
WELSH STATUTORY INSTRUMENTS

2015 No. 622

The Firefighters' Pension Scheme (Wales) Regulations 2015

PART 5

Retirement benefits

CHAPTER 1

Interpretation

Application of Part

65. This Part applies in relation to retirement benefits payable in respect of a continuous period of pensionable service under this scheme.

Qualifying service

66.—(1) In these Regulations, in relation to a member's pension account, "qualifying service" ("*gwasanaeth cymwys*") means the total of—

- (a) any pensionable service under this scheme in relation to the same pension account;
- (b) if a transfer value payment has been accepted under Part 10 (transfers) in respect of a member's accrued rights under another occupational pension scheme, the member's period of pensionable service under that scheme; and
- (c) for a transition member with continuity of service, subject to paragraphs (2), (3), (4) and (5), the member's pensionable service reckonable under rule F1(1) (reckoning of and certificates as to pensionable service) of the 1992 Scheme (if any) and the member's qualifying service under the NFPS (if any).

(2) Where a transition member has more than one active member's account and was a member of the 1992 Scheme, the pensionable service reckonable under rule F1 of the 1992 Scheme must be added to the pensionable service for the active member's account in respect of which the scheme employment is the most similar to the employment which was pensionable under the 1992 Scheme.

(3) Where a transition member has more active member's accounts than the number of contracts of employment in respect of which that member was a member of the NFPS, the qualifying service under the NFPS must be added to the pensionable service for the active member's account in respect of which the scheme employment is most similar to the employment which was pensionable under the NFPS.

(4) Where a transition member was a member of the 1992 Scheme and the NFPS or had two or more contracts of employment in respect of which that member was a member of the NFPS, the pensionable service reckonable under rule F1 of the 1992 Scheme or the qualifying service under the NFPS, as the case may be, must be added to the pensionable service for the active member's

(1) Rule F1 of the 1992 Scheme as it has effect in Wales has been amended by [S.I. 2006/1672 \(W. 160\)](#), [2007/1074 \(W. 112\)](#) and [2014/3242 \(W. 329\)](#).

account in respect of which the scheme employment is most similar to the employment which was pensionable under the 1992 Scheme or the NFPS.

(5) If the scheme manager is not certain which service pensionable under the 1992 Scheme or qualifying service under the NFPS is the most similar to the scheme employment for a particular pension account, the member may decide which pensionable service under the 1992 Scheme or qualifying service under the NFPS is to be added to the pensionable service in relation to a member's pension account and notify the scheme manager by written notice, in a form required by the scheme manager.

(6) None of the following counts as qualifying service—

- (a) any pensionable service under this scheme in respect of which a person's rights under this scheme are extinguished;
- (b) any pensionable service under the 1992 Scheme or the NFPS in respect of which a person's rights under that scheme are extinguished;
- (c) any unauthorised absence from scheme employment.

CHAPTER 2

Retirement benefits

Entitlement to retirement pension

67.—(1) Subject to paragraph (2), a member of this scheme (P) is entitled to the immediate payment of a retirement earned pension under this scheme if—

- (a) P—
 - (i) has reached the age of 55,
 - (ii) has at least three months qualifying service,
 - (iii) has claimed payment of a retirement pension, and
 - (iv) is no longer employed in a scheme employment and so is not entitled to be an active member of this scheme; or
- (b) P has exercised the partial retirement option.

(2) Where a member is entitled to an ill-health award, the requirement in paragraph (1)(a)(i) does not apply to that member.

(3) On becoming entitled to the immediate payment of a retirement earned pension, P is entitled to immediate payment of a retirement added pension if P had an added pension account in this scheme before becoming so entitled.

(4) The claim for payment of a retirement pension must be made by notice to the scheme manager in a form required by the scheme manager and must be given before the date on which the first payment of the retirement pension is paid.

Annual rate of retirement pension (active members)

68.—(1) This regulation applies when an active member of this scheme becomes entitled to the immediate payment of a retirement pension.

