
STATUTORY INSTRUMENTS

2018 No. 997

**The Police and Firefighters' Pensions
(Amendment) Regulations 2018**

PART 3

Firefighter Pensions

CHAPTER 1

Amendments to the Firefighters' Pension Scheme Order 1992

39. The Firefighters' Pension Scheme Order 1992(1) is amended in accordance with regulations 40 and 41.

Increases to split pensions: 1992 Scheme

40. In rule B5A (entitlement to two pensions)(2) after paragraph (3) insert—

“(3A) The amount of the first pension determined under paragraph (3) or (4B)(a), is increased for each year before the firefighter's last day of service by an amount equivalent to that which would apply if the first pension were a pension in payment commencing from the day after the date of the firefighter's last day of service at the higher rate of pay, to which the Pensions (Increase) Act 1971(3) applied.”

Commutation of small pension credits: 1992 Scheme

41. In rule IA2(1)(4) (commutation of the pension credit benefits), for “In the circumstances described in regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (commutation of pension credit benefit: small pensions)” substitute “Where the amount of pension payable under rule IA1 does not exceed the trivial commutation lump sum limit in paragraph 7 of Schedule 29 to the Finance Act 2004 (lump sum rule)(5)”.

-
- (1) [S.I. 1992/129](#); notwithstanding the repeal of the Fire Services Act 1947 and the Fire Services Act 1959 by sections 52 and 54 of and, Schedule 2 to the Fire and Rescue Services Act 2004 (by virtue of which this Order would have lapsed), it continues in force by virtue of article 3(1) of [SI 2004/2306](#), and article 3(1) of [SI 2004/2918](#); the name of the scheme in England and Scotland was changed to the Firefighters' Pension Scheme by article 4(1) of [S.I. 2004/2306](#).
- (2) Rule B5A was inserted in relation to England by [S.I. 2008/214](#) and was amended in relation to England by [S.I. 2013/1392](#) and [S.I. 2015/589](#).
- (3) [1971 c. 56](#).
- (4) Rule IA2 was inserted by [S.I. 2001/3691](#); paragraph (1) was amended in relation to England by [S.I. 2005/2980](#); the rule was revoked in relation to England, with savings, by [S.I. 2006/3432](#).
- (5) [2004 c. 12](#); there are amendments to Part 1 of Schedule 29 not relevant to these Regulations.

CHAPTER 2

Amendment to the Firefighters' Pension Scheme (England) Order 2006

42. Schedule 1 to the Firefighters' Pension Scheme (England) Order 2006⁽⁶⁾ (the New Firefighters' Pension Scheme (England)) is amended in accordance with regulations 43 to 45.

Surviving cohabiting partners

43.—(1) In the table of contents, in the heading to Chapter 1 of Part 4, and in the entries relating to rules 1 and 5 in that Chapter, for “nominated partners” substitute “cohabiting partners”.

(2) In Part 1, in rule 2(1) (interpretation)—

- (a) in the definition of “child”⁽⁷⁾, in paragraph (a)(iii) for “nominated partner” substitute “cohabiting partner”;
- (b) after the definition of child’s pension⁽⁸⁾ insert—
 - ““cohabiting partner” has the meaning given by rule 1(5A) of Part 2;”;
- (c) omit the definition of “nominated partner”.

(3) In Part 2 (scheme membership, cessation and retirement) in rule 1 (scheme membership)—

- (a) in paragraph (5)(b) for “nominated partner” substitute “cohabiting partner”;
- (b) omit paragraphs (6) to (9)⁽⁹⁾; and
- (c) after paragraph (11)⁽¹⁰⁾ insert—

“(12) For the purposes of this rule—

a “cohabiting partner” in relation to the scheme member is a person—

- (a) who has been living with the scheme member, otherwise than as the scheme member’s spouse or civil partner,
- (b) at the date on which the question of the cohabiting partner’s status in relation to the scheme member falls to be considered, is not the spouse or civil partner of any other person,
- (c) is financially dependent on the scheme member, or is, with the scheme member, in a state of mutual financial dependency, and
- (d) is in a long-term relationship with the scheme member and could enter into a marriage or civil partnership with the scheme member;

“long-term relationship” means a relationship that has continued, to the exclusion of any other relationship, for a period of at least two years ending with the date on which the question of the person’s status in relation to the scheme member falls to be considered, or such shorter period as the authority may in any particular case think fit; and

“scheme member” means a firefighter member, a deferred member or a pensioner member.”.

(4) In Part 3 (personal awards), in rule 11(2)(a) (allocation of pension) for “nominated partner” substitute “cohabiting partner”.

⁽⁶⁾ S.I. 2006/3432.

⁽⁷⁾ The definition of “child” was amended by S.I. 2008/213 and S.I. 2014/445.

⁽⁸⁾ The definition of “child’s pension” was inserted by S.I. 2014/445.

⁽⁹⁾ There are amendments to paragraphs (6) to (9) which are not relevant to these Regulations.

⁽¹⁰⁾ Paragraph (11) was inserted by article 3 of, and paragraph 2(1) and (2) of Schedule 2 to, S.I. 2015/590.

(5) In Part 4 (survivors' pensions)(11)—

- (a) in the heading to Chapter 1 and the heading to rule 1 immediately below that, for “nominated partners”, on both occasions substitute “cohabiting partners”;
- (b) in paragraphs (1), (2) and (3) of rule 1, for “nominated partner” substitute “cohabiting partner”; and
- (c) in the heading to rule 5, for “nominated partners” substitute “cohabiting partners”.

(6) In Part 7 (reservists), in rule 3(3) (awards on death or permanent disablement) for “nominated partner” substitute “cohabiting partner”.

Increases to split pensions: 2006 Scheme

44. In Part 3, in rule 7 (entitlement to two pensions)(12)—

- (a) in paragraph (2) for “paragraphs (3) and (4)” substitute “paragraphs (3), (3A) and (4)”; and
- (b) after paragraph (3) insert—

“(3A) The amount of the first pension determined under paragraph (3), is increased for each year before the firefighter’s last day of service by an amount equivalent to that which would apply if the first pension were a pension in payment commencing from the date that paragraph (1) first applied to the member, to which the Pensions (Increase) Act 1971 applied.”.

Commutation of small pension credits: 2006 Scheme

45. In Part 6 (pension sharing on divorce), in rule 2 (commutation of whole of pension credit benefits) in paragraph (1), for “In the circumstances described in regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (commutation of pension credit benefit: small pensions)” substitute “Where the amount of pension payable under this Part does not exceed the trivial commutation lump sum limit in paragraph 7 of Schedule 29 to the Finance Act 2004 (lump sum rule)(13)”.

CHAPTER 3

Amendments to the Firefighters’ Pension Scheme (England) Regulations 2014

46.—(1) The Firefighters’ Pension Scheme (England) Regulations 2014(14) are amended in accordance with this regulation.

(2) In paragraph 45 of Schedule 2 (acceptance of club transfer value payments), after “relates to a member’s final salary benefit” insert “apart from a payment from the 1992 scheme as that scheme has effect in Scotland, Wales and Northern Ireland”.

(11) Rule 1, in Chapter 1, was amended by S.I. 2008/213 and S.I. 2014/445.

(12) Rule 7, in Part 3, was amended by S.I. 2008/213, S.I. 2014/445 and S.I. 2015/589.

(13) 2004 c. 12; there are amendments to Part 1 of Schedule 29 not relevant to these Regulations.

(14) S.I. 2014/2848.