
WELSH STATUTORY INSTRUMENTS

2023 No. 961

The Firefighters' Pensions (Remediable Service) (Wales) Regulations 2023

PART 7

Provision about special cases

CHAPTER 1

Ill-health retirement

Entitlement to ill-health benefits where a remedy member's legacy scheme is the 1992 scheme

54.—(1) Paragraph (2) applies where—

- (a) a remedy member (“M”) is a 1992 IHR member, and
- (b) M’s entitlement to an ill-health award has not been assessed under regulation 74(1)(a) or (2)(a) of the 2015 Regulations.

(2) The scheme manager must obtain the opinion of an IQMP on the following questions—

- (a) whether M would, at the time of the original decision, have met the criteria to be entitled to a lower tier award under the 2015 scheme, and
- (b) whether M would, at the time of the original decision, have met the criteria to be entitled to a higher tier award under the 2015 scheme.

(3) Paragraph (4) applies where—

- (a) a remedy member’s (“M’s”) legacy scheme is the 1992 scheme,
- (b) M’s entitlement to an ill-health award was assessed under regulation 74(1)(a) or (2)(a) of the 2015 Regulations,
- (c) it was determined in accordance with that regulation that—
 - (i) M was entitled to neither a lower tier award nor a higher tier award, or
 - (ii) M was entitled to a lower tier award but was not entitled to a higher tier award,
- (d) M resigned or was dismissed from their employment within 3 months of the determination, and
- (e) M is a deferred or pensioner member of the 2015 scheme.

(4) The scheme manager must obtain the opinion of an IQMP on the following questions—

- (a) where it was determined that M was entitled to neither a lower tier award nor a higher tier award—
 - (i) whether M would, at the time of the original decision, have met the criteria to be entitled to a lower tier award under the 1992 scheme, and

- (ii) whether M would, at the time of the original decision, have met the criteria to be entitled to a higher tier award under the 1992 scheme;
 - (b) where it was determined that M was entitled to a lower tier award but not to a higher tier award, whether M would, at the time of the original decision, have met the criteria to be entitled to a higher tier award under the 1992 scheme.
- (5) An IQMP who is to provide an opinion on a question in accordance with this regulation must—
 - (a) examine or interview M as the IQMP thinks it is necessary to provide an opinion on the question, and
 - (b) give the scheme manager and M a written opinion containing a decision on the question.
- (6) For the purpose of providing an opinion in accordance with this regulation and subject to paragraph (5)(a), the IQMP may only have regard to information that was available or could have been produced at the time of the original decision.
- (7) The scheme manager must determine whether M is entitled to an ill-health award, and the provisions of Part 12 of the 2015 Regulations apply to—
 - (a) a determination under this paragraph as if it were a determination under regulation 161 of those Regulations, and
 - (b) an opinion of the IQMP obtained under this regulation as if it were an opinion of the IQMP obtained in accordance with that Part.
- (8) Where it is determined that M is entitled to an ill-health award M is to be treated for the purposes of the PSPJOA 2022 and of these Regulations as being entitled to that ill-health award from the time of the original decision.
- (9) In this regulation, “original decision” means—
 - (a) for the purposes of paragraphs (1) and (2), the decision under Part H of Schedule 2 to the 1992 Order by virtue of which M became entitled to an ill-health award under the 1992 scheme;
 - (b) for the purposes of paragraphs (3) and (4), the decision under Chapter 4 of Part 5 of the 2015 Regulations by virtue of which it was determined that M was not entitled to a lower tier award or, as the case may be, a higher tier award under the 2015 scheme.