

## Firefighters' Pension Scheme

### Technical Note: 2017 Amendment Orders

#### Background

Two amendment orders have recently been laid by the house on 11<sup>th</sup> September 2017.

- SI 2017/892 <http://www.legislation.gov.uk/id/uksi/2017/892>

This amendment order primarily gives effect to the government decision as was announced in the budget of 18 March 2015<sup>1</sup> that widows, widowers, and surviving civil partners of firefighters and police officers who died or die on duty in England and Wales would no longer lose their survivor benefits if they remarry or form a civil partnership. On 12 October 2015, the Home Secretary announced in the House of Commons that, in respect of police pensions, such changes would be applied retrospectively to marriages, remarriages and civil partnerships entered into on or after 1 April 2015. The current reforms regarding firefighters are consistent with that approach.

- SI 2017/888 <http://www.legislation.gov.uk/id/uksi/2017/888>

This amendment order primarily makes minor administrative changes to the 2015 Firefighters' Pension Scheme

#### Details

##### 2017/892

- SI 2017/892 primarily makes amendments to the 1992 scheme and compensation scheme, rules C9, and Part 3 rule 5 respectively to amend survivor benefits for widows, widowers and surviving civil partners so they do not lose survivor benefits if they remarry or form a civil partnership [See appendices for consolidated rules]

Fire Authorities should note that the amendment to paragraph 4 b(ii) extends the circumstances in which the spouses pension would be retained on remarriage beyond those for which a special or augmented award would be awarded.

---

1 Paragraph 2.17 -

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/416330/47881\\_Budget\\_2015\\_Web\\_Accessible.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/416330/47881_Budget_2015_Web_Accessible.pdf)

Therefore it could be possible to have a firefighter who was not awarded an injury pension, because they were not on duty at the time, but travelling to or from duty. Where the widow / widower of this member remarries or enters a new civil partnership, in order to determine whether the survivors pension should continue after remarriage / re civil partnership, the authority will need to consider under rule C9 [4 (Bii)] whether the firefighter had 'died as a result of an injury sustained while on a journey necessary to enable him to report for duty or return home after duty',.

*(b)the deceased spouse or civil partner of P ("D") died as a result of an injury—*

*(i)received in the exercise of D's duties as a firefighter; or*

*(ii)sustained while on a journey necessary to enable D to report for duty or return home after duty.*

It will be important that the FRA should record all circumstances regarding an ill-health or injury claim for future cases. However, it may be difficult to correctly identify old cases in the event that the surviving spouse/partner remarries.

The government in their response to the consultation recognise that this may in certain cases require additional information from the survivor about the exact circumstances of the firefighters death and whether it was as a result of an injury sustained whilst travelling to or from work.

#### [Government response](#)

*3.7 One respondent suggested that in certain circumstances it may be difficult to identify the firefighters whose spouses would benefit from the reforms, particularly in the case of those who had died whilst travelling to or from work. The Home Office recognises that in certain cases it will be necessary for authority administrators to work with survivors in order to identify the exact circumstances of the firefighter's death.*

- SI 2017/892 also makes amendments to Rule G2 in line with the contributions holiday to clarify that APB contributions are exempted from the contributions holiday [Rule G2 is amended]
- SI 2017/892 makes some other minor amendments to regulatory cross amendments in the pensionable pay regulations in the 1992 and 2006 scheme [The consolidated pensionable pay regulations are included in the appendices]
- SI 2017/892 also amends the typo in the double accrual guarantee formula in Part 2A of schedule 2 of the 2014 regulations<sup>2</sup> so that C now reads

'C is the period in years of his pensionable service and of his 2015 pensionable service (subject to a maximum of pensionable service of **30** years)'

## 2017/888

- Schedule 2, rules 37 & 38 of the 20143 scheme deals with the position of transitional members who are being considered for ill-health retirement by an independent qualified medical practitioner (IQMP) at the time they would transition to the 2015 scheme from either the 1992 or 2006 scheme.

Under the amended rules such members remain in their existing pension scheme, until a final decision is made (including an appeal) by the IQMP. If the Ill-health is upheld the member retires from the existing 1992 or 2006 scheme avoiding the necessity for a minimal period of membership of the 2015 Scheme, if the Ill-health is not upheld the member moves into the 2015 scheme from the date of the IQMP decision or the expiry of 28 days after the appeal decision.

