
WELSH STATUTORY INSTRUMENTS

2022 No. 343 (W. 85)

PUBLIC SERVICE PENSIONS, WALES

**The Firefighters' Pension Scheme
(Wales) (Amendment) Regulations 2022**

<i>Made</i>	- - - -	<i>21 March 2022</i>
<i>Laid before Senedd Cymru</i>		<i>22 March 2022</i>
<i>Coming into force</i>	- -	<i>30 March 2022</i>

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 1(1) and (2)(f), 2(1)(1) and 3(1), (2)(c) and (3)(a) of the Public Service Pensions Act 2013 (“the 2013 Act”)(2).

In accordance with section 21 of the 2013 Act(3), the Welsh Ministers have consulted such persons (or the representatives of such persons) as appear to the Welsh Ministers likely to be affected by these Regulations.

In accordance with section 3(5) of the 2013 Act, these Regulations are made with the consent of the Treasury.

Title and commencement

1.—(1) The title of these Regulations is the Firefighters' Pension Scheme (Wales) (Amendment) Regulations 2022.

(2) These Regulations come into force on 30 March 2022.

(3) In these Regulations, “the 2015 Regulations” means the Firefighters' Pension Scheme (Wales) Regulations 2015(4).

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

2.—(1) Regulation 74 (entitlement to lower tier ill-health pension and higher tier ill-health pension) of the 2015 Regulations is amended as follows.

(2) After paragraph (1) insert—

(1) See also paragraph 6(b) of Schedule 2.
(2) 2013 c. 25. Section 3 was amended by section 94(2) to (6) of the Public Service Pensions and Judicial Offices Act 2022 c. 7.
(3) Section 21 was amended by section 94(8) of the Public Service Pensions and Judicial Offices Act 2022.
(4) S.I. 2015/622 (W. 50); relevant amending instruments are S.I.s 2015/1016 (W. 71) and 2018/576 (W. 103).

“(1A) Paragraph (1) is met, and an active member is entitled to immediate payment of a lower tier ill-health pension under paragraph (1), where paragraph (2B) applies and a determination under paragraph (2C) is subsequently made that the member would have been entitled to a lower tier ill-health pension under the 1992 Scheme⁽⁵⁾ but for being transferred to this scheme.”

(3) After paragraph (2) insert—

“(2A) Paragraph (2) is met, and an active member is entitled to immediate payment of a higher tier ill-health pension under paragraph (2), where paragraph (2B) applies and a determination under paragraph (2C) is subsequently made that the member would have been entitled to a higher tier ill-health pension under the 1992 Scheme but for being transferred to this scheme.

(2B) This paragraph applies where—

- (a) prior to 1 April 2022 the authority has decided to obtain the written opinion of an independent qualified medical practitioner 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 the member is entitled to an ill-health award under rule B3 (ill-health awards) of the 1992 Scheme, and
- (b) the authority’s determination has not been made prior to 1 April 2022

(2C) Where paragraph (2B) applies the scheme manager must determine whether a lower tier ill-health pension or a higher tier ill-health pension, or both, would have been payable under rule B3 (ill-health awards) of the 1992 Scheme on 31 March 2022 had the determination referred to in paragraph (2B)(b) been made on 31 March 2022. Part 12 (determinations and appeals) of this scheme applies to the determination of the scheme manager made under this paragraph.”

3.—(1) Regulation 75 (annual rate of ill-health awards) of the 2015 Regulations is amended as follows.

(2) After paragraph (3A) insert—

“(3B) Where regulation 74(2B) applies and the determination in regulation 74(2C) is that a lower tier ill-health pension or a higher tier ill-health pension would have been payable on 31 March 2022, the scheme manager must—

- (a) calculate the annual rate of lower tier ill-health pension and (if applicable) higher tier ill-health pension that would be payable under paragraphs (2) and (3) as if regulation 74(2B) did not apply;
- (b) calculate the annual rate of lower tier ill-health pension and (if applicable) higher tier ill-health pension that would have been payable to the member as at 31 March 2022 under rule B3 (ill-health awards) of the 1992 Scheme; and
- (c) where the combined amount calculated under sub-paragraph (b) exceeds the combined amount calculated under sub-paragraph (a) adjust the annual rates payable under paragraph (2) and (3) to those calculated under sub-paragraph (b).

(3C) Regulations 77 (review of ill-health award or early payment of retirement pension) and 78 (consequences of review) apply to any amounts payable as a result of regulation 75(3B)(c).

(5) 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, 2013/736 (W. 88), 2014/522 (W. 63) and 3242 (W. 329), 2014/560, 2015/1016 (W. 71), 2018/577 (W. 104) and 2020/1511 (W. 323) and 354.

(3D) Where regulation 74(2B) applies if, after an ill-health award becomes payable under this scheme, a transfer value payment is made under rule F9 (payment of transfer values) 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 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."

