

2014 No. 3254 (W. 330)

**FIRE AND RESCUE
SERVICES, WALES**

PENSIONS, WALES

**The Firefighters' Pension Scheme
(Wales) (Amendment) Order 2014**

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 1 to the Firefighters' Pension Scheme (Wales) Order 2007. The amendments—

- make minor corrections to the New Firefighters' Pension Scheme (Wales) (“the Scheme”) set out in that Schedule;
- amend the Scheme to provide those persons who were employed in Wales as retained firefighters during the period from 1 July 2000 to 5 April 2006 inclusive with access to a pension scheme for that period;
- introduce new provisions.

Except as mentioned below the Order has effect from 1 April 2014. Power to give the Order retrospective effect is conferred by section 34 of the Fire and Rescue Services Act 2004.

The amendments made by paragraphs 3(5), 7(3) and 9(8)(a) of the Schedule are to make minor changes to the Scheme and have retrospective effect from 1 July 2013.

A minor change made by paragraph 2(2) is to ensure that those who took up employment as a firefighter before 6 April 2006 and were either not eligible to be a member of the Firefighters' Pension Scheme 1992 or made an election not to pay pension contributions required by that scheme, are treated as a firefighter member of the Scheme when automatically enrolled into that Scheme. This amendment has retrospective effect from 31 December 2012.

Part 2 of the Scheme (membership, cessation and retirement) is amended to enable eligible retained firefighters to join the Scheme from the date their service began or from 1 July 2000 if later. The normal retirement age and normal benefit age of special members differ from those for ordinary members (*paragraph 2 of the Schedule to the Order*).

Part 3 of the Scheme (personal awards) is amended (*paragraph 3*). First, a new rule 1A is inserted in setting out the conditions for a special member to receive a special member's ordinary pension; and new rule 2A sets out the conditions for receipt of a retrospective award on ill-health retirement. Other rules in Part 3 are amended so as to apply to special members.

Secondly, a correction is made so that it is clear which pensionable service can count for the additional pension benefit: long service increment in rule 7A (*paragraph 3(10)(a)*). The amendment only includes service with a Welsh Fire and Rescue Authority and has retrospective effect from 1 July 2013.

Thirdly, a new rule 7B is inserted (*paragraph 3(11)*) which extends additional pension benefit so that it covers—

- payments to reward additional skills and responsibilities outside the requirements of the firefighter member's duties under the contract of employment but which are within the wider functions of the job;
- any additional pay received whilst on temporary promotion or whilst temporarily carrying out the duties of a higher role;
- any non-consolidated performance related payment.

Any payments in respect of a firefighter member's continuing professional development continue to be covered by additional pension benefit.

The amendments made by paragraph 3(10)(b), (c) and (d) and paragraph 3(11) in relation to paragraphs (3) and (4) of the new rule 7B amend the method of uprating additional pension benefit for the long service increment (rule 7A of Part 3) and continuing professional development (rule 7B) from a specific index, retail price index, to an index in accordance with the Pensions (Increase) Act 1971. There is a specific provision to provide that the consumer price index is used for the tax year 2010/2011. These amendments have effect from 11 April 2011 but otherwise the amendments relating to the new rule 7B have retrospective effect from 1 July 2013.

Part 4 of the Scheme (survivors' pensions) is amended so as to apply to special members (*paragraph 4*).

Part 5 of the Scheme (awards on death) is adapted for special members and a new rule 1A is inserted providing for death grant for the limited period (*paragraph 5*).

Parts 6 of the Scheme (pension sharing on divorce), 8 (determination of questions and appeals), 9 (review, withdrawal and forfeiture of awards) and 10 (qualifying service and pensionable service) are amended in respect of special members. A new rule 2A is inserted in Part 10 which sets out the periods of service which may be accrued as special pensionable service by special members on payment of the mandatory special period pension contributions or the special pension contributions (*paragraphs 6, 7, 8 and 9*).

Part 11 of the Scheme (pensionable pay, pension contributions and purchase of additional service) is amended. The definition of pensionable pay is amended to include payments which are pensionable under additional pension benefit (new rule 7B) and provides that payments which are not within the definition of pensionable pay in rule 1(1)(a) as amended, or additional pension benefits payable for long service or in respect of a firefighter's continual professional development, should remain pensionable whilst the firefighter continues to receive them (*paragraph 10(2)*). The payments treated as final pensionable pay are amended to exclude additional pension benefit payments payable within rule 7B of Part 3 (*paragraph 10(3)(a)*). These amendments have retrospective effect from 1 July 2013.

In respect of special members a new rule 5A is inserted in Part 11 which provides for the purchase of service during the limited period and new rules 6A and 6B are inserted which set out the periods of payment for different types of special member (*paragraph 10(3)(b) et seq*).

Part 12 of the Scheme (transfers into and out of the Scheme) is amended in respect of special members. In particular, a new chapter 3A and rule 11A are inserted which permit a deferred member of the Firefighters' Pension Scheme 1992 who joins this Scheme as a special firefighter member to request a transfer value payment to be made in certain circumstances to the member's special membership of this Scheme. A new chapter 6 and rule 16 are inserted allowing conversion of membership from special membership to standard membership and from standard membership to special membership. A new rule 17 is inserted which enables a standard member of this Scheme in respect of service which they would otherwise be able to reckon as

special pensionable service, who joins this Scheme as a special firefighter member, to convert their standard membership of this Scheme to their special membership on payment of the additional pension contribution (*paragraph 11*).

Part 13 of the Scheme is amended to require a fire and rescue authority to transfer into the Firefighters' Pension Fund an amount equal to the amount of pension paid to a person in respect of whom the authority choose not to exercise its discretion to withdraw or abate the permitted part of that individual's pension under rule 3 (withdrawal of pension during service as a firefighter) of Part 9 (review, withdrawal and forfeiture of awards) (*paragraph 12*). These amendments have retrospective effect from 1 July 2013.

A new Annex ZA is inserted which provides for the calculation of the commuted portion of pensions by special members (*paragraph 14*). A new Annex AB1 is inserted which provides for the calculation of pension contributions for special members (*paragraph 16*). Annex 1 is also amended in relation to special members (*paragraph 17*).

Amendments made to Annex 2 (appeals to board of medical referees) enable—

- the board to reconsider its decision where the parties agree that it has made a material error of fact;
- the authority to recover some or all of the expenses of the board where the appellant has withdrawn the appeal or requested the date for an interview or examination to be cancelled or postponed less than 22 working days before the date appointed (*paragraph 18*).

These amendments have retrospective effect from 1 July 2013.

The Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation has been considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of this Order.

A copy of the assessment can be obtained from the Fire Branch, Department for Local Government and Communities, Welsh Government, Rhydycar Business Park, Merthyr Tydfil, CF48 1UZ (telephone 0300 0628219).

2014 No. 3254 (W. 330)

**FIRE AND RESCUE
SERVICES, WALES**

PENSIONS, WALES

**The Firefighters' Pension Scheme
(Wales) (Amendment) Order 2014**

Made 8 December 2014

Laid before the National Assembly for Wales
10 December 2014

Coming into force 31 December 2014

This Order is made in exercise of the powers conferred by sections 34, 60 and 62 of the Fire and Rescue Services Act 2004⁽¹⁾.

Before making this Order, and in accordance with section 34(5) of that Act, the Welsh Ministers consulted such persons as they considered appropriate.

