

SCHEDULES

SCHEDULE 1

Regulation 2

Amendments to the Firefighters' Pension Scheme (Wales) Regulations 2015

1. In Part 1 (preliminary), in regulation 3 (interpretation)—

(a) in the appropriate places insert—

““adjusted lower tier ill-health pension” (*“pensiwn addasedig afiechyd haen isaf”*) has the meaning given in regulation 75(4) (annual rate of ill-health awards);”;

““connected member of the NFPS” (*“aelod cysylltiedig o CPNDT”*) has the meaning given in rule 1C of Part 2 of the NFPS;”;

““connected special member of the NFPS” (*“aelod arbennig cysylltiedig o CPNDT”*) has the meaning given in rule 1D of Part 2 of the NFPS;”;

““continued pension” (*“pensiwn parhaus”*) means—

(a) in relation to a member of the NFPS, the entitlement to a pension under rule 1B of Part 3 of the NFPS,

(b) in relation to a member of the 1992 Scheme, the entitlement to a pension under rule B2A of the 1992 Scheme;”;

““deferred member of the 1992 Scheme” (*“aelod gohiriedig o Gynllun 1992”*) means a person who is entitled to a deferred pension under rule B5 of the 1992 Scheme;”;

““deferred member of the NFPS” (*“aelod gohiriedig o CPNDT”*) has the meaning given in rule 2(1) of Part 1 of the NFPS;”;

““equivalent amount to the 1992 Scheme lower tier ill-health pension” (*“swm cyfwerth â'r pensiwn afiechyd haen isaf Cynllun 1992”*) has the meaning given in regulation 74(5) (entitlement to lower tier ill-health pension and higher tier ill-health pension);”;

““equivalent amount to the NFPS lower tier ill-health pension” (*“swm cyfwerth â'r pensiwn afiechyd haen isaf CPNDT”*) has the meaning given in regulation 74(5)(a) (entitlement to lower tier ill-health pension and to higher tier ill-health pension);”;

““initial period” (*“cyfnod dechreuol”*) has the meaning given in regulation 86 (meaning of “initial period”);”;

““pensionable service in the 2015 Scheme” (*“gwasanaeth pensiynadwy yng Nghynllun 2015”*) means any continuous pensionable service in relation to the active member's account in this scheme to which pensionable service in the 1992 Scheme was added for the purposes of regulation 66 (qualifying service) of these Regulations for the period whilst paragraph (7) of rule A3 of the 1992 Scheme continues to apply to that person;”;

(b) in the definition of “retirement pension”, after paragraph (b) insert—

- “(c) an ill-health award and the payment of any equivalent amount to the 1992 Scheme lower tier ill-health pension (if any) and the payment of any equivalent amount to the NFPS lower tier ill-health pension (if any);”.
2. In Part 2 (governance), at the end of paragraph (2) of regulation 4 (scheme manager) insert “in relation to each of the member’s pension accounts”.
3. In Part 3 (scheme membership) in Chapter 1 (eligibility for active membership), in regulation 15 (scheme employment), for paragraph (3) substitute—
- “(3) A person who is a member of the 1992 Scheme or the NFPS satisfies the requirement in this paragraph.”
4. In Part 4 (pension accounts), in Chapter 8 (retirement account), in regulation 60 (account to specify amount of retirement pension (active members))—
- (a) after paragraph (3) insert—
- “(3A) Where the active member is entitled to an equivalent amount to the 1992 Scheme lower tier ill-health pension or to an equivalent amount to the NFPS lower tier ill-health pension, the retirement account must specify that amount.”;
- (b) after paragraph (4) insert—
- “(4A) For an equivalent amount to the 1992 Scheme lower tier ill-health pension or an equivalent amount to the NFPS lower tier ill-health pension, the retirement account must specify any commutation amount.”
5. In Part 5 (retirement benefits), in Chapter 2—
- (a) in regulation 68 (annual rate of retirement pension (active members))—
- (i) in paragraph (2), for “sub-paragraphs (a), (b) and (c)” substitute “sub-paragraphs (a), (b), (ba) and (c)”;
- (ii) after paragraph (2)(b) insert—
- “(ba) the sum of —
- (i) the equivalent amount to the NFPS lower tier ill-health pension (if any) or the equivalent amount to the 1992 Scheme lower tier ill-health pension (if any) specified in the member’s retirement account,
- (ii) subtracting the commutation amount (if any) specified in that account in relation to that amount; and”;
- (b) in regulation 71 (employer initiated retirement), after paragraph (2) insert—
- “(3) Where an employer is considering making the determination in paragraph (2) in respect of an active member who is a connected member of the NFPS, or a connected special member of the NFPS, in relation to that active member’s pension account, the employer must also consider making a determination under rule 6 (pension on authority initiated early retirement) of Part 3 of the NFPS.”;
- (c) in regulation 74 (entitlement to lower tier ill-health pension and to higher tier ill-health pension), after paragraph (3) insert—
- “(4) Where an active member (A) is entitled to a lower tier ill-health pension and paragraph 22 (transition member who has not reached normal pension age under the NFPS) or paragraph 24 (transition member who has not reached normal pension age under the 1992 Scheme) of Schedule 2 to these Regulations applies in relation to A—
- (a) if paragraph 22 applies in relation to A, A is also entitled to an amount equivalent to the annual amount of a lower tier ill-health pension that would,

