
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 1 to the Firefighters' Pension Scheme (Wales) Order 2007. Some of the amendments correct errors in the New Firefighters' Pension Scheme (Wales) (“the Scheme”) set out in that Schedule. Others introduce new provisions.

Except as mentioned below, the Order has effect from 1 April 2007, which is the date from which the Scheme has effect. Power to give the Order retrospective effect is conferred by section 34 of the Fire and Rescue Services Act 2004.

The amendments specified in paragraphs 8(a) and 8(c)(i) of the Schedule to this Order correct cross-references.

Other amendments, except those made by paragraphs 3(b), 4(e) and 9(a)(i) and (b)(i) and (iii) of the Schedule, correct errors, including errors of omission. Some of those correcting amendments have resulted in the insertion of new rules or paragraphs. In particular—

the amendment made by paragraph 4(a) inserts a new paragraph (4) in rule 2 of Part 3 (award on ill-health retirement) to provide for the calculation of ill-health awards payable in the case of a firefighter member who is entitled to two pensions by virtue of rule 7 of that Part;

the amendment made by paragraph 4(f)(i) inserts new paragraphs (8A) to (8C) in rule 9 of Part 3 (commutation: general) to provide for account to be taken of any earlier commutation. This is to ensure that any subsequent pension and lump sum is reduced accordingly where an ill-health pension or a deferred pension that has been paid early is terminated under Part 9;

the amendment made by paragraph 6(c) inserts new rule 6 in Part 6 (pension sharing on divorce) which allows for the payment of a lump sum death grant where a pension credit member dies before any benefits under the Scheme become payable. The grant is to be paid to the deceased member’s personal representatives.

The amendments made by paragraphs 3(b), 4(e) and 9(a)(i) and (b)(i) and (iii) of the Schedule reflect policy changes since the introduction of the Scheme. Those made by paragraphs 3(b), 4(e), partially, and 9(b)(iii) have effect from 1 April 2007. The others have effect from 1 July 2007.

The amendment made by paragraph 4(e) of the Schedule, in so far as it inserts new rule 7A, and so much of new rule 7C as relates to rule 7A, into Part 3 of the Scheme, relates to the discontinuance, with effect from the end of June 2007, of long service increments payable to firefighters who have at least 15 years' continuous service at that point. The amount of the increment, which was pensionable, was frozen, with effect from 7 November 2003, at the annual rate of £990 and reduced, with effect from 1 October 2006, to an annual rate of £495 (with some interim and transitional payments). The effect of the amendment is that a firefighter member who was entitled to a long service increment (or a compensatory interim or transitional payment) in respect of a period including 30 June 2007 and who either retires or becomes entitled to a deferred pension on or after 1 October 2007, will be entitled to an additional pension credit in respect of long service, calculated without regard to the reduction in the annual rate.

The effect of the related amendment made by paragraph 9(b)(iii) of the Schedule, which inserts new rule 2(5A) into Part 11 of the Scheme is that the pension of a firefighter member who is entitled to additional pension benefit under new rule 7A of Part 3 will be calculated either with regard to the amount of additional pension benefit credited to the firefighter member and without regard to the firefighter member’s actual long service increment (and any compensatory interim or transitional payment) or with regard to the firefighter member’s actual long service increment (and

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any compensatory interim or transitional payment) and without regard to the amount credited to the firefighter member under new rule 7A of Part 3, according to whichever rule produces the more beneficial result for the firefighter.

The amendment made by paragraph 4(e) of the Schedule, in so far as it inserts new rule 7B, and so much of new rule 7C as relates to rule 7B, into Part 3 of the Scheme is consequential on the introduction by the National Joint Council for Local Authority Fire and Rescue Services, with effect from 1 July 2007, of a new scheme of payments in respect of continual professional development. Under that scheme the payments are subject to annual review and therefore temporary in nature. For that reason, they would not ordinarily be regarded as pensionable for the purposes of the Scheme. However, the amendment made by paragraph 9(a)(i) has the effect of making the payments part of pensionable pay. This attracts, among other provisions, those of rule 3 of Part 11 of the Scheme, which require the making of pension contributions in respect of pensionable pay. But the amendment made by paragraph 9(b)(i) provides for payments in respect of continual professional development to be disregarded for the purposes of determining the amount of final pensionable pay (on which the amount of the ordinary pension is based).

The amendment to rule 2(5) in Part 2 of the Scheme, made by paragraph 3(b) of the Schedule to this Order, ensures that a person cannot make an election to discontinue pension contributions only in respect of additional pension benefit under rule 7B.

A Regulatory Impact Assessment prepared in conjunction with this Order can be obtained from the Fire and Rescue Services Branch, Welsh Assembly Government, Rhydycar, Merthyr Tydfil, CF48 1UZ, or by calling 01685 729227.