

## SCHEDULE 1

Article 2

### Amendment of the Firefighters' Compensation Scheme (Wales) Order 2007

#### Amendment of Part 1 (general provisions)

1.—(1) Part 1 is amended as follows.

(2) In rule 2(1) (interpretation)—

(a) at the appropriate places insert—

““the 2015 Regulations” means the Firefighters' Pension Scheme (Wales) Regulations 2015(1);”;

““the 2015 Scheme” means the Firefighters' Pension Scheme 2015 set out in the 2015 Regulations;”;

““active member of the 2015 Scheme” has the meaning given in regulation 28 (active membership) of the 2015 Regulations;”;

““active member's account” means the account established under regulation 40 (establishment of active member's account) of the 2015 Regulations;”;

““eligible child's pension” has the meaning given in regulation 91 (eligible child's pension) of the 2015 Regulations;”;

““final pay” has the meaning given in regulation 102 (meaning of “final pay”) of the 2015 Regulations;”;

““member of the 2015 Scheme” has the same meaning as “member” in regulation 3 (interpretation) of the 2015 Regulations;”;

““scheme employment” has the meaning given in regulation 15 (scheme employment) of the 2015 Regulations;”;

(b) for the definition of “normal pension age” substitute—

““normal pension age” in relation to employees of a fire and rescue authority appointed on terms under which they are or may be required to engage in firefighting—

(a) in relation to the 1992 Scheme, means 55;

(b) in relation to the 2007 Scheme, means 60;

(c) in relation to the 2015 Scheme, means 60(2);”;

(c) in the definition of “pensionable pay”, for sub-paragraph (c) substitute—

“(c) in relation to a person who is a member of the 2015 Scheme, shall be construed in accordance with regulation 26 (pensionable pay) of the 2015 Regulations;

(d) in the case of a person who is not a member of any of these schemes, shall be construed in accordance with rule 11 of this Part;”;

(d) in the definition of “pensionable service”, at the end insert—

“(c) in relation to the 2015 Scheme, means the continuous period of pensionable service, in relation to an active member's account for the scheme employment in respect of which the award under this scheme is payable and any of the following types of service that have been added to, or transferred to, that account—

(1) S.I. 2015/622 (W. 50).

(2) See section 10(2) of the Public Service Pensions Act 2013 (c. 25).

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- (i) if applicable, any periods of pensionable service in relation to the 1992 Scheme or the 2007 Scheme that relate to the person’s employment which is the same as, or most similar to, the employment in respect of which the award is payable;
  - (ii) if applicable, any periods of pensionable service relating to any transfer value payments accepted under Part 10 (transfers) of the 2015 Regulations in respect of the person’s accrued rights under another occupational pension scheme;
  - (iii) if applicable, any periods of service relating to any pension account entries transferred in accordance with regulation 158 (transfer of pension account entries) of the 2015 Regulations; and
  - (iv) if applicable, any periods of service relating to an added pension account established under regulation 47 (establishment of added pension account) of the 2015 Regulations relating to the member’s scheme employment in respect of which the award is payable, such periods of service are to be calculated in accordance with such guidance as is provided for the purpose by the Government Actuary;”;
- (e) for the definition of “relevant service” substitute—
- ““relevant service”, except in rule 1 of Part 7 (servicemen) and rule 1 of Part 7A (reservists), means service which either was, or would have been, reckonable as pensionable service but for—
- (a) an election under rule G3 of the 1992 Scheme;
  - (b) an election under rule 5 of Part 2 of the 2007 Scheme;
  - (c) the exercise of an option not to become an active member of the 2015 Scheme in accordance with Chapter 2 (pensionable service) of Part 3 of the 2015 Regulations;
  - (d) a failure to elect under—
    - (i) rule G2A(3) of the 1992 Scheme;
    - (ii) rule 4 of Part 11 of the 2007 Scheme; or
    - (iii) regulation 122(3) (contributions during child-related leave) of the 2015 Regulations; or
  - (e) a failure to exercise an option to become an active member of the 2015 Scheme in accordance with regulation 21 (opting into this scheme) of the 2015 Regulations;”.
- (3) In rule 11(1) (determining pensionable pay in certain cases)—
- (a) after the words “the 2007 Scheme”, where they occur for the first time, insert “or the 2015 Scheme”;
  - (b) for sub-paragraph (c) substitute—
    - “(c) regulation 26 of the 2015 Regulations in the case of a person who—
      - (i) exercised an option not to become an active member of the 2015 Scheme in accordance with Chapter 2 of Part 3 of the 2015 Regulations; or
      - (ii) did not exercise an option to become an active member of the 2015 Scheme in accordance with regulation 21 of the 2015 Regulations;

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(3) Rule G2A was inserted by S.I. 2004/1912 and amended by S.I. 2006/1672 (W. 160).