This amendment takes effect from 6<sup>th</sup> October 2017 and should not be applied retrospectively.

To ensure employee and employer contributions remain on the existing basis until notification of the IQMP decision, payroll MUST be informed once an IQMP process is initiated

- Other minor amendments

SI 2017/888 makes other minor amendments to the 2014 regulations.

### Actions for Fire Authorities

1. **Need to ensure they record all circumstances regarding an injury, even where an injury pension is not awarded in order to assess later eligibility to pension on remarriage / re-civil partnership**
2. **Need a process in place to ensure payroll does not move a member into the 2015 scheme IF an IQMP is currently taking place**

### Relevant links

- SI 2017/892 - <http://www.legislation.gov.uk/id/uksi/2017/892>
  - Explanatory Memorandum to SI 2017/892 - [http://www.legislation.gov.uk/uksi/2017/892/pdfs/uksiem\\_20170892\\_en.pdf](http://www.legislation.gov.uk/uksi/2017/892/pdfs/uksiem_20170892_en.pdf)
- SI 2017/888 - <http://www.legislation.gov.uk/id/uksi/2017/888>
  - Explanatory Memorandum to SI 2017/888 - [http://www.legislation.gov.uk/uksi/2017/888/pdfs/uksiem\\_20170888\\_en.pdf](http://www.legislation.gov.uk/uksi/2017/888/pdfs/uksiem_20170888_en.pdf)

Government response to consultation -

<https://www.gov.uk/government/consultations/firefighters-pension-schemes-amendments>

## Consolidated Rules

- **1992 Scheme**

[Appendix A - Consolidated rule C9. Effect of remarriage](#)

[Appendix B – Consolidated rule G1. Pensionable Pay](#)

[Appendix C – Consolidated rule G2. Contributions](#)

- **2006 Scheme**

[Appendix D – Consolidated rule Part 11, Rules 1 & 2. Pensionable Pay and Final Pensionable Pay](#)

- **2015 Scheme**

[Appendix E – Consolidated rule 37 & 38 of Schedule 2, FPS Regulations 2014](#)

- **Compensation Scheme**

[Appendix F – Consolidated rule Part3, Rule 5. Effect of new relationship](#)

## Version

Version number	Date Published
1	17/09/2017

## Distribution

Practitioners, Scheme Managers, Local Pension Board Chairs

## Copyright

Copyright remains with Local Government Group. This Bulletin may be reproduced without the prior permission of LG Group provided it is not used for commercial gain, the source is acknowledged and, if regulations are reproduced, the Crown Copyright Policy Guidance issued by HMSO is adhered to.

## Disclaimer

The information contained in this guidance note has been prepared by the LGA Firefighters' Pensions Adviser and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of any particular piece of legislation. No responsibility whatsoever will be assumed by LGA for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this Bulletin. Whilst every attempt is made to ensure the accuracy of this guidance note, it would be helpful if readers could bring to the attention of the Firefighters' Pension Adviser any perceived errors or omissions. Please write to:

Clair Alcock  
Local Government Association  
Layden House  
76-86 Turnmill Street  
London, EC1M 5LG

email: [Clair.Alcock@local.gov.uk](mailto:Clair.Alcock@local.gov.uk)  
email: [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk)  
Phone: 07958 749056

**Firemen's Pension Scheme Order 1992<sup>4</sup>****Rule C9. Effect of remarriage**

(1) Subject to paragraphs (3) to (5), a person<sup>5</sup> entitled to a pension under this Part who marries, remarries, forms a civil partnership or a subsequent civil partnership is not entitled to receive any payment on account of the pension in respect of any subsequent period; but if the marriage or civil partnership is dissolved or the other party to it dies the fire and rescue authority may pay the whole or any part of the pension for such period after the dissolution or death as they think fit.

(2) Subject to paragraphs (3) to (5), where a person<sup>6</sup> entitled to a gratuity under this Part marries, remarries, forms a civil partnership or a subsequent civil partnership, any part of the gratuity that has not already been paid ("the outstanding amount") ceases to be payable; but if the marriage or civil partnership is dissolved or the other party to it dies the fire and rescue authority may pay the person the whole or any part of the outstanding amount.

