2 (special payments and transfers into Firefighters’ Pension Fund), do not have effect in relation to a person who is entitled to the payment of a pension under the Scheme and is employed by any fire and rescue authority in employment which that person took up at a date earlier than 1 July 2013.

(2) In a case to which paragraph (1) applies, rule LA2 of the Scheme, in the form in which it existed immediately before the coming into force of this Order, continues to have effect in relation to such a person.

4.—(1) This article applies to an amendment made by article 2 and the Schedule to this Order which applies in relation to the pensions which are being paid or become payable under the Scheme to or in respect of persons who, having served in an employment, service in which qualifies persons to participate in the benefits for which the Scheme provides, have ceased to serve in that employment before 1 July 2013 (whether or not they have subsequently recommenced any such service) or have died before that date.

(2) Any person who is placed in a worse position than that person would have been in if an amendment to which this article applies had not been made in relation to any pension which is being

(6) S.I. 1992/129; amended by S.I.s 1997/2309 and 2851, 1998/1010, 2001/3649 and 3691, 2004/1912 and 2918 (W. 257), 2006/1672 (W. 160), 2007/1074 (W. 112), 2009/1226 (W. 109), 2010/234, 2012/974 (W. 128), 2013/736 (W. 88) and 2014/522 (W. 63).

paid or may become payable to that person may elect that the amendment is not to apply in relation to that pension.

(3) Any such election is to be made by giving written notice to the relevant fire and rescue authority within the period of 12 months starting with the date on which this Order comes into force.

8 December 2014

Leighton Andrews
Minister for Public Services, one of the Welsh
Ministers

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SCHEDULE

Article 2

AMENDMENT OF THE FIREFIGHTERS' PENSION (WALES) SCHEME

1. In Part A (general provisions and retirement)—
 - (a) in rule A3 (exclusive application to regular firefighters)—
 - (i) in paragraph (1), for “the Social Security Act 1975” substitute “the 1993 Act”;
 - (ii) omit paragraph (3);
 - (iii) for paragraph (5) substitute—

“(5) This Scheme applies to a person who took up employment with a fire and rescue authority on or before 5th April 2006 and remains in continuous pensionable service.”; and
 - (b) omit rules A4 to A8, A12, A14 and A15.
2. In Part B (personal awards)—
 - (a) in rule B1 (ordinary pension), after paragraph (3) add—

“(4) Paragraph (2)(b) does not apply to a chief fire officer appointed after 1st July 2013.”;
 - (b) in rule B2 (short service award)—
 - (i) in paragraph (1)(a), for “retires on or after normal pension age” substitute “retires at or after normal pension age”; and
 - (ii) in paragraph (2)(a), for “Part II of Schedule 2; and” substitute “for Part 2 of Schedule 2.”;
 - (c) in rule B3 (ill health awards)—
 - (i) in paragraph (1), for “who is required to retire under rule A15 (compulsory retirement on grounds of disablement)” substitute “who retires by reason of permanent disablement(7)”; and
 - (ii) for paragraph (2) substitute—

“(2) A regular firefighter who is entitled—

 - (a) to reckon at least two years but less than five years pensionable service becomes entitled on retiring to a lower tier ill-health pension calculated in accordance with paragraph 2 of Part 3 of Schedule 2; or
 - (b) to reckon at least five years’ pensionable service becomes entitled on retiring—
 - (i) where paragraph (3) applies, to a lower tier ill-health pension calculated in accordance with paragraph 2 of Part 3 of Schedule 2, or
 - (ii) where paragraph (4) applies, to the pensions referred to in paragraph (5).”;
 - (iii) in paragraph (5)(a), omit “or 3 (as the case may be)”; and
 - (iv) in paragraph (7), for “the issue of his capacity for employment arises” substitute “the question of the firefighter’s disablement arises for decision”;
 - (d) in rule B5 (deferred pension)—
 - (i) after paragraph (1)(d)(i)(bb) insert—

(7) Within the meaning of rule A10 (disablement).

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- “(cc) any period of absence from duty without pay, not reckonable as pensionable service under rule F2(3), and”;
and
- (ii) omit paragraph (5);
- (e) in rule B5A (entitlement to two pensions)—
- (i) in paragraph (2), for “The amounts” substitute “Subject to paragraph (4A), the amounts”; and
- (ii) after paragraph (4) insert—
- “(4A) Where a firefighter is entitled to—
- (a) a lower tier ill-health pension where rule B3(3) applies,
- (b) a higher tier ill-health pension where rule B3(4) applies, or
- (c) a deferred pension under rule B5,
- the amount of the first and second pension is to be calculated in accordance with Part 3 or Part 6 (as the case may be) of Schedule 2 with the formula in this rule as modified by paragraph (4B).
- (4B) For the purpose of the calculation in paragraph (4A)—
- (a) the amount of the first pension is that found by applying the formula—
- $$(A/B) \times (B/C) \times G ;$$
- (b) the amount of the second pension is that found by applying the formula—
- $$(F/C) \times G ;$$
- (c) in sub-paragraphs (a) and (b) A, B and C have the same meaning as in paragraph (3), E and F have the same meaning as in paragraph (4) and G is the amount of the single pension that the firefighter would otherwise have been awarded.”;
- (f) in rule B5B (additional pension benefit: long service increment)—
- (i) in paragraph (2), for the words after the formula substitute—
- “where—
- A is the number in years (counting part of a year as the appropriate fraction) by which the firefighter’s continuous pensionable service in the employment of a fire and rescue authority and subsequent continuous pensionable service in the employment of another fire and rescue authority in Wales up to and including 30th June 2007, exceeds 15 but does not exceed 20; and
- B is the number in years (counting part of a year as the appropriate fraction) by which the firefighter’s continuous pensionable service in the employment of a fire and rescue authority and subsequent to continuous pensionable service in the employment of another fire and rescue authority in Wales up to and including 30th June 2007, exceeds 20 but does not exceed 30.”;
- (ii) in paragraph (3), for “Where” substitute “Until 11th April 2011, where”;
- (iii) after paragraph (3), insert—
- “(3A) On and after 11th April 2011, the amount of additional pension benefit (as calculated in accordance with paragraph (2) and paragraph (3) and, if applicable,

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paragraph (3B) and this paragraph) must be increased on the first Monday of the following relevant tax year by the same amount as any increase which would have applied if that additional pension benefit were a pension to which the Pensions (Increase) Act 1971 applied and the beginning date for that pension were 1st July of the tax year immediately before the relevant tax year.