The Welsh Ministers make the following Order:

Title and commencement

1.—(1) The title of this Order is the Firefighters' Pension Scheme (Wales) (Amendment) Order 2014.

(2) Subject to paragraph (3) this Order comes into force on 31 December 2014.

(3) The amendments made by article 2 and the Schedule have effect from 1 April 2014 but the provisions listed in the first column of the table below

(1) 2004 c. 21. Powers under sections 34 and 60 of the Fire and Rescue Services Act 2004 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by section 62 of the Fire and Rescue Services Act 2004. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to the Welsh Ministers.

(and described in the second column) have effect from the corresponding date in the third column—

Paragraph of the Schedule to this Order	Description	Taking effect date
2(2)	which relates to rule 1 (scheme membership) of Part 2 of the Scheme	31 December 2012
3(5)	which inserts new rule 2A (restrospective award on ill-health retirement) in Part 3 of the Scheme	1 July 2013
3(10)(a)	which substitutes wording in paragraph (2) of rule 7A (additional pension benefit: long service)	1 July 2013
3(10)(b) to (d)	which relates to rule 7A (additional pension benefit: long service) of Part 3 (personal awards) of the Scheme	11 April 2011
3(11)	which substitutes for rule 7B (additional pension benefit: continual professional development) of Part 3 of the Scheme, rule 7B (additional pension benefit)	11 April 2011, in relation to paragraph (3) of rule 7B and the definitions of “beginning date” and “following relevant tax year” in paragraph (6) of rule 7B. Otherwise, 1 July 2013
7(3)	which relates to rule 5 (appeals on other issues) in Part 8 of the Scheme	1 July 2013
9(8)(a)	which relates to	1 July 2013

	paragraph (5) of rule 6 of Part 10 of the Scheme	
10(2)	which relates to rule 1 (pensionable pay) of Part 11 of the Scheme	1 July 2013
10(3)(a)	which relates to rule 2 (final pensionable pay) of Part 11 of the Scheme	1 July 2013
12	which inserts a new paragraph (11) in rule 2 (payments and transfers into Firefighters' Pension Fund) of Part 13 of the Scheme	1 July 2013
18	which relates to Annex 2 (appeals to board of medical referees)	1 July 2013

Amendment of the Firefighters' Pension Scheme (Wales) Order 2007

2. Schedule 1 to the Firefighters' Pension Scheme (Wales) Order 2007⁽¹⁾ is amended in accordance with the Schedule to this Order.

Transitional provisions: transfers into Firefighters' Pension Fund

3.—(1) The amendment made by article 2 and paragraph 12 of the Schedule to this Order to rule 2 (payments and transfers into Firefighters' Pension Fund) of Part 13 (Firefighters' Pension Fund) does not have effect in relation to a person who had entered into a contract of employment with a fire and rescue authority before 1 July 2013.

(2) In a case to which paragraph (1) applies, rule 2 of Part 13 of the New Firefighters' Pension Scheme (Wales), in the form in which it had effect before 1 July 2013, continues to have effect in relation to such a person.

(1) S.I. 2007/1072 (W. 110) as amended by S.I. 2009/1225 (W. 108), 2010/234, 2012/972 (W. 127), 2013/735 (W. 87), 2013/1577 (W. 145) and 2014/523 (W. 64).

Leighton Andrews

Minister for Public Services, one of the Welsh
Ministers

8 December 2014

Amendment of Schedule 1 to the
Firefighters' Pension Scheme (Wales)
Order 2007

Amendment of Part 1 (title and interpretation)

1.—(1) Part 1 is amended as follows.

(2) In rule 2 (interpretation) in paragraph (1)—

(a) at the appropriate places insert—

““the 2004 Act” (*“Deddf 2004”*) means the Finance Act 2004⁽¹⁾;”;

““actuary” (*“actiwari”*) means a fellow of the Institute and Faculty of Actuaries;”;

““child’s pension” (*“pensiwn plentyn”*) means a pension under rule 6 (child’s pension) of Part 4 (survivors’ pensions);”;

““initial date” (*“dyddiad cychwynnol”*) means 1 January 2015;”;

““IQMP” (*“YMCA”*) means an independent qualified medical practitioner;”;

““limited period” (*“cyfnod cyfyngedig”*) means the period beginning on 1 July 2000 or if later, the date falling before 6 April 2006 on which the person was first employed as a retained firefighter and ending on the earliest of—

(a) the date on which that person joined this Scheme as a special member or as a standard member in respect of service which the member could otherwise reckon as special pensionable service,

(b) the date, if applicable, on which the person ceased to be employed as a retained or regular firefighter; and

(c) 31 March 2015;”;

““lump sum contribution” (*“cyfraniad ar ffurf cyfandaliad”*) means the lump sum payable under paragraphs (1) to (13) of rule 6A of Part 11;”;

““mandatory special period” (*“cyfnod arbennig gorfodol”*) means that part of a person’s service during the limited period beginning on the date selected by the person before 6 April 2006 and ending on the earliest of—

(1) 2004 c. 12.

- (a) the date on which the person joined this Scheme as a special member or as a standard member in respect of service which the person could otherwise reckon as special pensionable service,
- (b) the date, if applicable, on which the person was dismissed or retired from employment as a regular or retained firefighter; and
- (c) 31 March 2015;”;

““mandatory special period pension contributions” (“*cyfraniadau pensiwn cyfnod arbennig gorfodol*”) means the special pension contribution payable in respect of a special member’s service during the mandatory special period under rule 6A of Part 11 together with any interest payable in respect of that contribution in accordance with rule 6A(13);”;

““ordinary pension” (“*pensiwn cyffredin*”), in relation to a standard member, means a pension referred to in rule 1 of Part 3 (personal awards);”;

““Scheme Actuary” (“*Actiwari’r Cynllun*”) means the actuary appointed by the Welsh Ministers to provide actuarial advice and to carry out any statutory functions set out in the Scheme;”;

““scheme chargeable payment” (“*taliad trethadwy o’r cynllun*”) has the meaning given in section 241 of the 2004 Act;”;

““special deferred member” (“*aelod gohiriedig arbennig*”) has the meaning given in rule 1A(5) to (8) of Part 2;”;

““special eligibility conditions” (“*amodau cymhwyster arbennig*”) has the meaning given in rule 2A of Part 2;”;

““special firefighter member” (“*aelod-ddiffoddwr tân arbennig*”) has the meaning given in rule 1A(1) to (4) of Part 2;”;

““special membership” (“*aelodaeth arbennig*”) means membership of this Scheme as a special firefighter member, special deferred member or special pensioner member as the case may be;”;

““special member” (“*aelod arbennig*”) means a special firefighter member, a special deferred member or a special pensioner member;”;

““special member’s ordinary pension” (“*pensiwn cyffredin aelod arbennig*”) means a pension of the description referred to in rule 1A of Part 3;”;

““special pension contribution” (*“cyfraniad pensiwn arbennig”*) means the pension contribution set out in rule 3(1A) of Part 11;”;

““special pensionable retained service” (*“gwasanaeth wrth gefn pensiynadwy arbennig”*), in relation to a retained firefighter who is a special member and any period of special pensionable service, means the same proportion of whole-time service as that which the firefighter’s actual pensionable pay for that period bears to the firefighter’s reference pay for that period;”;

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

““special pensioner member” (*“aelod-bensiynwr arbennig”*) has the meaning given in rule 1A(9) to (13) of Part 2;”;

““standard member” (*“aelod safonol”*) means a member of this Scheme other than a special member;”;