(3) Paragraphs (1) and (2) do not apply if the person ("P"), entitled to a pension or gratuity under this Part—

(a) marries, remarries, forms a civil partnership or a subsequent civil partnership on or after 1st April 2015; and

(b) immediately before the beginning of that marriage, remarriage or formation of a civil partnership or subsequent civil partnership the condition set out in paragraph (4) is satisfied.

(4) The condition in this paragraph is that—

(a) P is either—

(i) entitled to a pension under rule C1 (spouse's ordinary pension), rule C4 (spouse's accrued pension), rule C5 (limitation on award to spouse or civil partner by reference to date of marriage or formation of partnership), rule C6 (spouse or civil partner's requisite benefit and temporary pension) or rule C8 (limitation where spouses living apart); or

(ii) receiving a gratuity under rule C8(7); and

(b) the deceased spouse or civil partner of P ("D") died as a result of an injury—

(i) received in the exercise of D's duties as a firefighter; or

(ii) sustained while on a journey necessary to enable D to report for duty or return home after duty.

(5) If on or after 1st April 2015 P is the subject of a decision by the fire and rescue authority to pay any sums in exercise of its discretion under paragraph (1) or (2), the payment of those sums is not affected by any future marriage, remarriage or formation of a civil partnership."<sup>7</sup>

---

4 [SI 1992/192](#)

5 2017/892 [2 (3a)]

6 2017/892 [2 (3b)]

7 2017/892 Paragraphs 3 to 5 inserted by [2 (3c)] SI 2017/892

**Firemen's Pension Scheme Order 1992**

**Rule G1. Pensionable Pay**

**Amendments**

<a href="#"><u>1992/129</u></a>	Original order
<a href="#"><u>2004/1912</u></a>	Changes shown below in <b>red</b>
<a href="#"><u>2008/214</u></a>	Introduced CPD / LSI amendments (changes shown in <b>green</b> )
<a href="#"><u>2013/1392</u></a>	(2013 amendment orders – due to Norman v Cheshire) (changes shown in <b>blue</b> )
<a href="#"><u>2015/589</u></a>	(2015 transitional protection – provides linked protection) (changes shown in <b>purple</b> )
<a href="#"><u>2017/892</u></a>	2017 amendment orders (changes shown in <b>pink</b> )

- (1) Subject to paragraphs (2), (9) and (10) , the pensionable pay of a regular firefighter is the aggregate of-
- (a) the amount determined in relation to the performance of the duties of his role (whether as a whole-time or part-time employee) other than those amounts payable to him in respect of the benefits within rule B5C(5) ; and
  - (b) the amount (if any) of any benefits which are pensionable under rule B5C(1).
- (2) For the purposes of paragraph (1), in the case of a person by whom pension contributions became payable after 31st May 1989 either—
- (a) for the first time, or
  - (b) following any period in respect of which they were not payable, except where regulation 4 of the Retirement Benefit Schemes (Tax Relief on Contributions) (Disapplication of Earnings Cap) Regulations 1990(11) applies his pay shall be taken not to include any excess, in any tax year, over the figure which is the permitted maximum for that year for the purposes of section 594(2) and (3) of the Income and Corporation Taxes Act 1988(12) (that is to say, the figure specified for the year by an order made by the Treasury under section 590C(6) of that Act).
- (2A) For the purposes of rule G2, the pensionable pay of a regular firefighter during a period of maternity, paternity or adoption leave shall be deemed to be the pay to which the person is entitled for that period including any statutory maternity, paternity or adoption pay under the Social Security Contributions and Benefits Act 1992.
- (3) The average pensionable pay of a regular firefighter is, subject to paragraphs (5) to (7C) , the aggregate of his pensionable pay for the year ending with the relevant date.
- (4) The relevant date-
- (a) for the purposes of rule C7 (spouse's or civil partner's award where no other award payable), and the Compensation Scheme, is the date of the person's last day of service as a regular firefighter, and
  - (b) for all other purposes of this Scheme, is the date of the person's last day of service in a period during which contributions were payable under rule G2.

(5) Subject to paragraphs (6) and (7), if he was in receipt of pensionable pay for part only of the year ending with the relevant date, his average pensionable pay is the aggregate of his pensionable pay for that part multiplied by the reciprocal of the fraction of the year which that part represents.

