

## SCHEDULE 1

### THE NEW FIREFIGHTERS' PENSION SCHEME (WALES)

## PART 1

### TITLE AND INTERPRETATION

#### Title

- 1.—(1) This Scheme is called the New Firefighters' Pension Scheme (Wales).
- (2) Subject to sub-paragraph (3), this Scheme, (by virtue of article 1(2) and (3) of the Firefighters' Pension Scheme (Wales) Order 2007), has effect from 6 April 2006.
- (3) Part 13 of this Scheme has effect from 1 April 2007.

#### Interpretation

- 2.—(1) In this Scheme—
  - “the 1992 Scheme” (“*Cynllun 1992*”) means the Firefighters' Pension (Wales) Scheme 1992(1);
  - “the 1993 Act” (“*Deddf 1993*”) means the Pension Schemes Act 1993(2);
  - “the 1999 Act” (“*Deddf 1999*”) means the Welfare Reform and Pensions Act 1999(3);
  - “adoption leave” (“*seibiant mabwysiadu*”) means leave under sections 75A and 75B of the Employment Rights Act 1996(4); and “ordinary adoption leave” (“*seibiant mabwysiadu arferol*”) and “additional adoption leave” (“*seibiant mabwysiadu ychwanegol*”) are construed accordingly;
  - “amount” (“*swm*”), in relation to a pension, means the annual amount of the pension;
  - “Assembly” (“*Cynulliad*”) means the National Assembly for Wales;
  - “authority” (“*awdurdod*”), except in the definition of “independent qualified medical practitioner” (“*ymarferydd meddygol cymwysedig annibynol*”) and in the expression “fire authority” (“*awdurdod tân*”), means a fire and rescue authority;
  - “authority-initiated early retirement” (“*ymddeoliad cynnar ar archiad yr awdurdod*”) means retirement before normal retirement age under rule 6 of Part 3;
  - “award” (“*dyfardal*”) unless a contrary indication appears, means a pension or lump sum under this Scheme, or the refund of pension contributions;
  - “cash equivalent” (“*cyfwerth ag arian parod*” ac “*cyfwerth arian parod*”) has the meaning given by section 94(1)(a) of the 1993 Act;
  - “child” (“*plentyn*”), in relation to a scheme member, means—
    - (a) a child who is financially dependent on the firefighter member, and is—
      - (i) a natural child, step-child or adopted child of the firefighter member; or

(1) See Schedule 2 to [S.I.1992/129](#). The Scheme was made under section 26 of the Fire Services Act 1947 (c. 41). The 1947 Act was repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004, but the Scheme was renamed as Firefighters' Pension (Wales) Scheme and continued in force by articles 3 and 4 of the Fire and Rescue Services Act 2004 (Firefighters' Pension Scheme) (Wales) Order 2004 ([S.I. 2004/2918](#)).

(2) [1993 c. 48](#).

(3) [1999 c. 30](#).

(4) [1996 c. 18](#). Sections 75A and 75B were inserted by section 3 of the Employment Act 2002 (c. 22).

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- (ii) otherwise related to the firefighter member; or
  - (iii) the child of the firefighter member's spouse, civil partner or nominated partner; or
- (b) any child of the firefighter member's—
- (i) who is born after the firefighter member's death, and
  - (ii) with whom the child's mother was pregnant at the date of the member's death;

“Compensation Scheme” (“*Cynllun Iawndal*”) means the Firefighters' Compensation (Wales) Scheme 2007 set out in Schedule 1 to the Firefighters' Compensation (Wales) Order 2007<sup>(5)</sup>; “contracted-out” (“*wedi'i gontractio allan*”), in relation to an employment or scheme, has the meaning given by section 8(1) of the 1993 Act;

“contributions equivalent premium” (“*premiwm sy'n gyfwerth â chyfraniadau*”) has the meaning given by section 55(2) of the 1993 Act; and any reference to a case in which a contributions equivalent premium has been paid includes a reference to a case in which such a premium is payable;

“contributions election” (“*dewisiad cyfraniadau*”) means an election under rule 5(1) of Part 2 not to make pension contributions;

“deferred member” (“*aelod gohiriedig*”) has the meaning given by rule 1(3) of Part 2;

“disabled” (“*anabl*” ac “*anablu*”) and “disablement” (“*anabledd*”) have the meanings given by rule 3 of this Part;

“eligibility condition” (“*amod cymhwyster*”) means a condition set out in rule 2(1) of Part 2;

“final pensionable pay” (“*tâl pensynadwy terfynol*”) is construed in accordance with rule 2 of Part 11;

