
EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 1 to the Firefighters' Pension Scheme (Wales) Order 2007. The amendments—

- make minor corrections to the New Firefighters' Pension Scheme (Wales) (“the Scheme”) set out in that Schedule;
- amend the Scheme to provide those persons who were employed in Wales as retained firefighters during the period from 1 July 2000 to 5 April 2006 inclusive with access to a pension scheme for that period;
- introduce new provisions.

Except as mentioned below the Order has effect from 1 April 2014. Power to give the Order retrospective effect is conferred by section 34 of the Fire and Rescue Services Act 2004.

The amendments made by paragraphs 3(5), 7(3) and 9(8)(a) of the Schedule are to make minor changes to the Scheme and have retrospective effect from 1 July 2013.

A minor change made by paragraph 2(2) is to ensure that those who took up employment as a firefighter before 6 April 2006 and were either not eligible to be a member of the Firefighters' Pension Scheme 1992 or made an election not to pay pension contributions required by that scheme, are treated as a firefighter member of the Scheme when automatically enrolled into that Scheme. This amendment has retrospective effect from 31 December 2012.

Part 2 of the Scheme (membership, cessation and retirement) is amended to enable eligible retained firefighters to join the Scheme from the date their service began or from 1 July 2000 if later. The normal retirement age and normal benefit age of special members differ from those for ordinary members (paragraph 2 of the Schedule to the Order).

Part 3 of the Scheme (personal awards) is amended (paragraph 3). First, a new rule 1A is inserted in setting out the conditions for a special member to receive a special member's ordinary pension; and new rule 2A sets out the conditions for receipt of a retrospective award on ill-health retirement. Other rules in Part 3 are amended so as to apply to special members.

Secondly, a correction is made so that it is clear which pensionable service can count for the additional pension benefit: long service increment in rule 7A (paragraph 3(10)(a)). The amendment only includes service with a Welsh Fire and Rescue Authority and has retrospective effect from 1 July 2013.

Thirdly, a new rule 7B is inserted (paragraph 3(11)) which extends additional pension benefit so that it covers—

- payments to reward additional skills and responsibilities outside the requirements of the firefighter member's duties under the contract of employment but which are within the wider functions of the job;
- any additional pay received whilst on temporary promotion or whilst temporarily carrying out the duties of a higher role;
- any non-consolidated performance related payment.

Any payments in respect of a firefighter member's continuing professional development continue to be covered by additional pension benefit.

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

The amendments made by paragraph 3(10)(b), (c) and (d) and paragraph 3(11) in relation to paragraphs (3) and (4) of the new rule 7B amend the method of uprating additional pension benefit for the long service increment (rule 7A of Part 3) and continuing professional development (rule 7B) from a specific index, retail price index, to an index in accordance with the Pensions (Increase) Act 1971. There is a specific provision to provide that the consumer price index is used for the tax year 2010/2011. These amendments have effect from 11 April 2011 but otherwise the amendments relating to the new rule 7B have retrospective effect from 1 July 2013.

Part 4 of the Scheme (survivors' pensions) is amended so as to apply to special members (paragraph 4).

Part 5 of the Scheme (awards on death) is adapted for special members and a new rule 1A is inserted providing for death grant for the limited period (paragraph 5).

Parts 6 of the Scheme (pension sharing on divorce), 8 (determination of questions and appeals), 9 (review, withdrawal and forfeiture of awards) and 10 (qualifying service and pensionable service) are amended in respect of special members. A new rule 2A is inserted in Part 10 which sets out the periods of service which may be accrued as special pensionable service by special members on payment of the mandatory special period pension contributions or the special pension contributions (paragraphs 6, 7, 8 and 9).

Part 11 of the Scheme (pensionable pay, pension contributions and purchase of additional service) is amended. The definition of pensionable pay is amended to include payments which are pensionable under additional pension benefit (new rule 7B) and provides that payments which are not within the definition of pensionable pay in rule 1(1)(a) as amended, or additional pension benefits payable for long service or in respect of a firefighter's continual professional development, should remain pensionable whilst the firefighter continues to receive them (paragraph 10(2)). The payments treated as final pensionable pay are amended to exclude additional pension benefit payments payable within rule 7B of Part 3 (paragraph 10(3)(a)). These amendments have retrospective effect from 1 July 2013.

In respect of special members a new rule 5A is inserted in Part 11 which provides for the purchase of service during the limited period and new rules 6A and 6B are inserted which set out the periods of payment for different types of special member (paragraph 10(3)(b) et seq).

Part 12 of the Scheme (transfers into and out of the Scheme) is amended in respect of special members. In particular, a new chapter 3A and rule 11A are inserted which permit a deferred member of the Firefighters' Pension Scheme 1992 who joins this Scheme as a special firefighter member to request a transfer value payment to be made in certain circumstances to the member's special membership of this Scheme. A new chapter 6 and rule 16 are inserted allowing conversion of membership from special membership to standard membership and from standard membership to special membership. A new rule 17 is inserted which enables a standard member of this Scheme in respect of service which they would otherwise be able to reckon as special pensionable service, who joins this Scheme as a special firefighter member, to convert their standard membership of this Scheme to their special membership on payment of the additional pension contribution (paragraph 11).

Part 13 of the Scheme is amended to require a fire and rescue authority to transfer into the Firefighters' Pension Fund an amount equal to the amount of pension paid to a person in respect of whom the authority choose not to exercise its discretion to withdraw or abate the permitted part of that individual's pension under rule 3 (withdrawal of pension during service as a firefighter) of Part 9 (review, withdrawal and forfeiture of awards) (paragraph 12). These amendments have retrospective effect from 1 July 2013.

A new Annex ZA is inserted which provides for the calculation of the commuted portion of pensions by special members (paragraph 14). A new Annex AB1 is inserted which provides for the calculation of pension contributions for special members (paragraph 16). Annex 1 is also amended in relation to special members (paragraph 17).

Amendments made to Annex 2 (appeals to board of medical referees) enable—

- the board to reconsider its decision where the parties agree that it has made a material error of fact;
- the authority to recover some or all of the expenses of the board where the appellant has withdrawn the appeal or requested the date for an interview or examination to be cancelled or postponed less than 22 working days before the date appointed (paragraph 18).

These amendments have retrospective effect from 1 July 2013.

The Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation has been considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of this Order.

A copy of the assessment can be obtained from the Fire Branch, Department for Local Government and Communities, Welsh Government, Rhydycar Business Park, Merthyr Tydfil, CF48 1UZ (telephone 0300 0628219).