(2) The annual rate of a retirement pension payable on the day following the last day of pensionable service to a member to whom this regulation applies is calculated by adding the total of sub-paragraphs (a), (b) and (c)—

- (a) the amount derived by—

- (i) taking the amount of retirement earned pension specified in the member's retirement account,
 - (ii) subtracting the early payment reduction (if any), specified in that account in relation to that amount,
 - (iii) subtracting the commutation amount (if any) specified in that account in relation to that amount, and
 - (iv) subtracting the total allocation amount (if any) specified in that account in relation to that amount;
- (b) the amount derived by—
- (i) taking the amount of retirement added pension (if any) specified in the member's retirement account,
 - (ii) subtracting the early payment reduction (if any), specified in that account in relation to that amount,
 - (iii) subtracting the commutation amount (if any) specified in that account in relation to that amount, and
 - (iv) subtracting the total allocation amount (if any) specified in that account in relation to that amount;
- (c) the amount of the higher tier ill-health pension (if any) awarded to the member under regulation 74(2)(entitlement to lower tier ill-health pension and higher tier ill-health pension).

Annual rate of retirement pension (deferred members)

69.—(1) This regulation applies when a deferred member of this scheme becomes entitled to the immediate payment of a retirement pension.

(2) The annual rate of a retirement pension payable to a member to whom this regulation applies is calculated by subtracting from the retirement amount of deferred pension specified in the deferred member's account—

- (a) the early payment reduction (if any), specified in that account in relation to that amount;
- (b) the commutation amount (if any) specified in that account in relation to that amount;
- (c) the total allocation amount (if any) specified in that account in relation to that amount.

Early payment reduction

70.—(1) This regulation applies when an actuarial reduction is to be applied when calculating the annual rate of pension to be payable to an active member who has not reached normal pension age or to a deferred member who has not reached deferred pension age.

(2) An active member (A) may claim a retirement pension to be paid after A has reached the age of 55 and before A has reached normal pension age.

(3) The actuarial reduction to be applied in a case falling in paragraph (2) is calculated in accordance with actuarial guidance which reduces the pension on the basis that A had not reached normal pension age. The actuarial guidance must have regard to actuarial neutrality compared to the present value of a pension payable at normal pension age, with future increases between the date of A's early retirement and normal pension age being in line with increases under the index adjustment.

(4) A deferred member (D) may claim a retirement pension to be paid after D has reached the age of 55 and before D has reached deferred pension age.

(5) The actuarial reduction to be applied in a case falling in paragraph (4) is in accordance with actuarial guidance which reduces the pension on the basis that D had not reached deferred pension age. The actuarial guidance must have regard to actuarial neutrality compared to the present value of a pension payable at deferred pension age, with future increases between the date of D's early retirement and deferred pension age being in line with increases under PIA 1971.

Employer initiated retirement

71.—(1) Where an active member who has attained the age of 55 or over but has not attained normal pension age is dismissed by an employer from a scheme employment by reason of business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency and the employer makes the determination in paragraph (2), that member's pension is calculated in accordance with regulation 68 (annual rate of retirement pension (active members)) without the early payment reduction.

(2) An employer may only pay a retirement pension of the amount mentioned in paragraph (1) in the circumstances mentioned in that paragraph where the employer determines that a retirement pension awarded on that basis would assist the economical, effective and efficient management of its functions having taken account of the costs likely to be incurred in the particular case.

CHAPTER 3

Partial retirement benefits

Exercise of partial retirement option

72.—(1) This regulation applies to an active member of this scheme (P) in relation to a continuous period of pensionable service who—

- (a) is aged at least 55; and
- (b) would be entitled to the immediate payment of a retirement pension in relation to that period of service if P left pensionable service and claimed payment of the pension.

(2) P may opt to continue in pensionable service under this scheme but claim payment of the whole of P's accrued pension in relation to the pensionable service rendered before the exercise of the partial retirement option.

(3) Where P has more than one active member's account, the partial retirement option may be exercised in respect of some or all of P's active member's accounts.

(4) The partial retirement option may only be exercised by notice to the scheme manager ("option notice") in a form required by the scheme manager and must be given before the date on which the first payment of the retirement pension is claimed.

(5) For the purpose of these Regulations, the partial retirement option is taken to be exercised on such date as the member and the scheme manager agree.

(6) An option notice must specify that P claims the whole of P's pension accrued in respect of P's active member's account in respect of the earlier service of that scheme employment.

Annual rate of retirement pension after exercise of partial retirement option

73.—(1) An active member of this scheme (P) who exercises the partial retirement option is entitled to the immediate payment of a retirement pension.

(2) The annual rate of a retirement pension is calculated under regulation 68 (annual rate of retirement pension (active members)) by reference to the amount of that description of retirement earned pension and retirement added pension (if any) specified in the member's retirement account.

