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STATUTORY INSTRUMENTS

2017 No. 888

PUBLIC SERVICE PENSIONS, ENGLAND

**The Firefighters' Pension Scheme (England) (Amendment)
Regulations 2017**

<i>Made</i>	- - - -	<i>7th September 2017</i>
<i>Laid before Parliament</i>		<i>11th September 2017</i>
<i>Coming into force</i>	- -	<i>6th October 2017</i>

The Secretary of State makes these Regulations in exercise of the powers conferred by sections 1(1) and (2)(f)(a), 2(1), 3(1), (2) and (3), 18(5)(a) and (6) of, and paragraph 6(a) of Schedule 2 and paragraphs (1) to (4) of Schedule 3 to, the Public Service Pensions Act 2013(b).

In accordance with section 21 of that Act, the Secretary of State has consulted the representatives of such persons as appear to the Secretary of State to be likely to be affected by these Regulations.

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

Citation and commencement

1.—(1) These Regulations may be cited as the Firefighters' Pension Scheme (England) (Amendment) Regulations 2017 and come into force on 6th October 2017.

(2) Subject to paragraph (3), the amendments made by these regulations have effect from 1st April 2015.

(3) The amendments made by regulation 10(5) have effect from 6th October 2017.

Amendment of the Firefighters' Pension Scheme (England) Regulations 2014

2. The Firefighters' Pension Scheme (England) Regulations 2014(c) are amended in accordance with regulations 3 to 10.

Amendment to the Table of Contents

3. In the Table of Contents as regards regulation 46 for "Adjustment of provisional amount" substitute "Retirement amount of deferred pension".

(a) See also section 1(3) and Schedule 1.

(b) 2013 c. 25.

(c) S.I. 2014/2848, amended by S.I. 2014/3255, 2015/465, 2015/589, 2015/871.

Amendment to Part 3 (scheme membership)

4. In Part 3 (scheme membership) in regulation 21 (pension credit member) for “WPRA 1999” substitute “WRPA 1999”(a).

Amendments to Part 5 (retirement benefits)

5.—(1) Part 5 (retirement benefits) is amended as follows.

(2) In regulation 59(2) (annual rate of retirement pension (active members)) for “paragraphs (a), (b) and (c)” substitute “sub-paragraphs (a), (b), (ba)(b) and (c)”.

(3) In regulation 71 (option to commute part of pension) in paragraph (4)—

(a) after “exchange” insert “for a lump sum”; and

(b) in sub-paragraph (a) omit “for a lump sum”.

(4) In regulation 71A(c) (option to commute part of an equivalent amount)—

(a) in the opening words of paragraph (3) for “rule” substitute “regulation”; and

(b) after paragraph (3) insert—

“(4)Where the person is entitled to the immediate payment of an equivalent amount to the 1992 Scheme lower tier ill-health pension and exercises the option to commute under this regulation, the lump sum is calculated in accordance with rule B7 (commutation-general provision) of the 1992 Scheme.”.

Amendments to Part 6 (death benefits)

6.—(1) Part 6 (death benefits) is amended as follows.

(2) In regulation 78(1) (surviving partner’s pension payable on death of active member) for “more than” substitute “at least”.

(3) In regulation 92 (bereavement pension: eligible child) in paragraphs (3) and (4) for “surviving partner’s pension”, in each place where the words occur, substitute “eligible child’s pension”.

Amendments to Part 8 (contributions)

7.—(1) Part 8 (contributions) is amended as follows.

(2) In regulation 111 (contributions during absence from work due to illness, injury, trade dispute or authorised absence) in paragraph (2), after “may” insert “elect to”.

(3) In regulation 119(5) (refund of employer additional contribution for ill health award following review)—

(a) for “instalments of higher tier ill-health pension or lower tier ill-health pension”, substitute “instalments of higher tier ill-health additional contribution or lower tier ill-health additional contribution”; and

(b) after “in respect of P”, in the first place where those words occur, insert “from the date that the entitlement ceased”.

Amendment to Part 9 (firefighters’ pension fund)

8. In Part 9 (firefighters’ pension fund) in regulation 128(2)(b) (actual deficits) after “must repay it” insert “to”.

(a) “WRPA 1999” means the Welfare Reform and Pensions Act 1999 c. 30; see regulation 3 of S.I.2014/2848.

(b) Sub-paragraph (ba) was inserted by regulation 2 and paragraph 5(a) of Schedule 1 to, S.I. 2015/589.

