WELSH STATUTORY INSTRUMENTS

2006 No. 1672 (W.160)

FIRE AND RESCUE SERVICES, WALES
PENSIONS, WALES

The Firefighters' Pension (Wales) Scheme (Amendment) Order 2006

Made - - - -	*21 June 2006*
Coming into force - -	*23 June 2006*

The National Assembly for Wales makes the following Order in exercise of the powers contained in section 26 of the Fire Services Act 1947(**1**), section 12 of the Superannuation Act 1972(**2**) as applied by section 16(3) of that Act(**3**), sections 36, 53, 60 and 62 of the Fire and Rescue Services Act 2004(**4**), and section 259(1), (2)(c) and (4)(b) of the Civil Partnership Act 2004(**5**):

Title, commencement and application

1.—(1) The title of this Order is The Firefighters' Pension (Wales) Scheme (Amendment) Order 2006.

(2) This Order comes into force on 23 June 2006 but—

(a) subject to paragraph (3), the amendments set out in Schedule 1 have effect from 11 November 2004; and

(b) the amendments set out in Schedule 2 have effect from 5 December 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(**1**) 1947 c. 41, repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c. 21).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. 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 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**) 2004 c. 33.

(3) The following amendments set out in Schedule 1 have effect as follows—

(a) the following amendments have effect from 23 June 2006—

(i) the amendments made by paragraph 9, in so far as it relates to rule A13 (relating to normal pension age); and by paragraph 15(a)(iii), (b)(ii), (c) and (d) (relating to deferred pensions); and

(ii) the amendments made by paragraph 7(a) and (b)(i), paragraph 75(d), in so far as it relates to the insertion of paragraphs (5) and (6) of rule L1, and paragraphs 78, 79 and 82(b) (relating to the prevention of duplication of certain awards);

(b) the following amendments have effect from 13 September 2004—

(i) the amendment made by paragraph 81(b) (relating to the definition of "independent qualified medical practitioner"); and

(ii) the amendment made by paragraph 86(b)(ii)(aa) (relating to service reckonable on receipt of transfer value); and

(c) the amendments made by paragraphs 24 (relating to limiting awards to widows) and 25 (relating to widows' requisite benefit and temporary pension) have effect from 1 March 1992.

Continuation in force and amendment of the Firefighters' Pension (Wales) Scheme

2.—(1) 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)(**7**) continues in force as amended in accordance with the Schedules to this Order.

2.—(2) For the purposes of the Scheme preserved by paragraph (1), the provisions of section 26, subsections (1) to (5), of the Fire Services Act 1947 have effect as it for each reference to the Secretary of State there were substituted a reference to the National Assembly for Wales.

Signed on behalf of the National Assembly for Wales under section 66(1) of the Government of Wales Act 1998(**8**)

D. Elis-Thomas
21 June 2006 The Presiding Officer of the National Assembly

(**6**) S.I. 1992/129; amended by S.I. 1997/2309 and 2851, 1998/1010, 2001/3649 and 3691 and 2004/1912.
(**7**) 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).
(**8**) 1998 c. 38.

SCHEDULE 1

Article 2

AMENDMENT OF THE FIREFIGHTERS' PENSION (WALES) SCHEME

1. In rule A3 (exclusive application to regular firefighters)(**9**)in paragraph (3), for "a member of a brigade", substitute "an employee of a fire and rescue authority".

2. In rule A4 (application to temporary employment connected with fire services)—

(a) in paragraph (2)—

(i) for "fire services", substitute "fire and rescue services"; and

(ii) in sub-paragraphs (a), (c) and (d) after the words "Secretary of State"(in each place), insert "or National Assembly for Wales"; and

(b) for paragraph (3), substitute—

"(3) Where this rule applies the person's relevant employment shall be treated for the purposes of this Scheme as employment by a fire and rescue authority and this Scheme applies in relation to the relevant employment as if—

(a) he were, and his duties were duties as, a regular firefighter,

(b) his pay and role were the same as they would have been had he not ceased to perform duties as a regular firefighter or, where section 10 of the Fire Services Act 1959(**10**)applies, the same as his pay and role as an employee of a fire and rescue authority,

(c) any reference to employment with a fire and rescue authority were a reference to the relevant employment,

(d) rules A14, A15 and L2 were omitted, and

(e) any reference to a fire and rescue authority were a reference to the Secretary of State or the National Assembly for Wales.".

3. In rule A5 (application to permanent employment as instructor)—

(a) in paragraph (2)—

(i) for "fire services", substitute "fire and rescue services"; and

(ii) after "Secretary of State", insert "or the National Assembly for Wales"; and

(b) in paragraph (3)—

(i) for "as a member of a brigade", substitute "by a fire and rescue authority";

(ii) omit sub-paragraph (b);

(iii) in sub-paragraph (c), for "fire authority", substitute "fire and rescue authority"and after "Secretary of State" insert "or the National Assembly for Wales".

(iv) in sub-paragraph (d), for "A13 to", substitute "A14,".