(6) For the purposes of paragraphs (3) and (5), any reduction of pensionable pay as a result of any-

- (a) sick leave;
- (b) stoppage of pay by way of punishment;
- (c) ordinary maternity, ordinary adoption or paternity leave;
- (d) paid additional maternity or additional adoption leave; or
- (e) unpaid additional maternity or additional adoption leave where contributions have been paid under rule G2A, shall be disregarded.

(7) If the amount determined in accordance with paragraphs (3) to (6) is less than it would have been if the relevant date had been the corresponding date in whichever of the two preceding years yields the highest amount, that corresponding date shall be taken to be the relevant date.

(7A) The average pensionable pay of a regular firefighter who-

- (a) is entitled to a long service increment; and
- (b) retires after 30th September 2006 and before 1st October 2007, or becomes entitled to a deferred pension under rule B5 within that period, shall be calculated-
  - (i) as if his long service increment had accrued at the rate of £990 per annum (disregarding the reduction in the amount of the long service increment that had effect in relation to times on and after 1st October 2006), and
  - (ii) disregarding any LS-related payment.

(7B) The average pensionable pay of a regular firefighter who-

- (a) is entitled to additional pension benefit under rule B5B (additional pension benefit: long service increment), and
- (b) retires on or after 1st October 2007,

shall be calculated on the basis of whichever of the following paragraphs yields the greater amount-

- (i) the calculation is made with regard to the amount credited to him under rule B5B, but without regard to his long service increment and any LS-related payment, or
- (ii) the calculation is made with regard to his long service increment and any LS-related payment, but without regard to the amount credited to him under rule B5B.

(7C) The average pensionable pay of a regular firefighter shall be calculated without reference to any additional pension benefit credited under rule B5C (additional pension benefit).

(7D) In paragraphs (7A) and (7B) "LS-related payment" means an interim or transitional payment made to a regular firefighter in connection with his long service.



(8) A regular firefighter's average pensionable pay for a week is his average pensionable pay divided by 52 1/6th.

(9) Where before 1st July 2013 and after that date, any allowance or supplement is being paid to a firefighter which a fire and rescue authority treats as pensionable, but is not-

(a) pensionable pay within the meaning of paragraph (1)(a);

(b) additional pension benefit under rule B5B (long service increment); or

(c) a payment in respect of a firefighter's continual professional development under rule B5C,

that allowance or supplement shall continue to be treated as pensionable for so long as the firefighter receives it without any break in payment.

(10) Where paragraph (6) of rule A3 (exclusive application to regular firefighters) applies to a regular firefighter and paragraph 1 of Schedule 7 (final salary link) to the 2013 Act applies to that person, paragraph (1) of this rule does not apply and the average pensionable pay is determined in accordance with Schedule 7 so that the member's pensionable pay under the 2014 Regulations, as modified by paragraph 33 of Schedule 2 to those Regulations, derived from service in the 2015 Scheme is to be regarded as derived from service in this Scheme.

(11) Where paragraph (10) and paragraph 34(4) of Schedule 2 to the 2014 Regulations apply to a member of this Scheme, the pensionable pay to be regarded as derived from service in this Scheme is the pensionable pay derived from service in the 2015 Scheme under the 2014 Regulations as modified by paragraph 33 of Schedule 2 to those Regulations for the last year of pensionable service before the reduction in pensionable pay.

(12) Where the pensionable pay under the 2014 Regulations is the pensionable pay of the person employed as a retained firefighter or as a volunteer firefighter for the purposes of paragraphs (10) and (11) the pensionable pay under the 2014 Regulations is that of a wholetime regular firefighter employed in a similar role and with equivalent qualifying service.

(13) Where paragraph 33(3) of Schedule 2 to the 2014 Regulations applies to a person to whom paragraph (6) of rule A3 applies, average pensionable pay is determined in accordance with paragraph (3) of this rule and paragraph (10) does not apply in the case of that person.

(14) Subject to paragraph (13), where paragraph (10) applies-

(a) in sub-paragraph (a) of paragraph (4) "the date of the person's last day of service as a regular firefighter" is to be read as "the date of the person's last day of service in scheme employment in the 2015 Scheme";

(b) in sub-paragraph (b) of paragraph (4) "in a period during which contributions were payable under rule G2" is to be read as "in a period during which member contributions were payable under regulation 110 of the 2014 Regulations"; and

(c) in sub-paragraph (e) of paragraph (6) where any unpaid period of additional maternity leave or adoption leave is within a period for which the pensionable pay derived from 2015 scheme service is treated as pensionable pay derived from this Scheme, "contributions have been paid under rule G2A" is to be read as "where contributions have been paid under regulation 113 of the 2014 Regulations".