““standard membership” (*“aelodaeth safonol”*) means membership of this Scheme as a standard member;”;

““volunteer firefighter” (*“diffoddwr tân gwirfoddol”*) means a person employed by an authority—

- (a) as a volunteer firefighter but not as a regular firefighter or as a retained firefighter;
 - (b) on terms under which the firefighter is, or may be required to, engage in firefighting (whether instead of, or in addition to, engaging in firefighting);
 - (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 firefighter receives.”;
- (b) in the definition of “child” (*“plentyn”*) for “or a pensioner member” substitute “a pensioner member or a special member”;
- (c) at the end of the definition of “opt in” (*“dewis ymuno”*) insert—
- “or, in the case of a special firefighter member means making an election under rule 6A of Part 11 to pay the mandatory special period pension contributions;”;
- (d) in the definition of “pensioner” (*“pensiynwr”*), after ““pensioner member”

(“*aelod-bensiynwr*”)” insert “or “special pensioner member” (“*aelod-bensiynwr arbennig*”)”;

- (e) for the definition of “retained firefighter” (“*diffoddwr tân wrth gefn*”) and “volunteer firefighter” (“*diffoddwr tân wrth gefn*”) substitute—

““retained firefighter” (“*diffoddwr tân wrth gefn*”) means a person employed by an authority—

- (a) as a retained firefighter, but not as a regular firefighter or as a volunteer firefighter;
- (b) on terms under which the firefighter is, or may be, required to engage in firefighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to the firefighter’s role as firefighter (whether instead of, or in addition to, engaging in firefighting);
- (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 firefighter receives;”.

- (3) In rule 2, after paragraph (3) insert—

“(4) References in this Scheme to a firefighter member, a deferred member or a pensioner member include references to a special firefighter member, a special deferred member or a special pensioner member, respectively, unless the contrary intention is shown.”

Amendment of Part 2 (scheme membership, cessation and retirement)

2.—(1) Part 2 is amended as follows.

- (2) In rule 1 (scheme membership), for paragraph (2A) substitute—

“(2A) Where a person who—

- (a) having taken up employment as a firefighter before 6 April 2006;
- (b) having continued in such employment until his or her automatic enrolment date;
- (c) having made an election not to pay contributions under the 1992 Scheme or not being eligible to be a member of the 1992 Scheme; and

- (d) having not otherwise elected to become a member of this Scheme,

is automatically enrolled in this Scheme, that enrolment constitutes an election to become a firefighter member of this Scheme.”

(3) In paragraph (4) of rule 1 (scheme membership), after “pensionable service” insert “or special pensionable service”.

(4) After rule 1 insert—

“Special membership

1A.—(1) Subject to paragraphs (2) to (5) and (15), a firefighter member of any of the following descriptions is also a special firefighter member of this Scheme—

- (a) a person who—
 - (i) having taken up employment as a retained firefighter before 6 April 2006;
 - (ii) having continued in such employment until the date of the person’s election; and
 - (iii) having elected⁽¹⁾, within the period required by rule 6B(1), or 6B(12) as the case may be, of Part 11, to pay the mandatory special period pension contributions;
- (b) a person who—
 - (i) having taken up employment as a retained firefighter before 6 April 2006;
 - (ii) having continued in such employment until a date on or after 6 April 2006;
 - (iii) having, immediately after the termination of such employment, taken up employment as a regular firefighter and continued in that employment until the date of his or her election; and
 - (iv) having elected, within the period required by rule 6B(1) of Part 11, or 6B(12) as the case may be, to pay the mandatory special period pension contributions.

(2) Where a special firefighter member makes a contributions election in respect of the member’s special membership and ceases to be a special member, the member may again

⁽¹⁾ See rule 6B(10) of Part 11 for date when an election takes effect.

become a firefighter member (but not a special member) by virtue of rule 6 of this Part, which shall apply to the member with the omission of the word “again”.

(3) A special firefighter member who is treated as having ceased to make mandatory special period pension contributions in accordance with rule 6B(5)(c) of Part 11 ceases to be a special firefighter member and becomes a special deferred member.

(4) A special firefighter member who is entitled to reckon a period as special pensionable service pursuant to rule 5 of Part 10 and resumes service immediately after that period remains a special firefighter member.

(5) A special firefighter member who would be entitled to reckon a period as special pensionable service pursuant to rule 4 of Part 10 (reckoning of unpaid period of absence) if the member elected to purchase additional service during that period under rule 4(1) of that Part and subsequently paid the special pension contribution in respect of that period, but does not so elect or pay that special pension contribution, remains a special firefighter member if the member resumes service immediately after that period.

(6) Subject to paragraph (15), a person who satisfies the conditions in paragraph (7) is a special deferred member of this Scheme.

(7) The conditions are that the person—

- (a) took up employment as a retained firefighter before 6 April 2006;
- (b) was employed as a retained firefighter on or after 1 July 2000;
- (c) resigned or was dismissed from that employment before the date that the person’s election under rule 6A of Part 11 to pay the mandatory special period pension contributions took effect;
- (d) was younger than 55 on the date of the resignation or dismissal;
- (e) is not entitled to an ill-health award under rule 2 or 2A of Part 3; and
- (f) has elected, within the period required by rule 6B(1), or 6B(12) as the case may be, of Part 11 to pay the mandatory special period pension contributions.

(8) Subject to paragraph (15), a person who—

- (a) satisfies the requirements of paragraph (1)(a);

- (b) has joined this Scheme as a standard member in respect of service which the person would otherwise be entitled to treat as special pensionable service before electing to join this Scheme as a special member; and
- (c) does not elect to convert the person's standard membership to the person's special membership,

is a special deferred member of this Scheme.

(9) A person who was a special firefighter member of this Scheme immediately before paragraph (1) of rule 3 of Part 3 applied to the person is then a special deferred member of this Scheme.

(10) Subject to paragraph (15), a person who satisfies all of the conditions in paragraph (11) and who satisfies at least one of the conditions in paragraph (12) is a special pensioner member of this Scheme.

(11) The conditions are that the person—

- (a) took up employment as a retained firefighter before 6 April 2006;
- (b) was employed as a retained firefighter on or after 1 July 2000;
- (c) retired from that employment before the date that the person's election under rule 6A of Part 11 to pay the mandatory special period pension contributions took effect;
- (d) has elected, within the period required by rule 6B(1), or 6B(12) as the case may be, of Part 11, to pay the mandatory special period pension contributions.

(12) The conditions are that the person—

- (a) retired having attained the age of 55;
- (b) was dismissed or retired by reason of permanent disability and the conditions of rule 2A of Part 3 (retrospective award on ill-health retirement) are capable of being satisfied; or
- (c) has attained the age of 60.

(13) Subject to paragraph (15), a person of any of the following descriptions is also a special pensioner member of this Scheme—

- (a) a person who was a special firefighter member of this Scheme immediately before the person retired and to whom rule 1A of Part 3 applies;
- (b) a person who was a special deferred member of this Scheme immediately

before the person retired and who satisfies the requirements of paragraph (4) of rule 3 of Part 3;

- (c) a person who was a special firefighter member of this Scheme immediately before the person left his or her employment by reason of permanent disablement and is entitled under rule 2 (award on ill-health retirement) of Part 3 (personal awards) to a lower tier ill-health pension or a higher tier ill-health pension.

(14) A person who was a special deferred member of this Scheme immediately before the person's 60th birthday is a special pensioner member after that date.

