WELSH STATUTORY INSTRUMENTS

2007 No. 1074 (W.112)

FIRE AND RESCUE SERVICES, WALES
PENSIONS, WALES

The Firefighters' Pension Scheme (Wales) (Amendment) Order 2007

Made - - - -	*28 March 2007*
Coming into force - -	*29 March 2007*

The National Assembly for Wales, in exercise of the powers conferred by section 26 of the Fire Services Act 1947(**1**) and section 12 of the Superannuation Act 1972(**2**), as applied by section 16(3) of that Act(**3**), and sections 36, 53, 60 and 62 of the Fire and Rescue Services Act 2004(**4**), makes the following Order:

Title, commencement, interpretation and application

1.—(1) This Order is called the Firefighters' Pension (Wales) Scheme (Amendment) Order 2007.

(2) This Order comes into force on 29 March 2007, but has effect as specified in paragraphs (3) to (6).

(3) The amendment made by article 2 and paragraph 18 of Schedule 1 (spouse's or civil partner's requisite benefit and temporary pension) has effect from 1 March 1992.

(4) The amendment made by article 2 and paragraph 2 of Schedule 1 (short service award) has effect from 21 November 2005.

(**1**) 1947 c. 41, repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c. 21). Subsections (1) to (5) of section 26 were continued in force, for the purposes of the scheme established under that section as the Firemen's Pension Scheme and set out in the Firemen's Pension Scheme Order 1992 (S.I. 1992/129), by the Fire and Rescue Services Act 2004 (Firefighters' Pension Scheme) (Wales) Order 2004 (S.I. 2004/2918 (W.257)). The name of the scheme was changed to the Firefighters' Pension (Wales) Scheme, by article 4(1) of that Order. The scheme was further amended by the Firefighters' Pension (Wales) Scheme (Amendment) Order 2006 (S.I. 2006/1672 (W. 160)). Section 26 of the 1947 Act was amended by section 1 of the Fire Services Act 1951 (c. 27), section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65), section 33 of, and Schedule 3 to, the Theft Act 1968 (c. 60), sections 16 and 29 of, and Schedule 8 to, the Superannuation Act 1972 (c. 11), section 100 of, and Schedule 27 to, the Social Security Act 1973 (c. 38), section 1 of, and Schedule 1 to, the Social Security (Consequential Provisions) Act 1975 (c. 18), section 32 of the Magistrates' Courts Act 1980 (c. 43), section 1 of the Police and Firemen's Pensions Act 1997 (c. 52), and Schedule 25 to the Civil Partnership Act 2004 (c. 33), and article 2 of the Social Security (Modification of Fire Services Act 1947) Order 1976 (S.I. 1976/551).

(**2**) 1972 c. 11; section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).

(**3**) Section 16 was continued in force, for the purposes of the Firemen's Pension Scheme (renamed the Firefighters' Pension (Wales) Scheme by the Fire and Rescue Services Act 2004 (Firefighters Pension Scheme) (Wales) Order 2004 (S.I. 2004/2918 (W.257)).

(**4**) 2004 c. 21

(5) The amendments made by article 2 and the following paragraphs of Schedule 1 have effect from 6 April 2006—

(a) paragraph 1 (exclusive application of Scheme to regular firefighters),

(b) paragraph 10 (commutation — general provision),

(c) paragraph 11 (commutation — small pensions),

(d) paragraph 12 (allocation),

(e) paragraph 14 (deduction of tax from certain awards),

(f) paragraph 24 (lump sum death grant),

(g) paragraph 27 (lump sum in lieu of surviving spouse's or civil partner's pension),

(h) paragraph 28 (lump sum in lieu of child's allowance),

(i) paragraph 29 (limitation on discretion to commute pension or allowance for lump sum),

(j) paragraph 41 (election to purchase increased benefits),

(k) paragraph 42 (payment of periodical contributions for increased benefits), and

(l) paragraph 43 (pension debit members: restriction on replacement of debited rights).

(6) The remaining provisions of this Order have effect from 1 April 2006.

(7) In this Order—

"the Assembly" means the National Assembly for Wales?CQ?;

"the Compensation Scheme" means the Firefighters' Compensation Scheme (Wales) 2007 set out in the Schedule to the Firefighters' Compensation Scheme (Wales) Order 2007(**5**); and

"the Pension Scheme" means the Firefighters' Pension Scheme set out in Schedule 2 to the Firemen's Pension Scheme Order 1992(**6**) (renamed in relation to Wales as the Firefighters' Pension (Wales) Scheme, as it has effect in Wales (**7**).

(8) The amendments made by this Order apply only in relation to the Firefighters' Pension (Wales) Scheme as it has effect in Wales(**8**).

Amendment of the Pension Scheme

2. The Pension Scheme is amended in accordance with Schedule 1.

Transitional provision

3.—(1) The amendments made by article 2 and paragraphs 6 (ill-health awards), 51 (review of ill-health and certain deferred pensions) and 62 (ill-health pension) of Schedule 1 do not have effect in relation to a person in respect of whom a determination or decision relevant to the termination of that person's employment on grounds of ill-health (whether under Part H or Part K of the Pension Scheme) has been made before 1 April 2006.

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

(**6**) S.I. 1992/129; amended by 1997/2309 and 2851, 1998/1010, 2001/3649 and 3691, 2004/1912 and 2006/1672 (W. 160).

(**7**) The Secretary of State's functions under section 26 of the Fire Services Act 1947, in so far as they were exercisable in relation to Scotland, were devolved to Scottish Ministers by section 63 of the Scotland Act 1998 (c. 46) and article 2 of, and Schedule 1 to, the Scotland Act 1998 (Transfer of Functions to Scottish Ministers etc) Order 1999 (S.I. 1999/1750). The Secretary of State's functions under section 3(5) of the Fire Services Act 1947, in so far as they were exercisable in relation to Wales, were transferred to the National Assembly for Wales by the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672); *see* the entry for the Fire Services Act 1947 in Schedule 1.

