

SCHEDULE

Article 2

AMENDMENT OF SCHEDULE 1 TO THE FIREFIGHTERS'
PENSION SCHEME (WALES) ORDER 2007

1. In Part 1 (title and interpretation), in rule 2 (interpretation), in paragraph (1) in the definition of “child”, for “scheme member”, substitute “firefighter member, a deferred member or a pensioner member” .

2. In Part 2 (scheme membership, cessation and retirement), in rule 1(scheme membership)—

(a) in paragraph (1)—

(i) at the end of sub-paragraph (b)(i), add the word “and”; and

(ii) omit sub-paragraph (b)(iii) and the word “and” immediately preceding that sub-paragraph;

(b) in paragraph (5), add at the end of sub-paragraphs (a), (b) and (c), “, deferred member or pensioner member”;

(c) for paragraph (6) substitute—

“(6) For the purposes of paragraph (5), a firefighter member, deferred member or pensioner member (referred to in this paragraph as “the scheme member”) may nominate a person (a “nominated partner”) who—

(a) has been living with the scheme member, otherwise than as the scheme member’s spouse or civil partner; and

(b) at the date on which the question of the nominated partner’s status in relation to the scheme member falls to be considered—

(i) is not the spouse or civil partner of any other person,

(ii) is registered with the scheme administrator as the scheme member’s nominated partner,

(iii) is financially dependent on the scheme member, or is, with the scheme member, in a state of mutual financial dependency, and

(iv) is in a long-term relationship with the scheme member,

but this is subject to paragraph (8).”;

(d) in paragraph (7), in the definition of “long-term relationship”—

(i) for “the period of two years”, substitute “a period of at least two years”; and

(ii) after “firefighter member”, insert “, deferred member or pensioner member”;

(e) in paragraph (8), after “firefighter member”, insert “, deferred member or pensioner member”;

(f) in paragraph (10) for “is a member of this Scheme”, substitute “is a firefighter member of this Scheme”.

3. In Part 2 (scheme membership, cessation and retirement)—

(a) in rule 2 (eligibility conditions), in paragraph (1), for sub-paragraph (b) substitute—

“(b) such transfer value payment has been made to the Scheme in respect of the member’s personal pension rights under a personal pension scheme as qualifies the member for benefits under the Scheme; or”;

(b) in rule 5 (election not to make pension contributions), after paragraph (1) insert—

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“(1A) A contributions election may not be made solely in respect of contributions relevant to additional pension benefit under rule 7B of Part 3 (additional pension benefit: continual professional development).”.

4. In Part 3 (personal awards)—

(a) in rule 2 (award on ill-health retirement)—

(i) in paragraph (3), after “calculated”, insert “, subject to paragraph (4),”; and

(ii) after paragraph (3), add—

“(4) The amount of the higher tier ill-health pension of a firefighter member who, by virtue of rule 7, is entitled to two pensions, is whichever is the greater of—

(a) the sum of the firefighter member’s lower tier ill-health pension (calculated in accordance with paragraph 1 of Annex 1) and the higher tier ill-health pension to which the firefighter member would be entitled if paragraph (3) were not subject to this paragraph (calculated in accordance with paragraph 2 or 3 of Annex 1); and

(b) the amount of the single pension to which the firefighter member would be entitled under paragraph (7) of rule 7,

and for the purposes of this paragraph it is assumed that the firefighter member had given the written notice referred to in paragraph (6) of rule 7.”;

(b) in rule 4 (cancellation of deferred pension), in paragraph (2), for “the employment” substitute “the authority’s employment”;

(c) in rule 5 (pension on member-initiated early retirement), in paragraph (5)(a), for “pensionable”, in the second place in which that word appears, substitute “reference”;

(d) in rule 7 (entitlement to two pensions) in paragraph (4), for “that day”, substitute “the last day of the member’s membership of the Scheme”;

(e) after rule 7 insert—

“Additional pension benefit: long service

7A.—(1) A firefighter member who—

(a) in respect of a period that includes 30 June 2007 is entitled to a long service increment or an interim or transitional payment connected with long service, and

(b) on or after 1 October 2007—

(i) retires from employment as a regular firefighter, or

(ii) becomes entitled to a deferred pension under rule 3,

must be credited with an amount of additional pension benefit.

(2) Subject to paragraph (3) and rule 7C(5), the amount of additional pension benefit is that found by applying the formula—

$$\frac{A + (B \times 2)}{60} \times \text{£}990$$

where—

A is the number in years (counting part of a year as the appropriate fraction) by which the member’s pensionable service up to and including 30 June 2007 exceeds 15 but does not exceed 20; and

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B is the number in years (counting part of a year as the appropriate fraction) by which the member's pensionable service exceeds 20 but does not exceed 30.