(15) A person who was employed as a retained firefighter and to whom paragraph (1) of rule 2 of Part 8 of the Compensation Scheme applies (award to or in relation to a retained firefighter) may not be a special member of this Scheme."

(5) After rule 2 (eligibility conditions) insert—

"Special eligibility conditions

2A.—(1) A special firefighter member is eligible for a special member's ordinary pension or a pension under rule 2 (award on ill-health retirement) or rule 3 (deferred pension) of Part 3 as a special member under this Scheme if—

- (a) the member pays the special pension contribution; and
- (b) an eligibility condition is satisfied.

(2) A special deferred member or a special pensioner member is eligible for a special member's ordinary pension or a pension under rule 2 (award on ill-health retirement) or rule 2A (retrospective award on ill-health retirement) if an eligibility condition is satisfied.

(3) A special deferred member who was a special firefighter member immediately before the member satisfied the requirements of paragraph (1) of rule 3 of Part 3 and in respect of whom an eligibility condition is satisfied is entitled to a special member's ordinary pension.

(6) In paragraphs (1) and (2) of rule 3 (normal retirement age and normal benefit age), after "members" in each place where it occurs insert "who are not special firefighter members".

(7) After paragraph (2) of rule 3 (normal retirement age and normal benefit age) insert—

“(3) The normal retirement age of special firefighter members, or for persons who joined this Scheme as special pensioner members, is 55.

(4) The normal benefit age of special firefighter members, or of special deferred members, is 60.”

Amendment of Part 3 (personal awards)

3.—(1) Part 3 is amended as follows.

(2) In rule 1 (ordinary pension) for paragraph (2) substitute—

“(2) This rule does not apply to—

- (a) a firefighter member whose notice of retirement states that the member is retiring for the purpose of taking up employment with another authority; or
- (b) subject to rule 18 of Part 12, a special firefighter member in respect of special pensionable service.”

(3) After rule 1 insert—

“Special member’s ordinary pension

1A.—(1) Subject to paragraph (2), this rule applies to a member of this Scheme who is a special member and who satisfies one of the special eligibility conditions and retires or has retired.

(2) This rule does not apply to a special firefighter member whose notice of retirement states that the member is retiring for the purpose of taking up employment as a firefighter with another authority.

(3) Where a special member to whom this rule applies—

- (a) is not entitled to an ill health award under rule 2 or 2A;
- (b) attains or has attained the age of 55; and
- (c) retires,

the member is entitled to a special member’s ordinary pension.

(4) A special member who is not entitled to a special member’s ordinary pension under paragraph (3) or an ill health award under rule 2 or 2A is entitled to a deferred pension.

(5) Where a special member to whom this rule applies becomes entitled to a special member’s ordinary pension in respect of service as a retained firefighter, the special member’s ordinary pension must be calculated by

multiplying the member's final pensionable pay by the member's special pensionable retained service and dividing the resultant amount by 45.

(6) Where a special member to whom this rule applies has special pensionable service as a regular firefighter accrued whilst the member was a special member, the member becomes entitled on retiring to a special member's ordinary pension calculated by multiplying that part of the member's special pensionable service which is attributable to the member's service as a regular firefighter by the member's final pensionable pay and dividing the resultant amount by 45.

(7) Where paragraph (6) applies, the amount calculated under that paragraph must be added to the amount calculated under paragraph (5).

(8) Where a person joins this Scheme as a special pensioner member and is entitled to a pension under this rule, the authority must pay to the member a lump sum equal to the value, together with interest, of the pension payments ("the past pension payments") which the member would have received up to the date of payment of the lump sum if at the date of the member's retirement the member had been a member of this Scheme who had made contributions equivalent to the member's contributions under rules 6A and 6B of Part 11 and must thereafter pay the member a special member's ordinary pension.

(9) The interest payable in accordance with paragraph (8) is payable as follows—

- (a) for the purposes of calculating interest under this paragraph it must be assumed that the past pension payments were payable from the date that the member reached normal retirement age;
- (b) interest starts to accrue from the date that the first past pension payment would have been made in accordance with sub-paragraph (a) and ceases to accrue on the date of payment of the lump sum in accordance with paragraph (8) of this rule;
- (c) interest must be calculated by applying the past interest rate to the past pension payment compounded monthly between the month each past pension payment would have been made in accordance with sub-paragraph (a) until the date of payment of the lump sum,

and for the purposes of this rule “past interest rate” (“*cyfradd llog gyt*”) is a rate equivalent to the interest available on the most recent issue of five-year fixed interest savings certificates from National Savings and Investments available on the 15th day of each month which would have been applicable to the period when the past pension payment in question would have been made in accordance with sub-paragraph (a).”

(4) In rule 2 (award on ill-health retirement)—

(a) for paragraph (2) substitute—

“(2) Every firefighter member to whom this rule applies and who satisfies—

(a) in the case of a firefighter member other than a special firefighter member, an eligibility condition;

(b) in the case of a special firefighter member, one of the special eligibility conditions,

is entitled, on retiring, to a lower tier ill-health pension calculated in accordance with paragraph 1 of Annex 1 to this Scheme.”; and

(b) in paragraph (4) for “The amount of the higher tier ill-health pension” substitute “The amount of the higher tier ill-health award”.

(5) After rule 2 insert—

“Retrospective award on ill-health retirement

2A.—(1) This rule applies to a person who elects to join this Scheme as a special deferred member or a special pensioner member and who had been dismissed on the grounds of ill-health or had retired from employment as a retained firefighter before 6 April 2006.

(2) A person to whom this rule applies may apply to the authority which last employed the person as a retained firefighter to be assessed by an IQMP selected by it to determine whether the person was permanently incapable of performing the duties of a firefighter on the date on which the person was dismissed on the grounds of ill-health or retired and whether the person has become capable of performing those duties since that date.

(3) An application under paragraph (2) must be made during the period of three months beginning with the day on which the notice was served by the authority under rule 5A(13) (purchase of service during the limited period) of Part 11.

(4) The authority must obtain a written opinion from an IQMP on whether the person was at the date of the dismissal or retirement

permanently incapable of performing the duties of a firefighter and if so, whether the person has become capable of performing those duties since that date.

(5) The authority must determine whether the person is entitled to a retrospective award for ill-health retirement on the basis of the written opinion of the IQMP and may only determine that a person is entitled to an award where the IQMP gives an opinion that the person was permanently incapable of performing the duties of a firefighter on the date of the dismissal or retirement and has not become capable of performing those duties since that date.

(6) The IQMP must certify in their opinion under paragraph (4)—

- (a) that the IQMP has not previously advised, or given their opinion on, or otherwise been involved in, the particular case for which the opinion has been requested, and
- (b) that the IQMP is not acting, and has not at any time acted, as the representative of the employee, the authority, or any other party in relation to the same case.

(7) Where the IQMP has given an opinion under paragraph (4), it shall be subject to review under rule 3 (review of medical opinion) of Part 8 (determination of questions and appeals) and to the outcome of an appeal under rule 4 (appeals against decisions based on medical advice) of Part 8.

(8) An IQMP's opinion under paragraph (4) is binding on the authority unless it is superseded by the IQMP's response under rule 3 of Part 8 or the outcome of an appeal under rule 4 of Part 8 as mentioned in paragraph (7).

(9) If—

- (a) the person concerned wilfully or negligently fails to submit to medical examination by the IQMP selected by the authority, and
- (b) the IQMP is unable to give an opinion on the basis of the medical evidence available,

the authority may make a decision on the issue on such other medical evidence as they think fit, or without medical evidence.

