WELSH STATUTORY INSTRUMENTS

2015 No. 848 (W. 63)

PUBLIC SERVICE PENSIONS, WALES

The Firefighters' Pension Scheme (Wales) (Consequential Provisions) Regulations 2015

Made - - - - 17 March 2015

Coming into force in accordance with regulation 1

The Welsh Ministers make the following Regulations in exercise of the powers conferred by sections 1(1) and (2)(f), 2(1) and 3(1), (2), (3)(a) and (4) of, and paragraph 6(b) of Schedule 2 to, the Public Service Pensions Act 2013(**1**).

In accordance with section 21 of that Act, the Welsh Ministers have consulted the representatives of such persons as appear to the Welsh Ministers likely to be affected by these Regulations.

Pursuant to section 24(1) and (3) of that Act, a draft of this instrument has been laid before, and approved by a resolution of, the National Assembly for Wales.

PART 1

Introductory

Title, commencement and expiry

1.—(1) The title of these Regulations is the Firefighters' Pension Scheme (Wales) (Consequential Provisions) Regulations 2015.

(2) With the exception of regulation 10, these Regulations come into force on 1 April 2015.

(3) Regulation 10 comes into force on the same day as paragraph 38 of Schedule 13 to the Pensions Act 2014(**2**) comes into force, and on that day regulation 9 ceases to have effect.

Interpretation

2. In these Regulations—

"the 1993 Act" ("*Deddf 1993*") means the Pension Schemes Act 1993(**3**);

(**1**) 2013 c. 25.
(**2**) 2014 c. 19.
(**3**) 1993 c. 48.

"the 2013 Act" ("*Deddf 2013*") means the Public Service Pensions Act 2013(**4**);

"the new scheme" ("*y cynllun newydd*") means the scheme established by regulation 2 of the Firefighters' Pension Scheme (Wales) Regulations 2015(**5**); and

"old scheme" ("*hen gynllun*") means the scheme constituted by the Firemen's Pension Scheme Order 1992(**6**) as it has effect in Wales or the scheme constituted by the Firefighters' Pension Scheme (Wales) Order 2007(**7**).

PART 2

Modification of contracting-out provisions

Application of this Part

3. This Part applies where—

(a) an election is made under section 11 (elections as to employments covered by contracting-out certificates) of the 1993 Act(**8**) in relation to persons who become members of the new scheme on or after 1 April 2015 and before 6 April 2016 (whether or not any of those persons are members of an old scheme); and

(b) the new scheme satisfies the requirements of section 9 (requirements for certification of schemes: general) of the 1993 Act(**9**).

Contracting-out

4.—(1) Part 2 of the Occupational Pension Schemes (Contracting-out) Regulations 1996(**10**) (certification of employments) is modified as follows in its application to the new scheme.

(2) The requirements in regulation 2(1)(a) (making of elections for the issue of contracting-out certificates) and regulations 3 (notices by employers of intended election) to 5 (time for making an election) do not apply.

(3) In regulation 6 (information to be included in an election)—

(a) paragraph (1) is to be read as though, for sub-paragraphs (a) to (f), there were substituted—

"(a) the name by which the new scheme is to be known;

(b) the name by which the old schemes are known; and

(c) any other information necessary to enable the Commissioners for Her Majesty's Revenue and Customs to identify the old schemes."; and

(**4**) 2013 c. 25.
(**5**) S.I. 2015/ 622 (W. 50).
(**6**) S.I. 1992/129; see Schedule 2. The name of the scheme was changed to the Firefighters' Pension (Wales) Scheme by article 4(1) of S.I. 2004/2918 (W. 257). Other amendments made are not relevant to these Regulations.
(**7**) S.I. 2007/1072 (W. 110); see Schedule 1 which is the subject of amendments not relevant to these Regulations.
(**8**) Section 11 was amended by section 1(1) of, and paragraph 37 of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2) and by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8). It is prospectively repealed by section 24 of, and paragraph 9 of Schedule 13 to, the Pensions Act 2014 (c. 19).
(**9**) Section 9 was amended by sections 136(3) and 151 of, and paragraph 21 of Schedule 5 to, the Pensions Act 1995 (c. 26); by section 1(1) of, and paragraph 35 of Schedule 1 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2); by section 283 of the Pensions Act 2004 (c. 35); by sections 14(4), 15(3) and 27(2) of, and paragraphs 61 to 67 of Schedule 4 and paragraph 1 of Part 6 of Schedule 7 to, the Pensions Act 2007 (c. 22); and by S.I. 2006/745. It is prospectively repealed by section 24 of, and paragraph 9 of Schedule 13 to, the Pensions Act 2014 (c. 19).
(**10**) S.I. 1996/1172. Part 2 was amended by section 1(2) of, and Schedule 2 to, the Social Security Contributions (Transfer of Functions, etc.) Act 1999 (c. 2); by section 1(2)(a) of the Employment Rights (Dispute Resolution) Act 1998 (c. 8); and by S.I. 1997/786, 2002/681, 2005/3377, 2009/6152011/1245, 2011/1246, and 2013/2734. By virtue of section 50(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11), references to the Commissioners of Inland Revenue are to be taken as references to the Commissioners for Her Majesty's Revenue and Customs.