- if the member were entitled to payment of a lower tier ill-health pension under rule 2(2) of the NFPS, be payable to the member under the NFPS;
- (b) if paragraph 24 applies in relation to A, A is also entitled to an amount equivalent to the annual amount of a lower tier ill-health pension that would, if the member were entitled to payment of a lower tier ill-health pension under rule B3 (ill-health awards) of the 1992 Scheme, be payable to the member under the 1992 Scheme.
- (5) In these Regulations—
- (a) the amount equivalent to the annual amount of a lower tier ill-health pension in sub-paragraph (a) of paragraph (4) is referred to as the “equivalent amount to the NFPS lower tier ill-health pension” (“*swm cyfwerth â’r pensiwn afiechyd haen isaf CPNDT*”);
- (b) the amount equivalent to the annual amount of a lower tier ill-health pension in sub-paragraph (b) of paragraph (4) is referred to as the “equivalent amount to the 1992 Scheme lower tier ill-health pension” (“*swm cyfwerth â’r pensiwn afiechyd haen isaf Cynllun 1992*”).”;
- (d) in regulation 75 (annual rate of ill-health awards)—
- (i) after paragraph (3) insert—
- “(3A) In the case of a member who is entitled to an equivalent amount to the NFPS lower tier ill-health pension or to an equivalent amount to the 1992 Scheme lower tier ill-health pension, the adjusted lower tier ill-health pension includes the adjusted equivalent amount.”;
- (ii) in paragraph (4), at the appropriate place insert—
- ““the adjusted equivalent amount” (“*y swm cyfwerth addasedig*”) means—
- (a) in the case of a member who is entitled to an equivalent amount to the NFPS lower tier ill-health pension, that amount calculated—
- (i) excluding from the calculation the amount of any additional period of service purchased under Part 11 of the NFPS, and
- (ii) without the deduction of any commuted portion; and
- (b) in the case of a member who is entitled to the equivalent amount to the 1992 Scheme lower tier ill-health pension, that amount calculated without the deduction of any commuted portion;”;
- (e) in regulation 78 (consequences of review), after paragraph (6) insert—
- “(6A) Where L is entitled to an equivalent amount to the NFPS lower tier ill-health pension or to an equivalent amount to the 1992 Scheme lower tier ill-health pension, paragraphs (3) and (5) apply as if the reference to “lower tier ill-health pension” included an equivalent amount to the NFPS lower tier ill-health pension or an equivalent amount to the 1992 Scheme lower tier ill-health pension, as the case may be.”;
- (f) after regulation 80 (option to commute part of pension) insert—

“Option to commute part of an equivalent amount

80A.—(1) A member who becomes entitled to the immediate payment of an equivalent amount to the NFPS lower tier ill-health pension or to an equivalent amount to the 1992 Scheme lower tier ill-health pension may opt under this regulation to exchange part of the pension for a lump sum.

