WELSH STATUTORY INSTRUMENTS

2009 No. 1225 (W.108)

FIRE AND RESCUE SERVICES, WALES

PENSIONS, WALES

The Firefighters' Pension Scheme (Wales) (Amendment) Order 2009

Made - - - - 13 May 2009
Laid before the National Assembly for Wales - - 15 May 2009

Coming into force in accordance with article 1(3)

The Welsh Ministers, in exercise of the powers conferred upon the Secretary of State by sections 34 and 60 of the Fire and Rescue Services Act 2004(**1**), and in exercise of the power in section 62 of that Act, and now vested in them(**2**), and having consulted such persons as they consider appropriate in accordance with section 34(5) of that Act, hereby make the following Order:

Title, interpretation, commencement and application

1.—(1) The title of this Order is the Firefighters' Pension Scheme (Wales) (Amendment) Order 2009.

(2) In this article "the Scheme" ("*y Cynllun*") means the New Firefighters' Pension Scheme (Wales) set out in Schedule 1 to the Firefighters' Pension Scheme (Wales) Order 2007(**3**).

(3) This Order comes into force on 9 June 2009 but, subject to paragraph (4) has effect from 1 April 2007.

(4) The following provisions of the Schedule, and so much of article 2 as relates to those provisions, have effect from 1 July 2007—

(a) paragraph 4(e), in so far as it relates to new rule 7B of Part 3 of the Scheme (additional pension benefit: continual professional development), and so much of new rule 7C as relates to new rule 7B, and

(b) paragraphs 9(a)(i) and (b)(i).

(**1**) 2004 c. 21.
(**2**) Powers under sections 34 and 60 of the Fire and Rescue Services Act 2004 were vested, in relation to Wales, in the National Assembly for Wales by section 62 of the Fire and Rescue Services Act 2004. The functions of the National Assembly for Wales were transferred to the Welsh Ministers under section 162 of, and paragraph 30 of Schedule 11 to the Government of Wales Act 2006.
(**3**) S.I.2007/1072 (W.110).

(5) This Order applies in relation to Wales.

Amendment of the Firefighters' Pension Scheme (Wales) Order 2007

2. Schedule 1 to the Firefighters' Pension Scheme (Wales) Order 2007(**4**) is amended in accordance with the Schedule to this Order.

Brian Gibbons
Minister for Social Justice and Local Government, one of the Welsh Ministers

13 May 2009

(**4**) S.I. 2007/1072 (W.110).

SCHEDULE

Article 2

AMENDMENT OF SCHEDULE 1 TO THE FIREFIGHTERS' PENSION SCHEME (WALES) ORDER 2007

1. In Part 1 (title and interpretation), in rule 2 (interpretation), in paragraph (1) in the definition of "child", for "scheme member", substitute "firefighter member, a deferred member or a pensioner member" .

2. In Part 2 (scheme membership, cessation and retirement), in rule 1(scheme membership)—

(a) in paragraph (1)—

(i) at the end of sub-paragraph (b)(i), add the word "and"; and

(ii) omit sub-paragraph (b)(iii) and the word "and" immediately preceding that sub-paragraph;

(b) in paragraph (5), add at the end of sub-paragraphs (a), (b) and (c), ", deferred member or pensioner member";

(c) for paragraph (6) substitute—

"(6) For the purposes of paragraph (5), a firefighter member, deferred member or pensioner member (referred to in this paragraph as "the scheme member") may nominate a person (a "nominated partner") who—

(a) has been living with the scheme member, otherwise than as the scheme member's spouse or civil partner; and

(b) at the date on which the question of the nominated partner's status in relation to the scheme member falls to be considered—

(i) is not the spouse or civil partner of any other person,

(ii) is registered with the scheme administrator as the scheme member's nominated partner,

(iii) is financially dependent on the scheme member, or is, with the scheme member, in a state of mutual financial dependency, and

(iv) is in a long-term relationship with the scheme member,

but this is subject to paragraph (8).";

(d) in paragraph (7), in the definition of "long-term relationship"—

(i) for "the period of two years", substitute "a period of at least two years"; and

(ii) after "firefighter member", insert ", deferred member or pensioner member";

(e) in paragraph (8), after "firefighter member", insert ", deferred member or pensioner member";

(f) in paragraph (10) for "is a member of this Scheme", substitute "is a firefighter member of this Scheme".