- (15) In a case where paragraphs (1) and (11) apply, in sub-paragraph (a) of paragraph (4) "the date of the person's last day of service as a regular firefighter" is to be read as "the date of the person's last day of service in scheme employment in the 2015 Scheme before the reduction of pensionable pay."

## Firemen's Pension Scheme Order 1992

### Rule G2. Pension Contributions

(1) Subject to [paragraphs \(1B\) to \(1D\)](#)<sup>8</sup>, a regular firefighter shall, except while an election under rule G3 has effect, pay pension contributions to the fire and rescue authority at the rate specified in the Table in paragraph 3 of Part A1 of Schedule 8;

(1B) Paragraph (1) does not apply to a firefighter below the age of 50 who has reckoned 30 years or more pensionable service.

[\(1C\) A firefighter who is—](#)

[\(a\) below the age of 50 and has reckoned 30 years pensionable service; and](#)

[\(b\) entitled to be credited with additional pension benefit under rule B5B or B5C shall, until they attain the age of 50, pay pension contributions to the fire and rescue authority only in relation to that additional pension benefit.](#)

[\(1D\) Contributions payable under paragraph \(1C\) are payable—](#)

[\(a\) at the rate of 11% in the period starting on 1st December 2006 and ending on 31st March 2012; and](#)

[\(b\) on and after 1st April 2012 at the rate specified in the Table in paragraph 3 of Part A1 of Schedule 8.”; and](#)<sup>9</sup>

(2) The contributions payable under paragraph (1) on each instalment of pay are due at the same time as that instalment and, without prejudice to any other method of payment, may be deducted by the fire and rescue authority from the instalment.

(3) For each financial year beginning with the financial year commencing on 1st April 2006, each fire and rescue authority shall, by transfer to their Firefighters' Pension Fund from any other fund maintained by them, make an annual contribution towards the discharge of their future liability for the payment of pensions under this Scheme.

[\(4\) The annual contribution shall be such percentage of the authority's estimate of the aggregate of the pensionable pay, for the year in respect of which the contribution is made, of those firefighters employed by the authority who are—](#)

[\(a\) required by paragraph \(1\) to make pensions contributions in that year; and](#)

[\(b\) below the age of 50 and have reckoned 30 years pensionable service, as shall have been notified to them for that year by the Secretary of State.](#)<sup>10</sup>

(4A) The Secretary of State shall consult with the Scheme Actuary before making a notification under paragraph (4).

---

8 SI 2017/892 [4 (bi)]

9 SI 2017/892 [4 (bii)]

10 SI 2017/892 (4 (biii))

(5) Where a firefighter elects under rule G3(1) not to pay pension contributions, nothing in paragraphs (3) and (4) shall require an authority to make a contribution in respect of their future liability for the payment of his pension as regards—

(a) in the financial year in which notice of that election is given, the part of the year that falls after the first date after the notice is received on which an instalment of pay falls due; and

(b) any later period in which the election not to pay pension contributions has effect.

## Firefighter's Pension Scheme (England) Order 2006

### Part 11, Chapter 1, Rule 1 & 2 Pensionable Pay & Final Pensionable Pay

#### Amendments

2006 Original order [2006/3432](#) (black)

2008 amendment order [2008/213](#) (changes shown in blue)

2013 amendment order [2013/1393](#) (changes shown in purple)

2014 amendment order [2014/445](#) (changes shown in red)

2015 transitional regulations [2015/589](#) (changes shown in green)

2017 amendment order [2017/892](#) (changes shown in pink)

#### 1. Pensionable pay

1 [Subject to paragraphs \(3\), \(6\) and \(7\) and rule 3\(3\)](#) , the pensionable pay of a firefighter member is the aggregate of-

(a) his pay in relation to the performance of the duties of his role, except any allowance or emoluments paid to him on a temporary basis,

[\(aa\) the amount \(if any\) of any benefits which are pensionable under rule 7B\(1\) of Part 3, and](#)

(b) his permanent emoluments (including, in the case of a retained firefighter, any retaining allowance).

