

REGULATORY APPRAISAL

FIRE AND RESCUE SERVICES, WALES

PENSIONS, WALES

THE FIREFIGHTERS' COMPENSATION SCHEME (WALES) ORDER 2007

Purpose and intended effect of the measure

1. This Order removes the compensation element from the Firefighters' Pension Scheme introduced by the Firemen's Pension Scheme Order 1992 (the 1992 Scheme) and introduces a new compensation scheme, which will compensate firefighters who die or sustain injuries whilst engaged in the exercise of their duties as firefighters (Compensation Scheme). Most of the provisions of the Compensation Scheme will have retrospective effect from 1 April 2006 in line with the new simplified tax regime for pensions as a consequence of the Finance Acts 2004 and 2005 and in line with changes made to firefighter benefits made elsewhere in the UK.
2. The Compensation Scheme is separate from the pension scheme rules, and applies to all regular firefighters, their spouses or civil partners and their dependents. The Scheme also provides similar benefits to certain categories of temporary employees set out in rule 4 of Part 1, for example, a person who is an instructor at the central training institution or any training institution maintained by the Secretary of State or the National Assembly for Wales. The rights are similar to those that were contained in the 1992 Pension Scheme and the Grey book (which sets out the nationally agreed pay and condition arrangements for operational and control staff of fire and rescue authorities). The rights have been removed from the 1992 Scheme to create a stand alone scheme and reflect the introduction of a new firefighters' pension scheme (NFPS) referred to above.

Retained and volunteer firefighters

3. Under the Compensation Scheme a retained and volunteer firefighter who was employed immediately before 6 April 2006, who has retired and who is permanently disabled as a result of an injury sustained in the course of employment by the fire and rescue authority is eligible to a gratuity and, if applicable, an injury pension, calculated as if he were a wholetime employee with the same length of service.

Awards on death to spouses and civil partners

4. The Compensation Scheme, in Part 3, makes provision for awards on the death of a regular firefighter to spouses and civil partners. The Compensation Scheme reflects the different provisions made for spouses and civil partners in the two pension schemes. For example, the 1992 Scheme places limits on the pension awards that are payable in circumstances where spouses or civil partners are living apart at the time of death or if the beneficiary re-marries or re-forms a civil partnership.

These limits on the members of the Firemen's Pension Scheme Order 1992 (the 1992 Scheme) are reflected in the Compensation Scheme. Members of the new firefighters' pension scheme (NFPS) are not subject to these limits and the Compensation Scheme in Part 3, Rules 4 and 5 makes clear that the limitations will not apply to members of the NFPS or to firefighters who join the fire and rescue authority on or after the 6 April 2006 and who make an election not to make pension contributions.

5. The new firefighters' pension scheme (NFPS) provides for a reduction in the survivor pension where the survivor is at least 12 years younger than the deceased. This provision is mirrored in the Compensation Scheme at Part 3, Rule 6 and will apply to members of the NFPS or to those who have made an election under the NFPS not to make pension contributions.

Awards on death to children

6. The compensation scheme provides in rule 3 of Part 4 that a child survivor's benefits cease at the age of 18, in line with new HM Revenue & Customs rules.

Awards on death if no spouse, partner or dependent children

7. If there are no dependants, a flat rate payment of £950 is made to the deceased's estate.

Awards to servicemen

8. The pension schemes provide for awards to firefighters who become permanently disabled or die whilst undertaking reserve or auxiliary duty in the armed forces. The terminology and references to relevant legislation have been carried over to the Compensation Scheme from the 1992 Scheme.
9. Part 7A provides awards for members of the 2007 Scheme, or those who take up employment after 6 April 2006, and who serve in the armed forces. Such a person is called a 'reservist', and this terminology ties in with the NFPS.

Payment of awards and financial provisions

10. The Compensation Scheme provides for the prevention of duplication of benefits where a firefighter is employed by more than one fire and rescue authority (typically as a regular with one, and a retained with another). The provisions in Part 10 of the Compensation Scheme provide for situations where a firefighter may legitimately be entitled to two or more pensions or allowances under the Compensation Scheme, or to a pension or allowance under the Compensation Scheme and a pension or allowance under the 1992 Scheme or the NFPS.