3. In Part 2 (scheme membership, cessation and retirement)—

(a) in rule 2 (eligibility conditions), in paragraph (1), for sub-paragraph (b) substitute—

"(b) such transfer value payment has been made to the Scheme in respect of the member's personal pension rights under a personal pension scheme as qualifies the member for benefits under the Scheme; or"; and

(b) in rule 5 (election not to make pension contributions), after paragraph (1) insert—

"(1A) A contributions election may not be made solely in respect of contributions relevant to additional pension benefit under rule 7B of Part 3 (additional pension benefit: continual professional development).".

4. In Part 3 (personal awards)—

(a) in rule 2 (award on ill-health retirement)—

(i) in paragraph (3), after "calculated", insert ", subject to paragraph (4),"; and

(ii) after paragraph (3), add—

"(4) The amount of the higher tier ill-health pension of a firefighter member who, by virtue of rule 7, is entitled to two pensions, is whichever is the greater of—

(a) the sum of the firefighter member's lower tier ill-health pension (calculated in accordance with paragraph 1 of Annex 1) and the higher tier ill-health pension to which the firefighter member would be entitled if paragraph (3) were not subject to this paragraph (calculated in accordance with paragraph 2 or 3 of Annex 1); and

(b) the amount of the single pension to which the firefighter member would be entitled under paragraph (7) of rule 7,

and for the purposes of this paragraph it is assumed that the firefighter member had given the written notice referred to in paragraph (6) of rule 7.";

(b) in rule 4 (cancellation of deferred pension), in paragraph (2), for "the employment" substitute "the authority's employment";

(c) in rule 5 (pension on member-initiated early retirement), in paragraph (5)(a), for "pensionable", in the second place in which that word appears, substitute "reference";

(d) in rule 7 (entitlement to two pensions) in paragraph (4), for "that day", substitute "the last day of the member's membership of the Scheme";

(e) after rule 7 insert—

"**Additional pension benefit: long service**

7A.—(1) A firefighter member who—

(a) in respect of a period that includes 30 June 2007 is entitled to a long service increment or an interim or transitional payment connected with long service, and

(b) on or after 1 October 2007—

(i) retires from employment as a regular firefighter, or

(ii) becomes entitled to a deferred pension under rule 3,

must be credited with an amount of additional pension benefit.

(2) Subject to paragraph (3) and rule 7C(5), the amount of additional pension benefit is that found by applying the formula—

$$\frac{A + (B \times 2)}{60} \times £990$$

where—

A is the number in years (counting part of a year as the appropriate fraction) by which the member's pensionable service up to and including 30 June 2007 exceeds 15 but does not exceed 20; and

B is the number in years (counting part of a year as the appropriate fraction) by which the member's pensionable service exceeds 20 but does not exceed 30.

(3) Where the Retail Prices Index for the month of September preceding the relevant tax year is higher than it was for September 2007, the amount of additional pension benefit (as calculated in accordance with paragraph (2) and, if applicable, this paragraph) must be increased by the same percentage as the percentage increase in the Retail Prices Index.

(4) Any increase in accordance with paragraph (3) must be applied with effect from the first Monday of the relevant tax year.

(5) In paragraph (3)—

"relevant tax year" ("*blwyddyn dreth berthnasol*") means a tax year in relation to which—

(a) the amount of a firefighter member's pension benefits is calculated for the purposes of this Scheme; and

(b) the firefighter member is not a pensioner member or a deferred member;

and "tax year" ("*blwyddyn dreth*") means the period of 12 months beginning with 6 April.

Additional pension benefit: continual professional development

7B.—(1) A firefighter member who, in any CPD year beginning with the year commencing on 1 July 2007, receives CPD payments, must be credited with an amount of additional pension benefit in respect of that year.

(2) Subject to paragraph (3) and rule 7C(3) and (5), the amount of additional pension benefit in respect of a CPD year must be determined on 1 July immediately following the year in question in accordance with guidance and tables provided by the Scheme Actuary.

(3) Where the Retail Prices Index for the month of September preceding the relevant tax year is higher than it was for the month of September in the CPD year in question, the amount of additional pension benefit for that CPD year (as calculated in accordance with paragraph (2)) must be increased by the same percentage as the percentage increase in the Retail Prices Index.

(4) Any increase in accordance with paragraph (3) must be applied with effect from the first Monday of the relevant tax year.

(5) In this rule—

"CPD payments" ("*taliadau DPP*"), as regards a firefighter, means payments made to the firefighter by the firefighter's employing authority in respect of the firefighter's continual professional development;

"CPD year" ("*blwyddyn DPP*") means a period of 12 months beginning with 1 July in which a firefighter member is in receipt of CPD payments;

"relevant tax year" ("*blwyddyn dreth berthnasol*") means a tax year in relation to which—

(a) the amount of a firefighter member's pension benefits is calculated for the purposes of this Scheme, and