(b) paragraphs (2) and (3) do not apply.

PART 3

Modification of early leaver and other provisions

Application of this Part

5. This Part applies where a person (P) is—

(a) a member of an old scheme whether by virtue of pensionable service for that scheme or deemed transfer scheme service under paragraph 2 of Schedule 7 to the 2013 Act (final salary link);

(b) a member of the new scheme by virtue of pensionable service for the new scheme; and

(c) a person to whom paragraph 1 or 2 of Schedule 7 to the 2013 Act applies by virtue of that person's pensionable service for the new scheme, and whose final salary falls for the purposes of the old scheme to be determined by reference to that paragraph.

Certification

6.—(1) Section 15A of the 1993 Act(**11**) (reduction of guaranteed minimum in consequence of pension debit) is modified as follows in relation to P.

(2) In the application of that section to the old scheme, the reference in subsection (2) of that section to pensionable service under the scheme is to be taken as a reference to pensionable service either for the old scheme or for the new scheme.

Preservation of benefit

7.—(1) Chapter 1 of Part 4 of the 1993 Act (protection for early leavers: preservation of benefit under occupational schemes) is modified as follows in relation to P.

(2) In the application of that Chapter to the old scheme—

(3) in section 70(**12**) (interpretation), in the definitions of "relevant employment" and "long service benefit" a reference to the scheme is to be taken as a reference to either the old scheme or the new scheme;

(a) in section 71(1) (basic principle as to short service benefit)—

(i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or the new scheme must make that provision;

(ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to the new scheme;

(iii) a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to the new scheme;

(iv) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under the new scheme,

and subsequent references in the Chapter to "short service benefit" are to be construed accordingly;

(**11**) Section 15A was inserted by section 32 of the Welfare Reform and Pensions Act 1999 (c. 30).
(**12**) Section 70 was amended by S.I. 2005/2053.

(b) in section 71(5), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to the new scheme;

(c) in section 71(7)(a), the reference to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either for the old scheme or for the old and new schemes taken together; and

(d) in sections 72(2) (no discrimination between short service and long service beneficiaries), 74(6) and (7) (computation of short service benefit), 75(3) and (4) (credits) and 76(1) and (3) (pension increases), a reference to termination of P's pensionable service is to be taken as a reference to termination of P's pensionable service in relation to the new scheme.

(3) In the application of that Chapter to the new scheme—

(a) in section 70, in the definitions of "relevant employment" and "long service benefit" a reference to the scheme is to be taken as a reference to either the old scheme or the new scheme;

(b) in section 71(1)—

(i) the requirement for a scheme to make provision is to be taken as a requirement that either the old scheme or the new scheme must make that provision;

(ii) a reference to a transfer payment to the scheme is to be taken as a reference to a transfer payment either to the old scheme or to the new scheme;

(iii) a reference to benefit which would have been payable to P under the scheme is to be taken as a reference to benefit which would have been payable to P either under the old scheme or under the new scheme,

and subsequent references in the Chapter to "short service benefit" are to be construed accordingly;

(c) in section 71(7)(a), the reference to P's pensionable service under the scheme is to be taken as a reference to P's pensionable service either for the new scheme or for the old and new schemes taken together; and

(d) in section 74(6), in relation to pensionable service which is terminated, the reference to the beginning of that service is to be taken as a reference to the beginning of pensionable service for the old scheme.

Revaluation of preserved benefit

8.—(1) Chapter 2 of Part 4 of the 1993 Act (protection for early leavers: revaluation of accrued benefits) is modified as follows.

(2) In the application of Chapter 2 for the purpose of revaluing benefit payable to or in respect of P under the old scheme—

(a) in section 83(1)(a)(ii)(**13**) (scope of Chapter 2), the reference to the date on which P's pensionable service ends is to be taken as a reference to the date on which P's pensionable service ends in relation to the new scheme; and

(b) subsequent references in that Chapter to "the termination date" and the "pre-pension period" are to be construed accordingly.

(**13**) Section 83 was amended by section 84(1) of, and paragraphs 28 and 31 of Schedule 12 to, the Welfare Reform and Pensions Act 1999 (c. 30). It was amended further in relation to the definition of "normal pension age" by section 27 of, and paragraphs 18 and 20 of Schedule 8 to, the Public Service Pensions Act 2013 (c. 25).