(2) Where a firefighter member surrenders the right to receive part of his pensionable pay in exchange for the provision by his employing authority of any non-cash benefit, the amount forgone shall continue to be treated as part of his pensionable pay for all purposes of this Scheme (including determining pension contributions and calculating awards).

(3) A firefighter member's pensionable pay in any tax year shall be taken not to include any amount in excess of the permitted maximum for that year.

(4) For the purposes of this rule and rule 2, the permitted maximum for a tax year is £108,600; but in relation to a tax year other than the tax year ending in 2007, this is subject to paragraph (5).

(5) Where the retail price index for the month of [September](#) in the tax year preceding the tax year in question is higher than it was for the previous [September](#) , the permitted maximum for the tax year in question shall be the amount arrived at-

(a) by increasing the permitted maximum for the previous tax year by the same percentage as the percentage increase in the retail prices index, and

(b) if the result is not a multiple of £600, by rounding it up to the nearest amount which is a multiple of £600.

(6) Where before 1st July 2013 and after that date, any allowance or supplement is being paid to a firefighter member which an authority treats as pensionable, but is not-

(a) pensionable pay within the meaning of paragraph (1)(a);

(b) additional pension benefit under rule 7A of Part 3 (long service); or

(c) a payment in respect of a firefighter's continual professional development under rule 7B,

that allowance or supplement shall continue to be treated as pensionable for so long as the firefighter receives it without any break in payment.

(7) Subject to paragraphs (8) and (9), where rule 1B of Part 2 has applied to a member of this Scheme who has joined the 2015 Scheme with continuity of service and paragraph 1 or 2 of Schedule 7 (final salary link) to the 2013 Act applies to that person, paragraph (1) of this rule does not apply and final pensionable pay is determined in accordance with Schedule 7 so that the member's pensionable pay under the 2014 Regulations as modified by paragraph 32 of Schedule 2 to those Regulations derived from service in the 2015 Scheme is to be regarded as pensionable pay derived from service in this Scheme.

(8) Where paragraph (7) and paragraph 32(4) of Schedule 2 to the 2014 Regulations apply to a member of this Scheme, the pensionable pay to be regarded as derived from service in this Scheme is the pensionable pay derived from service in the 2015 Scheme under the 2014 Regulations as modified by paragraph 32 of Schedule 2 to those Regulations for the last year of pensionable service in the 2015 Scheme before the reduction in pensionable pay.

(9) Where paragraph 32(3) of Schedule 2 to the 2014 Regulations applies to a member of this Scheme, pensionable pay is determined in accordance with paragraph (1) of this rule and paragraph (7) does not apply.

## 2. Final pensionable pay

(1) For the purpose of calculating pensions under this Scheme, the final pensionable pay of a firefighter member is the aggregate of pensionable pay received in respect of the 365 pensionable pay days ending with the relevant date, but this is subject to the following paragraphs of this rule.

(1A) Where the pensionable pay received by a firefighter in respect of the 365 pensionable pay days referred to in paragraph (1) includes an amount payable to him in respect of the benefits within rule 7B of Part 3, that amount shall be disregarded for the purpose of ascertaining his final pensionable pay.

(2) Subject to paragraphs (2A) and (3) , "the relevant date" for the purposes of paragraph (1)-

(a) in relation to a firefighter member who is entitled to two pensions under rule 7 of Part 3, means-

(i) as regards the first pension, the date on which he was last paid at the higher rate ;

(ii) as regards the second pension, the last day of his membership of the Scheme or, if he dies in service, the date of his death;

(b) in any other case, means the date of the firefighter member's last day of pensionable service or, if he dies in service, the date of his death;

(2A) In the case of a connected member or a deferred member to whom paragraph (7) of rule 1 applies, "the relevant date" means-

(a) where the final salary link applies, the last day of pensionable service in the 2015 Scheme, or

(b) where paragraph 32(4) to Schedule 2 to the 2014 Regulations applies, the last day of pensionable service in the 2015 Scheme before the reduction of pensionable pay in the 2015 Scheme.