(3B) For the avoidance of doubt, the increase of additional pension benefit in the tax year 2010/2011 must be increased by the same percentage as the percentage increase in the Consumer Prices Index in September 2010 with effect from Monday 11th April 2011.”;

(iv) in paragraph (4) for “(3)” substitute “(3) and (3A)”;

(v) in paragraph (5)—

(aa) before the expression “relevant tax year” insert—

““the beginning date” means the date on which the pension is treated as beginning for the purposes of section 8(2) of the Pensions (Increase) Act 1971;

“following relevant tax year” means the tax year after the relevant tax year, in relation to which the member is not in receipt of a pension under this Scheme or entitled to a deferred pension under rule B5;”;

(bb) in sub-paragraph (b) of the definition of “relevant tax year”, for “rule B3” substitute “rule B5; and

(g) for rule B5C (additional pension benefit: continual professional development), substitute—

“B5C Additional pension benefit

(1) Where a fire and rescue authority determines that the benefits listed in paragraph (5) are pensionable, and in any additional pension benefit year pays any such pensionable benefits to a regular firefighter, the authority must credit the firefighter with an amount of additional pension benefit in respect of that year.

(2) Subject to paragraph (3), the amount of additional pension benefit in respect of that year must be determined on 1st July immediately following the year in question in accordance with guidance and tables provided by the Scheme Actuary.

(3) The amount of additional pension benefit determined in accordance with paragraph (2) must be increased on the first Monday of the following relevant tax year by the same amount as any increase which would have applied if that additional pension benefit were a pension to which the Pensions (Increase) Act 1971 applied and the beginning date for that pension were 1st July of the tax year immediately before the relevant tax year.

(4) For the avoidance of doubt, the increase of additional pension benefit in the tax year 2010/2011 must be increased by the same percentage as the percentage increase in the Consumer Prices Index in September 2010 with effect from Monday 11th April 2011.

(5) The benefits referred to in paragraph (1) are—

(a) any allowance or supplement to reward additional skills and responsibilities that are applied and maintained outside the requirements of the firefighter’s duties under the contract of employment but are within the wider functions of the job;

(b) the amount (if any) paid in respect of a firefighter’s continual professional development;

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- (c) the difference between the firefighter’s basic pay in his or her day to day role and any pay received whilst on temporary promotion or where the firefighter is temporarily required to undertake the duties of a higher role;
 - (d) any performance related payment which is not consolidated into his or her standard pay.
- (6) In this rule—
- “additional pension benefit year” means the period of 12 months beginning with 1st July in which a firefighter is in receipt of any of the benefits listed in paragraph (5).
 - “the beginning date” means the date on which the pension is treated as beginning for the purposes of section 8(2) of the Pensions (Increase) Act 1971;
 - “following relevant tax year” means the tax year after the relevant tax year, in relation to which the member is not a pensioner member or entitled to a deferred pension under rule B5;
 - “relevant tax year” means a tax year in relation to which—
 - (a) the amount of a firefighter’s pension benefits determined under this rule for the purposes of this Scheme is taken into account for tax purposes, and
 - (b) the firefighter is not in receipt of a pension under this Scheme or entitled to a deferred pension under rule B5; and
 - “tax year” means the period of 12 months beginning with 6th April.”;
- (h) in rule B5D (additional pension benefits: supplementary provisions)—
- (i) in paragraph (2), for “paragraphs (4) and (5)” substitute “paragraph (4)”; and
 - (ii) in paragraph (3), omit “(rule A15)”;
- (i) in rule B7 (commutation — general provision)—
- (i) in paragraph (3), for “Government Actuary” substitute “Scheme Actuary”;
 - (ii) in paragraph (5), for “In the case of” substitute “Subject to paragraph (5A), in the case of”;
 - (iii) after paragraph (5), insert—
 - “(5A) Subject to paragraph (4), a fire and rescue authority may, having regard to—
 - (a) the economical, effective and efficient management of their functions, and
 - (b) the costs likely to be incurred in the particular case,pay a lump sum in excess of two and a quarter times the full amount of the pension.”;
 - and
 - (iv) in paragraph (11), for “serviceman” substitute “reservist”;
- (j) in rule B8 (commutation — small pensions)—
- (i) in paragraph (2), for “Government Actuary” substitute “Scheme Actuary”; and
 - (ii) after paragraph (3) add—
 - “(4) On the day on which the pension is commuted under this rule, all other entitlements to a pension under this Scheme are extinguished.”;
- (k) in rule B9 (allocation)—
- (i) in paragraph (7), for “the date on which he intends to retire” substitute “the day before the pension comes into payment”;
 - (ii) in paragraph (13), for “Government Actuary” substitute “Scheme Actuary”;

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- (iii) in paragraph (16), for “serviceman” substitute “reservist”; and
 - (l) in rule B12 (pension debit members), in sub-paragraph (a), for “Government Actuary” substitute “Scheme Actuary”.
3. In Part C (award on death — spouses)—
- (a) in rule C1 (spouse’s ordinary pension), for paragraph (2) substitute—
 - “(2) Where this rule applies the surviving spouse is entitled to an ordinary pension calculated in accordance with Part 1 of Schedule 3”;
 - (b) in rule C10 (pension debit members) for “Government Actuary” substitute “Scheme Actuary”.
4. In Part D (awards on death — children), for rule D5 (child’s allowance or special gratuity-limitations), substitute—

“D5 Child’s allowance: limitations and duration

- (1) Subject to paragraphs (2) and (3), a child is not eligible if the child—
 - (a) is 18 or older;
 - (b) has ceased full-time education and is in paid employment; or
 - (c) is married or has entered into a civil partnership.
- (2) A child aged 18 but not more than 23 is eligible if the child is in full-time education or attending a course of at least one year’s duration.
- (3) A child aged 18 or more is eligible if, when the deceased dies, the child is dependent on the deceased by reason of permanent disablement.
- (4) A child is not eligible if the child is convicted of the murder of the deceased, but this is subject to paragraph (6).
- (5) Subject to paragraph (7), where the child is convicted of the manslaughter of the deceased, the authority may as they think fit, withhold the child’s allowance—
 - (a) in whole or in part, and
 - (b) permanently or temporarily.
- (6) Where a conviction of the description mentioned in paragraph (4) is quashed on appeal—
 - (a) a child’s pension is payable from the day after that on which the deceased died, and
 - (b) the authority must, as soon as reasonably practicable after the conviction is quashed, pay the arrears of allowance accrued.
- (7) Where—
 - (a) a conviction of the description mentioned in paragraph (5) is quashed on appeal, and
 - (b) the authority have withheld any part of the child’s allowance,the authority’s decision under paragraph (5) is to be treated as revoked and they must, as soon as reasonably practicable after the conviction is quashed, pay the arrears of allowance accrued from the day after that on which the deceased died.
- (8) Nothing in paragraph (6) or (7) affects the application of paragraph (4) or (5) if the child whose conviction is quashed is subsequently convicted of the murder or manslaughter of the deceased.