(3) Where the Retail Prices Index for the month of September preceding the relevant tax year is higher than it was for September 2007, the amount of additional pension benefit (as calculated in accordance with paragraph (2) and, if applicable, this paragraph) must be increased by the same percentage as the percentage increase in the Retail Prices Index.

(4) Any increase in accordance with paragraph (3) must be applied with effect from the first Monday of the relevant tax year.

(5) In paragraph (3)—

“relevant tax year” (“*blwyddyn dreth berthnasol*”) means a tax year in relation to which—

(a) the amount of a firefighter member's pension benefits is calculated for the purposes of this Scheme; and

(b) the firefighter member is not a pensioner member or a deferred member;

and “tax year” (“*blwyddyn dreth*”) means the period of 12 months beginning with 6 April.

Additional pension benefit: continual professional development

7B.—(1) A firefighter member who, in any CPD year beginning with the year commencing on 1 July 2007, receives CPD payments, must be credited with an amount of additional pension benefit in respect of that year.

(2) Subject to paragraph (3) and rule 7C(3) and (5), the amount of additional pension benefit in respect of a CPD year must be determined on 1 July immediately following the year in question in accordance with guidance and tables provided by the Scheme Actuary.

(3) Where the Retail Prices Index for the month of September preceding the relevant tax year is higher than it was for the month of September in the CPD year in question, the amount of additional pension benefit for that CPD year (as calculated in accordance with paragraph (2)) must be increased by the same percentage as the percentage increase in the Retail Prices Index.

(4) Any increase in accordance with paragraph (3) must be applied with effect from the first Monday of the relevant tax year.

(5) In this rule—

“CPD payments” (“*taliadau DPP*”), as regards a firefighter, means payments made to the firefighter by the firefighter's employing authority in respect of the firefighter's continual professional development;

“CPD year” (“*blwyddyn DPP*”) means a period of 12 months beginning with 1 July in which a firefighter member is in receipt of CPD payments;

“relevant tax year” (“*blwyddyn dreth berthnasol*”) means a tax year in relation to which—

(a) the amount of a firefighter member's pension benefits is calculated for the purposes of this Scheme, and

(b) the firefighter member is not a pensioner member or a deferred member;

and a tax year is a relevant tax year in relation to a particular CPD year if it is the tax year in which CPD payments for that CPD year are taken into account; and

“tax year” means the period of 12 months beginning with 6 April.

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Additional pension benefit: supplementary provisions

7C.—(1) Subject to paragraphs (2) to (4), additional pension benefit under rule 7A or 7B is payable at normal retirement age.

(2) Where the firefighter member resigns or is dismissed or makes a contributions election, additional pension benefit is payable at normal benefit age; and paragraphs (4) to (6) of rule 3 (deferred pension) must apply in relation to that benefit as if it were a deferred pension to which the firefighter member was entitled under that rule.

(3) Where the firefighter member leaves employment on ill-health retirement, the firefighter member's additional pension benefit is payable immediately.

(4) Where the firefighter member takes authority-initiated early retirement or member-initiated early retirement, the firefighter member's additional pension benefit is payable at the same time as the firefighter member's pension under rule 5 (pension on member-initiated early retirement), or, as the case may be, rule 6 (pension on authority-initiated early retirement).

(5) Where paragraph (4) applies, the firefighter member's additional pension benefit must be actuarially reduced by applying to the amount ascertained in accordance with rule 7A or 7B (as the case may be) the appropriate actuarial reduction factor notified by the Scheme Actuary.

(6) For the purposes of rules 9 and 10 (commutation), additional pension benefit must be treated as if it were a pension payable under this Part.

(7) For the purposes of determining the amount of any survivor's pension under Part 4 or pension credit under Part 6, additional pension benefit must be treated as if it were a pension payable under this Part.”;

(f) in rule 9 (commutation: general)—

(i) after paragraph (8), insert—

“(8A) Paragraph (8B) applies where—

(a) notice of commutation has taken effect in relation to—

(i) a person's ill-health pension, and

(ii) the pension is withdrawn under rule 2(3) of Part 9 (consequences of review); or

(b) notice of commutation has taken effect in relation to—

(i) a person's deferred pension that has been paid before normal benefit age (“the early-paid pension”), and

(ii) the early-paid pension is withdrawn under rule 2(5) of Part 9.

(8B) If the person becomes entitled to another pension, other than an injury pension under the Compensation Scheme, for which the person is entitled to reckon the period of pensionable service that was reckonable for the purposes of the ill-health pension or the early-paid pension (as the case may be), the other pension must be reduced by the amount by which the ill-health pension or the early-paid pension would have been reduced if it had not been withdrawn.