(2) The option may only be exercised—

- (a) by written notice to the scheme manager which sets out the amount to be commuted; and
 - (b) before the first payment of the equivalent amount to the NFPS lower tier ill-health pension or to an equivalent amount to the 1992 Scheme lower tier ill-health pension is made.
- (3) Where the person is entitled to the immediate payment of an equivalent amount to the NFPS lower tier ill-health pension and exercises the option to commute under this regulation, the lump sum is calculated—
 - (a) in the case of a person who is a connected member of the NFPS, in accordance with paragraphs (2) and (4) of rule 9 (commutation: general) of Part 3 of the NFPS, and
 - (b) in the case of a person who is a connected special member of the NFPS, in accordance with paragraphs (2A), (4) and (4A) of rule 9 of Part 3 of that scheme.”
- 6. In Part 6 (death benefits)—
 - (a) in Chapter 1 (interpretation), in regulation 86 (meaning of “initial period”), for “For the purposes of this Part” substitute “For the purposes of these Regulations”;
 - (b) in Chapter 2 (pensions for surviving partners)—
 - (i) in paragraph (3) of regulation 87 (surviving partner’s pension payable on death of active member) for “Subject to regulation 91 (reduction in pensions in cases of wide age disparity)” substitute “Subject to paragraph (4) and regulation 91 (reduction of pensions in cases of wide age disparity)”;
 - (ii) after paragraph (3) of regulation 87 insert—

“(4) Where the member referred to in paragraph (1) was a transition member who had additional pension benefit under rule 7A or 7B of Part 3 of the NFPS or additional pension benefit under rule B5B or B5C of the 1992 Scheme, half the amount of additional pension benefit is added to the amount of the annual rate of the surviving partner’s pension referred to in paragraph (3).”;
 - (iii) at the beginning of paragraph (2) of regulation 95 (eligible child’s pension on death of active member) insert “Subject to paragraph (3)”, and after that paragraph insert—

“(3) Where the member referred to in paragraph (1) was a transition member who had additional pension benefit under rule 7A or 7B of Part 3 of the NFPS or additional pension benefit under rule B5B or B5C of the 1992 Scheme, the amount of the additional pension benefit is added to the amount of the higher tier ill-health pension referred to in paragraph (2).”;
 - (c) in Chapter 4 (lump sum death benefits), after paragraph (4) in regulation 102 (meaning of “final pay”) insert—

“(5) Where the member referred to in paragraph (1) is a transition member and was in pensionable service under the 1992 Scheme or the NFPS, as the case may be, during the period referred to in paragraph (1)(a) or (1)(b) and service from that scheme is included in the qualifying service for the pension account in respect of which the lump sum death benefit is paid—

 - (a) pensionable pay in paragraph (1)(a) or (1)(b) includes average pensionable pay construed in accordance with rule G1 where the person was a member of the 1992 Scheme or pensionable pay under rule 1 or rule 2 of Part 11 of the NFPS where the person was a firefighter or special firefighter member of the NFPS, and

- (b) pensionable service includes pensionable service construed in accordance with rule F1 where the person was a member of the 1992 Scheme or pensionable service construed in accordance with rules 2 to 5 of Part 10 of the NFPS.”;
- (d) after paragraph (3) of regulation 105 (lump sum payable on death of active member) insert

—

“(4) Where the active member’s account in respect of which the lump sum death benefit will be paid included pensionable service reckonable under rule F1 of the 1992 Scheme as qualifying service and a dependent relative’s gratuity has been paid under rule E3 of the 1992 Scheme or the payment of the balance of contributions to estate has been paid under rule E4 of the 1992 Scheme, those amounts must be deducted from the amount of lump sum death benefit payable under this regulation.”