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- (d) rule 1 of Part 11 of the 2007 Scheme, where an election had been made at different times under the 1992 Scheme and the 2007 Scheme;
- (e) except where sub-paragraph (d) applies, regulation 26 of the 2015 Regulations, in the case of a person who had at different times, in relation to all of the schemes (namely, the 1992 Scheme, the 2007 Scheme and the 2015 Scheme), or a combination of any two of them—
  - (i) made an election referred to in sub-paragraph (a) or sub-paragraph (b); or
  - (ii) exercised or not exercised an option referred to in sub-paragraph (c), as the case may be.”;
- (c) after paragraph (3) insert—

“(3A) 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 2015 Scheme, the award must be calculated on the basis of the pay which would have been the final pay if the person had not, in respect of sub-paragraph (c)(i), exercised an option, or in respect of sub-paragraph (c)(ii) failed to exercise an option.”

### **Amendment of Part 2 (injury awards and duty related compensation)**

2.—(1) Part 2 is amended as follows.

(2) In rule 3 (compensation for death or permanent incapacity while on duty), in paragraph (8), after “the 2007 Scheme” insert “or the 2015 Scheme”.

(3) In rule 4 (commutation of small compensatory pensions), in paragraph (1)(b), after “the 2007 Scheme (pension credit member’s entitlement to pension)” insert “or regulation 114 of the 2015 Regulations (entitlement to pension credit members’ pension)”.

### **Amendment of 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)—

(a) in paragraph (3)—

(i) for “or, as the case may be, his final pensionable pay”, in each place where the words occur, substitute “or the deceased’s final pensionable pay or the deceased’s final pay, as the case may be”;

(ii) in paragraph (3)(a)(ii), after “the 2007 Scheme (ill health award)” insert “or regulation 74 of the 2015 Regulations”;

(b) in paragraph (4), for “as the case may be, his final pensionable pay” substitute “the deceased’s final pensionable pay or the deceased’s final pay, as the case may be”.

(3) In rule 4 (limitation where spouse or civil partner is living apart), for paragraph (1A) substitute—

“(1A) Paragraph (1) does not apply to a person—

(a) who is a member of the 2007 Scheme;

(b) who first takes up employment with a fire and rescue authority on or after 6 April 2006 and is entitled to be a member of the 2007 Scheme but elects not to pay pension contributions;

(c) who is a member of the 2015 Scheme; or

(d) who is eligible to be an active member of the 2015 Scheme and—

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- (i) exercises an option not to become an active member of that scheme in accordance with Chapter 2 of Part 3 of the 2015 Regulations; or
  - (ii) does not exercise an option to become an active member of that scheme in accordance with regulation 21 of the 2015 Regulations.”
- (4) In rule 5 (effect of new relationship), for paragraph (3) substitute—
  - “(3) Paragraphs (1) and (2) do not apply to a person—
    - (a) who is a member of the 2007 Scheme;
    - (b) who first takes up employment with a fire and rescue authority on or after 6 April 2006 and is entitled to be a member of the 2007 Scheme, but elects not to pay pension contributions;
    - (c) who is a member of the 2015 Scheme; or
    - (d) who is eligible to be an active member of the 2015 Scheme and—
      - (i) exercises an option not to become an active member of that scheme in accordance with Chapter 2 of Part 3 of the 2015 Regulations; or
      - (ii) does not exercise an option to become an active member of that scheme in accordance with regulation 21 of the 2015 Regulations.”
- (5) In rule 6 (amount of survivor’s pension: special cases), for paragraph (1) substitute—
  - “(1) This rule applies in relation to a person—
    - (a) who is a member of the 2007 Scheme on the day on which the person dies;
    - (b) in respect of whom an election under rule 5(1) of Part 2 of the 2007 Scheme not to make pension contributions has effect on the day on which the person dies;
    - (c) who is a member of the 2015 Scheme on the day on which the person dies; or
    - (d) who is eligible to be an active member of the 2015 Scheme and—
      - (i) has exercised an option not to become an active member of that scheme in accordance with Chapter 2 of Part 3 of the 2015 Regulations which has effect on the day on which the person dies; or
      - (ii) has not exercised an option to become an active member of that scheme in accordance with regulation 21 of the 2015 Regulations on the day on which the person dies.”

