STATUTORY INSTRUMENTS

2015 No. 590

FIRE AND RESCUE SERVICES, ENGLAND
PENSIONS, ENGLAND

The Firefighters' Compensation Scheme and Pension Scheme (England) (Amendment) Order 2015

Made - - - -	*6th March 2015*
Laid before Parliament	*10th March 2015*
Coming into force in accordance with article 1	

This Order is made in exercise of the powers conferred by sections 34 and 60 of the Fire and Rescue Services Act 2004(**1**).

Before making this Order, and in accordance with section 34(5) of that Act, the Secretary of State consulted such persons as he considered appropriate.

The Secretary of State makes the following Order:

Citation, commencement and application

1.—(1) This Order may be cited as the Firefighters' Compensation Scheme and Pension Scheme (England) (Amendment) Order 2015.

(2) Subject to paragraph (3), this Order comes into force on 31st March 2015.

(3) The amendments made by the following provisions come into force on 1st April 2015—

(a) article 2; and

(b) paragraphs 5 and 6 of Schedule 2 to this Order and article 3 so far as it relates to those paragraphs.

(4) The amendments made by paragraphs 1(1), 2(1) and (3), 3(1), (2) and (3) and 4 of Schedule 2 to this Order and article 3 so far as it relates to those paragraphs, have effect from 1st April 2014(**2**).

(**1**) 2004 c.2. The powers conferred by sections 34 and 60 of the Fire and Rescue Services Act 2004 are now vested in Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by virtue of section 62 of that Act. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c.32), they were transferred to the Welsh Ministers. Powers under sections 34 and 60 of the Fire and Rescue Services Act 2004 are now vested in Scottish Ministers so far as they are exercisable in relation to Scotland (S.I. 2005/849). Section 34 was amended by paragraph 27 of Schedule 8 to the Public Service Pension Act 2013 (c.25).

(**2**) See section 34(3) of the Fire and Rescue Services Act 2004 (c.21). An order made under this section may take effect from a date which is earlier than that on which the order is made.

(5) This Order applies in relation to England only.

Amendment of the Firefighters' Compensation Scheme (England) Order 2006

2. Schedule 1 to the Firefighters' Compensation Scheme (England) Order 2006(**3**) is amended in accordance with Schedule 1 to this Order.

Amendment of the Firefighters' Pension Scheme (England) Order 2006

3. Schedule 1 to the Firefighters' Pension Scheme (England) Order 2006(**4**) is amended in accordance with Schedule 2 to this Order.

Signed by authority of the Secretary of State for Communities and Local Government

Penny Mordaunt
Parliamentary Under Secretary of State
Department for Communities and Local Government

6th March 2015

(**3**) S.I. 2006/1811 amended by S.I. 2006/3434 and 2014/447.
(**4**) S.I. 2006/3432 amended by S.I. 2008/213, 2012/954, 2012/2988, 2013/704, 2013/1393 and 2014/445.

SCHEDULE 1 Article 2

Amendment of the Firefighters' Compensation Scheme (England) Order 2006

Amendment of Part 1 (interpretation)

1.—(1) Part 1 is amended as follows.

(2) In rule 2(1) (interpretation)—

(a) after the definition of "1992 Scheme", insert—

""active member of the 2015 Scheme" has the meaning given in regulation 19 (active membership) of the 2014 Regulations;

"active member's account" means the account established under regulation 31 (establishment of active member's account) of the 2014 Regulations;";

(b) after the definition of "the 2006 Scheme", insert—

""the 2014 Regulations" means the Firefighters' Pension Scheme (England) Regulations 2014(**5**);

"the 2015 Scheme" means the Firefighters' Pension Scheme 2015 set out in the 2014 Regulations;";

(c) after the definitions of "disabled", "disablement" and "permanent disablement", insert—

""eligible child's pension" has the meaning given in regulation 84 (eligible child's pension) of the 2014 Regulations;

"final pay" has the meaning given in regulation 93 (meaning of "final pay") of the 2014 Regulations;";

(d) after the definition of "injury" insert—

""member of the 2015 Scheme" has the same meaning as "member" in regulation 3 (interpretation) of the 2014 Regulations;";

(e) for the definition of "normal pension age", substitute—

""normal pension age" in relation to employees of a fire and rescue authority appointed on terms under which they are or may be required to engage in firefighting—

(a) in relation to the 1992 Scheme, means 55;

(b) in relation to the 2006 Scheme, means 60;

(c) in relation to the 2015 Scheme, means 60(**6**);";

(f) in the definition of "pensionable pay", for sub-paragraph (c), substitute—

"(c) in relation to a person who is a member of the 2015 Scheme, shall be construed in accordance with regulation 17 (pensionable pay) of the 2014 Regulations;

(d) in the case of a person who is not a member of any of these schemes, shall be construed in accordance with rule 11 of this Part;";

(g) in the definition of "pensionable service", at the end, insert—

"(c) in relation to the 2015 Scheme, means the continuous period of pensionable service, in relation to an active member's account for the scheme employment in respect of which the award under this scheme is payable and any of the