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

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

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

- (b) in Part 2, in paragraph 9, after sub-paragraph (2) insert—

“(2A) Where P was a full protection member of the 1992 Scheme and, after retiring from pensionable service in this scheme, became entitled to a continuous service pension under rule B1A, to an ordinary pension under rule B1, to a short service award under rule B2 or to a continued pension under rule B2A of that scheme, P ceases to be eligible to be a full protection member of the NFPS.”;

- (c) in Part 3, in paragraph 15, after sub-paragraph (1) insert—

“(1A) Where P was a full protection member of the 1992 Scheme and, after retiring from pensionable service in this scheme, became entitled to a continuous service pension under rule B1A, to an ordinary pension under rule B1, to a short service award under rule B2 or to a continued pension under rule B2A of that scheme, P ceases to be eligible to be a tapered protection member of the NFPS.”;

- (d) after Part 3 insert—

“PART 3A

Payment of ill-health benefits to transition members

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

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

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

(2) If this paragraph applies—

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

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

- (a) the annual rate of a lower tier ill-health pension payable under this scheme; and
- (b) an amount payable under regulation 74 (entitlement to lower tier ill-health pension and to higher tier ill-health pension).

(4) Where the member meets the conditions for a higher tier ill-health pension under this scheme, the adjusted lower tier ill-health pension in regulation 75(4) (annual rate of ill-health awards) includes the amount in sub-paragraph (3)(b) for the purposes of the calculation of the annual rate of the higher tier ill-health pension.

(5) If, after an ill-health award becomes payable under this scheme, a transfer value payment is made under Chapter 2 (transfers out of the Scheme) of Part 12 (transfers into and out of the Scheme) of the NFPS in respect of the member's rights under that Scheme and the transfer relates to a period of service included as qualifying service in relation to the member's retirement account, the scheme manager must deduct from the ill-health award the amount in respect of service in the NFPS which is equal to the value represented by that transfer value payment.

(6) In this paragraph—

“relevant scheme employment” (“*cyflogaeth gynllun berthnasol*”) means the continuous period of pensionable service in scheme employment in relation to the active member's account to which the qualifying service for that connected member of the NFPS, or connected special member of the NFPS, was added for the purposes of regulation 66 (qualifying service).

Transition member who reaches normal pension age under the NFPS

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

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

- (a) the equivalent amount to the NFPS lower tier ill-health pension specified under regulation 68(2)(ba) (annual rate of retirement pension (active members)) ceases to be payable under this scheme; and
- (b) the member becomes entitled under the NFPS to the immediate payment of a continued pension of a sum equal to the annual rate of the equivalent amount to the NFPS lower tier ill-health pension payable immediately before the date on which the member reaches normal pension age.

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

- 24.—(1) This paragraph applies in relation to a transition member who—
- (a) was in pensionable service in the 1992 Scheme until the day before the transition date; and
 - (b) has continued in pensionable service in relevant scheme employment, or has been treated as an active member of this scheme in relation to that employment, until that member became entitled to an ill-health award under this scheme; and
 - (c) has not reached normal pension age under the 1992 Scheme or the age at which the conditions of rule B1 (ordinary pension) as modified by rule B1A (continuous service pension) of that scheme are satisfied.
- (2) If this paragraph applies—
- (a) neither a lower tier ill-health pension nor a higher tier ill-health pension is payable under rule B3 (ill health awards) of the 1992 Scheme; and
 - (b) an ill-health award is payable under this scheme.
- (3) If the member meets the conditions for a lower tier ill-health pension only under this scheme, the annual rate of a lower tier ill-health pension payable under this scheme is the sum of—
- (a) the annual rate of a lower tier ill-health pension payable under this scheme; and
 - (b) an amount payable under regulation 74(4) (entitlement to lower tier ill-health pension and to higher tier ill-health pension).
- (4) If the member meets the conditions for a higher tier ill-health pension under this scheme, the adjusted lower tier ill-health pension in regulation 75(4) (annual rate of ill-health awards) includes the amount in sub-paragraph (3)(b) for the purposes of the calculation of the annual rate of the higher tier ill-health pension.
- (5) If, after an ill-health award becomes payable under this scheme, a transfer value payment is made under rule F9 (payment of transfer value) of the 1992 Scheme in respect of the member's rights under that scheme and the transfer relates to a period of service included as qualifying service in relation to that member's retirement account, the scheme manager must deduct from the amount of the ill-health award an amount in respect of service in the 1992 Scheme which is equal to the value represented by that transfer value payment.
- (6) In this paragraph—
- “relevant scheme employment” (“*cyflogaeth gynllun berthnasol*”) means the continuous period of pensionable service in scheme employment in relation to the active member's account to which the pensionable service in the 1992 Scheme was added for the purposes of regulation 66 (qualifying service).

