

SCHEDULE 1

Amendment of the Firefighters' Compensation Scheme (Wales) Order 2007

Amendment of Part 1 (general provisions)

1.—(1) Part 1 is amended as follows.

(2) In rule 2(1) (interpretation)—

(a) at the appropriate places insert—

““the 2015 Regulations” means the Firefighters' Pension Scheme (Wales) Regulations 2015(1);”;

““the 2015 Scheme” means the Firefighters' Pension Scheme 2015 set out in the 2015 Regulations;”;

““active member of the 2015 Scheme” has the meaning given in regulation 28 (active membership) of the 2015 Regulations;”;

““active member's account” means the account established under regulation 40 (establishment of active member's account) of the 2015 Regulations;”;

““eligible child's pension” has the meaning given in regulation 91 (eligible child's pension) of the 2015 Regulations;”;

““final pay” has the meaning given in regulation 102 (meaning of “final pay”) of the 2015 Regulations;”;

““member of the 2015 Scheme” has the same meaning as “member” in regulation 3 (interpretation) of the 2015 Regulations;”;

““scheme employment” has the meaning given in regulation 15 (scheme employment) of the 2015 Regulations;”;

(b) for the definition of “normal pension age” substitute—

““normal pension age” in relation to employees of a fire and rescue authority appointed on terms under which they are or may be required to engage in firefighting—

(a) in relation to the 1992 Scheme, means 55;

(b) in relation to the 2007 Scheme, means 60;

(c) in relation to the 2015 Scheme, means 60(2);”;

(c) in the definition of “pensionable pay”, for sub-paragraph (c) substitute—

“(c) in relation to a person who is a member of the 2015 Scheme, shall be construed in accordance with regulation 26 (pensionable pay) of the 2015 Regulations;

(d) in the case of a person who is not a member of any of these schemes, shall be construed in accordance with rule 11 of this Part;”;

(d) in the definition of “pensionable service”, at the end insert—

“(c) in relation to the 2015 Scheme, means the continuous period of pensionable service, in relation to an active member's account for the scheme employment in respect of which the award under this scheme is payable and any of the following types of service that have been added to, or transferred to, that account—

(1) S.I. 2015/622 (W. 50).

(2) See section 10(2) of the Public Service Pensions Act 2013 (c. 25).

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- (i) if applicable, any periods of pensionable service in relation to the 1992 Scheme or the 2007 Scheme that relate to the person’s employment which is the same as, or most similar to, the employment in respect of which the award is payable;
 - (ii) if applicable, any periods of pensionable service relating to any transfer value payments accepted under Part 10 (transfers) of the 2015 Regulations in respect of the person’s accrued rights under another occupational pension scheme;
 - (iii) if applicable, any periods of service relating to any pension account entries transferred in accordance with regulation 158 (transfer of pension account entries) of the 2015 Regulations; and
 - (iv) if applicable, any periods of service relating to an added pension account established under regulation 47 (establishment of added pension account) of the 2015 Regulations relating to the member’s scheme employment in respect of which the award is payable, such periods of service are to be calculated in accordance with such guidance as is provided for the purpose by the Government Actuary;”;
- (e) for the definition of “relevant service” substitute—
- ““relevant service”, except in rule 1 of Part 7 (servicemen) and rule 1 of Part 7A (reservists), means service which either was, or would have been, reckonable as pensionable service but for—
- (a) an election under rule G3 of the 1992 Scheme;
 - (b) an election under rule 5 of Part 2 of the 2007 Scheme;
 - (c) the exercise of an option not to become an active member of the 2015 Scheme in accordance with Chapter 2 (pensionable service) of Part 3 of the 2015 Regulations;
 - (d) a failure to elect under—
 - (i) rule G2A(3) of the 1992 Scheme;
 - (ii) rule 4 of Part 11 of the 2007 Scheme; or
 - (iii) regulation 122(3) (contributions during child-related leave) of the 2015 Regulations; or
 - (e) a failure to exercise an option to become an active member of the 2015 Scheme in accordance with regulation 21 (opting into this scheme) of the 2015 Regulations;”.
- (3) In rule 11(1) (determining pensionable pay in certain cases)—
- (a) after the words “the 2007 Scheme”, where they occur for the first time, insert “or the 2015 Scheme”;
 - (b) for sub-paragraph (c) substitute—
 - “(c) regulation 26 of the 2015 Regulations in the case of a person who—
 - (i) exercised an option not to become an active member of the 2015 Scheme in accordance with Chapter 2 of Part 3 of the 2015 Regulations; or
 - (ii) did not exercise an option to become an active member of the 2015 Scheme in accordance with regulation 21 of the 2015 Regulations;

(3) Rule G2A was inserted by S.I. 2004/1912 and amended by S.I. 2006/1672 (W. 160).

- (d) rule 1 of Part 11 of the 2007 Scheme, where an election had been made at different times under the 1992 Scheme and the 2007 Scheme;
- (e) except where sub-paragraph (d) applies, regulation 26 of the 2015 Regulations, in the case of a person who had at different times, in relation to all of the schemes (namely, the 1992 Scheme, the 2007 Scheme and the 2015 Scheme), or a combination of any two of them—
 - (i) made an election referred to in sub-paragraph (a) or sub-paragraph (b); or
 - (ii) exercised or not exercised an option referred to in sub-paragraph (c), as the case may be.”;
- (c) after paragraph (3) insert—
 - “(3A) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 2015 Scheme, the award must be calculated on the basis of the pay which would have been the final pay if the person had not, in respect of sub-paragraph (c)(i), exercised an option, or in respect of sub-paragraph (c)(ii) failed to exercise an option.”