(3) Where a firefighter member's final pensionable pay would have been more than the amount calculated in accordance with paragraph (1) if the relevant date had occurred on the corresponding day in either of the two periods of 365 pensionable pay days preceding the first day of the period of 365 pensionable pay days ending with the relevant date (as defined in paragraph (2) without reference to this paragraph), that corresponding day in whichever of those periods produces the higher amount shall be treated as the relevant date for the purposes of paragraph (1).

(4) Subject to paragraph (7) , where a firefighter member is entitled to count only part of a year as a period of membership of the Scheme ("the membership period"), his final pensionable pay is the amount of pensionable pay received in the membership period multiplied by 365 and divided by the number of days in the membership period.

- (5) For the purposes of paragraph (1), any reduction of pensionable pay as a result of-
- (a) sick leave;
  - (b) stoppage of pay by way of punishment;
  - (c) ordinary maternity leave, ordinary adoption leave or paternity leave;
  - (d) paid additional maternity leave or additional adoption leave;
  - (e) unpaid periods in respect of which the firefighter member has paid pension contributions; or
  - (f) unpaid additional maternity leave or additional adoption leave in respect of which pension contributions have been paid,
- shall be disregarded.

(5A) The final pensionable pay of a firefighter member who-

(a) is entitled to a long service increment; and

(b) retires after 30th September 2006 and before 1st October 2007, or becomes entitled to a deferred pension under rule 3 of Part 3 within that period,

shall be calculated-

(i) as if his long service increment had accrued at the rate of £990 per annum (disregarding the reduction that had effect in relation to times on and after 1st October 2006), and

(ii) disregarding any LS-related payment.

(5B) The final pensionable pay of a firefighter member who-

(a) retires or becomes entitled to a deferred pension on or after 1st October 2007, and

(b) is entitled to additional pension benefit under rule 7A of Part 3 (additional pension benefit: long service).

shall be calculated taking into account whichever of the following paragraphs yields the greater amount-

(i) the calculation is made with regard to the amount credited to him under rule 7A of Part 3 but without regard to his long service increment and any LS-related payment, or

(ii) the calculation is made with regard to his long service increment and any LS-related payment, but without regard to the amount credited to him under rule 7A of Part 3.

(5C) In paragraphs (5A) and (5B) "LS-related payment" means an interim or transitional payment connected with a firefighter member's long service.



(6) The final pensionable pay of a retained or volunteer firefighter shall be determined by reference to the final pensionable pay of a regular firefighter employed in a similar role and with equivalent qualifying service.

(7) A firefighter member's final pensionable pay in any tax year shall be taken not to include any amount in excess of the figure which is the permitted maximum for that year.

(8) In the case of a special member, paragraph (2)(b) applies with the substitution of "special pensionable service" for "pensionable service".

(9) In the case of a person who joined this Scheme as a special deferred member or a special pensioner member, his final pensionable pay shall be the amount determined by the authority and set out in the notice given by the authority under rule 5A(13) of this Part.

## The Firefighters' Pension Scheme (England) Regulations 2014<sup>11</sup>

### Schedule 2, Rule 37 & 38

#### Authority determines the entitlement of a member of the NFPS to an ill-health award<sup>12</sup>

37.—(1) This paragraph applies if the authority has decided to obtain the written opinion of an IQMP concerning whether a member of the NFPS is permanently disabled, or able to undertake regular employment before making a determination as to whether a member is entitled to an ill-health award, and the determination has not been made before the member's transition date.

(2) If the authority subsequently determines that the member of the NFPS is not entitled to an ill-health award<sup>13</sup>, the member joins this scheme on whichever is the latest of—

- (a) the member's transition date;
- (b) if the member decides not to appeal, the expiry of 28 days from the date on which the member received the last of the documents which the authority is required to supply under rule 4 (appeals against decisions based on medical advice) of Part 8 of the NFPS;
- (c) if the member withdraws the appeal, the date of the withdrawal of the appeal; and
- (d) where the member's appeal has been heard, the expiry of 28 days of the receipt of the report by the board of medical referees where no statement has been supplied by the authority to the Secretary of State, or where the board reconsiders its decision, the notice confirming the decision or the revised decision.

