
WELSH STATUTORY INSTRUMENTS

2015 No. 622

The Firefighters' Pension Scheme (Wales) Regulations 2015

PART 13

Supplementary

CHAPTER 2

Forfeiture

Set-off

185.—(1) The scheme manager may set off a relevant monetary obligation against a member's entitlement to benefits under this scheme.

(2) In this regulation, a “relevant monetary obligation” (*“rhwymedigaeth ariannol berthnasol”*) is a monetary obligation owed by a member (P), which satisfies the conditions in paragraphs (3), (4) or (5).

(3) The conditions in this paragraph are that the monetary obligation—

- (a) was incurred to P's employer;
- (b) was incurred after P became an active member of this scheme;
- (c) arose out of or was connected with service in the scheme employment in respect of which P is a member of this scheme; and
- (d) arose out of P's criminal, negligent or fraudulent act or omission.

(4) The conditions in this paragraph are that the monetary obligation—

- (a) was incurred to this scheme; and
- (b) arose out of P's criminal, negligent or fraudulent act or omission.

(5) The conditions in this paragraph are that the monetary obligation—

- (a) was incurred to this scheme; and
- (b) arose out of a payment made to P in error by the scheme manager.

(6) Paragraph (7) applies if a set-off is to be applied as result of P owing a relevant monetary obligation which satisfies the conditions in paragraph (3).

(7) Where this paragraph applies, the scheme manager may not apply a set-off against that part of P's entitlement to benefits that represents transfer credits within the meaning of section 124(1) (interpretation of Part 1) of the Pensions Act 1995(1) other than prescribed transfer credits for the purposes of section 91(5)(d) (exceptions from the inalienability of occupational pensions) of that Act (2).

(1) Section 124(1) was amended by the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 12, paragraphs 43 and 61, the Child Support, Pensions and Social Security Act 2000 (c. 19), Schedule 5, paragraph 8, the Pensions Act 2004 (c. 35), section 7(2), Schedule 12, paragraphs 34, 43 and 69 and Schedule 13, Part 1 and S.I. 2005/2053, 2006/745 and 2014/560.

(2) Section 91(5)(d) was amended by the Welfare Reform and Pensions Act 1999 (c. 30), Schedule 12, paragraphs 43 and 57. See S.I. 1997/785 which prescribes the transfer credits.

(8) The scheme manager may only apply a set-off against that part of a member's pension that exceeds any guaranteed minimum to which that member is entitled under section 14 of PSA 1993.

(9) The value of the set-off applied must not exceed the lesser of—

- (a) the amount of the relevant monetary obligation; and
- (b) the value of P's entitlement to benefits.

(10) The scheme manager may only set off a relevant monetary obligation against P's entitlement to benefits if—

- (a) there is no dispute as to the amount of the relevant monetary obligation; or
- (b) the relevant monetary obligation is enforceable—
 - (i) under an order of a competent court, or
 - (ii) in consequence of an award of an arbitrator.