**Amendment of Part 5 (awards on death: additional provisions)**

- 4. In Part 5, in rule 5 (increase of pensions and allowances during first 13 weeks)—
  - (a) at the end of paragraph (2)(c) insert—
    - “and
    - (d) any eligible child’s pension under the 2015 Regulations,”;
  - (b) in paragraph (5), after “the 2007 Scheme” insert “or an eligible child’s pension under the 2015 Regulations”; and
  - (c) in paragraph (7), after “the 2007 Scheme” insert “or the 2015 Scheme”.

**Amendment of Part 7 (servicemen)**

- 5. In Part 7, in rule 2 (awards to servicemen), in paragraph (3)(b), after “the 2007 Scheme” insert “or the 2015 Scheme”.

### **Amendment of Part 7A (reservists)**

6.—(1) Part 7A is amended as follows.

(2) In rule 1 (interpretation of Part 7A), in paragraph (1)(a)(ii), after “the 2007 Scheme” insert “or the 2015 Scheme”.

(3) In rule 2 (awards to reservists)—

(a) in paragraph (2), for “has effect” substitute “and regulation 65 (entitlement to lower tier ill-health pension and higher tier ill-health pension) of the 2015 Regulations have effect”;

(b) for paragraph (3)(a) substitute—

“(a) pay the reservist, instead of an ill-health pension under rule 2 of Part 3 of the 2007 Scheme or under regulation 65 of the 2015 Regulations, a pension at the rate of one twelfth of the reservist’s final pensionable pay or final pay, as the case may be, and”.

(4) In rule 3 (awards on death of reservists), at the end of paragraph (2) insert “or increase any pension or eligible child’s pension payable under Chapter 3 of Part 6 of the 2015 Regulations.”

### **Amendment of Part 8 (special cases)**

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

(a) in paragraph (1), after “the 2007 Scheme” insert “or the 2015 Scheme”;

(b) for paragraph (3) substitute—

“(3) The following provisions apply in relation to the awards to which a person, by virtue of paragraph (2), may be entitled:

(a) rules B7 (commutation), B9 (allocation) and B10 (limitation of commuted or allocated portion) of the 1992 Scheme;

(b) rule 9 (commutation: general) or rule 11 (allocation of pension) of Part 3 of the 2007 Scheme;

(c) regulation 118 (commutation of part of pension) or Chapter 6 (allocation of part of pension) of Part 5 of the 2015 Regulations.”;

(c) for paragraph (4) substitute—

“(4) Subject to paragraph (4A)—

(a) a person to whom paragraph (1) applies must be treated for the purposes of rule B3 (ill-health awards) of the 1992 Scheme as having been a regular firefighter falling within the description in paragraph (10) below; and rules B7 (commutation), B9 (allocation), B10 (limitation of commuted or allocated portion), K1 (review of ill-health and certain deferred pensions), K1A (consequences of review) and K3 (reduction in case of default) of the 1992 Scheme apply accordingly in relation to the awards to which the person is thus entitled;

(b) if a person to whom paragraph (1) applies—

(i) has become a member of the 2007 Scheme, rule 9 or 11 of Part 3 of the 2007 Scheme, rule 1 of Part 9 of that Scheme (review of ill-health pension) and rule 2 of that Part (consequences of review) apply accordingly in relation to the awards to which the person is thus entitled;

(ii) has become a member of the 2015 Scheme, regulation 109 (commutation of part of pension), Chapter 6 (allocation of part of pension) of Part 5, regulation 77 (review of ill-health award or early payment of retirement

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pension) and regulation 78 (consequences of review) of the 2015 Regulations apply accordingly in relation to the awards to which the person is thus entitled.”; and

- (d) in paragraph (4A)—
- (i) after the words “the 2007 Scheme”, where they occur for the first time, insert “or the 2015 Scheme”;
  - (ii) after the words “the 2007 Scheme (award on ill-health retirement)” insert “or under regulation 74 (entitlement to lower tier ill-health pension and higher tier ill-health pension) of the 2015 Regulations”.

#### **Amendment of Part 9 (review, withdrawal and forfeiture of awards)**

**8.** In Part 9 (review, withdrawal and forfeiture of awards), in rule 2 (reduction of award in case of default)—

- (a) after paragraph (2)(b)(ii) insert—
  - “(iii) if the person is a member of the 2015 Scheme, their state pension age, or 65 if that is higher(4),”;
- (b) in paragraph (3), after “the 2007 Scheme” insert “or Chapter 7 of Part 4 of the 2015 Regulations”.