“firefighter member” (“*aelod-diffoddwr tân*”) has the meaning given by rule 1(1) of Part 2;

“guaranteed minimum” (“*lleiafswm gwarantedig*”) is the amount determined for the purposes of sections 13 to 17 of the 1993 Act, and “guaranteed minimum pension” has the same meaning as in that Act<sup>(6)</sup>; and any reference to the guaranteed minimum in relation to a pension under a pension scheme at a particular time is a reference to the amount certified by the Secretary of State as that minimum at that time;

“higher tier ill-health pension” (“*peniwn afiechyd haen uwch*”) means a pension of the description referred to in rule 2(3) of Part 3;

“ill-health retirement” (“*ymddeoliad oherwydd afiechyd*”) means retirement under rule 2 of Part 3;

“independent qualified medical practitioner” (“*ymarferydd meddygol cymwysedig annibynol*”) means a medical practitioner holding a diploma in occupational medicine or an equivalent or higher qualification issued by a competent authority in an EEA State, or being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine<sup>(7)</sup> or an equivalent institution of an EEA State; and for the purposes of this definition “a competent authority” has the meaning given by the General and Specialist Medical Practice (Education, Training and Qualifications) Order 2003<sup>(8)</sup>;

“injury” (“*anaf*”) means any injury or disease, whether of body or mind;

“lower tier ill-health pension” (“*peniwn afiechyd haen is*”) means a pension of the description referred to in rule 2(2) of Part 3;

<sup>(5)</sup> S.I. 2007/1073 (W.111).

<sup>(6)</sup> 1993 c. 48. As to “guaranteed minimum pension” see section 8(2).

<sup>(7)</sup> The Faculty of Occupational Medicine is a registered charity no. 1035415.

<sup>(8)</sup> S.I. 2003/1250, to which there is an amendment not relevant to this Order.

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“maternity leave” (“*seibiant mamolaeth*”) means leave under sections 71 and 73 of the Employment Rights Act 1996<sup>(9)</sup>; and “ordinary maternity leave” (“*seibiant mamolaeth arferol*”) and “additional maternity leave” (“*seibiant mamolaeth ychwanegol*”) is construed accordingly;

“member-initiated early retirement” (“*ymddeoliad cynnar ar archiad yr aelod*”) means retirement before normal retirement age under rule 5 of Part 3;

“nominated partner” (“*partner enwebedig*”) has the meaning given by rule 1(6) of Part 2;

“normal benefit age” (“*oedran buddion arferol*”) has the meaning given by rule 3(2) of Part 2;

“normal retirement age” (“*oedran ymddeol arferol*”) has the meaning given by rule 3(1) of Part 2;

“paternity leave” (“*seibiant tadolaeth*”) means leave under regulation 4 or 8 of the Paternity and Adoption Leave Regulations 2002<sup>(10)</sup>;

“pension” (“*pensiwn*”), unless a contrary intention appears, means a pension under this Scheme;

“pension credit” (“*credyd pensiwn*”) means a credit under section 29(1)(b) of the 1999 Act or corresponding Northern Ireland legislation;

“pension credit benefit” (“*budd credyd pensiwn*”) has the meaning given by section 101B of the 1993 Act<sup>(11)</sup>;

“pension credit member” (“*aelod â chredyd pensiwn*”) has the meaning given by section 124(1) of the Pensions Act 1995<sup>(12)</sup>;

“pension credit rights” (“*hawliau credyd pensiwn*”) has the meaning given by section 101B of the 1993 Act;

“pension debit” (“*debyd pensiwn*”) means a debit under section 29(1)(a) of the 1999 Act;

“pension debit member” (“*aelod â debyd pensiwn*”) means a person whose benefits or future benefits under this Scheme have been reduced under section 31 of the 1999 Act;

“pension sharing order” (“*gorchymyn rhannu pensiwn*”) means an order or provision mentioned in section 28(1) of the 1999 Act;

“pensionable pay” (“*tâl pensiynadwy*”) is construed in accordance with rule 1 of Part 11;

“pensionable retained or volunteer service” (“*gwasanaeth pensiynadwy sy'n wasanaeth wrth gefn neu'n wasanaeth gwirfoddol*”) in relation to a retained or volunteer firefighter and any period, means the same proportion of whole-time service as that which the retained or volunteer firefighter’s actual pensionable pay for that period bears to their reference pay for that period;

“pensionable service” (“*gwasanaeth pensiynadwy*”) is construed in accordance with rules 2 to 5 of Part 10;

“pensioner” (“*pensiynwr*”) except in the definition of “pensioner member” (“*aelod-bensiynwr*”), means a person who is in receipt of a pension;

“pensioner member” (“*aelod-bensiynwr*”) has the meaning given by rule 1(4) of Part 2;

“personal pension scheme” (“*cynllun pensiwn personol*”) has the meaning given by section 1 of the 1993 Act;

“qualifying service” (“*gwasanaeth cymhwysol*”) has the meaning given by rule 1 of Part 10;

(9) 1996 c. 18; sections 71 and 73 were substituted by section 7 of, and Part 1 of Schedule 4 to, the Employment Relations Act 1999 (c. 26) and amended by section 17 of the Employment Act 2002 (c. 22).