(**8**) The National Assembly for Wales preserved the scheme established under section 26 of the Fire Services Act 1947 (known in Wales as the Firefighters' Pension (Wales) Scheme) by virtue of S.I. 2004/2918 (W.257).

(2) In a case to which paragraph (1) applies, rules B3 and K1 of the Pension Scheme continue to have effect in relation to the person concerned in the form in which they exist immediately before that date.

Revocation and consequential provision

4.—(1) So much of article 2(2) of the Firemen's Pension Scheme Order 1992 as relates to the provisions specified in column (1) of Schedule 2 to this Order (provisions of the Pension Scheme superseded by the Compensation Scheme) is revoked as to Wales.

(2) A reference in any document (whether made, served or issued before, on or after 1 April 2006) to a provision of the Pension Scheme that ceases to have effect by virtue of paragraph (1) is, unless a contrary intention appears, to be construed on and after that date as a reference to the corresponding provision of the Compensation Scheme specified in column (2) of Schedule 2.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**9**).

D. Elis-Thomas
28 March 2007 The Presiding Officer of the National Assembly

(**9**) 1998 c. 38.

SCHEDULE 1

Article 2

AMENDMENT OF THE FIREFIGHTERS' PENSION (WALES) SCHEME (WALES ONLY)

1. In rule A3 (exclusive application to regular firefighters)—

(a) in paragraph (1), for "paragraphs (3) and (4)", substitute "paragraphs (3) to (5)"; and

(b) after paragraph (4), add—

"(5) This Scheme ceases to apply in relation to—

(a) a person who takes up employment with a fire and rescue authority on or after 6th April 2006,

(b) a person who, having made an election under rule G3(1) not to pay pension contributions, cancels that election on or after 6th April 2006, and

(c) the spouse, civil partner, eligible child or other dependant of such a person,

on the day on which a scheme, other than the Compensation Scheme, is brought into operation under section 34 of the Fire and Rescue Services Act 2004, as regards Wales."(**10**).

2. Omit rule A9 (qualifying injury).

3. In rule A10 (disablement)—

(a) in paragraph (2), for "Subject to paragraph (3), disablement", substitute "Disablement"; and

(b) omit paragraph (3).

4. Omit rule A11 (death or infirmity resulting from injury).

5. For rule B2 (short service award), substitute—

"**Short service award**

B2.—(1) This rule applies, unless immediately before his retirement an election under rule G3(1) not to pay pension contributions had effect, to a regular firefighter who—

(a) retires on or after normal pension age; and

(b) is not entitled to any other award under this Part.

(2) A person to whom this rule applies becomes entitled on retiring—

(a) if—

(i) he is entitled to reckon at least two years' pensionable service, or

(ii) a transfer value in respect of his rights under a personal pension scheme has been paid to the scheme,

to a short service pension calculated in accordance with Part II of Schedule 2, and

(b) in any other case, to a short service lump sum of an amount equal to the aggregate of his pension contributions.".

6. For rule B3 (ill-health award)(**11**), substitute—

(**10**) As to the Compensation Scheme, *see* Paragraph 61 of this Schedule.
(**11**) Rule B3 was amended by S.I. 2006/1672 (W.160), Sch. 1 para. 14.

"**Ill health awards**

B3.—(1) This rule applies to a regular firefighter who is required to retire under rule A15 (compulsory retirement on grounds of disablement) unless, immediately before his retirement, an election under rule G3(1) not to pay pension contributions had effect.

(2) A regular firefighter who is entitled—

(a) to reckon at least two years' pensionable service; or

(b) to an award under the Compensation Scheme,

becomes entitled on retiring—

(i) where paragraph (3) applies, to a lower tier ill-health pension calculated in accordance with paragraph 2 or 3 (as the case may be) of Part III of Schedule 2;

(ii) where paragraph (4) applies, to the pensions referred to in paragraph (5).

(3) This paragraph applies where, in the opinion of an independent qualified medical practitioner, obtained in accordance with rule H1, the firefighter is capable of undertaking regular employment.

(4) This paragraph applies where, in the opinion of an independent qualified medical practitioner, obtained in accordance with rule H1, the firefighter is incapable of undertaking regular employment.

(5) The pensions are—

(a) a lower tier ill-health pension calculated in accordance with paragraph 2 or 3 (as the case may be) of Part III of Schedule 2; and

(b) a higher tier ill-health pension determined in accordance with paragraph 4 of that Part.

(6) A firefighter who is not entitled to a pension under paragraph (2), becomes entitled on retiring to a short service lump sum of an amount equal to the aggregate of his pension contributions.

(7) In paragraphs (3) and (4) "regular employment" means employment for at least 30 hours a week on average over a period of not less than 12 consecutive months beginning with the date on which the issue of his capacity for employment arises.".

7. Omit rule B4 (injury award).

8. In rule B5 (deferred pension)—

(a) for paragraph (1) substitute—

"**B5.**—(1) This rule applies to a regular firefighter—

(a) who is entitled to reckon at least 2 years' pensionable service, or

(b) in respect of whom a transfer value attributable to his rights under a personal pension scheme has been paid into the scheme, or

(c) who is entitled to reckon pensionable service by virtue both of service as a regular firefighter and of a period of other employment which together amount to 2 years or more, or

(d) who has an earlier period of service as a regular firefighter which, disregarding breaks in service of not more than a month, is continuous and which after—

(i) deducting from it—