

# SL(5)700 – The Firefighters’ Pension Schemes and Compensation Scheme (Wales) (Amendment) Regulations 2020

## Background and Purpose

These Regulations amend—

- (a) the Firemen’s Pension Scheme Order 1992 which sets out, in Schedule 2, the Firefighters’ Pension (Wales) Scheme (“the 1992 Order”),
- (b) the Firefighters’ Pension Scheme (Wales) Order 2007 which sets out, in Schedule 1, the New Firefighters’ Pension Scheme (Wales) (“the 2007 Order”),
- (c) the Firefighters’ Compensation Scheme (Wales) Order 2007 which sets out, in Schedule 1, the Firefighters’ Compensation Scheme (Wales) 2007 (“the 2007 Compensation Order”), and
- (d) the Firefighters’ Pension Scheme (Wales) Regulations 2015 which set out the Firefighters’ Pension Scheme (Wales) 2015 (“the 2015 Regulations”).

Regulations 3 to 5 make amendments to the 1992 Order. The amendments made by regulation 3(a), (c) and (d), ensure that a firefighter is not disadvantaged by the provision which allows for two pensions to be awarded, calculated separately, after a significant reduction in pay, and also make other minor updates.

Regulation 3(b) clarifies that where a firefighter has an entitlement to two pensions under the 1992 Order, the amount of the first pension is uprated annually from the date that the firefighter ceased to earn the higher rate of pay.

The effect of the amendments in regulation 4 is to bring the benefits payable to survivors of civil partnerships and same sex marriages into line with the benefits payable to survivors of opposite-sex marriages.

Regulation 5 updates an out of date statutory reference in the 1992 Order.

Regulations 7 to 9 make amendments to the 2007 Order. Regulation 7 clarifies that where a firefighter has an entitlement to two pensions under the 2007 Scheme, the amount of the first pension is uprated annually from the date that the firefighter ceased to earn the higher rate of pay.

Regulation 8 updates an out of date statutory reference in the 2007 Order.

Regulation 9 substitutes the table of commutation factors for special members set out in Annex ZA to the 2007 Order to include factors beyond age 65, up to age 75. The



commutation factors as on 31 March 2014 (up to age 65) have been replicated in the substituted table and have not changed.

Regulations 11 and 12 make amendments to the 2007 Compensation Order. The effect of the amendments in regulation 11 is to bring the benefits payable to survivors of civil partnerships and same sex marriages into line with the benefits payable to survivors of opposite-sex marriages.

Regulation 12 amends rule 3 (child's special allowance: limitations) in Part 4 of the 2007 Compensation Order by removing some of the limitations applied to dependent, step and adopted children, as well as to children of unmarried parents. It also amends the heading of rule 3 and clarifies a cross reference in rule 3(5)(a).

Regulation 14 makes an amendment to the 2015 Regulations to clarify that protected members of the Scheme constituted by the 1992 Order transferring to Wales from England, Scotland and Northern Ireland continue to be entitled to remain as members of that Scheme.

## Procedure

### Negative

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

## Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

## Merits Scrutiny

The following point is identified for reporting under Standing Order 21.3 in respect of this instrument.

### **1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd**

We note that these Regulations make changes as a result of the following two Supreme Court judgments:

**Walker v Innospec:**<sup>1</sup> As a result of the judgment, the Regulations make amendments to bring the benefits payable to surviving civil partners and same sex spouses in-line with those payable to surviving widows of opposite sex marriages. The amendments made by the Regulations to comply with the judgment are backdated to 5 December 2005, the date that civil partnerships were introduced.

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<sup>1</sup> [\[2017\] UKSC 47](#)



**McLaughlin:**<sup>2</sup> The Supreme Court said that denying benefits payable to (or on behalf of) children based on their parent's marital status was unlawful. Therefore, the Regulations make amendments to remove provisions that discriminate against unmarried scheme members. The amendments also eliminate differential treatment currently applied to dependent, step and adopted children. These amendments are backdated to 1 April 2006, the date from which the original provision had effect.

## Welsh Government response

A Welsh Government response is not required.

## Committee Consideration

The Committee considered the instrument at its meeting on 18 January 2021 and reports to the Senedd in line with the reporting point above.

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<sup>2</sup> [\[2018\] UKSC 48](#)