(10) S.I. 2002/2788.

(11) Section 101B was inserted by section 37 of the Welfare Reform and Pensions Act 1999 (c. 30).

(12) 1995 c. 26.

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“reference pay” (“*tâl cyfeirio*”), in relation to the pay of a retained or volunteer firefighter for any period, means the whole-time equivalent pensionable pay for that period of a regular firefighter employed in a similar role and with equivalent qualifying service;

“regular employment” (“*cyflogaeth reolaidd*”) means employment for at least thirty hours a week on average over a period of not less than twelve consecutive months beginning with the date on which the issue of the person’s capacity for employment arises;

“regular firefighter” (“*diffoddwr tân rheolaidd*”) means a person employed (whether whole-time or part-time) by an authority—

- (a) as a firefighter, but not as a retained or volunteer firefighter,
- (b) on terms under which the person is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to the person’s role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting), and
- (b) otherwise than in a temporary capacity;

“retained firefighter” (“*diffoddwr tân wrth gefn*”) and “volunteer firefighter” (“*diffoddwr tân gwirfoddol*”) mean a person employed by an authority—

- (a) as a firefighter, but not as a regular firefighter,
- (b) on terms under which the person is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to the person’s role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),
- (c) otherwise than in a temporary capacity, and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that the person receives,

and “retained or volunteer firefighter” (“*diffoddwr tân wrth gefn neu diffoddwr tân gwirfoddol*”) shall be construed accordingly;

“role” (“*rol*”), in relation to a firefighter, except in rule 1(1) of Part 2, means the role in which the firefighter is for the time being employed, being a role set out in “Fire and Rescue Services Rolemaps” issued by the National Joint Council for Local Authority Fire and Rescue Services in August 2005(13);

“state pensionable age” (“*oedran pensiwn y wladwriaeth*”) means pensionable age as determined in accordance with the rules in paragraph 1 of Schedule 4 to the Pensions Act 1995(14);

“survivor’s pension” (“*pensiwn goroeswr*”) means a pension under rule 1 of Part 4;

“transfer value payment” (“*taliad gwerth trosglwyddo*”) means a payment to another pension scheme or arrangement in respect of rights to benefits that have accrued to or in respect of a person under this Scheme.

(2) Where this Scheme requires anything to be done within a specified period after or from a specified day or event, the period begins immediately after the specified day or, as the case may be, the day on which the specified event occurs.

(3) In this Scheme, a reference —

- (a) in a Part to a numbered rule is to the rule bearing that number in that Part;
- (b) in a rule to a numbered paragraph is to the paragraph bearing that number in that rule;

(13) The document is accessible at [http://www/lge.gov.uk/conditions/firefighters/content/document s/fire service rolemaps.pdf](http://www/lge.gov.uk/conditions/firefighters/content/document%20s/fire%20service%20rolemaps.pdf).

(14) 1995 c. 26. See section 126 of that Act.

- (c) in a rule to a numbered sub-paragraph a paragraph

### **Disablement**

**3.—(1)** References in this Scheme to a person being permanently disabled are references to that person being disabled at the time when the question arises for decision and to that person's disablement being at that time likely to be permanent.

(2) Disablement—

- (a) in relation to a firefighter member, means such incapacity, occasioned by infirmity of mind or body, as makes that member unable to perform any duties of the role in which that member was last employed;
- (b) in relation to a child, means such incapacity, occasioned by infirmity of mind or body, as makes the child unable to earn a living.

(3) In determining whether a person's disablement is permanent, the authority must have regard—

- (a) in every case, to whether the disablement will continue until the person's normal retirement age; and
- (b) in relation to a person who has taken a deferred pension, to whether the disablement will continue until the person's normal benefit age.

(4) Where—

- (a) a person has left the Scheme with deferred entitlement to benefits before becoming disabled, and
- (b) the date on which the person becomes disabled cannot be ascertained,

the date must be taken to be that on which the claim that the person is disabled is first made known to the authority.