(c) Regulation 71A was inserted by regulation 2 and paragraph 5(f) of Schedule 1 to, S.I. 2015/589.

Amendment to Part 12 (appeals and determinations)

9. In Part 12 (appeals and determinations) in regulation 154(4)(b) (appeals against determinations based on medical evidence) for “rule” substitute “regulation”.

Amendments to Schedule 2 (transitional provisions)

10.—(1) Schedule 2 is amended as follows.

(2) In Part 1 (general) in paragraph 3(2) for “paragraphs (3) and (4)”, substitute “sub-paragraphs (3) and (4)”.

(3) In Part 3(a) (exceptions to section 18(1) of the 2013 Act: tapered protection members of the 1992 Scheme or the NFPS) in paragraph 18(3)(c), omit “would” in the second place where it occurs.

(4) In Part 3A(b) (payment of ill-health benefits to transition members) in paragraph 22(2)(a), after “rule 2” insert “of Part 3”.

(5) In Part 3C(c) (transitional provisions relating to the NFPS and the 1992 Scheme)—

(a) in paragraph 37 (scheme manager determines member of the NFPS is not entitled to an ill-health award)—

(i) for the heading substitute “Authority determines the entitlement of a member of the NFPS to an ill-health award”;

(ii) in sub-paragraph (2) for “If this paragraph applies” substitute “If the authority subsequently determines that the member of the NFPS is not entitled to an ill-health award”; and

(iii) after sub-paragraph (2), insert—

“(3) If the authority subsequently determines that the member of the NFPS is entitled to an ill- health award—

(a) the member shall not join this scheme;

(b) the member shall continue to be a member of the NFPS; and

(c) the ill-health award shall be payable under rule 2 of Part 3 (award on ill-health retirement) of the NFPS.”; and

(b) in paragraph 38 (scheme manager determines member of the 1992 Scheme is not entitled to an ill-health award)—

(i) for the heading substitute “Authority determines the entitlement of a member of the 1992 Scheme to an ill- health award”;

(ii) in sub-paragraph (2) for “If this paragraph applies” substitute “If the authority subsequently determines that the member of the 1992 Scheme is not entitled to an ill-health award”;

(iii) in sub-paragraph (2)(b) for “H2A (appeals against opinion on medical advice)” substitute “H2 (appeal against opinion on a medical issue)”;

(iv) after sub-paragraph (2) insert—

“(3) If the authority subsequently determines that the member of the 1992 Scheme is entitled to an ill-health award—

(a) the member shall not join this scheme;

(b) the member shall continue to be a member of the 1992 Scheme; and

(c) the ill-health award shall be payable under rule B3 (ill-health awards) of the 1992 Scheme.”.

(a) Paragraph 3(2) of Schedule 2 was amended by S.I 2015/589.

(b) Part 3A was inserted by S.I 2015/589.

(c) Part 3C was inserted by S.I.2015/589.

We consent to the making of these Regulations

Heather Wheeler

David Evennett

5th September 2017

Two of the Lords Commissioners of Her Majesty's Treasury

Nick Hurd

Minister of State

Home Office

7th September 2017

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Firefighters' Pension Scheme (England) Regulations 2014 ("the 2014 Regulations"), which established a scheme for the payment of pensions and other benefits to firefighters in England from 1st April 2015.

Regulations 3, 4, 5(1) to (4)(a), 6, 7, 8, 9 and 10(1) to (4) make minor amendments to correct provisions of the 2014 Regulations.

Regulation 5(4)(b) amends regulation 71A of the 2014 Regulations to clarify how the lump sum should be calculated where a member is entitled to the immediate payment of an equivalent amount to the Firefighters' Pension Scheme 1992 (set out in Schedule 2 to the Firemen's Pension Scheme Order 1992) lower tier ill-health pension and exercises the option to commute part of the pension for a lump sum.

Regulation 10(5) amends paragraphs 37 and 38 of Schedule 2 to the 2014 Regulations to provide for the transitional arrangements in the event that the authority decides to obtain the written opinion of an independent qualified medical practitioner (a medical practitioner, as defined in the 2014 Regulations) before making a determination about a member's entitlement to an ill-health award and the determination has not been made before the member's transition date. The amendments provide that members who are subsequently granted an ill-health award shall remain in their existing pension scheme.

An impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen and the impact on the public sector is minimal.

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