(**5**) S.I. 2014/2848.
(**6**) See section 10(2) of the Public Service Pensions Act 2013 (c.25).

following types of service that have been added to, or transferred to, that account—

(i) if applicable, any periods of pensionable service in relation to the 1992 Scheme or the 2006 Scheme that relates to the person's employment which is the same as, or most similar to, the employment in respect of which the award is payable;

(ii) if applicable, any periods of pensionable service relating to any transfer value payments accepted under Part 10 (transfers) of the 2014 Regulations in respect of the person's accrued rights under another occupational pension scheme;

(iii) if applicable, any periods of service relating to any pension account entries transferred in accordance with regulation 149 (transfer of pension account entries) of the 2014 Regulations; and

(iv) if applicable, any periods of service relating to an added pension account established under regulation 38 (establishment of added pension account) of the 2014 Regulations relating to the member's scheme employment in respect of which the award is payable, such periods of service are to be calculated in accordance with such guidance as is provided for the purpose by the Government Actuary.";

(h) for the definition of "relevant service", substitute—

""relevant service", except in rule 1 of Part 7 (servicemen) and rule 1 of Part 7A (reservists), means service which either was, or would have been, reckonable as pensionable service but for—

(a) an election under rule G3 of the 1992 Scheme;

(b) an election under rule 5 of Part 2 of the 2006 Scheme;

(c) the exercise of an option not to become an active member of the 2015 Scheme in accordance with Chapter 2 (pensionable service) of Part 3 of the 2014 Regulations;

(d) a failure to elect under—

(i) rule G2A(**7**) of the 1992 Scheme;

(ii) rule 4 of Part 11 of the 2006 Scheme; or

(iii) regulation 113(3) (contributions during child-related leave) of the 2014 Regulations; or

(e) a failure to exercise an option to become an active member of the 2015 Scheme in accordance with regulation 12 (opting into this scheme) of the 2014 Regulations;";

(i) after the definition of "retire", insert—

""scheme employment" has the meaning given in regulation 6 (scheme employment) of the 2014 Regulations;".

(3) In rule 11(1) (determining pensionable pay in certain cases)—

(a) after the words "the 2006 Scheme", where they occur for the first time, insert "or the 2015 Scheme";

(b) for sub-paragraph (c), substitute—

"(c) regulation 17 of the 2014 Regulations in the case of a person who—

(**7**) Rule G2A was inserted by S.I. 2004/1912 and amended by S.I. 2005/2980.

(i) exercised an option not to become an active member of the 2015 Scheme in accordance with Chapter 2 of Part 3 of the 2014 Regulations; or

(ii) did not exercise an option to become an active member of the 2015 Scheme in accordance with regulation 12 of the 2014 Regulations; and

(d) rule 1 of Part 11 of the 2006 Scheme, where an election had been made at different times under the 1992 Scheme and the 2006 Scheme;

(e) except where sub-paragraph (d) applies, regulation 17 of the 2014 Regulations, in the case of a person who had at different times, in relation to all of the schemes (namely, the 1992 Scheme, the 2006 Scheme and the 2015 Scheme), or a combination of any two of them—

(i) made an election referred to in sub-paragraph (a) or sub–paragraph (b)); or

(ii) exercised or not exercised an option referred to in sub- paragraph (c),

as the case may be.";

(c) after paragraph (3), insert—

"(3A) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 2015 Scheme, the award must be calculated on the basis of the pay which would have been the final pay if he had not, in respect of sub-paragraph (c)(i), exercised an option; or in respect of sub-paragraph (c)(ii) failed to exercise an option.".

Amendment of Part 2 (injury awards and duty related compensation)

2.—(1) Part 2 is amended as follows.

(2) In rule 3 (compensation for death or permanent incapacity while on duty), in paragraph (8), after "the 2006 Scheme", insert "or the 2015 Scheme".

(3) In rule 4 (commutation of small compensatory pensions), in paragraph (1)(b), after "the 2006 Scheme (pension credit member's entitlement to pension)", insert "or regulation 105 of the 2014 Regulations (entitlement to pension credit members' pension)".

Amendment of Part 3 (awards on death: spouses and civil partners)

3.—(1) Part 3 is amended as follows.

(2) In rule 1 (special award for spouse or civil partner)—

(a) in paragraph (3)—

(i) for "or, as the case may be, his final pensionable pay", in each place where the words occur, substitute "or his final pensionable pay or his final pay, as the case may be";

(ii) in paragraph (3)(a)(ii), after "the 2006 Scheme (ill health award)", insert "or regulation 65 of the 2014 Regulations";

(b) in paragraph (4), for "as the case may be, his final pensionable pay", substitute "his final pensionable pay or his final pay, as the case may be".

(3) In rule 4 (limitation where spouse or civil partner is living apart), for paragraph (1A), substitute —

"(1A) Paragraph (1) does not apply to a person—

(a) who is a member of the 2006 Scheme;