Transition member who reaches normal pension age under the 1992 Scheme

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

- (2) When the member reaches normal pension age under the 1992 Scheme or the age for retirement ascertained under rule B1A(3)(i) of that scheme—
- (a) the member ceases to be entitled to the immediate payment of the equivalent amount to the 1992 Scheme lower tier ill-health pension under regulation 74(4)(b) (entitlement to lower tier ill-health pension and to higher tier ill-health pension) under this scheme; and
 - (b) the member becomes entitled under the 1992 Scheme to the immediate payment of a continued pension of a sum equal to the annual rate of the equivalent amount of the 1992 Scheme lower tier ill-health pension payable immediately before the date on which the member reaches normal pension age or the age for retirement ascertained under rule B1A(3)(i) of the 1992 Scheme.

PART 3B

Payment of death benefits in respect of transition members

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

- 26.—(1) This paragraph applies in relation to a transition member who—
- (a) was in pensionable service in the 1992 Scheme until the day before the transition date;
 - (b) has continued in pensionable service in scheme employment, or to be treated as an active member of this scheme, until that member dies; and
 - (c) dies as an active member of this scheme.
- (2) Awards for surviving spouses and civil partners are not payable under Part C (awards on death: spouses) of the 1992 Scheme in respect of a member to whom this paragraph applies.
- (3) A surviving spouse or civil partner of a member to whom this paragraph applies is not entitled to receive a bereavement pension under rule E8 of the 1992 Scheme.

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

- 27.—(1) This paragraph applies in relation to a transition member with continuity of service who is a connected member of the NFPS or a connected special member of the NFPS—
- (a) who dies as an active member of this scheme; and
 - (b) whose period of qualifying service is at least 3 months.
- (2) Pensions for an eligible child are not payable under the NFPS in respect of that member.

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

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

- (a) was in pensionable service in the 1992 Scheme until the day before the transition date;
- (b) has continued in pensionable service in scheme employment, or has been treated as an active member of this scheme, until that member dies; and
- (c) dies as an active member of this scheme.

(2) Awards for an eligible child are not payable under Part D (awards on death – children) and a bereavement pension is not payable under rule E8A of the 1992 Scheme in respect of that member.

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

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

(2) Subject to sub-paragraph (3), where T dies as a pensioner member of the NFPS, the amount of the lump sum death benefit payable under this scheme is the greater of the amount of the lump sum death benefit payable under regulation 105(2) and the amount of post-retirement death grant payable under rule 2 (post-retirement death grant) of Part 5 of the NFPS.

(3) Where T at the time of T's death was a pensioner member of this scheme and an active member of this scheme, and regulation 107 (lump sum payable on death in certain cases) applies, in a case where the greater amount of the lump sum death benefit payable is that under regulation 106 (lump sum payable on death of pensioner member), "regulation 105" in sub-paragraph (2) is to be read as "regulation 106".

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

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

(2) Sub-paragraph (3) applies where paragraph (7) of rule A3 of the 1992 Scheme applied to T immediately before T died and a lump sum death grant of an amount specified in regulation 105(2) (lump sum payable on death of active member) of this scheme is payable to those persons that the scheme manager determines under regulation 104 (person to whom lump sum death benefit payable) and—

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

(3) Where this sub-paragraph applies, the payments which have been made and are referred to in paragraphs (a), (b) or (c) of sub-paragraph (2) must be deducted from the lump sum death grant payable under regulation 105.