- (9) A child's allowance ceases to be payable—
- (a) unless paragraph (2) or (3) applies, on the child's 18th birthday or on the occurrence of the event referred to in paragraph (1)(b) or (c), whichever first occurs;
 - (b) where paragraph (2) applies, on the child's 23rd birthday or the day on which the child's full-time education or course ceases, whichever first occurs;
 - (c) where paragraph (3) applies, when the authority are satisfied—
 - (i) that the child is no longer permanently disabled; or
 - (ii) that the child's allowance should not have been awarded.
- (10) Unless paragraph (9)(c) applies, an allowance for which a child is eligible as mentioned in paragraph (3) is payable for life.”
5. In Part E (awards on death — additional provisions)—
- (a) in rule E1 (lump sum death grant)—
 - (i) in paragraph (2), for “or gratuity” substitute “gratuity or lump sum”; and
 - (ii) after paragraph (5), add—

“(6) The grant is to be paid before the end of the period of two years beginning with the earlier of the day on which the Scheme administrator knew of the member's death and the day on which the Scheme administrator could first reasonably be expected to have known of it.”;
 - (b) in rule E3 (dependent relative's gratuity), in paragraph (2)(b), after “Scheme” insert “in respect of the same firefighter”;
 - (c) in rule E4 (payment of balance of contributions to estate)—
 - (i) in paragraph (2)(f), for “Government Actuary” substitute “Scheme Actuary”; and
 - (ii) for paragraph (4), substitute—

“(4) The fire and rescue authority must pay a post retirement death grant to the deceased's personal representatives.

(5) In this rule, a “post retirement death grant” is an amount representing the difference between the aggregate of the relevant amounts and the deceased's aggregate pension contributions.”;
 - (d) in rule E5 (lump sum in lieu of surviving spouse's or civil partner's pension)—
 - (i) in paragraph (1)—
 - (aa) for “Part 1 of Schedule 29 (lump sum rule)”, substitute “Part 2 of Schedule 29 (lump sum death benefit rule)”; and
 - (bb) omit “whole or part of the”;
 - (ii) in paragraph (2)(a), for “rule C1” substitute “Part C (awards on death — spouses)”; and
 - (iii) in paragraph (5), for “Government Actuary” substitute “Scheme Actuary”; and
 - (iv) after paragraph (5), add—

“(6) On the day on which the whole of a pension is commuted under this rule, all other entitlements under the Scheme of the person entitled to the pension are extinguished to the extent that they derive from the deceased member.”;
 - (e) in rule E6 (lump sum in lieu of child's allowance)—
 - (i) in paragraph (1), omit “whole or any part of the”;

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- (ii) in paragraph (3), for “commutation of the whole or part of an allowance” substitute “commutation of the allowance”; and
- (iii) after paragraph (4), add—
 - “(5) On the day on which a pension is commuted under this rule, all other entitlements under the Scheme of the person entitled to the pension are extinguished to the extent that they derive from the deceased member.”;
- (f) in rule E7 (limitation on discretion to commute pension or allowance for gratuity)—
 - (i) in paragraph (2), after “commute” omit “whole or any part of a”;
 - (ii) in paragraph (2)(b), for “Part 1 of Schedule 29”, substitute “Part 2 of Schedule 29”;
 - and
 - (iii) in paragraph (4), for “Government Actuary” substitute “Scheme Actuary”;
- (g) for rule E8 (increase of pensions and allowances during first 13 weeks), substitute—

“E8 Bereavement pension: survivors

- (1) Subject to paragraph (2), a person entitled to a pension under rule C1 (spouse’s ordinary pension) is also entitled in respect of each of the 13 weeks following death, to a bereavement pension of an amount equal to the difference between the weekly rate at which the survivor’s pension is paid and—
 - (a) if the deceased was a firefighter member when he died, the weekly rate of his or her pensionable pay when he or she died;
 - (b) in any other case, the weekly rate of his or her pension or pensions (including any increase under the Pensions (Increase) Act 1971) when he died.
- (2) No entitlement arises under paragraph (1) where—
 - (a) an election not to make pension contributions under rule G3 has effect at the date of the deceased’s death, or
 - (b) the deceased was entitled to a deferred pension that had not come into payment.”;
 - and
- (h) after rule E8, insert—

“E8A Bereavement pension: children

- (1) This rule applies to a child’s ordinary or accrued allowance under this Scheme where the deceased died—
 - (a) while serving as a regular firefighter, or
 - (b) while in receipt of a pension and—
 - (i) there is no surviving spouse or civil partner, or
 - (ii) a surviving spouse or civil partner did not become entitled to a pension which was payable for a continuous period of 13 weeks.
- (2) Subject to paragraphs (3) and (4), a person entitled to an allowance is also entitled in respect of each of the 13 weeks following death, to a bereavement pension of an amount equal to the difference between the weekly rate at which the allowance is paid and—
 - (a) if the deceased was a firefighter member when the deceased died, the weekly rate of the deceased’s pensionable pay on death;
 - (b) in any other case, the weekly rate of his or her pension or pensions (including any increase under the Pensions (Increase) Act 1971) when he or she died.

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(3) Where there is more than one eligible child, the amount paid in respect of each bereavement pension is not to be less than the amounts payable under paragraph (2)(a) or (b) divided by the number of the allowances.

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

(a) an election not to make pension contributions under rule G3 has effect at the date of the deceased's death; or

(b) the deceased was entitled to a deferred pension that had not come into payment.”

6. In Part F (pensionable service and transfer values)—

(a) in rule F1 (reckoning of and certificates as to pensionable service)—

(i) in paragraphs (1), and (7), for “serviceman” substitute “reservist”;

(ii) in paragraph (3), omit “F6”;

(iii) in paragraph (6), in both places where it occurs, for “pension or gratuity” substitute “pension, lump sum, or gratuity”;

(b) after rule F1, insert—

“ F1A Reckoning of service for purposes of awards

(1) Subject to paragraph (3), for the purpose of calculating an award payable to or in respect of an employee of a fire and rescue authority by reference to any period in years (including a period of pensionable or other service) the period must be reckoned as—

$$A + (B / 365) \text{ years}$$

where—

A is the number of completed years in the period, and

B is the number of completed days in any remaining part of a year,

and accordingly a part of a year which includes 29th February in a leap year and comprises 365 days is treated as a whole year.

(2) Where, for the purpose of calculating an award payable to or in respect of a regular firefighter—

(a) it is necessary to determine the firefighter's pensionable service reckonable by reason of service or employment before or after a particular date (“the material date”), and

(b) by virtue of the receipt by a fire and rescue authority of a transfer value, the firefighter is entitled to reckon a period of pensionable service (“the credited period”) by reason of service or employment for a period (“the previous employment period”) which includes the material date,

the credited period counts as pensionable service reckonable by reason of service or employment before and after the material date in the same proportion as that between the parts of the previous employment period falling before and after the material date.