(8C) Where paragraph (8B) applies, and notice of commutation is given in respect of the other pension, the portion of it that may be commuted is reduced by the amount of the reduction under that paragraph.”; and

- (ii) in paragraph (9)(b), for the words from “Part 7” to the end, substitute “Part 7A of the Compensation Scheme in an award to a reservist.”⁽¹⁾;
 - (g) in rule 11 (allocation of pension), in paragraph (4), for “Part 7 of the Compensation Scheme (awards to, or on death of, servicemen)”, substitute “Part 7A of the Compensation Scheme (awards to, or on death of, reservists)”.
5. In Part 5 (awards on death)—
- (a) in rule 1 (death grant)—
 - (i) in paragraph (4), after “part-time”, insert “, retained or volunteer”;
 - (ii) in paragraph (8), for sub-paragraph (b), substitute—
 - “(b) dies without having paid in full the contributions due to the employing authority under that rule,”;
 - (iii) in paragraph (9), after “amount”, insert “or, where there has been partial payment, the balance”; and
 - (b) in rule 2 (post-retirement death grant), in paragraph (1)(b)—
 - (i) in paragraph (i), after “period”, insert “(excluding any lump sum that the pensioner may have received on commutation under rule 9 of Part 3)”;
 - (ii) in paragraph (ii), for “including”, substitute “excluding” and omit “or 10”.
6. In Part 6 (pension sharing on divorce)—
- (a) in rule 3 (commutation of part of pension credit benefits), for paragraph (2), substitute—
 - “(2) The commuted portion must not exceed one quarter of the amount of the pension.”;
 - (b) in rule 5 (post-retirement death grant: pension credit members), in paragraph (1)(b), for paragraph (ii), substitute—
 - “(ii) the instalments of pension that have been paid,”; and
 - (c) after rule 5 add—

“Death grants where pension credit member dies before pension credit benefits payable

6.—(1) If a pension credit member dies before any benefits deriving from the member’s pension have become payable to the member under this Scheme, a lump sum death grant is to be paid to the member’s personal representatives.

(2) The amount of the grant must be equal to the product of 2.25 and the annual rate of the pension to which the member would have been entitled under rule 1(2) of this Part.”.

7. In Part 7 (reservists)—
- (a) in rule 2 (continuity of employment)—
 - (i) in paragraph (2), for “pensionable”, substitute “additional”;
 - (ii) for paragraph (3) substitute—
 - “(3) For the purposes of calculating the amount of a reservist’s pension contributions under rule 3 of Chapter 1 of Part 11—
 - (a) where the reservist was a regular firefighter immediately before the forces period in question the pay that the reservist would have received from the reservist’s former authority during the reservist’s forces period must

⁽¹⁾ Part 7A was inserted by S.I.2007/1073 (W.111).

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be taken to be the reservist's pay for that period (the reservist's "notional regular pay"); and

- (b) where the reservist was a retained or volunteer firefighter immediately before the forces period in question, the amount determined by multiplying the average of the reservist's pensionable pay for the period of 12 months that immediately preceded the reservist's forces period (expressed as a daily rate) by the number of days in the reservist's forces period must be taken to be the reservist's pay for that period (the reservist's "notional retained or volunteer pay"),

but this is subject to paragraph (4).

(4) In respect of any period during a reservist's forces period in which the aggregate of—

- (a) the reservist's actual pay, and

(b) any payments that the reservist receives under section 4 of the 1996 Act, is less than the reservist's notional regular pay or, as the case may be, the reservist's notional retained or volunteer pay for that first-mentioned period, the reservist must be treated as having no pensionable pay (and, accordingly, no liability to make pension contributions)(2)."; and

- (b) in rule 3 (awards on death or permanent disablement), for paragraph (2) substitute—

“(2) Where a reservist dies—

- (a) during the reservist's forces period; or

- (b) while receiving a pension under paragraph (1),

an award is payable in accordance with paragraphs (3) and (4).”.

8. In Part 10 (qualifying service and pensionable service)—

- (a) in rule 1 (qualifying service), in paragraph (b)(iv) for “rule 4(2)”, substitute “rule 4”;

- (b) in rule 2 (reckoning of pensionable service)—

- (i) in paragraph (1)(d), for “an”, substitute “a lower tier” and omit “, other than any period included by way of enhancement,”; and

- (ii) in paragraph (6)(b), after “under”, insert “rule 1 of”; and

- (c) in rule 4 (reckoning of unpaid period of absence)—

- (i) in paragraph (1), for “Part 11”, substitute “Parts 11 and 13”; and

- (ii) in paragraph (2), for “unpaid leave”, substitute “absence without pay”.

