

SCHEDULE

Article 2

Amendments to the Firefighters' Compensation Scheme (Wales) 2007

Amendments to Part 1 (general provisions)

1.—(1) Part 1 is amended as follows.

(2) In rule 2(1) (interpretation)—

(a) for the definition of “pensionable pay” substitute—

““pensionable pay”—

- (a) in relation to a person who is a member of the 1992 Scheme, is to be construed in accordance with rule G1 of that Scheme;
- (b) in relation to a person who is a member of the 2007 Scheme, is to be construed in accordance with rule 1 of Part 11 of that Scheme; and
- (c) in the case of a person who is not a member of either scheme, is to be construed in accordance with rule 11 of this Part;”;

(b) at the appropriate place insert—

““relevant service”, except in rule 1 of Part 7 (servicemen) and rule 1 of Part 7A (reservists), means service which either was, or would, but for an election under rule G3 of the 1992 Scheme or rule 5 of Part 2 of the 2007 Scheme or a failure to elect under rule G2A of the 1992 Scheme or rule 4 of Part 11 of the 2007 Scheme, have been reckonable as pensionable service;”;

(c) for the definitions of “retained firefighter” and “retained or volunteer firefighter” substitute—

““retained firefighter” means a person who is employed by an authority—

- (a) as a retained firefighter, but not as a regular firefighter or a volunteer firefighter,
- (b) on terms under which the person is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),
- (c) otherwise than in a temporary capacity, and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that the person receives;”;

(d) at the appropriate place insert—

““volunteer firefighter” means a person who is employed by an authority—

- (a) as a volunteer firefighter but not as a regular firefighter or a retained firefighter,
- (b) on terms under which the person is, or may be, required to engage in fire-fighting or may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),
- (c) otherwise than in a temporary capacity, and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that the person receives;”.

(3) In rule 3—

(a) for the heading substitute—

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“Exclusive application to regular and retained firefighters”;

- (b) in paragraph (1) for “regular firefighters” substitute “regular and retained firefighters”;
 - (c) in paragraph (2) for “regular firefighter” substitute “regular or retained firefighter”.
- (4) In rule 6 (reckoning of service for purpose of awards)—
- (a) in paragraph (2) for “regular firefighter” substitute “regular or retained firefighter”;
 - (b) in paragraph (3)—
 - (i) for “retained or volunteer firefighter” substitute “volunteer firefighter”;
 - (ii) omit “and Part 2 of Schedule 2”;
 - (iii) after “any period of service” insert “as a retained firefighter or”; and
 - (iv) for “pensionable service” substitute “relevant service”.
- (5) In rule 7 (qualifying injury)—
- (a) in paragraph (1)—
 - (i) in sub-paragraph (b) omit “retained or”; and
 - (ii) for “regular firefighter” substitute “regular or retained firefighter”;
 - (b) in paragraph (3) omit the words—
 - (i) “and paragraph (4) of rule 3 of Part 10”; and
 - (ii) “retained or”.
- (6) After rule 10 (effective date of retirement) insert—

“Determining pensionable pay in certain cases

11.—(1) Where an award is to be calculated in respect of a person who is not, or was not, a member of the 1992 Scheme or the 2007 Scheme, the definition of “pensionable pay” is to be construed in accordance with—

- (a) rule G1 of the 1992 Scheme in the case of a person who elected not to pay pension contributions under rule G3 of that Scheme;
- (b) rule 1 of Part 11 of the 2007 Scheme in the case of a person who elected not to pay pension contributions under rule 5 of Part 2 of that Scheme; and
- (c) rule 1 of Part 11 of the 2007 Scheme where an election had been made at different times under both schemes.

(2) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 1992 Scheme, the award must be calculated on the basis of the pay which would have been the person’s average pensionable pay if the person had not made an election.

(3) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 2007 Scheme, the award must be calculated on the basis of the pay which would have been the person’s final pensionable pay if the person had not made an election.

(4) For the purposes of calculating a retained firefighter’s pensionable pay (whether or not that person is or was a member of the 2007 Scheme), a fire and rescue authority must determine the period of the person’s service from their records.