(3) Subject to rule B13 and Part 6A of Schedule 2, any period of service as a part-time employee of a fire and rescue authority must be treated as service as a whole-time employee of a fire and rescue authority when calculating a person's pensionable service.”;

(c) in rule F2 (current service), in paragraph (4)(a), omit “(including any such additional or further contributions as are mentioned in rule G4)”;

(d) in rule F4 (previous service reckonable on payment), omit paragraphs (1), (2), (4) and (5);

(e) omit rule F6 (war service);

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- (f) in rule F6A (previous service reckonable following actionable loss)—
 - (i) in each paragraph where it occurs, for “reckonable service” substitute “pensionable service”;
 - (ii) in paragraph (1)(b), for “section 62 of the Financial Services Act 1986” substitute “section 138D of the Financial Services and Markets Act 2000⁽⁸⁾”;
 - (g) in rule F6B (calculation of amount of restitution payment), in paragraphs (2)(b)(i) and (3), for “Government Actuary” substitute “Scheme Actuary”;
 - (h) in rule F8 (transfer payments to Scottish and English fire and rescue authorities), in paragraph (1), in both places where it occurs, for “Scottish or English fire and rescue authority” substitute “English fire and rescue authority, the Scottish Fire and Rescue Service or the Northern Ireland Fire and Rescue Services Board”; and
 - (i) in rule F9 (payment of transfer values)—
 - (i) in paragraph (1)(b), for “an approved scheme” substitute “a registered scheme or a qualifying recognised overseas pension scheme within the meaning of section 169 (recognised transfers) of the 2004 Act (“an overseas pension scheme”); and
 - (ii) in paragraph (7)(b), for “an approved scheme” substitute “a registered scheme or an overseas pension scheme”.
7. In part G (pensionable pay and contributions)—
- (a) in rule G1 (pensionable pay and average pensionable pay)—
 - (i) in paragraph (1)—
 - (aa) for “Subject to paragraph (2)” substitute “Subject to paragraphs (2) and (9)”;
 - (bb) in sub-paragraph (a) for “part-time employee” substitute “part-time employee) other than those amounts payable to the firefighter in respect of the benefits within rule B5C(5)”;
 - (cc) for sub-paragraph (b) substitute—
 - “(b) the amount (if any) of any benefits which are pensionable under rule B5C(1).”;
 - (ii) for paragraph (4), substitute—
 - “(4) The relevant date—
 - (a) for the purposes of rule C7 (spouse’s or civil partner’s award where no other award payable), and the Compensation Scheme, is the date of the person’s last day of service as a regular firefighter, and
 - (b) for all other purposes of this Scheme, is the date of the person’s last day of service in a period during which contributions were payable under rule G2.”;
 - (iii) in paragraph (7C), omit “: continual professional development”; and
 - (iv) after paragraph (8) add—
 - “(9) Where before 1st July 2013 and after that date, any allowance or supplement is being paid to a firefighter which a fire and rescue authority treats as pensionable, but is not—
 - (a) pensionable pay within the meaning of paragraph (1)(a);
 - (b) additional pension benefit under rule B5B (long service increment); nor

⁽⁸⁾ 2000 c. 8; section 138D (actions for damages) was inserted by section 24 of the Financial Services Act 2012 (c. 21).

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- (c) a payment in respect of a firefighter’s continual professional development under rule B5C,
that allowance or supplement is to continue to be treated as pensionable for so long as the firefighter receives it without any break in payment.”;
- (b) in rule G2 (pension contributions)(9), after paragraph (4), insert—
“(4A) The Welsh Ministers must consult with the Scheme Actuary before making a notification under paragraph (4).”;
- (c) in rule G2A (optional pension contributions during maternity and adoption leave)(10), after paragraph (2), insert—
“(2A) But in calculating the pay on which the contributions are made, any amount which the firefighter receives on account of a day’s work carried out under regulation 12A of the Maternity and Parental Leave etc Regulations 1999(11) or regulation 21A of the Paternity and Adoption Leave Regulations 2002(12)and which exceeds any maternity, paternity or parental leave pay due for that day, is to be disregarded.”;
- (d) after rule G2A insert—

“G2B Aggregate pension contributions for the purposes of awards

- (1) A regular firefighter’s aggregate pension contributions comprise—
 - (a) all payments made by the firefighter to a fire and rescue authority that fall within paragraph (2),
 - (b) all payments made by the firefighter in accordance with a notice under rule F2 (current service),
 - (c) all payments made by the firefighter in accordance with an election under rule G2A,
 - (d) all payments made by the firefighter in accordance with an election under rule G6, and
 - (e) if paragraph (3) applies, the amount of the notional award described in paragraph (4).
- (2) The payments that fall within this paragraph are payments under this Scheme or a previous Scheme that relate to a period of service which the regular firefighter is, or was immediately before electing under rule G3 not to pay pension contributions, entitled to reckon as pensionable service and have not been refunded to him, including payments made—
 - (a) by way of rateable deductions from pay,
 - (b) by way of such additional and further payments as were mentioned in articles 57 to 59 of the 1973 Scheme(13), or
 - (c) in accordance with such an undertaking as is mentioned in Part 1 of Schedule 6.
- (3) This paragraph applies where the regular firefighter is, or was immediately before electing under rule G3 not to pay pension contributions, entitled to reckon pensionable service by reason of a period of service or employment otherwise than as a regular firefighter (“the previous employment period”).

(9) Rule G2(3) to (5) inserted by [S.I. 2007/1074 \(W. 112\)](#).

(10) Rule G2A inserted by [S.I. 2004/1912](#).

(11) [S.I. 1999/3312](#).

(12) [S.I. 2002/2788](#).

(13) [S.I. 1973/966](#).

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(4) The notional award mentioned in paragraph (1)(e) is the award by way of return of contributions or analogous payment that would have been paid to the regular firefighter if, at the end of the previous employment period, the firefighter had voluntarily retired in circumstances entitling the firefighter to such an award under the applicable superannuation arrangements.”;

- (e) in rule G3 (election not to pay pension contributions)—
 - (i) in paragraph (1), for “Subject to paragraphs (1A) and (8)” substitute “Subject to paragraph (1A)”;
 - (ii) in paragraph (1A), omit “continual professional development”;
 - (iii) in paragraph (2), for “Subject to paragraphs (3) and (3A), an election” substitute “An election”; and
 - (iv) omit paragraphs (3) to (8);
- (f) omit rule G4 (continued payment of additional and further contributions); and
- (g) in rule G6 (election to purchase increased benefits), for paragraph (4) substitute—

“(4) An election to pay periodical contributions must be made at least 2 years before the person’s normal pension age, but no such election may be made if the fire and rescue authority so resolve, unless the person has at their own expense undergone a medical examination and satisfied the authority as to his or her good health.”