Risk Assessment

11. It is crucial that this Order is in place before the end of March 2007, or firefighter members of the NFPS would not be able to benefit from the Compensation Scheme if the order were not made. This would mean that there would be a lack of parity between the members of the two different

Schemes. In addition, if this Order were not made, the benefits position for firefighters would be different in Wales compared with the rest of the UK. The Compensation Scheme was introduced in England by Order on 10 July 2006 for the benefit of members of the Firemen's Pension Scheme Order 1992 (the 1992 Scheme). It was amended by Order and made on 19 December 2006 to reflect the introduction of the new firefighters' pension scheme (NFPS) and to ensure that members of both schemes had similar benefits. Scotland intends to introduce similar arrangements in March to be backdated to take effect from April 2006. Northern Ireland's is a non statutory scheme and does not, therefore, require any legislation. This would mean Wales would operate outside the existing pension club arrangements. Furthermore, the three pension Orders interrelate so closely that they have to be made together.

Options

Option 1: Do Nothing

12. Not implementing the legislation will mean that the latest statutory position with pensions will not be reflected in Wales and different arrangements will be in place in Wales as opposed to the rest of the UK. This will have the effect that Wales could be outside of existing club arrangements meaning that firefighters who transfer between Fire Rescue Authorities across borders will not be able to transfer their pension rights, leaving them at a disadvantage to their UK counterparts. That would mean that the compensation provisions would not extend to the members of the NFPS, which would leave them at a disadvantage compared with members of the 1992 Scheme.

Option 2: Make the Legislation

13. Implementing this legislation will bring into operation one or more schemes making provision for the payment of pensions, allowances and gratuities to or in respect of persons who are or have been employed by a fire and rescue authority. It will also ensure that members of the 1992 Scheme will have parity with members of the new firefighters' pension scheme and will enable the introduction of new financing arrangements and will ensure that firefighters in Wales have parity with the rest of the UK.

Benefits

14. This legislation will ensure that there is parity between the current Firefighters' Pension Scheme (established in 1992) and the new Firefighters' Pension Scheme, as introduced by The Firefighters' Pension Scheme (Wales) Order 2007. It will mean that firefighters, who are members of the new firefighters pension scheme (NFPS), have the same benefits as those who are members of the 1992 Scheme. It will also mean that firefighters, who transfer between Fire and Rescue Authorities across borders, will be able to transfer their pension rights, leaving them on a par with their UK counterparts.

Costs

15. There are no new associated costs with this legislation apart from the administrative costs to the Fire and Rescue Authorities. These involve updating personnel records and introducing new pensions specific software (these costs are unquantifiable) and are largely consequential as a result of the introduction of a new firefighters' pension scheme and proposals to change the financing of firefighters' pensions from 2007-2008.

Consultation

With Stakeholders

16. A UK consultation was undertaken between October 13 2004 and January 5 2005. Copies of the Order were distributed to all Firefighters and their representatives, Fire and Rescue Authorities and Local Government and their representatives. Following this consultation, a Fire Pensions Committee (which met monthly throughout 2006 to develop the detail of the Scheme was set up between the devolved administrations the Department for Communities and Local Government and employer and employee representatives to discuss developments of the Order. In addition, a short four week consultation between 21 December 2006 and 19 January 2007 with the Fire and Rescue Authorities in Wales, Chief Executives of Local Authorities, Fire Brigades Union, the Welsh Local Government Association and the Retained Firefighters Union was undertaken. No responses were received.

With Subject Committee

17. This Order was notified to the Social Justice and Regeneration Committee via the list of forthcoming legislation on 20 October 2005 (SJR(2)-14-05 (p.3) (Annex 1), and has remained on the list ever since. The Order was not identified for detailed scrutiny.

Review

18. There is no intention to review the Compensation Scheme Order in the short term. Any proposals to introduce additional changes to the Compensation Scheme Order will be the subject of an amendment Order and will be subject to full consultation as and when they arise.

Summary

19. This Order removes the compensation element from the Firemen's Pension Scheme Order 1992 and compensates firefighters who die or sustain injuries whilst engaged in the exercise of their duties as firefighters. The scheme will have effect from 1 April 2006.