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(5) Where an authority are not able to determine the period of the person’s service from their records, the person, or any other person entitled to an award under this Scheme, may provide the authority with documents to assist them to determine the person’s period of service.

(6) Where an authority are not able to determine the period of the person’s service and the authority do not hold records of that person’s pay for that period, and the necessary documents cannot be provided in accordance with paragraph (5), the authority may estimate the person’s pensionable pay for that period from the records which they hold and may in particular make the estimate on the basis of the average of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period.”

Amendments to Part 2 (injury awards and duty-related compensation)

2.—(1) Part 2 is amended as follows.

(2) In rule 2 (part-time, retained and volunteer firefighters)—

- (a) in paragraph (1) for “this Part” substitute “rule 1” and omit “by virtue of which his pensionable service is reckonable”;
- (b) in paragraph (2)(a) omit “retained or”;
- (c) in paragraph (2)(b) for “this Part” substitute “rule 1”; and
- (d) after paragraph (2) insert—

“(3) Where a person—

- (a) is employed as a retained firefighter; and
- (b) is entitled to an award under rule 1,

the award must be calculated in accordance with Part 3 of Schedule 1.”

Amendments to Part 3 (awards on death: spouses and civil partners)

3.—(1) Part 3 is amended as follows.

(2) In rule 1 (special award for spouse or civil partner), in paragraph (1) and paragraph (3), for “regular firefighter” in each place where it occurs substitute “regular or retained firefighter”.

(3) In rule 2 (augmented award for spouse or civil partner), in paragraph (1), for “regular firefighter” substitute “regular or retained firefighter”.

Amendments to Part 4 (awards on death: children)

4.—(1) Part 4 is amended as follows.

(2) In rule 1(1) (child’s special allowance) and rule 2(1) (child’s special gratuity), for “regular firefighter” in each place where it occurs substitute “regular or retained firefighter”.

(3) In rule 3(1) (child’s special allowance or gratuity: limitations) for “be a regular firefighter” substitute “be either a regular or retained firefighter”.

Amendments to Part 5 (awards on death: additional provisions)

5. In Part 5, in rule 1(1) (adult dependent relative’s special pension), rule 2(1)(a) (dependent relative’s gratuity) and rule 5(1)(a) (increase of pensions and allowances during first 13 weeks), for “regular firefighter” in each place where it occurs substitute “regular or retained firefighter”.

Amendments to Part 8 (special cases)

6. In Part 8, in rule 2 (award for or in relation to a retained or volunteer firefighter)—

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- (a) in the heading to the rule omit “retained or”;
- (b) in paragraph (1)(a) omit “retained firefighter or”; and
- (c) in paragraphs (5)(b) and (10)(a) and (b) omit “retained or” in each place where it occurs.

Amendments to Part 10 (payment of awards and financial provisions)

- 7.—(1) Part 10 is amended as follows.
- (2) In rule 3 (prevention of duplication)—
 - (a) in paragraph (4) for sub-paragraph (a)(ii) substitute—
 - “(ii) under rule 1, 1A, 2 or 3 of Part 3 of the 2007 Scheme to an ordinary, special member’s ordinary, ill health or deferred pension, or”; and
 - (b) in paragraph (6) for “regular firefighter” substitute “regular or retained firefighter”.
 - (3) In rule 4 (prevention of duplication: other injury awards for persons who are both regular and retained firefighters)—
 - (a) in paragraph (2)—
 - (i) for “both a regular firefighter and” substitute “a volunteer firefighter and a retained firefighter or as a regular firefighter”;
 - (ii) omit the words in sub-paragraph (a);
 - (iii) in sub-paragraph (b)(i) after “regular firefighter” insert “or a retained firefighter”;
 - and
 - (iv) in sub-paragraph (b)(ii) for “retained firefighter” substitute “volunteer firefighter”;
 - (b) in paragraph (3)—
 - (i) after “regular firefighter” insert “or a retained firefighter”; and
 - (ii) for “retained firefighter” substitute “volunteer firefighter”; and
 - (c) in paragraph (4) for “retained firefighter” substitute “volunteer firefighter”.
 - (4) In rule 5 (prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters), at the end of paragraph (3) insert—
 - “(g) a survivor’s pension under rule 1 of Part 4 of the 2007 Scheme,
 - (h) a survivor’s bereavement pension under rule 4 of Part 4 of the 2007 Scheme,
 - (i) a child’s pension under rule 6 of Part 4 of the 2007 Scheme,
 - (j) a child’s bereavement pension under rule 9 of Part 4 of the 2007 Scheme,
 - (k) a death grant under rule 1 of Part 5 of the 2007 Scheme,
 - (l) a post-retirement death grant under rule 2 of Part 5 of the 2007 Scheme.”