8. In Part H (determination of questions and appeals)—

- (a) after rule H1 (determination by fire authority) insert—

“H1A Review of medical opinion

- (1) Where—
 - (a) new evidence on an issue wholly or partly of a medical nature is presented to the fire and rescue authority by a person (P) in respect of whom a decision has been made under rule H1,
 - (b) the authority receive that evidence—
 - (i) where a copy of an opinion was supplied in accordance with paragraph (2) of rule H2 within 28 days of the receipt by P of that copy, and
 - (ii) in any other case, within 28 days of the receipt by P of notice of the authority’s decision, and
 - (c) the authority and P agree that the IQMP should be given the opportunity of reviewing their opinion in the light of the new evidence, the authority must send a copy of the new evidence to the IQMP and invite them to reconsider their opinion.
- (2) An IQMP’s response to an invitation under paragraph (1) must be in writing (“rule H1A response”).
- (3) An IQMP’s rule H1A response is binding on the authority unless it is superseded by the outcome of an appeal under rule H2.
- (4) As soon as reasonably practicable after receiving a rule H1A response, the authority shall reconsider their decision.
- (5) Within 14 days of that reconsideration, the authority must—
 - (a) give written notice to P that they have confirmed their decision or revised their decision (as the case may be), and

- (b) if they have revised their decision, supply P with written notice of the revised decision, and supply P with a copy of the rule H1A response.”;
- (b) for rule H2 (appeal against opinion on a medical issue), substitute—

“H2

(1) A person who wishes to appeal against a fire and rescue authority’s decision on an issue of a medical nature may appeal to a board of medical referees in accordance with paragraph (1) of Part 1 of Schedule 9 (appeal to board of medical referees).

(2) Subject to paragraph (3), where a decision—

(a) is made with regard to an opinion obtained pursuant to rule H1(2) or medical evidence relied on as mentioned in rule H1(3), or

(b) is reconsidered under rule H1A(4) with regard to a rule H1A response, the authority must within 14 days of making, confirming or revising the decision (as the case may be), send to P the documents mentioned in paragraph (4).

(3) Nothing in paragraph (2) requires the supply of documents that have already been supplied under rule H1A(5).

(4) The documents are—

(a) a copy of the opinion, response or evidence (as the case may be);

(b) an explanation of the procedure for appeals under this rule; and

(c) a statement that if P wishes to appeal against an authority’s decision on an issue of a medical nature, the person must give written notice to the authority, stating the person’s name and address and the grounds of the appeal, not later than 28 days after the person receives the last of the documents required to be supplied to them under this paragraph, or within such longer period as the authority may allow.

(5) A fire and rescue authority is bound by any decision duly given on an appeal under this rule.

(6) Further provisions as to appeals under this rule are contained in Part 1 of Schedule 9.”;

- (c) for rule H3 (appeal to Crown Court or Sheriff), substitute—

“H3 Appeals on other issues

Where—

(a) a person disagrees with a fire and rescue authority’s determination under rule H1, and

(b) the person’s disagreement does not involve an issue of a medical nature,

that person may, by written notice given to the authority within 28 days of receipt of the determination, require the authority to deal with the disagreement by means of the arrangements implemented by them pursuant to the requirements of section 50 of the Pensions Act 1995⁽¹⁴⁾ (requirement for dispute resolution arrangements) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008⁽¹⁵⁾.”

9. In Part I (servicemen)—

⁽¹⁴⁾ 1995 c. 26; section 50 was substituted by section 273 of the Pensions Act 2004 (c. 35) and amended by the Pensions Act 2007 (c. 22).

⁽¹⁵⁾ S.I. 2008/649.

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- (a) in this Part, in each place where it occurs, for “serviceman” or “servicemen” substitute “reservist” or “reservists”, as the case may be;
- (b) in rule I1 (preliminary), in paragraph (1), for “the armed forces” substitute “the reserve forces”;
- (c) for rule I2 (awards to servicemen), substitute—

“Awards on permanent disablement

I2. A reservist who, at the end of his or her forces period, is permanently disabled for performing the duties of a firefighter by reason of an infirmity that—

- (a) is unrelated to any injury received during his or her forces period; and
- (b) is not a qualifying injury,

is entitled to an award under rule B3 (ill health awards).”;

- (d) in rule I3 (awards on death of servicemen)—
 - (i) in paragraph (2), for “paragraphs (3) and” substitute “paragraph”; and
 - (ii) omit paragraph (3);
- (e) in rule I5 (servicemen who do not resume service in their former brigade)—
 - (i) in paragraph (1), omit “Subject to paragraph (3),”; and
 - (ii) omit paragraph (3);
- (f) in rule I7 (pension contributions), for paragraph (2) substitute—

“(2) A reservist is for those purposes to be treated as having received no pensionable pay (and accordingly is not liable to pay contributions) in respect of any period during which the reservist’s service pay is less than the pensionable pay described in paragraph (1).”; and
- (g) after rule I7, insert—

“I8 Interpretation of Part

In this Part—

“the 1996 Act” means the Reserve Forces Act 1996⁽¹⁶⁾;

“qualifying injury” means an injury, received by a person in the performance of the person’s duties as a firefighter, which is not wholly or mainly due to the person’s own culpable negligence or misconduct;

“relevant service in the reserve forces” means service in the forces specified in section 1(2) of the 1996 Act—

- (a) in pursuance of a training obligation under Part 3 of that Act, or
- (b) by virtue of a call out for permanent service or a recall under Part 2 of the Reserve Forces Act 1980⁽¹⁷⁾ or Part 6 or Part 7 of the 1996 Act; and

“reservist” means a person who, immediately before a forces period, was a firefighter.”

10. In Part IA (pension credit members)—

- (a) in rule IA1 (pension credit member’s entitlement to pension), in paragraph (1), for “Government Actuary” substitute “Scheme Actuary”;

⁽¹⁶⁾ 1996 c. 14.

⁽¹⁷⁾ 1980 c. 9, prospectively repealed by the 1996 Act as from a date to be appointed.

- (b) in rule IA2 (commutation of the pension credit benefits), in paragraph (4), for “Government Actuary” substitute “Scheme Actuary”;
- (c) in rule IA3 (death grants where pension credit member dies before pension credit benefits payable), for “Government Actuary” substitute “Scheme Actuary”; and
- (d) in rule IA4 (application of general rules), in paragraph (4), for “(appeal to Crown Court or Sheriff)” substitute “(appeals on other issues)”.

11. In Part J (special cases), in rule J1 (guaranteed minimum pensions), for paragraph (2)(d) substitute—

“(d) in the case of a person who dies at any time after 4th December 2005 and leaves a civil partner, the civil partner is entitled to a pension at a weekly rate equal to half of that part of the deceased’s guaranteed minimum which is attributable to earnings factors for the tax year 1988-89 and subsequent tax years up to and including the tax year 1996-97.”

12. In Part K (revision and withdrawal of awards)—

- (a) in rule K1 (review of ill-health and certain deferred pensions), in paragraph (3)(a) for “rule B5” substitute “rule B5(4)(b)”;
- (b) in rule K1A (consequences of review), after paragraph (4) add—

“(5) If, on such consideration as is mentioned in rule K1(3), it is found that a person whose deferred pension is being paid early has become capable of undertaking regular employment, the person’s entitlement to early payment of the deferred pension will cease with immediate effect.”;
- (c) for rule K4 (withdrawal of pension during service as a regular firefighter) substitute—

“Withdrawal of pension whilst employed by a fire and rescue authority

K4. The fire and rescue authority by whom a pension is payable may, in their discretion, withdraw the whole or any part of the pension, except a pension under Part C (awards on death — spouses and civil partners), for any period during which the person entitled to it is employed by any fire and rescue authority in whatever capacity.”

