

2018 No. (W.)

**PUBLIC SERVICE PENSIONS,
WALES**

**The Firefighters' Pension Scheme
(Wales) (Amendment) Regulations
2018**

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Firefighters' Pension Scheme (Wales) Regulations 2015 ("the 2015 Regulations") which established a scheme for the payment of pensions and other benefits to firefighters in Wales from 1 April 2015.

Regulations 3, 5, 6, 7 and 8(2) make minor amendments to clarify the provisions of the 2015 Regulations.

Regulation 4 amends regulation 80A of the 2015 Regulations to clarify how the lump sum should be calculated where a member is entitled to the immediate payment of an equivalent amount to the lower tier ill health pension in the Firefighters' Pension (Wales) Scheme 1992 (set out in Schedule 2 to the Firemen's Pension Scheme Order 1992) and exercises the option to commute part of the pension for a lump sum.

Regulation 8(3) amends paragraphs 37 and 38 of Schedule 2 to the 2015 Regulations to provide for the transitional arrangements in the event that the authority decides to obtain the written opinion of an independent qualified medical practitioner (a medical practitioner as defined in the 2015 Regulations) before making a determination about a member's entitlement to an ill-health award and the determination has not been made before the member's transition date. The amendments provide that members who are subsequently granted an ill health award remain in their existing pension scheme.

Regulation 9 corrects a minor error in the Firefighters' Pension Scheme (Wales) (Transitional and Consequential Provisions) Regulations 2015.

The amendments made by the Regulations have effect from 1 April 2015, except for those made by regulation 8(3) which have effect from 1 June 2018.

The Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation has been considered in relation to these Regulations. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with these Regulations.

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**PUBLIC SERVICE PENSIONS,
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**The Firefighters' Pension Scheme
(Wales) (Amendment) Regulations
2018**

Made 9 May 2018

Laid before the National Assembly for Wales
10 May 2018

Coming into force 1 June 2018

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 1(1) and (2)(f)(1), 2(1), 3(1) to (3) and 18(5)(a) and (6) of, and Schedules 2 (paragraph 6(b)) and 3 (paragraphs 1 to 4) to, the Public Service Pensions Act 2013(2).

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.

Title and commencement

1.—(1) The title of these Regulations is the Firefighters' Pension Scheme (Wales) (Amendment) Regulations 2018.

(2) These Regulations come into force on 1 June 2018.

(3) Subject to paragraph (4), the amendments made by these Regulations have effect from 1 April 2015.

(4) The amendments made by regulation 8(3) have effect from 1 June 2018.

(1) See also section 1(3) and Schedule 1.
(2) 2013 c. 25.

Amendment of the Firefighters’ Pension Scheme (Wales) Regulations 2015

2. The Firefighters’ Pension Scheme (Wales) Regulations 2015⁽¹⁾ which establish the Firefighters’ Pension Scheme (Wales) 2015 are amended in accordance with regulations 3 to 8.

Amendment of Part 3 (scheme membership)

3. In Part 3 (scheme membership), in the English text of regulation 30 (pension credit member), for “WRPA 1999” substitute “WRPA 1999”⁽²⁾.

Amendment of Part 5 (retirement benefits)

4. In Part 5 (retirement benefits), in regulation 80A⁽³⁾ (option to commute part of an equivalent amount), after paragraph (3) insert—

“(4) Where the person is entitled to the immediate payment of an equivalent amount to the 1992 Scheme lower tier ill-health pension and exercises the option to commute under this regulation, the lump sum is calculated in accordance with rule B7 (commutation – general provision) of the 1992 Scheme.”

Amendment of Part 6 (death benefits)

5.—(1) Part 6 (death benefits) is amended as follows.

(2) In regulation 87(1) (surviving partner’s pension payable on death of active member), for “more than”, substitute “at least”.

(3) In regulation 101(3) and (4) (bereavement pension: eligible child), for “surviving partner’s pension”, in each place where the words occur, substitute “eligible child’s pension”.