9. In Part 11 (pensionable pay, pension contributions and purchase of additional service)—

- (a) in rule 1 (pensionable pay)—

- (i) in paragraph (1), for the words from “other than” to the end of sub-paragraph (a), substitute “except any allowance or emoluments paid to the firefighter member on a temporary basis, other than payments in respect of the firefighter member's continual professional development (see rule 7B of Part 3), and”; and

- (ii) in paragraph (5), for “December” (in both places), substitute “September”;

- (b) in rule 2 (final pensionable pay)—

- (i) after paragraph (1), insert—

(2) See, as to pension payments, regulation 5 of the Reserve Forces (Call-out and Recall) (Financial Assistance) Regulations 2005 (S.I. 2005/859).

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“(1A) Where the pensionable pay received by a firefighter member in respect of the 365 pensionable pay days referred to in paragraph (1) includes an amount in respect of the firefighter member’s continual professional development (see rule 7B of Part 3), that amount must be disregarded for the purpose of ascertaining the firefighter member’s final pensionable pay.”;

(ii) in paragraph (2)(a)(i), omit the words after “higher rate”;

(iii) after paragraph (5) insert—

“(5A) The final pensionable pay of a firefighter member who—

(a) is entitled to a long service increment; and

(b) retires after 30 September 2006 and before 1 October 2007, or becomes entitled to a deferred pension under rule 3 of Part 3 within that period,

must be calculated—

(i) as if the firefighter member’s long service increment had accrued at the rate of £990 per annum (disregarding the reduction that had effect in relation to times on and after 1 October 2006), and

(ii) disregarding any LS-related payment.

(5B) The final pensionable pay of a firefighter member who—

(a) retires or becomes entitled to a deferred pension on or after 1 October 2007, and

(b) is entitled to additional pension benefit under rule 7A of Part 3 (additional pension benefit: long service),

must be calculated taking into account whichever of the following paragraphs yields the greater amount—

(i) the calculation is made with regard to the amount credited to the firefighter member under rule 7A of Part 3 but without regard to the firefighter member’s long service increment and any LS-related payment, or

(ii) the calculation is made with regard to the firefighter member’s long service increment and any LS-related payment, but without regard to the amount credited to the firefighter member under rule 7A of Part 3.

(5C) In paragraphs (5A) and (5B) “LS-related payment” (“taliad perthynol i GH”) means an interim or transitional payment connected with a firefighter member’s long service.”;

(c) for paragraph (6), substitute—

“(6) The final pensionable pay of a retained or volunteer firefighter must be determined by reference to the final pensionable pay of a regular firefighter employed in a similar role and with equivalent qualifying service.”.

10. In Part 12 (transfers into and out of the Scheme)-

(a) in rule 4 (applications for transfer value payments), in paragraph (6)(a)—

(i) for “eligible”, substitute “, or is entitled”; and

(ii) omit “firefighter”;

(b) in rule 9 (procedure for applications under rule 8), in paragraph (2)(a), omit “, or such longer period as the authority may allow”;

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- (c) in rule 10 (acceptance of transfer value payments), in paragraph (3), omit sub-paragraph (a);
 - (d) in rule 12 (transfer of pension history between Welsh authorities)—
 - (i) in paragraph (1)—
 - (aa) at the end of sub-paragraph (a), insert “and”; and
 - (bb) omit sub-paragraph (c) and the word “, and” immediately preceding that sub-paragraph; and
 - (ii) after “pensionable service”, insert “and qualifying service”.
- 11.** In Part 13 (Firefighters' Pension Fund)—
- (a) in rule 2 (payments and transfers into Firefighters' Pension Fund), for paragraph (5) substitute—

“(5) In respect of each firefighter employed by the authority who retires with an entitlement to immediate payment of a lower tier ill-health pension under rule 2 of Part 3, the authority must transfer into the FPF such amount as is determined and notified to them by the Welsh Ministers as the lower tier ill-health charge applicable in respect of that pension.”; and
 - (b) in rule 3 (transfers from Firefighters' Pension Fund), for paragraphs (4) and (5), substitute—

“(4) Where a person’s higher tier ill-health pension or a lower tier ill-health pension is wholly and permanently withdrawn under any provision of Part 9, paragraph (4) or (5) of rule 2 of this Part (as the case may be) must be disregarded in that person’s case (to the extent that it remains to be complied with); and the authority must transfer from the FPF to any other fund maintained by it an amount equal to the aggregate of the instalments that have been transferred to the FPF in respect of the pension that has been withdrawn.”.
- 12.** In Part 14 (payment of awards), in rule 1 (authorities responsible for payment of awards), in paragraph (1), omit “regular”.
- 13.** In Annex 1 (ill-health pensions), in paragraph 1, in sub-paragraph (2)—
- (a) after “person”, insert “who is a retained or volunteer firefighter”; and
 - (b) after “by that person's”, insert “final”.