(3) For the purposes of this Part, where a member exercises the partial retirement option, that member's last day of pensionable service in relation to the pensionable service in respect of which the partial retirement option is exercised is the day on which the member exercised the partial retirement option.

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 pensiynddwy 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⁽²⁾ 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—

(2) 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.

- (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).

CHAPTER 5

Payment of retirement benefits

Commencement of pensions

- 79.**—(1) The first period for which any retirement pension is payable immediately on a member leaving scheme employment begins with the day after the date on which the employment ends where the member has made a claim for payment of that pension before that date.
- (2) Where an active member has not claimed payment of the retirement pension before the date on which that member retires, the pension will be payable from a date after the claim is made as notified to the member by the scheme manager.
 - (3) Where the employer of an active member has determined to pay that member a retirement pension before the member reaches normal pension age in exercise of the powers in regulation 71 (employer initiated retirement), the first period for which the pension is payable begins on the day after the member’s scheme employment ends.
 - (4) In the case of an active member who exercises the partial retirement option, the first period for which any retirement pension is payable begins on the day after the date on which the partial retirement option is exercised.
 - (5) In the case of a deferred member, the first period for which payment of a retirement pension is to be payable begins on the date on which the member attains deferred pension age where a deferred member has claimed payment of a retirement pension unless that member gives written notice to the scheme manager before the member reaches deferred pension age requesting—
 - (a) to defer payment by notice given to the scheme manager more than three months before the member reaches deferred pension age and any such deferral must not extend beyond the day before the member’s 75th birthday;

- (b) payment of the retirement pension before deferred pension age after the deduction of the early payment reduction; or
- (c) early payment of the retirement pension under regulation 76 (early payment of retirement pension to deferred member) on grounds of incapacity to undertake regular employment.

(6) Where an active member is entitled to a lower tier ill-health pension or a higher tier ill-health pension under regulation 74 (entitlement to lower tier ill-health pension and higher tier ill-health pension), the first period for which a retirement pension is payable begins on the day after the date on which the member's scheme employment is terminated.

(7) Where a deferred member has made a request referred to in paragraph (5)(c) and is entitled to the early payment of a retirement pension, the first period for which the pension is payable begins on the date on which the deferred member became incapable of undertaking regular employment because of infirmity of body or mind or, if that date cannot be ascertained, from the date of the member's request to the scheme manager for early payment.

(8) Where a deferred member has made a request referred to in paragraph (5)(a) or (b), the pension will be payable from a date after the claim for it is made which is notified to the member by the scheme manager.

Option to commute part of pension

80.—(1) A member who becomes entitled to the immediate payment of a retirement pension may opt under this regulation to exchange part of the pension for a lump sum.

(2) The option may only be exercised—

- (a) by written notice to the scheme manager which sets out the amount to be commuted; and
- (b) before the first payment of the pension is made.

(3) If a member exercises the option, for every £1 by which the amount of the member's annual rate of pension is reduced, the member must be paid a lump sum of £12.

(4) A member may not exchange for a lump sum under this regulation more than the lesser of—

- (a) 25% of the pension; and
- (b) the proportion of the pension to the extent that it would result in a scheme chargeable payment⁽³⁾ for the purposes of Part 4 of FA 2004.

(5) This regulation does not apply to a pension derived from pension credit rights if the pension debit member from whose rights the pension is derived has received a lump sum under this regulation before the date on which the pension sharing order takes effect.

(6) This regulation does not apply to a higher tier ill-health pension.

CHAPTER 6

Allocation of part of pension

Allocation election

81.—(1) This regulation applies in relation to a retirement earned pension payable in respect of a member's pensionable service under this scheme.

(2) An active member or deferred member may elect to allocate up to a third of the amount of the annual rate of any of the member's retirement pensions under this scheme to a beneficiary ("allocation election").

(3) See section 241 of the Finance Act 2004. That section was amended by the Finance Act 2011 (c. 11), Schedule 16, paragraph 74 and the Finance Act 2006 (c. 25), Schedule 21, paragraph 9.

(3) The beneficiary of an allocation election must be a person who, when the allocation election is made, is—

- (a) the spouse, civil partner or cohabiting partner of the active member or the deferred member; or
- (b) with the consent of the scheme manager, any other person who is substantially dependent on the active member or deferred member and would have been a dependant of the member for the purposes of paragraph 15(2) or (3) of Schedule 28 to FA 2004 if the member had died when the election was made⁽⁴⁾.