(10) If the authority determine that the person is entitled to a retrospective award following ill-health retirement, they must give written notice to the person within 14 days of their determination together with a copy of the IQMP's opinion.

(11) Where the authority do not determine that the person is entitled as mentioned in paragraph (10) to a retrospective award following ill-health retirement, they must—

- (a) give written notice to the person within 14 days of their determination;
- (b) provide the person with a copy of the IQMP's opinion; and
- (c) inform the person that the person can apply for a review of that opinion under rule 3 (review of medical opinion) or appeal against that decision under rule 4 (appeals against decisions based on medical advice) of Part 8 (determination of questions and appeals).

(12) Where a person has satisfied one of the special eligibility conditions and the authority have determined that the person is entitled to a retrospective award following ill-health retirement, the authority must pay to the person a lump sum equal to the value, together with interest, of the payments of higher tier ill-health pension ("past pension payments") which the person would have received up to the date of payment of the lump sum if at the date of the dismissal or retirement the person had been a member of this Scheme who had made contributions equivalent to the person's contributions under rule 6A of Part 11 and must thereafter pay the person a higher tier ill-health pension.

(13) The interest payable in accordance with paragraph (12) is payable as follows—

- (a) for the purposes of calculating interest under this paragraph it is assumed that the past pension payments were payable from the date that the member would have first received payment of higher tier ill-health pension if, at the date of the dismissal or retirement, the member had been a member of this Scheme;
- (b) interest starts to accrue from the date that the first past pension payment would have been made in accordance with sub-paragraph (a) and ceases to accrue on the date of payment of the lump sum in accordance with paragraph (12) of this rule;
- (c) interest must be calculated by applying the past interest rate to the past pension payment compounded monthly between the month each past pension payment would have been made in

accordance with sub-paragraph (a)
until the date of payment of the lump
sum,

and for the purposes of this rule “past interest rate” is a rate equivalent to the interest available on the most recent issue of five-year fixed interest savings certificates from National Savings and Investments available on the 15th day of each month which would have been applicable to the period when the past pension payment in question would have been made in accordance with sub-paragraph (a).

(14) A member of this Scheme entitled to a retrospective award under this rule is not entitled to an ordinary pension or a special member’s ordinary pension in respect of the same special pensionable service.”

(6) In rule 3 (deferred pension)—

(a) in paragraph (1) for “This rule applies” substitute “Subject to paragraph (7), this rule applies”;

(b) after paragraph (6) insert—

“(7) In the case of a firefighter member who is a special firefighter member, paragraph (1) applies with the substitution, in sub-paragraph (a), of “one of the special eligibility conditions” for “an eligibility condition” and with the substitution in paragraph (3) of “forty-five” for “sixty” and “special pensionable service” for “pensionable service”.”

(7) In paragraph (1) of rule 5 (pension on member-initiated early retirement), after “firefighter member” insert “other than a special firefighter member”.

(8) In rule 6 (pension on authority-initiated early retirement), after paragraph (2) insert—

“(3) This rule does not apply to a firefighter member who is a special firefighter member.”

(9) In rule 7 (entitlement to two pensions)—

(a) in paragraph (1) for “Subject to paragraph (6)” substitute “Subject to paragraphs (6) and (9)”;

(b) after paragraph (8) insert—

“(9) In the case of a special member, this rule applies with the substitution of “45” for “60” in paragraphs (3), (4) and (7), with the substitution of “special pensionable service” for “pensionable service” wherever it occurs and with the substitution of “1A” for “1” in paragraph (5).”

(10) In rule 7A (additional pension benefit: long service)—

- (a) in paragraph (2) for the words after the formula substitute—

“Where—

A is the number in years (counting part of a year as the appropriate fraction) by which the member’s continuous pensionable service in the employment of an authority and subsequent continuous pensionable service in the employment of another authority in Wales up to and including 30 June 2007, exceeds 15 but does not exceed 20; and

B is the number in years (counting part of a year as the appropriate fraction) by which the member’s continuous pensionable service in the employment of an authority and subsequent continuous pensionable service in the employment of another authority in Wales up to and including 30 June 2007, exceeds 20 but does not exceed 30.”;

- (b) in paragraph (3) for “Where” substitute “Until 11 April 2011, where”;

- (c) after paragraph (3) insert—

“(3A) On and after 11 April 2011, the amount of additional pension benefit (as calculated in accordance with paragraph (2) and paragraph (3) and, if applicable, paragraph (3B) and this paragraph) is to be increased on the first Monday of the following relevant tax year by the same amount as any increase which would have applied if that additional pension benefit were a pension to which the Pensions (Increase) Act 1971 applied and the beginning date for that pension were 1 July of the tax year immediately before the relevant tax year.

(3B) For the avoidance of doubt, the increase of additional pension benefit in the tax year 2010/2011 is to be increased by the same percentage as the percentage increase in the Consumer Prices Index in September 2010 with effect from Monday 11 April 2011.”; and

- (d) in paragraph (5) for “paragraph (3)” substitute “paragraphs (3) and (3A)”, and at the appropriate place insert—

““the beginning date” (“*y dyddiad cychwyn*”) means the date on which the pension is treated as beginning for the purposes of section 8(2) of the Pensions (Increase) Act 1971;”;

““following relevant tax year” (“*blwyddyn dreth berthnasol ddilynol*”) means the tax year after the relevant tax year, in relation to

which the member is not a pension member or a deferred member;”.

(11) For rule 7B (additional pension benefit: continual professional development) substitute—

“Additional pension benefit

7B.—(1) Where an authority determines that the benefits listed in paragraph (5) are pensionable, and in any added pension benefit year pays any such pensionable benefits to a firefighter member, the authority must credit the firefighter member with an amount of additional pension benefit in respect of that year.

(2) Subject to paragraphs (3) and (4), the amount of additional pension benefit in respect of that year must be determined on 1 July immediately following the year in question in accordance with guidance and tables provided by the Scheme Actuary and separate guidance and tables must be provided for special members.

(3) The amount of additional pension benefit determined in accordance with paragraph (2) must be increased on the first Monday of the following relevant tax year by the same amount as any increase which would have applied if that additional pension benefit were a pension to which the Pensions (Increase) Act 1971 applied and the beginning date for that pension were 1 July of the tax year immediately before the relevant tax year.

(4) For the avoidance of doubt, the increase of additional pension benefit in the tax year 2010/2011 must be increased by the same percentage as the percentage increase in the Consumer Prices Index in September 2010 with effect from Monday 11 April 2011.

(5) The benefits referred to in paragraph (1) are—

- (a) any allowance or supplement to reward additional skills and responsibilities that are applied and maintained outside the requirements of the firefighter member’s duties under the contract of employment but are within the wider functions of the job;
- (b) the amount (if any) paid in respect of a firefighter member’s continual professional development;
- (c) the difference between the firefighter member’s basic pay in their day to day role and any pay received whilst on temporary promotion or where the

member is temporarily required to undertake higher role;

- (d) any performance related payment which is not consolidated into the member's pay.