4.—(1) Regulation 80 (option to commute part of pension) of the 2015 Regulations is amended as follows.

(2) After paragraph (5) insert—

“(5A) This regulation applies to a member who receives an increase in ill-health award as a result of regulation 75(3B)(c) save that paragraphs (3) and (4) do not apply and the lump sum payable is that calculated in accordance with rule B7 (commutation - general provision) of the 1992 Scheme.”

5.—(1) Regulation 162 (role of IQMP in determinations by the scheme manager) of the 2015 Regulations is amended as follows.

(2) In paragraph 2(b) for “or deferred pension age,” substitute “, deferred pension age or where regulation 74(2B) (entitlement to lower tier ill-health pension and higher tier ill-health pension) applies such other age as specified by the scheme manager,”

6.—(1) Schedule 2 (transitional provisions) to the 2015 Regulations is amended as follows.

(2) In paragraph 1 (interpretation)—

(a) in the definition of “closing date”, in paragraph (c), for “member, or” to the end substitute—

“member,

(ii) if the member is a full protection member of the 1992 Scheme or the NFPS, 31 March 2022, or

(iii) if the member is not a protected member of one of those schemes, the scheme closing date;”;

(b) in the definition of “transition date”, for “member, and” to the end substitute—

“member,

(b) if the member is a full protection member of the 1992 Scheme or the NFPS, 1 April 2022, and

(c) if the member is not a protected member of the 1992 Scheme or the NFPS, the day after the scheme closing date, or, if later, the day the person ceased to be a protected member of that scheme.”

(3) For sub-paragraph (3) of paragraph 3 (meaning of “tapered protection closing date”) substitute—

“(3) The tapered protection closing date for a tapered protection member of the NFPS to whom paragraph 9(5) or 21 applies is—

(a) 31 March 2022; or

(b) an earlier date determined by the scheme manager.”

(4) For sub-paragraph (2) of paragraph 9 (full protection members of the 1992 Scheme or the NFPS) substitute—

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

“(2) P ceases to be a full protection member of the 1992 Scheme or the NFPS, as the case may be—

(a) on 31 March 2022; or

(b) if earlier, when P ceases to be in pensionable service under that scheme and ceases to be eligible to be an active member of the NFPS, unless sub-paragraph (3) or (4) applies.”

(5) In paragraph 31(2)(a) (pensionable service under the NFPS), omit the words from “or if T returns to pensionable service” to the end.

(6) Omit paragraphs 37 (authority determines the entitlement of a member of the NFPS to an ill-health award) and 38 (authority determines the entitlement of a member of the 1992 Scheme to an ill-health award).

21 March 2022

Hannah Blythyn
Deputy Minister for Social Partnership, under
the authority of the Minister for Social Justice,
one of the Welsh Ministers

We consent

16 March 2022

Michael Tomlinson
Alan Mak
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision consequential on the Public Service Pensions and Judicial Offices Act 2022 to transfer all members of the Firefighters' Pension (Wales) Scheme ("the 1992 Scheme") and the New Firefighters' Pension Scheme (Wales) ("the 2007 Scheme") to the Firefighters' Pension Scheme (Wales) 2015 ("the 2015 Scheme") from 1 April 2022.

These Regulations amend the Firefighters' Pension Scheme (Wales) Regulations 2015 which set out the 2015 Scheme.

Regulations 2 to 5 make provision in relation to members of the 1992 Scheme who transfer to the 2015 Scheme on 1 April 2022, where a fire and rescue authority in Wales had decided prior to transfer, to obtain the written opinion of an independent qualified medical practitioner in regard to a potential ill-health award. If it is subsequently decided that an ill-health award is payable then provision is made for the award to be at least equal to that which the member would have received had the decision on their ill-health award been made under the 1992 Scheme on 31 March 2022.

Regulation 6(2)(a) provides that the definition of "closing date" in Schedule 2 (which is the last day of membership of the 1992 Scheme or 2007 Scheme) is 31 March 2022 for fully protected members.

Regulation 6(2)(b) amends the definition of "transition date" in Schedule 2 to stipulate that the first day of membership of the 2015 Scheme is 1 April 2022 for fully protected members.

Regulation 6(3) removes the power for scheme managers to set an end date for tapered protection after 31 March 2022, and stipulates that all periods of tapered protection are to end on or before this date.

Regulation 6(4) is consequential on regulation 2(2)(a) and provides that fully protected members of the 1992 Scheme or 2007 Scheme cease to be members of those schemes on 31 March 2022.

Regulation 6(5) amends paragraph 31(2) of Schedule 2 so that no new elections to purchase additional service under the 2007 Scheme may be made after 31 March 2022.

Regulation 6(6) omits paragraphs 37 and 38 of Schedule 2 so that members who are awaiting a decision on whether they are entitled to an ill-health award under the 1992 Scheme or the 2007 Scheme on 1 April 2022 are transitioned to the 2015 Scheme on that date.

The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments was considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.