13. In Part L (payment of awards and financial provisions)—

- (a) in rule L3 (payment of awards)—
 - (i) in paragraph (1)(b), omit “in advance”; and
 - (ii) in paragraphs (7) and (8), in each place where it occurs, for “gratuity” substitute “gratuity or lump sum”; and
- (b) in rule L4 (prevention of duplication)—
 - (i) in paragraph (1), for “or the Compensation Scheme” substitute “and the Compensation Scheme”; and
 - (ii) in paragraph (3), omit “and rule L4B”.

14. In Part LA (Firefighters’ Pension Fund)—

- (a) in rule LA2 (special payments and transfers into Firefighters’ Pension Fund)—
 - (i) in paragraph (1), for “paragraphs (2) to (8)” substitute “paragraphs (2) to (10)”;
 - (ii) in paragraph (4)—
 - (aa) in sub-paragraph (b) for “ill-health award,” substitute “ill-health award; or”;
 - and
 - (bb) after sub-paragraph (b), insert—

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- “(c) with an entitlement to payment of a deferred pension under rule B5(4)(b),”;
- (iii) in paragraph (6)—
- (aa) in sub-paragraph (a), omit “or”;
- (bb) in sub-paragraph (b), for “comes into force.” substitute “comes into force; or”; and
- (cc) after sub-paragraph (b), insert—
- “(c) on the date on which a deferred pension under rule B5(4)(b) comes into payment.”; and
- (iv) after paragraph (8), insert—
- “(9) Where an authority exercises its discretion not to withdraw the payment in whole or in part of any pension under rule K4 (withdrawal of pension whilst employed by a fire and rescue authority), the authority must in the financial year in which payment is not withdrawn, transfer into the FPF an amount equal to the amount of pension paid during that financial year to that person which could have been abated or withdrawn.
- (10) Where an authority pays an increased lump sum under rule B7(5A) (commutation — general provision) in respect of a firefighter, the authority must in the financial year in which payment is made transfer into the FPF an amount equal to the difference between the actual commuted lump sum and the commuted lump sum of two and a quarter times the full amount of the pension paid during that financial year to that firefighter.”; and
- (b) in rule LA3 (transfer from Firefighters’ Pension Fund), for paragraph (5)(a) substitute—
- “(a) a higher tier ill-health pension or a lower tier ill-health pension, or a deferred pension under rule B5(4)(b) is wholly and permanently withdrawn under rule K5 (withdrawal of pension on conviction of certain offences); and”.
- 15.** In Schedule 1 (interpretation), in Part 1 (glossary of expressions)—
- (a) after the expression “The 1999 Act”, insert—
- (i) in the first column “The 2004 Act”, and
- (ii) in the second column “The Finance Act 2004(**18**)”;
- (b) in the meaning of the expression “Aggregate pension contributions”, for “rule A8” substitute “rule G2B (aggregate pension contributions for the purposes of awards)”;
- (c) omit the expression “Approved scheme” and its meaning in the second column;
- (d) for the meaning of the expressions “Cash equivalent”, “part cash equivalent”, substitute “The first expression means a cash equivalent mentioned in section 94(1)(a) of the 1993 Act; the second expression means a variation of rights mentioned in section 98(1) of the 1993 Act.”;
- (e) for the meaning of the expression “Club scheme”, substitute “A scheme providing reciprocal arrangements for the payment and receipt of transfer values between the Scheme and other occupational pension schemes under the public sector transfer arrangements.”;
- (f) after the expression “mixed-rate service” insert—
- (i) in the first column “New Firefighters’ Pension Scheme (Wales)”, and

- (ii) in the second column, “The New Firefighters’ Pension Scheme (Wales) set out in Schedule 1 to the Firefighters’ Pension Scheme (Wales) Order 2007(19).”;
- (g) after the expression “Principal Act”, insert—
 - (i) in the first column “Registered scheme” and
 - (ii) in the second column “Construe in accordance with Part 1 of Schedule 36 to the 2004 Act.”;
- (h) omit the expression “Relevant service in the armed forces” and its meaning in the second column;
- (i) after the expression “Relevant fire and rescue authority” insert—
 - (i) in the first column “Reservist”, and
 - (ii) in the second column “The meaning given in rule I8.”;
- (j) after the expression “Reservist” insert—
 - (i) in the first column “Scheme Actuary”, and
 - (ii) in the second column “The actuary appointed by the Welsh Ministers.”;
- (k) in the entry for the expression “retained firefighter and volunteer firefighter”—
 - (i) in the first column omit “and volunteer firefighter”; and
 - (ii) in the second column after “regular firefighter” insert “or as a volunteer firefighter”;
- (l) after the entry for the expression “tax year”—
 - (i) in the first column insert “volunteer firefighter”; and
 - (ii) in the second column insert—
 - “A person employed by an authority—
 - (a) as a firefighter but not as a regular firefighter or as a retained firefighter;
 - (b) on terms under which the firefighter is, or may be, required to engage in firefighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to their 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 the firefighter receives.”
- (m) omit the expression “War service” and its meaning in the second column.

16. In Schedule 2 (personal awards), in Part 6A (calculation of awards for part-time service), in paragraph 2(1), for the meaning of A substitute—

“A is the amount of that award calculated under the relevant Part that the person would have received had the person been a whole time employee of a fire and rescue authority”.

17. In Schedule 3 (awards on death — spouses)—

- (a) in Part 1 (spouse’s ordinary pension), in paragraph 1(2)(a), for “ill-health pension” substitute “ill-health award” and for “a pension” substitute “an award”; and
- (b) in Part 3 (spouse’s accrued pension), omit paragraph 1(1)(f) and (2)(e).

18. In Schedule 4 (awards on death — children)—

(19) S.I. 2007/1072 (W. 110), amended by 2009/1225 (W. 108), 2012/972 (W. 127), 2013/735 (W. 87) and 1577 (W. 145) and 2014/523 (W. 64).

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- (a) in Part 1 (child's ordinary allowance), in paragraph 1(4)(a), for "pension" substitute "award" and for "a pension" substitute "an award"; and
 - (b) omit Part 4 (reduction in child's allowance during full-time remunerated training).
- 19.** In Schedule 5 (awards on death — additional provisions), in Part 3 (gratuity in lieu of child's lieu of child's allowance), in paragraph 2, for "Government Actuary" substitute "Scheme Actuary".
- 20.** In Schedule 6 (pensionable service and transfer values)—
- (a) in Part 2 (service reckonable on receipt of transfer value), in Part 3 (transfer payments between fire authorities) and in Part 4 (amount of transfer value), in each place where it occurs, for "Government Actuary" substitute "Scheme Actuary"; and
 - (b) in Part 4 (amount of transfer value)—
 - (i) in paragraph 2 for "Where" substitute "Subject to paragraph 7, where";
 - (ii) after paragraph 6 insert—