(6) In this rule—

“additional pension benefit year” (*“blwyddyn budd pensiwn ychwanegol”*) means the period of 12 months beginning with 1 July in which a firefighter is in receipt of any of the benefits listed in paragraph (5);

“the beginning date” (*“y dyddiad cychwyn”*) means the date on which the pension is treated as beginning for the purposes of section 8(2) of the Pensions (Increase) Act 1971;

“following relevant tax year” (*“blwyddyn dreth berthnasol ddilynol”*) means the tax year after the relevant tax year, in relation to which the member is not in receipt of a pension under this Scheme or entitled to a deferred pension under rule 3 of Part 3;

“relevant tax year” (*“blwyddyn dreth berthnasol”*) means a tax year in relation to which—

- (a) the amount of a firefighter member's pension benefits determined under this rule for the purposes of this Scheme is taken into account for tax purposes; and
- (b) the firefighter member is not in receipt of a pension under this Scheme or entitled to a deferred pension under rule 3, and

“tax year” (*“blwyddyn dreth”*) means the period of 12 months beginning with 6 April.

(12) In rule 9 (commutation: general)—

- (a) in paragraph (2) for “The lump sum” substitute “Subject to paragraph (2A), the lump sum”;

- (b) after paragraph (2) insert—

“(2A) In the case of a pension payable in respect of a special pensioner member the lump sum must be calculated by multiplying the amount of the person's pension represented by the commuted portion at the date of retirement by the factor specified in the table in Annex ZA by reference to the person's age.”;

- (c) in paragraph (4) for “The commuted portion” substitute “Subject to paragraph (4A), the commuted portion”;

(d) after paragraph (4) insert—

“(4A) In the case of a special member, the commuted portion must not exceed—

(a) the amount calculated in accordance with paragraph (4); and

(b) the maximum amount which would enable a lump sum to be paid to the member without incurring a scheme chargeable payment,

whichever is lower.”;

(e) after paragraph (8) insert—

“(8ZA) In relation to a pension payable to a person who joins this Scheme as a special pensioner member, paragraphs (6) and (7) of this rule have effect as if references to the day of retirement and the effective date were references to the date on which the pension comes into payment.”;

(f) after paragraph (8C) insert—

“(8D) Where paragraph (8B) applies and the person entitled to that other pension is a special pensioner member, paragraph (8B) applies with the substitution of “special pensionable service” for “pensionable service”.

Amendment of Part 4 (survivors’ pensions)

4.—(1) Part 4 is amended as follows.

(2) In paragraph (1) of rule 1 (pensions for surviving spouses, civil partners and nominated partners)—

(a) in sub-paragraph (a), after “member” insert “, other than a special firefighter member,”;

(b) after sub-paragraph (a) insert—

“(aa) a special firefighter member who satisfies one of the special eligibility conditions and dies while employed by an authority; or”;

(c) in paragraph (1)(b)(iii), after “rules 1,” insert “1A,” and after “2” insert “2A,”.

(3) In rule 2 (amount of survivor’s pension: general) after paragraph (3) insert—

“(4) In the case of a firefighter member who is a special firefighter member, this rule applies with the substitution in paragraph (1)(a) of “one of the special eligibility conditions” for “an eligibility condition”.”

(4) In rule 3 (amount of survivor’s pension: special cases)—

(a) in paragraph (1) for “for each year by which the survivor’s age exceeds, by more than twelve years, that of the deceased” substitute

“for each year by which the deceased’s age exceeds, by more than twelve years, that of the survivor”;

- (b) in paragraph (3), after “condition” insert “or, in the case of a special member, satisfies a special eligibility condition”.

(5) In rule 6 (child’s pension), in paragraph (a), after “eligibility conditions” insert “or, in the case of a special member, satisfies a special eligibility condition”.

Amendment of Part 5 (awards on death)

5.—(1) Part 5 is amended as follows.

(2) In rule 1 (death grant)—

- (a) in paragraph (2), for “(3) to (5)” substitute “(2A) to (5)”;

(b) after paragraph (2) insert—

“(2A) In the case of a firefighter member who is a special firefighter member, paragraph (2) applies with the substitution of “twice” for “three times”.”;

(c) in paragraph (3)—

- (i) for “Where” substitute “Subject to paragraph (3A), where”; and

- (ii) for “the product of the following formula is greater than three times that of” substitute “the product of the following formula is an amount greater than three times”;

(d) after paragraph (3) insert—

“(3A) In the case of a firefighter member who was a special firefighter member, paragraph (3) applies with the substitution of “twice” for “three times”, of “2” for “3” and “special pensionable service” for “pensionable service” where appropriate in the formula.”;

(e) in paragraph (4), for “Where the deceased” substitute “Subject to paragraph (4A), where the deceased”;

(f) after paragraph (4) insert—

“(4A) In the case of a firefighter member who was a special firefighter member, paragraph (4) applies with the substitution in sub-paragraph (a) of “twice” for “three times”, of “2” for “3” and “special pensionable service” for “pensionable service” where appropriate in the formula.”;

(g) in paragraph (5) for “Where the deceased” substitute “Subject to paragraph (5A), where the deceased ”;

(h) after paragraph (5) insert—

“(5A) In the case of a firefighter member who was a special firefighter member, paragraph (5) applies with the substitution, in sub-paragraph (b)(i), of “twice” for “three times” and with the modifications to paragraphs (3) and (4) applied by paragraphs (3A) and (4A).”

(3) After rule 1 (death grant) insert—

“Death grant for limited period

1A.—(1) This rule applies where a person—

- (a) was employed as a retained firefighter on or after 1 July 2000; and
- (b) continued in such employment until the person died before 6 April 2006.

(2) Where the deceased was married, or a member of a civil partnership, at the time of death, the spouse or civil partner may apply in writing to the authority for a death grant and any such application must be made during the period ending on 31 December 2015.

(3) Subject to paragraph (4), where the deceased was not married, or a member of a civil partnership, at the time of death or where the person’s spouse or civil partner has died since the person’s death, a child of the deceased may apply in writing to the authority for a death grant and any such application must be made during the period ending on 31 December 2015.

(4) A person is not eligible for a child’s death grant under this rule if the person would not have been eligible for a child’s pension by virtue of anything in rule 7 of Part 4 at the time of the death of the deceased.

(5) The authority must request from the person making the application under paragraph (2) or (3) such information required to enable the authority to determine the deceased’s pensionable pay, or, where no information is provided, the authority must determine the amount of pensionable pay from their records.

(6) The amount of the death grant is to be equal to the product of 2.5 and the amount of pensionable pay which the authority determine the deceased received in the deceased’s last year of service.

(7) Where the authority determine that a death grant is payable, the authority must pay the death grant during the period of three months beginning with the date on which the application for a death grant was received.

(8) Subject to paragraph (9) the authority may pay the death grant, in whole or in part, to such person or persons as the authority think fit.

(9) The authority must not pay any part of the death grant to a person who is convicted of the murder or manslaughter of the deceased, but this is subject to paragraph (10).

(10) Where a conviction of the description mentioned in paragraph (9) is quashed on appeal, the authority may, if they have not then paid the death grant in full, pay all or part of it to the person whose conviction is quashed.

(11) Where this rule applies, there is no entitlement to a death grant under rule 1 (death grant) or a post-retirement death grant under rule 2 of this Part or to a survivor's pension or a bereavement pension or a child's pension under Part 4 (survivors' pensions)."

Amendment of Part 6 (pension sharing on divorce)

6.—(1) Part 6 is amended as follows.

(2) In rule 1 (pension credit member's entitlement to pension) in paragraph (1)(a) after "sixty five", insert "or the age of sixty where the pension debit member is a special member."

