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WELSH STATUTORY INSTRUMENTS

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**2015 No. 622**

**The Firefighters' Pension Scheme (Wales) Regulations 2015**

**PART 5**

**Retirement benefits**

**CHAPTER 4**

**Ill-health benefits**

**Entitlement to lower tier ill-health pension and higher tier ill-health pension**

**74.**—(1) An active member who has not reached normal pension age is entitled to immediate payment of a lower tier ill-health pension if the following conditions are satisfied—

- (a) in the opinion of an IQMP, the member is incapable of performing any of the duties of the role in which the member was last employed because of incapacity of mind or body and this incapacity will continue until normal pension age;
- (b) the member has at least three months of qualifying service;
- (c) consequent on the incapacity in sub-paragraph (a), the member has been dismissed or retired from scheme employment; and
- (d) the scheme manager has determined that the member is entitled to a lower tier ill-health pension.

(2) An active member is entitled to immediate payment of a higher tier ill-health pension in addition to the lower tier ill-health pension if the following conditions are satisfied—

- (a) in the opinion of an IQMP, the member is incapable of undertaking regular employment because of incapacity of mind or body and this incapacity will continue until normal pension age;
- (b) the member has at least five years of qualifying service;
- (c) the member is entitled to a lower tier ill-health pension; and
- (d) the scheme manager has determined that the member is entitled to a higher tier ill-health pension.

(3) In these Regulations, an “ill-health award” (*“dyfarniad afiechyd”*) means the entitlement to the payment of a lower tier ill-health pension, and in cases where the member is also entitled to a higher tier ill-health pension, the payment of a higher tier ill-health pension.

**Annual rate of ill-health awards**

**75.**—(1) The annual rate of a lower tier ill-health pension and of a higher tier ill-health pension is calculated as follows.

(2) The annual rate of a lower tier ill-health pension is calculated in accordance with paragraphs (2)(a) and (2)(b) of regulation 68 (annual rate of retirement pension (active members)), but without subtracting the early payment reduction.

(3) The annual rate of a higher tier ill-health pension is calculated by multiplying the annual amount of the adjusted lower tier ill-health pension by the member's assumed period of pensionable service and by 2%.

(4) In this regulation—

“the adjusted lower tier ill-health pension” (“*y pensiwn addasedig afiechyd haen isaf*”) means the lower tier ill-health pension payable under paragraph (2) calculated—

- (a) excluding an amount equal to the amount of any added pension which had been included in the calculation of the lower tier ill-health pension, and
- (b) without the deduction for any commuted portion of the pension;

“the member's assumed period of pensionable service” (“*cyfnod tybiedig gwasanaeth pensiyndwy yr aelod*”) means the period expressed in years—

- (a) beginning with the day after the member's continuous period of pensionable service ceased, and
- (b) ending with the day before the day on which the member would reach normal pension age.

#### **Early payment of retirement pension to deferred member**

**76.** A deferred member who has not reached deferred pension age is entitled to immediate payment of a retirement pension calculated under regulation 69 (annual rate of retirement pension (deferred members)) without subtracting the early payment reduction if the following conditions are satisfied—

- (a) the member has given written notice to the scheme manager requesting payment of the pension before deferred pension age;
- (b) in the opinion of the IQMP, the member is incapable of undertaking regular employment because of infirmity of mind or body and this incapacity will continue until deferred pension age; and
- (c) the scheme manager has determined that the member is entitled to the early payment of the retirement pension.

#### **Review of ill-health award or early payment of retirement pension**

**77.—(1)** Where a member (P) has been in receipt of an ill-health award under regulation 74 (entitlement to lower tier ill-health pension and higher tier ill-health pension) for less than 10 years and is under deferred pension age, the scheme manager must consider, at such intervals as it considers appropriate, whether P has become capable—

- (a) of performing any duty appropriate to the role from which P retired on grounds of ill-health; and
- (b) of undertaking regular employment.

(2) The scheme manager must consider, at such intervals as it considers appropriate before the member reaches deferred pension age, in relation to a pensioner member who was a deferred member and whose pension is being paid early by virtue of regulation 76 (early payment of retirement pension to a deferred member), whether the member has become capable of undertaking regular employment.

### Consequences of review

78.—(1) If, on such consideration as is mentioned in regulation 77(1) (review of ill-health award or early payment of retirement pension), the scheme manager determines<sup>(1)</sup> that a member (H) who is in receipt of a higher tier ill-health pension has become capable of undertaking regular employment, H's entitlement to that pension must cease with immediate effect.

(2) Subject to paragraph (3), a lower tier ill-health pension must continue to be paid to a member who ceases to be entitled to a higher tier ill-health pension.

(3) If—

(a) on such consideration as is mentioned in regulation 77(1) (review of ill-health award or early payment of retirement pension), the scheme manager determines that a member (L) who is in receipt of a lower tier ill-health pension has become capable of performing the duties appropriate to the role from which L retired on grounds of ill-health; and

(b) the employer makes L an offer of employment in that role (“a paragraph (3)(b) offer”), L's entitlement to a lower tier ill-health pension must cease whether L accepts or declines the offer.

(4) The employer must by written notice when making a paragraph (3)(b) offer specify a date by which, if the member has not accepted the offer, the member will be taken to have declined it.

(5) A lower tier ill-health pension ceases to be payable on the earlier of the following dates—

(a) the date on which a member re-enters scheme employment pursuant to a paragraph (3) (b) offer;

(b) such date after the paragraph (3)(b) offer is made as the employer specifies by notice under paragraph (4).

(6) Where a member declines a paragraph (3)(b) offer, a deferred member's account must be established under regulation 57 (account established after ill-health award ceases to be payable) from the date on which that member's ill-health award ceases to be payable in accordance with paragraph (5).

(7) If, on such consideration as is mentioned in regulation 77(2) (review of ill-health award or early payment of retirement pension), the scheme manager has obtained the IQMP's opinion which states that a deferred member (P) whose deferred pension is being paid early has become capable of undertaking regular employment, P's entitlement to early payment of the pension must cease with immediate effect and P's deferred member's account must be adjusted under regulation 56 (adjustment of account after early payment of deferred pension ceases).

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(1) Regulation 162 (role of IQMP in determinations by the scheme manager) requires the scheme manager to obtain the opinion of the IQMP in certain circumstances.