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

 - (a) immediately after the termination of their employment as a regular firefighter on or after 1st July 2000, took up employment as a retained firefighter;
 - (b) is a special firefighter member of the New Firefighters' Pension Scheme (Wales) under rule 1A(1) of Part 2 (scheme membership, cessation and retirement) of that Scheme from 1st July 2000, or if later, from the date before 6th April 2006 on which the person 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 (Wales) 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 (Wales) to transfer their accrued rights under this Scheme to their special membership of the New Firefighters' Pension Scheme (Wales) at the same time as their election under rule 6A of Part 11 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, not exceeding 30 years."
- 21.** Omit Schedule 7 (war service).
- 22.—**(1) In Schedule 8 (purchase of increased benefits), in Part 1 (payments)—
- (a) in paragraph 1(1), omit "subject to sub-paragraph (2)(c)," and for "normal pension age" substitute "role";
 - (b) in paragraph 1(2)(b), for "represents; and" substitute "represents.";
 - (c) omit paragraph 1(2)(c);
 - (d) in paragraph 3(1), omit "subject to sub-paragraph (2)(c)," and for "normal pension age" substitute "role";

- (e) in paragraph 3(2)(b), for “disentitlement; and” substitute “disentitlement.”;
 - (f) omit paragraph 3(2)(c); and
 - (g) in paragraphs 2 and 4, for “Government Actuary” substitute “Scheme Actuary”.
- (2) In Part 2 (calculation of appropriate amount), in paragraph 3, for “Government Actuary” substitute “Scheme Actuary”.

23.—(1) In Schedule 9 (appeals), in Part 1 (appeal to board of medical referees)—

- (a) for paragraph 1(1) substitute—

“**1.—(1)** Subject to sub-paragraph (2), written notice of appeal against a decision on an issue of a medical nature stating—

- (a) the appellant’s name and address, and
- (b) the grounds of the appeal,

must be given to the fire and rescue authority within 28 days of the date on which the appellant receives the documents referred to in rule H2(4); and where the appellant receives those documents on different dates, they will be treated for this purpose as received on the later or latest of those dates.”;

- (b) for paragraph 2 substitute—

“**2.—(1)** On receiving a notice of appeal, the authority must supply the Welsh Ministers with three copies of—

- (a) the notice of appeal,
- (b) the notice of the relevant decision,
- (c) the opinion, response or evidence (as the case may be) supplied to the appellant, and
- (d) every other document in their possession or under their control which appears to them to be relevant to the issue that is the subject of the appeal.

(2) The Welsh Ministers must refer an appeal to a board of medical referees (“the board”).”;

- (c) after paragraph 2A insert—

“**2B.—(1)** As soon as reasonably practicable after referring an appeal to the board, the Welsh Ministers must supply the board’s administrator with three copies of every document supplied under paragraph 2(1).

(2) The board must arrange for one of their number to review those documents (“the reviewing member”).

(3) As soon as reasonably practicable after concluding the review, the reviewing member must give written notice to the Welsh Ministers—

- (a) of any other information which the reviewing member considers would be desirable so as to provide the board with sufficient information for the purpose of enabling the board to determine the appeal, and
- (b) if it be the case, that it is the reviewing member’s opinion that the board may regard the appeal as frivolous, vexatious or manifestly ill-founded.

(4) On receipt of the reviewing member’s notice the Welsh Ministers must—

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- (a) where the reviewing member has notified the Welsh Ministers of the desirability of obtaining other information, require the authority to use their best endeavours to obtain that information, and
 - (b) where the notice contains an opinion of the description mentioned in sub-paragraph (3)(b), send a copy of it to the authority.
- (5) An authority which receives a copy of a reviewing member’s opinion must, as soon as reasonably practicable—
- (a) send a copy of it to the appellant, and
 - (b) by written notice to the appellant—
 - (i) advise the appellant that, if the appellant’s appeal is unsuccessful, the appellant may be required to pay the authority’s costs, and
 - (ii) require the appellant to notify them, within 14 days of the date of their notice, whether the appellant intends to pursue or withdraw the appeal.
- (6) An authority which notifies an appellant under sub-paragraph (5)(b) must inform the Welsh Ministers of the appellant’s response to their request under sub-paragraph (5)(b)(ii); and the Welsh Ministers must notify the board accordingly.”;
- (d) in paragraph 3, for “The board shall secure”, substitute “Where an appeal is to be pursued, the board must secure”;
 - (e) in paragraph 4, in sub-paragraph (2)(b) for “not less than 21 days’ notice of”, substitute “not less than two months’ notice of”;
 - (f) after paragraph 6, insert—

“**6A.**—(1) Where the appellant and the fire and rescue authority have received a copy of the report supplied under paragraph 6 and—

 - (a) the appellant and the authority (“the parties”) agree that the board has made an error of fact which materially affects the board’s decision;
 - (b) the authority must within 28 days of receipt of the report, supply the Welsh Ministers with two copies of a statement agreed between the parties setting out—
 - (i) the error of fact;
 - (ii) the correct fact, and

invite the board to reconsider its decision.

(2) The Welsh Ministers must within 14 days of receipt of the statement supply a copy of it to the board.

(3) As soon as reasonably practicable after receiving the statement, the board must reconsider its decision.

(4) Within 14 days of that reconsideration the board must—

 - (a) give written notice to the Welsh Ministers that it has confirmed its decision, or revised its decision (as the case may be), and
 - (b) if it has revised its decision, supply the Welsh Ministers with a written report of its revised decision.

(5) The Welsh Ministers must supply to the appellant and the authority a copy of the written notice confirming the board’s decision, or a copy of the written report of the board’s revised decision (as the case may be).”;
 - (g) in paragraph 8—
 - (i) for sub-paragraph (2) substitute—

“(2) Where the board—

- (a) decides an appeal in favour of the fire and rescue authority, and
- (b) reports that in its opinion the appeal was frivolous, vexatious or manifestly ill-founded,

the fire and rescue authority may require the appellant to pay them such sum, not exceeding the total amount of the fees and allowances payable to the board under paragraph 7(1), as the authority think fit.”; and

(ii) for sub-paragraph (2A) substitute—

“(2A) Where—

- (a) the appellant gives notice to the board—
 - (i) withdrawing the appeal;
 - (ii) requesting cancellation of, postponement of, or adjournment of the date appointed for an interview or medical examination under paragraph 4(2), and

the notice is given less than 22 working days before the date appointed under paragraph 4(2); or

- (b) the appellant’s acts or omissions cause the board to cancel, postpone or otherwise adjourn the date appointed under paragraph 4(2) less than 22 working days before the date so appointed,

the authority may require the appellant to pay them such sum, not exceeding the total amount of the fees and allowances payable to the board under paragraph 7(1), as the authority think fit.”; and

(h) omit Part 2 (appeal tribunals).