(4) Sub-paragraph (5) applies where T dies as a deferred member of the 1992 Scheme or in receipt of a pension from that scheme and a lump sum death grant of an amount specified in regulation 105(2) of this scheme is payable to those persons that the scheme manager determines under regulation 104 and—

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

(5) Where this sub-paragraph applies, the payments which are referred to in paragraphs (a) or (b) of sub-paragraph (4) and which have been made must be deducted from the amount of lump sum death grant payable under regulation 105.

PART 3C

Transitional provisions relating to the NFPS and the 1992 Scheme

Pensionable service under the NFPS

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

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

- (a) the provisions relating to the payment of periodical contributions for the purchase of additional service if T had made an election to purchase additional service under rule 6 (election to purchase additional service) or if T returns to pensionable service as a firefighter after a period of unpaid service or absence and T elects to purchase additional service in respect of the period before the transition date under that rule; and
- (b) the provisions relating to the payment of the mandatory special period pension contributions payable in respect of an election to purchase service during the limited period under rule 6A (election to purchase service during the limited period).

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

Final salary of certain transition members for any purposes of the NFPS

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

(2) Subject to sub-paragraphs (3) to (5), in determining T’s final pensionable pay for any purposes of the NFPS under Schedule 7 to the 2013 Act (final salary link)—

- (a) the provisions of paragraph 1 or paragraph 2 of that Schedule apply as if the reference to “final salary” were a reference to “final pensionable pay”, and
- (b) pensionable pay derived from service under this scheme is to be regarded as derived from service under the NFPS.

(3) Where T’s pensionable pay derived from service under this scheme at a time when T’s final pensionable pay is determined for any purposes of the NFPS under Schedule 7 (final salary link) to the 2013 Act is lower than T’s pensionable pay derived from service under the NFPS on the day before the transition date—

- (a) sub-paragraph (2) does not apply; and
- (b) T’s final pensionable pay is determined in accordance with rule 1 (pensionable pay) and rule 2 (final pensionable pay) of Part 11 of the NFPS.

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

(5) The definition of pensionable pay derived from service under this scheme in regulation 26 (pensionable pay) is modified for the purposes of sub-paragraphs (2) and (4) by the omission of paragraph (1)(d) of that regulation, and in a case where T is being paid an allowance or supplement within the meaning of paragraph (6) of rule 1 to Part 11 of the NFPS which the employer would have treated as pensionable under that scheme were the member still a firefighter member of that scheme, that amount is treated as included in pensionable pay for the purposes of determining T’s final pensionable pay under the NFPS.

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

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

(2) Subject to sub-paragraphs (3) to (5), in determining T’s average pensionable pay for any purposes of the 1992 Scheme under Schedule 7 to the 2013 Act (final salary link)—

- (a) the provisions of paragraph 1 of that Schedule apply as if the reference to “final salary” were a reference to “average pensionable pay”, and
- (b) pensionable pay derived from service under this scheme is to be regarded as derived from service under the 1992 Scheme.

(3) Where T’s pensionable pay derived from service under this scheme at the time when T’s average pensionable pay is determined for any purposes of the 1992 Scheme under Schedule 7 to the 2013 Act (final salary link) is lower than T’s pensionable pay derived from service under the 1992 Scheme on the day before the transition date—

- (a) sub-paragraph (2) does not apply, and
- (b) T's average pensionable pay is determined in accordance with rule G1 (pensionable pay and average pensionable pay) of the 1992 Scheme.