4. In rule A6 (no application to auxiliary firefighter)—

(a) for "a member of a brigade", substitute "an employee of a fire and rescue authority"; and

(b) for "who is enrolled for service in the brigade which", substitute "whose employment".

5. In rule A7 (reckoning of service for purposes of awards)—

(a) in paragraph (1), for "a member of a brigade", substitute "an employee of a fire and rescue authority";

(**9**) Rule A3 was amended by S.I. 2001/3691.
(**10**) 1959 c. 44.

(b) in paragraph (2)(b), for "fire authority", substitute "fire and rescue authority"; and

(c) in paragraph (4), for "member of a brigade"(in both places), substitute "employee of a fire and rescue authority".

6. In rule A8 (aggregate pension contributions for purposes of awards), in paragraph (1)(a), for "fire authority", substitute "fire and rescue authority".

7. In rule A9 (qualifying injury)—

(a) in paragraph (1), for "Except in rule J4,", substitute "Except in rules J4, L1(5) and (6) and L4B(1)(b),"; and

(b) in paragraph (2)—

(i) for "In rule J4, unless the context otherwise requires,", substitute "In rules J4, L1(5) and (6) and L4B(1)(b)"; and

(ii) for "member of a brigade", substitute "firefighter".

8. In rule A10 (disablement)—

(a) for paragraph (1A)(**11**), substitute—

"(1A) In determining whether a disablement is permanent, a fire and rescue authority shall have regard to whether the disablement will continue until the person's normal pension age."; and

(b) in paragraph (4), for "fire authority", substitute "fire and rescue authority".

9. For rules A13 (compulsory retirement on account of age) and A14 (compulsory retirement on grounds of efficiency of brigade), substitute—

"**Normal pension age**

A13. The normal pension age of employees of a fire and rescue authority appointed on terms under which they are or may be required to engage in fire-fighting is 55.

Compulsory retirement of grounds of efficiency

A14. A regular firefighter who—

(a) has attained the age of 50, and

(b) has, or but for an election under rule G3 or a failure to make an election under rule G2A would have, completed 25 years' pensionable service,

may be required by the fire and rescue authority to retire on the grounds that his retention in the fire and rescue service would not be in the general interests of its efficiency.".

10. In rule A15 (compulsory retirement on grounds of disablement)(**12**), for "fire authority"(in both places), substitute "fire and rescue authority".

11. In rule A16 (effective date of retirement), for "a member of a brigade", substitute "an employee of a fire and rescue authority".

12. In rule B1(ordinary pension)—

(a) in paragraph (2)(a), for "joining another brigade", substitute "taking up employment with another fire and rescue authority"; and

(b) in paragraph (2)(b)—

(**11**) Paragraph (1A) was inserted by S.I. 2004/1912.
(**12**) Rule A15 was amended by S.I. 1997/2309.

(i) for "fire authority", substitute "fire and rescue authority"; and

(ii) for "chief officer", substitute "chief fire officer".

13. In rule B2 (short service awards), for paragraph (1), substitute—

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

(a) retires on or after attaining the age of 65,

(b) is entitled to reckon at least 2 years' pensionable service, and

(c) is not entitled to any other pension or gratuity under this Part.".

14. In rule B3 (ill-health award)—

(a) in paragraph (2)(a) and (b), after "calculated", insert "subject to paragraph (3)"; and

(b) after paragraph (2), insert—

"(3) Where the person has the role of Station Manager B or a superior role, the calculation required by paragraph (2)(a) or (b) shall be made as if his normal pension age were 60.".

15. In rule B5 (deferred pension)—

(a) in paragraph (2)—

(i) for "a member of a brigade", substitute "an employee of a fire and rescue authority";

(ii) for "joining another brigade", substitute "taking up employment with another fire and rescue authority"; and

(iii) after "calculated", insert "subject to paragraph (3A)";

(b) in paragraph (3)—

(i) in sub-paragraph (b), for "rejoining his brigade", substitute "re-employment with his fire and rescue authority"; and

(ii) after "calculated", insert "subject to paragraph (3A)";

(c) after paragraph (3), insert—

"(3A) Where the person has the role of Station Manager B or a superior role, the calculation required by paragraph (2) or (3) shall be made as if his normal pension age were 60."; and

(d) in paragraph (4)(b), after "he becomes permanently disabled", insert "for engaging in firefighting or performing any other duties appropriate to his former role as a firefighter".

16. In rule B6 (repayment of aggregate pension contributions), in paragraph (1),—

(a) for "a member of a brigade", substitute "an employee of a fire and rescue authority"; and

(b) for "joining another brigade", substitute "taking up employment as a regular firefighter with another fire and rescue authority".

17. In rule B7 (commutation— general provision)—

(a) for paragraph (5)(b), substitute "(b) he retires at, or after, normal pension age";

(b) omit paragraph (5)(c); and

(c) in paragraphs (7) to (9), for "fire authority", substitute "fire and rescue authority".

18. In rule B8 (commutation— small pensions)(**13**), in paragraph (1), for "fire authority", substitute "fire and rescue authority".

(**13**) Rule B8(1) was amended by S.I. 2001/3691.