(4) The scheme manager may withhold consent under paragraph (3)(b) if the scheme manager is not satisfied that the person is substantially dependent on the active member or deferred member.

(5) If a member wishes to allocate pension to more than one beneficiary, a separate election must be made in respect of each beneficiary.

(6) Where more than one portion of a particular pension is allocated, the total of the allocated portions of that pension must not exceed the portion of that pension retained by the active or deferred member.

(7) If paragraph (8) applies, the member may elect to allocate only so much of the pension (after subtracting the commutation amount, if any) that exceeds the guaranteed minimum, multiplied by such factor as is indicated for a person of the member's description in tables provided by the scheme manager having regard to actuarial guidance.

(8) This paragraph applies if the member has a guaranteed minimum under section 14 (earner's guaranteed minimum) of PSA 1993 in relation to the whole or part of a pension as a result of receipt by this scheme of a transfer payment from another pension scheme in respect of which the member had such a guaranteed minimum.

Making an allocation election

82.—(1) When an active or deferred member intends to make an allocation election, that member must—

- (a) satisfy the scheme manager that that member is in good health and has a normal life expectancy; and
- (b) give the scheme manager written notice of an allocation election (a “notice of allocation”) specifying—
 - (i) the portion,
 - (ii) the name and address of the beneficiary,
 - (iii) the sex of the beneficiary, and
 - (iv) the date of birth of the beneficiary.

(2) The notice of allocation, which may be sent by post, must be given not earlier than two months before the pension comes into payment.

(3) Where the requirements in paragraphs (1) and (2) have been satisfied, the scheme manager must notify the member that it has accepted the allocation election.

(4) An election has no effect if the member or the beneficiary dies before the notice of allocation takes effect.

(4) Paragraph 15(2) was amended by the Finance Act 2005 (c. 7), Schedule 10, paragraph 26 and S.I. 2005/3229.

Effect of allocation

83.—(1) If an allocation election takes effect, the member’s retirement pension is reduced accordingly.

(2) If a notice of allocation takes effect, it does so on the day on which the retirement pension comes into payment.

(3) Where a notice of allocation has taken effect, and the beneficiary survives the pensioner, the scheme manager must, from the date of the pensioner’s death, pay the beneficiary a pension for life (“allocated pension”) of an amount determined by the scheme manager in accordance with actuarial guidance in force when the notice of allocation takes effect, having regard to—

- (a) the amount of retirement pension allocated under the election; and
- (b) the age of the pensioner and beneficiary at the date when the notice of allocation was given.

(4) Where more than one portion of a member’s retirement pension has been allocated, a separate calculation must be made under paragraph (3) in respect of each allocation.

(5) Where—

- (a) a notice of allocation has taken effect; and
- (b) the beneficiary pre-deceases the pensioner,

the scheme manager must pay to the pensioner (distinguishing it from any other pension payable to that pensioner) the portion of pension that had been allocated (“the failed allocation pension”).

(6) Where paragraph (5) applies, the pensioner is not entitled to recover from the scheme manager the amount of any deduction made in respect of the failed allocation pension.

(7) An allocation ceases to have effect for the purposes of this regulation if it would result in a pension being paid under this regulation to a beneficiary who is neither—

- (a) the member’s spouse, civil partner or cohabiting partner on—
 - (i) the date on which the member becomes entitled to the pension, or
 - (ii) when the member dies; nor
- (b) a dependant of the member for the purposes of paragraph 15(2) or (3) of Schedule 28 to FA 2004 when the member dies.

Adjustment of allocated benefit

84.—(1) The amount of allocated pension payable to the beneficiary of an allocation election may be adjusted in a manner determined by the scheme manager if—

- (a) the member who made the allocation election dies after reaching the age of 75; and
- (b) on the death of the member, the amount of allocated pension payable to the beneficiary does not qualify as a dependants’ scheme pension under section 167 (the pension death benefit rules) of FA 2004(5).

(2) In this regulation, “allocated pension” (“*pensiwn dyranedig*”) has the same meaning as that given in regulation 83(3) (effect of allocation).

(5) Section 167 was amended by the Finance Act 2007 (c. 11), Schedule 20, paragraph 22; the Finance Act 2011 (c. 11), Schedule 16, paragraph 11 and the Finance Act 2014 (c.26), section 41(2). See also Part 2 of Schedule 28 to the Finance Act 2011 for the meaning of expressions used in section 167.