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

(5) The definition of pensionable pay derived from service under this scheme in regulation 26 is modified for the purposes of sub-paragraphs (2) and (4) by the omission of paragraph (1)(d) of that regulation, and in a case where the member of the 1992 Scheme is being paid an allowance or supplement within the meaning of paragraph (9) of rule G1 (pensionable pay and average pensionable pay) which the employer would have treated as pensionable pay under that Scheme were the member still entitled to reckon pensionable service in that Scheme, that amount is included in pensionable pay for the purposes of determining T's average pensionable pay under the 1992 Scheme.

Continuous pensionable service under the 1992 Scheme

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

(2) The requirement in paragraph (1) that T has remained in pensionable service under this scheme is satisfied where T has been or is treated as an active member of this scheme.

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

(4) For the purposes of calculating the pension under rule B1A of the 1992 Scheme and for the commutation under rule B7 (commutation – general provision) of that scheme, pensionable service under this scheme is reckonable under rule F2 (current service) of that scheme as 2015 pensionable service.

(5) Where T had elected to pay periodical contributions for increased benefits under rule G6 (election to purchase increased benefits) of the 1992 Scheme, these continue to be payable as if T continued in pensionable service under the 1992 Scheme until T leaves pensionable service under the 2015 Scheme.

(6) If after the transition date T returns to work following a period of maternity or adoption leave and is entitled to elect to pay pension contributions under rule G2A (optional pension contributions during maternity and adoption leave) of the 1992 Scheme in respect of that period, the election may only be made in respect of the period before the transition date.

(7) Where this paragraph applies and T is entitled to an ordinary pension under rule B1 (ordinary pension) of the 1992 Scheme or a short service award under rule B2 (short service award) of that scheme, T's ordinary pension or short service

award, as the case may be, is calculated in accordance with Part 2A of Schedule 2 to the 1992 Scheme and Part 1 and Part 2 of Schedule 2 to that scheme do not apply.

Deferred member of the 1992 Scheme

35. A transition member with accrued benefits in the 1992 Scheme to whom paragraph 34 does not apply is a deferred member of the 1992 Scheme.

Deferred member of the NFPS

36.—(1) A transition member with continuity of service (T), who is a connected member of the NFPS or a connected special member of the NFPS, does not become a deferred member of that scheme unless T becomes a deferred member of this scheme in relation to the active member's account to which the qualifying service for that connected member of the NFPS or connected special member of the NFPS was added.

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

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

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

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

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

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

- (a) the member's transition date;
- (b) if the member decides not to appeal, the expiry of 28 days from the date on which the member received the last of the documents which the authority is required to supply under rule 4 (appeals against decisions based on medical advice) of Part 8 of the NFPS;
- (c) if the member withdraws the appeal, the date of the withdrawal of the appeal; and
- (d) where the member's appeal has been heard, the expiry of 28 days from the date on which the member received the report by the board of medical referees where no statement has been supplied by the authority to the Welsh Ministers or, where the board reconsiders its decision, the notice confirming the decision or the revised decision.

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

38.—(1) This paragraph applies if the authority has decided to obtain the written opinion of an IQMP under rule H1 (determination by fire authority) of the 1992 Scheme concerning whether a member of that scheme is permanently disabled or able to undertake regular employment before making a determination as to whether a member is entitled to an ill-health award, and the determination has not been made before the member's transition date.

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

- (a) the member's transition date;
- (b) if the member decides not to appeal, the expiry of 28 days from the date on which the member received the last of the documents which the authority is required to supply under rule H2A (appeals against opinion based on medical advice) of Part H of the 1992 Scheme;
- (c) if the member withdraws the appeal, the date of the withdrawal of the appeal; and
- (d) where the member's appeal has been heard, the expiry of 28 days from the date on which the member received the report by the board of medical referees or, where the board reconsiders its decision, the notice confirming the decision or the revised decision.

Repayment of contributions under the NFPS

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

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

Qualifying for retirement benefits under the NFPS

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

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

Qualifying for retirement benefits under the 1992 Scheme

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

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

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

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

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

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

PART 3D

Transfer of final salary benefits

Meaning of “final salary benefit”

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

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

Acceptance of club transfer value payments

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

Member of this scheme or the NFPS

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

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

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