Amendments to Schedule 1 (injury awards and duty-related compensation)

- 8.—(1) Schedule 1 is amended as follows.
- (2) In Part 1 (calculation of awards for full-time service) omit sub-paragraph (2) of paragraph 1.
 - (3) In Part 2 (calculation of awards for part-time service)—
 - (a) in paragraph 1 omit “by virtue of which his pensionable service is reckonable”; and
 - (b) in paragraph 2(1), in the definitions of “B”, “C” and “D”, for “pensionable service” substitute “relevant service” in each place where the words occur.
 - (4) In Part 3 (calculation of awards for retained or volunteer service) for “paragraph 1(2)” substitute “paragraph 1” and for “pensionable service” substitute “relevant service”.

Amendments to Schedule 2 (awards for spouses and civil partners)

9. In Part 1 (special pension) of Schedule 2—
- (a) in paragraph 1 for “Subject to paragraph 2” substitute “Subject to paragraphs 2 and 3”;
 - (b) in paragraph 2, in the definitions of “B”, “C” and “D”, for “pensionable service” substitute “relevant service” in each place where the words occur; and
 - (c) after paragraph 2 insert—

“3.—(1) Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, the amount of special pension must be calculated in accordance with the formula—

$$A \times (B/C)$$

where—

A is the amount calculated under paragraph 1 as if the final pensionable pay was the pay which the deceased would have received had the deceased been a whole-time employee of a fire and rescue authority;

B is the period in years of the deceased’s pensionable retained service; and

C is the period in years of the deceased’s relevant service.

(2) Where the person was a member of the 2007 Scheme, neither B nor C is to exceed 40 years.”

Amendments to Schedule 3 (awards on death: children)

10. In Part 1 (child’s special allowance) of Schedule 3—
- (a) in paragraph 1 for “Subject to paragraph 4” substitute “Subject to paragraphs 4 and 5”;
 - (b) in paragraph 4(1) omit “which is reckonable as pensionable service,”; and
 - (c) after paragraph 4 insert—

“5. Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, the amount of the special allowance must be calculated in accordance with the formula—

$$A \times (B/C)$$

where—

A is the amount calculated under paragraphs 1 to 3 of this Part as if the final pensionable pay was the pay which the deceased would have received had the deceased been a whole-time employee of a fire and rescue authority;

B is the period in years of the deceased’s pensionable retained service;

C is the period in years of the deceased’s relevant service.”

Amendments to Schedule 4 (awards on death: additional provisions)

11. In Part 1 (adult dependent relative’s special pension) of Schedule 4—
- (a) in paragraph 1 for “Subject to paragraphs 2 and 3” substitute “Subject to paragraphs 2, 3 and 4”;
 - (b) in paragraph 3 omit “which is reckonable as pensionable service,”; and
 - (c) after paragraph 3 insert—

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“4. Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, paragraphs 1 and 2 apply with the modification that for any reference to the deceased’s final pensionable pay there is to be substituted the product of the formula—

$$A \times (B/C)$$

where—

A is the amount of pay which the deceased would have received had the deceased been a whole-time employee of a fire and rescue authority;

B is the period in years of the deceased’s pensionable retained service;

C is the period in years of the deceased’s relevant service.”