#### **Amendment of Part 10 (payment of awards and financial provisions)**

**9.**—(1) Part 10 is amended as follows.

(2) In rule 3 (prevention of duplication)—

- (a) in paragraph (1)(b), after “the 2007 Scheme” insert “or the 2015 Scheme”;
  - (b) in paragraph (2)—
    - (i) in sub-paragraph (a), for “or rule 11 of the 2007 Scheme” substitute “, rule 11 of Part 3 of the 2007 Scheme or Chapter 6 of Part 5 of the 2015 Regulations”;
    - (ii) in sub-paragraph (b), after “2007 Scheme (pension credit member’s entitlement to pension)” insert “or regulation 114 (entitlement to pension credit members’ pension) of the 2015 Regulations”; and
    - (iii) in sub-paragraph (c), after “2007 Scheme (guaranteed minimum pensions)” insert “or regulation 175 (guaranteed minimum pension) of the 2015 Regulations”;
  - (c) in paragraph (3), for “as the case may be, rule 4 of Part 14 of the 2007 Scheme” substitute “rule 4 of Part 14 of the 2007 Scheme, or regulation 17 (service in two or more scheme employments) and regulation 18 (application of Chapter 2 – Pensionable service) of the 2015 Regulations, as the case may be”; and
  - (d) in paragraph (4)(a), at the end insert—
    - “(m) under regulation 67 or 74 of the 2015 Regulations, a retirement pension or a lower tier ill-health pension or a higher tier ill-health pension, or”.
- (3) In rule 4 (prevention of duplication: other injury awards)—
- (a) in paragraph (1), at the appropriate place insert—
    - ““regulation 74 award” means an entitlement to a lower tier ill-health pension or a higher tier ill-health pension under regulation 74 of the 2015 Regulations;”;
  - (b) in paragraph (2)(b)(i), after “a rule 2 award,” insert “a regulation 74 award,”;

(4) See section 10 of the Public Service Pensions Act 2013 (c. 25) for meaning of “state pension age”.

- (c) in paragraphs (3) and (4), for “or, as the case may be, the rule 2 award”, in each place where the words occur, substitute “or the rule 2 award or the regulation 74 award, as the case may be.”.
- (4) In rule 5 (prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters), after paragraph (3)(1) insert—
  - “(m) a surviving partner’s pension under regulations 87, 88 or 89 of the 2015 Regulations,
  - (n) a surviving partner’s bereavement pension under regulation 90 of the 2015 Regulations,
  - (o) an eligible child’s pension under regulations 95, 96 or 97 of the 2015 Regulations,
  - (p) an eligible child’s bereavement pension under regulation 101 of the 2015 Regulations,
  - (q) a lump sum payable on death under regulations 105 and 106 of the 2015 Regulations.”

### **Amendment of Schedule 1 (injury awards and duty-related compensation)**

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

(2) In Part 1 (calculation of awards for full-time service)—

(a) after paragraph 1 insert—

“**1A.**—(1) In the event that an award becomes payable in respect of a qualifying injury sustained in the course of employment in relation to which a person is or is eligible to be an active member in the 2015 Scheme, “relevant service” in the Table means the total of—

- (a) any relevant service in relation to the 2015 Scheme that relates to the person’s scheme employment which is the same as, or most similar to, the scheme employment in respect of which the award is payable; and
- (b) if applicable, any relevant service in relation to the 1992 Scheme or the 2007 Scheme that relates to the person’s employment which is the same as, or most similar to, the employment in respect of which the award is payable.

(2) In the event that an award is payable to a person who is not an active member of the 2015 Scheme, or has elected not to make pension contributions under the 2007 Scheme or the 1992 Scheme, when calculating an award payable under this scheme, the person’s ‘relevant service’ is determined according to the pension scheme the person would have been eligible to be a member of when they sustained the qualifying injury.