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

- (a) the member shall not join this scheme;
- (b) the member shall continue to be a member of the NFPS; and
- (c) the ill-health award shall be payable under rule 2 of Part 3 (award on ill-health retirement) of the NFPS.<sup>14</sup>

<sup>11</sup> 2015/589 [Schedule 1 (7) d – Rule 37 & 38]

<sup>12</sup> 2017/888 [10 (5ai)]

<sup>13</sup> 2017/888 [10 (5aii)]

<sup>14</sup> 2017/888 [10 (5aiii)]

**Authority determines the entitlement of a member of the 1992 Scheme to an ill- health award**<sup>15</sup>

**38.—**(1) This paragraph applies if the authority has decided to obtain the written opinion of an IQMP under rule H1 (determination by fire authority) of the 1992 Scheme concerning whether a member of that Scheme is permanently disabled, or able to undertake regular employment before making a determination as to whether a member is entitled to an ill-health award, and the determination has not been made before the member's transition date.

(2) If the authority subsequently determines that the member of the 1992 Scheme is not entitled to an ill-health award<sup>16</sup>, the member joins this scheme on whichever is the latest of—

(a) the member's transition date;

(b) if the member decides not to appeal, the expiry of 28 days from the date on which the member received the last of the documents which the authority is required to supply under rule H2 (appeal against opinion on a medical issue)<sup>17</sup> of Part H of the 1992 Scheme;

(c) if the member withdraws the appeal, the date of the withdrawal of the appeal; and

(d) where the member's appeal has been heard, the expiry of 28 days of the receipt of the report by the board of medical referees, or where the board reconsiders its decision, the notice confirming the decision or the revised decision.

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

(a) the member shall not join this scheme;

(b) the member shall continue to be a member of the 1992 Scheme; and

(c) the ill-health award shall be payable under rule B3 (ill-health awards) of the 1992 Scheme<sup>18</sup>

---

15 2017/888 [10 5b1]]

16 2017/888 [10 (5 bii)]

17 2017/888 [10 (5 biii)]

18 2017/888 [10 (5 biv)]

**The Firefighters' Compensation Scheme (England) Order 2006<sup>19</sup>**  
**Part 3, Rule 5. Effect of new relationship**

(1) Subject to paragraphs (3) to (5)<sup>20</sup>, a person entitled to a pension under this Part who marries, remarries, forms a civil partnership or a subsequent civil partnership is not entitled to receive any payment on account of the pension in respect of any subsequent period; but if the marriage or civil partnership is dissolved or the other party to it dies, the fire and rescue authority may pay the whole or any part of the pension for such period after the dissolution or death as they think fit.

(2) Subject to paragraphs (3) to (5)<sup>21</sup>, where a person entitled to a gratuity under this Part marries, remarries, forms a civil partnership or a subsequent civil partnership, any part of the gratuity that has not already been paid ( "the outstanding amount" ) ceases to be payable; but if the marriage or civil partnership is dissolved or the other party to it dies the fire and rescue authority may pay the person the whole or any part of the outstanding amount.

(3) Paragraphs (1) and (2) do not apply to a person—

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

(b) who first takes up employment with a fire and rescue authority on or after 6th April 2006 and is entitled to be a member of the 2006 Scheme , but elects not to pay pension contributions;

(c) who is a member of the 2015 Scheme; or

(d) who is eligible to be an active member of the 2015 Scheme and—

(i) exercises an option not to become an active member of that scheme in accordance with Chapter 2 of Part 3 of the 2014 Regulations; or

(ii) does not exercise an option to become an active member of that scheme in accordance with regulation 12 of the 2014 Regulations<sup>22</sup>.

(4) Paragraphs (1) and (2) do not apply if the person ( "P" ), entitled to a pension or gratuity under this Part—

(a) marries, remarries, forms a civil partnership or a subsequent civil partnership on or after 1st April 2015; and

(b) immediately before the beginning of that marriage, remarriage, or formation of a civil partnership or subsequent civil partnership is entitled to a pension or gratuity under this Part;

(5) If on or after 1st April 2015 P is the subject of a decision by the fire and rescue authority to pay any sums in exercise of its discretion under paragraph (1) or (2), the payment of those sums is not affected by any future marriage, remarriage or formation of a civil partnership.<sup>23</sup>

---

19 [2006/1811](#)

20 [2017/892](#) [4 (a)]

21 [2017/892](#) [4 (a)]

22 [2015/590](#) [Schedule 1 Part 3 (4)]

23 [2017/892](#) [4 (b)]