Amendment of Part 8 (contributions)

6.—(1) Part 8 (contributions) is amended as follows.

(2) In regulation 120(2) (contributions during absence from work due to illness, injury, trade dispute or authorised absence), after “may” insert “elect to”.

(3) In regulation 128(5) (refund of employer additional contribution for ill health award following review), after “in respect of P”, in the first place where those words occur, insert “from the date when the entitlement ceased”.

(1) S.I. 2015/622 (W. 50), amended by S.I. 2015/1016 (W. 71).
(2) “WRPA 1999” means the Welfare Reform and Pensions Act 1999 (c. 30); *see* regulation 3 of S.I. 2015/622 (W. 50).
(3) Regulation 80A was inserted by regulation 2 of, and paragraph 5(f) of Schedule 1 to, S.I. 2015/1016 (W. 71).

Amendment of Part 9 (firefighters' pension fund)

7. In Part 9 (firefighters' pension fund), in the English text of regulation 137(2)(b) (actual deficits), after "must repay it" insert "to".

Amendment of Schedule 2 (transitional provisions)

8.—(1) Schedule 2 is amended as follows.

(2) In Part 3A(1) (payment of ill-health benefits to transition members)—

- (a) in paragraph 22(2)(a), after "rule 2" insert "of Part 3"; and
- (b) in paragraph 25(2), for both occurrences of "B1A(3)(i)" substitute "B1A(3)(a)".

(3) In Part 3C(2) (transitional provisions relating to the NFPS and the 1992 Scheme)—

- (a) in paragraph 37—
 - (i) for the heading "Scheme manager determines member of the NFPS is not entitled to an ill-health award" substitute "Authority determines the entitlement of a member of the NFPS to an ill-health award";
 - (ii) in sub-paragraph (2), for "If this paragraph applies," substitute "If the authority subsequently determines that the member of the NFPS is not entitled to an ill-health award,"; and
 - (iii) after sub-paragraph (2) insert—

"(3) If the authority subsequently determines that the member of the NFPS is entitled to an ill-health award—

- (a) the member does not join this scheme;
- (b) the member continues to be a member of the NFPS; and
- (c) the ill-health award is payable under rule 2 of Part 3 (awards on ill-health retirement) of the NFPS."; and

(b) in paragraph 38—

- (i) for the heading "Scheme manager determines member of the 1992 Scheme is not entitled to an ill-health award" substitute "Authority determines the entitlement of a member of the 1992 Scheme to an ill-health award";

(1) Part 3A was inserted by regulation 2 of, and paragraph 7(d) of Schedule 1 to, S.I. 2015/1016 (W. 71).

(2) Part 3C was inserted by regulation 2 of, and paragraph 7(d) of Schedule 1 to, S.I. 2015/1016 (W. 71).

- (ii) in the opening words of sub-paragraph (2), for “If this paragraph applies,” substitute “If the authority subsequently determines that the member of the 1992 Scheme is not entitled to an ill-health award,”;
- (iii) in sub-paragraph (2)(b), for “H2A (appeals against opinion based on medical advice)” substitute “H2 (appeal against opinion on a medical issue)”;
- (iv) after sub-paragraph (2) insert—

“(3) If the authority subsequently determines that the member of the 1992 Scheme is entitled to an ill-health award—

 - (a) the member does not join this scheme;
 - (b) the member continues to be a member of the 1992 Scheme; and
 - (c) the ill-health award is payable under rule B3 (ill-health awards) of the 1992 Scheme.”

Amendment of the Firefighters’ Pension Scheme (Wales) (Transitional and Consequential Provisions) Regulations 2015

9. In the preamble to the Firefighters’ Pension Scheme (Wales) (Transitional and Consequential Provisions) Regulations 2015(1) omit “(6) and (7),”.

Alun Davies
Cabinet Secretary for Local Government and Public Services, one of the Welsh Ministers
9 May 2018

(1) S.I. 2015/1016 (W. 71).