(3) In sub-paragraph (2), “eligible to be a member” means a person’s eligibility to be a member of any of the 1992 Scheme, the 2007 Scheme and the 2015 Scheme, pursuant to rule A3 (exclusive application to regular firefighters) of the 1992 Scheme, rule 1 of Part 2 of the 2007 Scheme or regulation 16 of, or Schedule 2 to, the 2015 Regulations, as the case may be.”;

- (b) in paragraph 1, in the headings in the Table, for “or, as the case may be, final pensionable pay” in both places where the words occur substitute “final pensionable pay or final pay, as the case may be”;
- (c) in paragraph 2(1), after “the 2007 Scheme” insert “or regulation 74 of the 2015 Regulations”;
- (d) in paragraph 2(2), after “the 2007 Scheme”—
  - (i) where the words occur for the first time, insert “or the exercise of an option not to become an active member of the 2015 Scheme in accordance with Chapter 2 of Part 3 of the 2015 Regulations”;

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- (ii) where the words occur for the second time, insert “or regulation 122(3) of the 2015 Regulations or failed to exercise an option to become an active member of the 2015 Scheme in accordance with regulation 21 of the 2015 Regulations”;
- (e) in paragraph 2(3)(a), after “the 2007 Scheme” insert “or regulation 118 (commutation of part of pension) or Chapter 6 (allocation of part of pension) of Part 5 of the 2015 Regulations”.
- (3) In Part 2 (calculation of awards for part-time service)—
  - (a) in paragraph 2(1), for “or, as the case may be, the final pensionable pay” substitute “final pensionable pay or final pay, as the case may be”;
  - (b) after paragraph 2(2) insert—
    - “(3) Where the person is or is eligible to be an active member in the 2015 Scheme, “relevant service” in B, C and D means the total of the service referred to in paragraph 1A(1)(a) and (b) of Part 1 of Schedule 1.”
- (4) In Part 3 (calculation of awards for retained or volunteer service), in paragraph 1, for “paragraph 1” substitute “the table in paragraph 1 of Part 1 of this Schedule”.

#### **Amendment of Schedule 2 (awards for spouses and civil partners)**

- 11.—(1) Schedule 2 is amended as follows.
- (2) In Part 1 (special pension)—
  - (a) in paragraph 1, for “or, as the case may be, final pensionable pay” substitute “final pensionable pay or final pay, as the case may be”;
  - (b) in paragraph 2—
    - (i) in sub-paragraph (1), for “or, as the case may be, the final pensionable pay” substitute “, the final pensionable pay or the final pay, as the case may be”;
    - (ii) after sub-paragraph (2) insert—
      - “(3) Where the person is or is eligible to be an active member in the 2015 Scheme, “relevant service” in B, C and D means the total of the service referred to in paragraph 1A(1)(a) and (b) of Part 1 of Schedule 1.”;
  - (c) after paragraph 3(2) insert—
    - “(3) Where the person is or is eligible to be an active member in the 2015 Scheme, “relevant service” in C means the total of the service referred to in paragraph 1A(1)(a) and (b) of Part 1 of Schedule 1.”
- (3) In Part 2 (award for surviving spouse of post-retirement marriage where deceased is a member of the 1992 Scheme but not a member of the 2007 Scheme), in paragraph 1(1)(b), after “2007 Scheme” insert “or the 2015 Scheme”.

#### **Amendment of Schedule 3 (awards on death: children)**

- 12. In Part 1 (child’s special allowance) of Schedule 3—
  - (a) in paragraph 1, for “or, as the case may be, his final pensionable pay” substitute “, the deceased’s final pensionable pay or final pay, as the case may be”;
  - (b) in paragraph 4(2), for “or, as the case may be, the final pensionable pay”, substitute “, the final pensionable pay or the final pay, as the case may be,”;
  - (c) in paragraph 5—
    - (i) the existing provision becomes sub-paragraph (1);



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(ii) after sub-paragraph (1) insert—

“(2) Where the person is or is eligible to be an active member in the 2015 Scheme, “relevant service” in C means the total of the service referred to in paragraph 1A(1) (a) and (b) of Part 1 of Schedule 1.”

**Amendment of Schedule 4 (awards on death: additional provisions)**

**13.** In Part 1 (adult dependent relative’s special pension) of Schedule 4—

(a) in paragraphs 1, 2 and 3, for “or, as the case may be, his final pensionable pay”, in each place where the words occur, substitute “, final pensionable pay or final pay, as the case may be”;

(b) in paragraph 4—

(i) after “final pensionable pay” insert “or final pay”;

(ii) the existing provision becomes sub-paragraph (1);

(iii) after sub-paragraph (1) insert—

“(2) Where the person is or is eligible to be an active member in the 2015 Scheme, “relevant service” in C means the total of the service referred to in paragraph 1A(1) (a) and (b) of Part 1 of Schedule 1.”