(3) In rule 3 (commutation of part of pension credit benefits)—

(a) in paragraph (7), for "When a person's notice" substitute "Subject to paragraphs (7A) to (7C), when a person's notice";

(b) after paragraph (7) insert—

"(7A) Where the pension debit member in relation to the pension to be commuted under paragraph (1) is a special member, the lump sum must be calculated under paragraphs (7B) and (7C) and sub-paragraph (b) of paragraph (7) does not apply.

(7B) Subject to paragraph (7C), the lump sum must be calculated by multiplying the amount of the person's pension represented by the commuted portion at the time when the pension becomes payable under rule 1 by the factor specified in the table in Annex ZA by reference to the person's age at that time.

(7C) The lump sum payable under paragraph (7B) must be reduced to the extent necessary to prevent the payment of it resulting in a scheme chargeable payment."

Amendment of Part 8 (determination of questions and appeals)

7.—(1) Part 8 is amended as follows.

(2) In rule 1 (interpretation) omit—

""IQMP" ("YMCA") means independent qualified medical practitioner; and"

(3) In rule 5 (appeals on other issues), for “the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996” substitute “the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008”.

Amendment of Part 9 (review, withdrawal and forfeiture of awards)

8.—(1) Part 9 is amended as follows.

(2) In rule 4 (withdrawal of early payment of deferred pension) after “sixty five” insert “or the age of sixty in the case of a special member”.

Amendment of Part 10 (qualifying service and pensionable service)

9.—(1) Part 10 is amended as follows.

(2) In rule 1 (qualifying service)—

(a) at the end of paragraph (f) omit the word “and”;

(b) after paragraph (g) insert—

“(h) any period of service during the limited period in respect of which the person has paid the mandatory special period pension contributions; and

(i) any period of service as a retained firefighter before 1 July 2000 which, if it had been a period of service during the limited period in relation to which mandatory special period pension contributions had been paid, would have been qualifying service in accordance with paragraph (h).”

(3) In paragraph (1) of rule 2 (reckoning of pensionable service)—

(a) for “Subject to paragraph (6)” substitute “Subject to paragraph (6) and rule 2A”;

(b) after sub-paragraph (f) insert—

“(g) any period of service treated as accrued in accordance with rule 16 of Part 12.”

(4) After rule 2 (reckoning of pensionable service) insert—

“Reckoning of special pensionable service

2A.—(1) Subject to paragraph (6), for the purposes of this Scheme, the special pensionable service of a special member accrues as special pension contributions or mandatory special period pension contributions are paid, and consists of—

- (a) any period in respect of which the member has paid special pension contributions as a special firefighter member;
- (b) subject to paragraph (4), any period during the limited period which the member is entitled to reckon as special pensionable service under rule 6A (election to purchase service during the limited period) of Part 11;
- (c) any period which the member is entitled to reckon as special pensionable service under rule 5 (reckoning of maternity, paternity and adoption leave, etc) of this Part or rules 5, and 6 to 9 of Part 11;
- (d) any period of special pensionable service taken into account for the purposes of a lower tier ill-health award under rule 2 of Part 3 where—
 - (i) the award is cancelled under rule 2 of Part 9; and
 - (ii) the member remains a member of this Scheme (whether or not as an employee of the authority which made the award);
- (e) where the special member has transferred-in pensionable service from another pension scheme, the period of special pensionable service calculated in accordance with rule 11(1) (calculation of transferred-in pensionable service) of Part 12;
- (f) where the person was a member of the 1992 Scheme and the period of service used for determining eligibility to an award under that Scheme was transferred to the person's special membership of this Scheme under rule 11A of Chapter 3A of Part 12, that period of service;
- (g) where the person was a standard member of this Scheme and converted the pensionable service accrued as a standard member of this Scheme to the person's membership of this Scheme as a special member, the special pensionable service that person is treated as having accrued under rule 17 or 18 of Part 12;
- (h) where a member has two pensions with special pensionable service in relation to the second pension under rule 7 of Part 3 (entitlement to two pensions),

the period of special pensionable service taken into account in calculating the first pension under that rule;

- (i) any period of absence without pay in respect of which the person has paid special pension contributions in accordance with rule 4 of Part 10.

(2) Subject to paragraph (3), the special pensionable service of a special member may not exceed 30 years.

(3) A special firefighter member may not buy additional service, except service during the limited period, if that service would increase the member's special pensionable service to more than 30 years by normal retirement age.

(4) Any additional period of service purchased or in the process of being purchased under Part 11 is reckonable as special pensionable service where the appropriate special pension contributions are paid; but where only a portion of the special pension contributions payable in respect of a period of additional service have been paid, only the equivalent portion of the period is reckonable as special pensionable service.

(5) Subject to paragraph (6), an additional period of service purchased under Part 11 is to be taken into account for the purposes of determining—

- (a) the amount of pension payable to the special firefighter member or to that member's survivors; and
- (b) the amount of service a special firefighter member has or may accrue in the Scheme.

(6) An additional period of service purchased under rule 5 of Part 11 is not to be taken into account in assessing—

- (a) the amount of the higher tier ill-health pension included in a higher tier ill-health award under Part 3; or
- (b) the amount of a death grant under rule 1 of Part 5.

(7) Subject to rule 18 of Part 12 (converting membership from standard membership to special membership – special pensioner members), a period of service which is reckonable as special pensionable service is not reckonable as pensionable service under rule 2 of Part 10.”

(5) In rule 3 (non-reckonable service), after “not reckonable as pensionable service” insert “or as special pensionable service”.

(6) In rule 4 (reckoning of unpaid period of absence), after “reckon as pensionable service” insert “or as special pensionable service”.

(7) In rule 5 (reckoning of maternity, paternity and adoption leave, etc), after paragraph (3) insert—

“(4) If the firefighter member was a special firefighter member immediately before any period which the member is entitled to reckon under this rule, the member is entitled to reckon that period as special pensionable service.”

(8) In rule 6 (calculation of pensionable service)—

(a) in paragraph (5), for “(A/B) x 365,” substitute “A/B”; and

(b) after paragraph (6) insert—

“(7) Where the firefighter member is a special firefighter member, this rule applies with the substitution of “special pensionable service” for “pensionable service” and with the substitution of “rule 2A(2) and (3)” for “rule 2(2) and (3).”

Amendment of Part 11 (pensionable pay, pension contributions and purchase of additional service)

10.—(1) Part 11 is amended as follows.

(2) In rule 1 (pensionable pay)—

(a) in paragraph (1)—

(i) for “Subject to paragraph (3)” substitute “Subject to paragraphs (3) and (6)”;

(ii) in sub-paragraph (a) omit “other than payments in respect of the firefighter member’s continual professional development (see rule 7B of Part 3), and”; and

(iii) after paragraph (a) insert—

“(aa) the amount (if any) of any benefits which are pensionable under rule 7B(1) of Part 3, and”;

(b) after paragraph (5) insert—

“(6) Where before 1 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 must continue to be treated as pensionable for so long as the firefighter receives it without any break in payment.”

(3) In rule 2 (final pensionable pay)—

- (a) in paragraph (1A), for “an amount in respect of the firefighter member’s continual professional development (see rule 7B of Part 3),” substitute “an amount payable to the firefighter member in respect of the benefits within rule 7B of Part 3”.

- (b) after paragraph (7) insert—

“(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, the person’s final pensionable pay is the amount determined by the authority and set out in the notice given by the authority under rule 5A(13) of this Part.”