24. In Schedule 11 (special cases)—

- (a) omit Part 3 (calculation of pensionable service where person ceased to serve before 1st May 1975); and
- (b) omit Part 4 (modification for persons serving on 10th July 1956);
- (c) in Part 5 (application to persons affected by local government reorganisation or combination scheme)—
 - (i) in each place where it occurs, for “brigade” substitute “fire and rescue authority”;
 - (ii) in paragraph 2, omit sub-paragraph (2)(b) and the preceding “and”;
 - (iii) omit paragraph 4.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Firefighters’ Pension (Wales) Scheme (set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992) as it has effect in Wales (“the Scheme”). Some of the amendments introduce new provisions. Other amendments make corrections.

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Except as mentioned below this Order has retrospective effect from 1 July 2013. Power to give the Order retrospective effect is conferred by section 12 of the Superannuation Act 1972, as applied by section 16(3) of that Act.

In this note, unless indicated otherwise, references to a paragraph are references to paragraphs in the Schedule to this Order and references to rules and Parts are references to rules and Parts of the Scheme.

Paragraph 1 makes amendments to Part A. Paragraph 1(b) omits rule A14 (compulsory retirement on grounds of efficiency) and rule A15 (compulsory retirement on grounds of disablement). Rules A4 to A8 and A12 are also omitted.

Paragraph 2(a) amends rule B1 so that a chief fire officer, who is appointed after 1 July 2013, is no longer required to obtain the permission of the fire and rescue authority before retiring.

Paragraph 2(e) amends the formula for the calculation of pension where a person is entitled to an ill-health award or deferred pension and benefits from the entitlement to two pensions.

Paragraph 2(f)(i) makes minor corrections to rule B5B so that it is clear which pensionable service can count for the long service increment additional pension benefit. The amendment only include services with a Welsh Fire and Rescue Authority.

- Paragraph 2(g) inserts a new rule B5C which extends additional pension benefit so that it covers—
- payments to reward additional skills and responsibilities outside the requirements of the firefighter member’s duties under the contract of employment but which are within the wider functions of the job;
 - any additional pay received whilst on temporary promotion or whilst temporarily carrying out the duties of a higher role;
 - any non-consolidated performance related payment.

Any payments in respect of a firefighter member’s continuing professional development continue to be covered by additional pension benefit.

The amendments made by paragraphs 2(f)(ii), (iii) and (iv), and 2(g) in relation to paragraphs (3) and (4) of the new rule B5C, amend the method of uprating additional pension benefit for the long service increment (rule B5B) and continuing professional development (rule B5C) from using a specific index, the retail price index, to using an index in accordance with the Pensions (Increase) Act 1971. There is a specific provision to provide that the consumer price index is used for the tax year 2010/2011. These amendments have retrospective effect from 11 April 2011.

The amendments made by paragraph 2(i) to rule B7 (commutation general provision) confer a discretion on a fire and rescue authority to permit the commutation of a pension for a lump sum in excess of two and quarter times the full amount of the pension in all cases where they have had regard to the economical, effective and efficient management of their functions and the costs likely to be incurred in the particular case. Where the authority exercises this discretion an amendment by paragraph 14(iv) to rule LA2 inserting new paragraph (10) requires the authority to make a transfer into the Firefighters’ Pension Fund of an amount equal to the increase in the commuted lump sum.

Paragraph 4 substitutes a new rule D5 (child’s allowance: limitations and duration).

Paragraph 5 makes various amendments to Part E (awards on death — additional provisions).

Paragraph 6 amends Part F (pensionable service and transfer values) and in particular inserts new rule F1A (reckoning of service for purposes of awards) which repeats most of the provisions of the omitted rule A7.

Paragraph 7(a) amends the definition of pensionable pay in rule G1(1) to include payments which are pensionable under additional pension benefit (new rule B5C(1)) and provide that average pensionable pay is calculated without including any additional pension benefit payable under rule B5C. Rule G1 is also amended by the insertion of a new paragraph (9) to provide that payments which

are not within the definition of pensionable pay in rule G1(1)(a) as amended, other than additional pension benefits payable for long service or in respect of a firefighter's continual professional development, should remain pensionable only whilst the firefighter continues to receive them.

Paragraph 7(d) inserts rule G2B (aggregate pension contributions for the purposes of awards) which repeats most of omitted rule A8 (aggregate pension contributions for purposes of awards) with some amendments.

Paragraph 8 inserts a new rule and substitutes 2 new rules in Part H (determination of questions and appeals). These enable—

- the review of medical opinion where there is new evidence (rule H1A: review of medical opinion);
- improve the procedure of an appeal (new rule H2: appeal to medical referee);
- remove the right of appeal to the Crown Court or Sheriff and replace it with arrangements implemented for dispute resolution by the fire and rescue authority under section 50 of the Pensions Act 1995 (rule H3: appeals on other issues).

Paragraph 9 amends the provisions in Part I (servicemen) to reflect changes in the relevant legislation.

Paragraph 12(b) amends rule K1A to remove a deferred member's entitlement to the early payment of a deferred pension where the member has become capable of undertaking regular employment. Paragraph 12(c) substitutes a new rule K4 which extends the fire and rescue authority's power to withdraw or abate pension so this applies when a pensioner takes up employment in any role with an authority. This amendment has retrospective effect from 25 September 2009.

Paragraph 14(a)(iv) inserts a new paragraph (9) in rule LA2 (special payments and transfers into Firefighters' Pension Fund). This requires a fire and rescue authority to transfer into the Firefighters' Pension Fund an amount equal to the amount of pension paid to a person in respect of whom the authority choose not to exercise its discretion to withdraw or abate the permitted amount of the individual's pension under rule K4 (withdrawal of pension whilst employed by a fire and rescue authority). This amendment does not have effect in relation to a pensioner who took up employment before the date on which this Order comes into force.

Paragraph 15(f), (j) and (k) amends the definition of "retained firefighter" and "volunteer firefighter" so that they are now defined separately.

Paragraph 20(b) is consequential on the amendments made to the New Firefighters' Pension Scheme (Wales) by [S.I. 2014/3254 \(W.330\)](#) which provide those persons who were employed in Wales as retained firefighters between 1 July 2000 and 6 April 2006 with access to a pension scheme for that period. Paragraph 20(b) amends Part 4 of Schedule 6 to the Scheme. The amendment is to provide a different amount of transfer value where the member of the Scheme meets certain requirements.

Paragraph 23 amends Part 1 (appeal to board of medical referees) of Schedule 9 (appeals) to the Scheme by the substitution of new paragraphs for paragraphs 1(1), 2, 8(2) and 8(2A) and the insertion of a new paragraph 2B and 6A. These amendments to procedures of the board enable the board to review its decision where there has been a material error of fact, to appoint a reviewing member to ensure it has all documents required before a hearing and also to increase the grounds on which the authority may require the appellant to pay some or all of the board's costs. Paragraph 23(2) omits Part 2 (appeal tribunals) which is consequential on the amendment of rule H3 (appeals on other issues).

The Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation has been considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of this Order.

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

A copy of the assessment can be obtained from the Fire Branch, Department for Local Government and Communities, Welsh Government, Rhydycar Business Park, Merthyr Tydfil, CF48 1UZ (telephone 0300 0628219).