(4) In rule 3 (pension contributions)—

- (a) in paragraph (1), for “A firefighter member” substitute “Subject to paragraph (1A), a firefighter member”;

- (b) after paragraph (1) insert—

“(1A) A firefighter member who is a special member must pay pension contributions to the authority at the rate of 11% of the member’s pensionable pay in respect of a period ending on 31 March 2012 and in respect of any period commencing on or after 1 April 2012, at the percentage rate of the member’s pensionable pay for the period in question specified in the Table in Annex AB1.”; and

- (c) in paragraph (2), after “paragraph (1)” insert “or (1A)”.

(5) In rule 4 (optional pension contributions during maternity and adoption leave)—

- (a) in paragraph (1)(a), after “pensionable service under rule 2 of Part 10” insert “or as special pensionable service under rule 2A of Part 10”;
- (b) in paragraph (5), after “pensionable service” insert “or as special pensionable service”.

(6) In rule 5 (purchase of additional service) after paragraph (6) insert—

“(7) In the case of a special firefighter member—

- (a) this rule applies—
 - (i) in paragraph (2)(c) with the substitution of “thirty years special pensionable service” for “forty years’ pensionable service”;
 - (ii) in paragraph (3) with the substitution of “special pensionable service” for “pensionable service” and “thirty years” for “forty years”;
- (b) in relation to paragraph (4)(a) the Scheme Actuary must provide different tables for special members and in paragraph (4)(b) the determination by the Scheme Actuary must take account of the purchase being made by a special member.”

(7) After rule 5 insert—

“Purchase of service during the limited period

5A.—(1) A person who satisfies the conditions specified in paragraph (2) may, in accordance with the following provisions of this Chapter, elect to pay pension contributions in respect of the person’s service during the limited period.

(2) The conditions are that—

- (a) the person is entitled to join this Scheme as a special member;
- (b) the service is—
 - (i) as a retained firefighter; or
 - (ii) as a regular firefighter where the person took up employment after 5 April 2006 as a regular firefighter immediately after the termination of the person’s employment as a retained firefighter; or
 - (iii) with the agreement of the authority, as a regular firefighter, but not as a retained firefighter, where the person had been employed by an authority as a retained firefighter and then required by that authority after 5 April 2006 to remain in employment as a retained firefighter whilst taking up employment as a regular firefighter.

(3) Where paragraph (1) applies—

- (a) subject to rule 6A(11) of this Part, mandatory special period pension contributions must be paid in respect of the person's service during the mandatory special period; and
- (b) mandatory special period pension contributions must be paid for the period required by rule 6A(12) of this Part, where a person has elected to transfer their accrued rights in the 1992 Scheme to their special membership,

but the period of service referred to in subparagraph (a) or (b) does not, subject to rules 11A or 18 of Part 12, include any period of service in respect of which the person paid pension contributions under the 1992 Scheme or under this Scheme as a standard member.

(4) Within two months of the initial date, the authority must use reasonable endeavours to notify all those existing employees and former employees who may be entitled to join this Scheme as a special member that they may be so entitled.

(5) Within two months of receiving the notification in paragraph (4), or if no notification has been received, within four months of the initial date, a person may apply to the authority by which the person was employed in service falling within paragraph (2) above for a statement of the service in respect of which the person may become entitled to pay contributions under this rule and the mandatory special period pension contributions which the person would be required to pay in respect of it.

(6) An application under paragraph (5) must be in writing and must state—

- (a) the date on which the applicant took up employment as a retained firefighter;
- (b) where the applicant has left that employment, the date on which they left;
- (c) where the applicant took up employment as a regular firefighter, the date on which they took up that employment;
- (d) if the applicant joined this Scheme as a standard member or joined the 1992 Scheme, the date on which they joined the Scheme and, if it was the case, the date on which they made an election not to pay pension contributions under rule 5 of Part 2 of this Scheme or under

rule G3 of the 1992 Scheme (as the case may be).

(7) An authority must determine the period of the person's service during the limited period from their records.

(8) Where an authority are not able to determine the period of the person's service during the limited period from their records, the person may provide the authority with documents to assist them to determine the person's period of service during the limited period and the authority must determine the period of the person's service from those documents.

(9) Where an authority are not able to determine the period of the person's service during the limited period and the authority do not hold records of that person's pay for that period, and the person cannot provide the authority with the necessary documents, the authority may estimate the person's pensionable pay for that period from the records which they hold and may in particular estimate this on the basis of the average of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period.

(10) Where the authority have estimated the pay of a person in accordance with paragraph (9), the authority must determine that person's period of pensionable service during the limited period.

(11) Where the service is as a retained firefighter, the authority must determine the person's retained pensionable service during the limited period by calculating the same proportion of whole-time service as that which the person's actual pensionable pay or, as the case may be, the person's pensionable pay as estimated by the authority under paragraph (9), bears to the person's reference pay for each year of service during that period.

(12) The authority must calculate the amount of the special pension contributions payable in respect of special pensionable service during the limited period by applying a rate determined by the Scheme Actuary having regard to the rate required by paragraph (1A) of rule 3 (pension contributions) for the appropriate period for the person's pensionable pay.

(13) Within four months of receiving an application under paragraph (5), the authority must give the applicant a notice setting out the period of service during the limited period which the applicant may purchase, the amount

of special pension contributions payable in respect of the mandatory special period, the amount of special pension contribution payable in respect of the remainder of the applicant's service during the limited period, the pensionable pay and in appropriate cases the final pensionable pay which the authority have determined was paid during the limited period.

(14) Where it is not reasonably practicable to comply with any requirement set out in this rule within the period specified, the authority or applicant as the case may be must comply with that requirement as soon as reasonably practicable after the end of that period."

(8) In rule 6(1) (election to purchase additional service) for "An election" substitute "Subject to rule 6A, an election".

(9) After rule 6 insert—

"Election to purchase service during the limited period

6A.—(1) A person who intends to join this Scheme as a special pensioner member must elect to pay mandatory special period pension contributions in respect of the person's service during the mandatory special period.

(2) A special pensioner member must pay the mandatory special period pension contributions by way of a lump sum contribution which the special pensioner member may request the authority to deduct from any lump sum which they are entitled under this Scheme—

(a) pursuant to a notice to commute a portion of their pension under rule 9 (commutation: general) of Part 3;

(b) under paragraph (8) of rule 1A (special member's ordinary pension) or under paragraph (12) of rule 2A (retrospective award on ill-health retirement) of Part 3.

(3) A person who intends to join this Scheme as a special deferred member must elect to pay mandatory special period pension contributions in respect of the person's service during the mandatory special period.

(4) The mandatory special period pension contributions may be paid by periodic contributions which must be calculated in accordance with tables provided by the Scheme Actuary so as to discharge the person's liability over a period of 10 years or may be paid by way of a lump sum contribution.

(5) A special deferred member must cease to pay periodic contributions referred to in paragraph (4) on the date on which the member's special deferred pension becomes payable, and may then pay within three months of that date a lump sum of an amount equivalent to the contributions which would otherwise be paid calculated in accordance with tables provided by the Scheme Actuary.

(6) Where paragraph (5) applies, a special deferred member may pay all or part of the lump sum required by that sub-paragraph by deduction from any lump sum which the member may be entitled to receive pursuant to a notice to commute a portion of the member's pension under rule 9 (commutation: general) or rule 10 (commutation: small pensions) of Part 3.

(7) Subject to sub-paragraphs (11) and (12), a person who intends to join this Scheme as a special firefighter member must elect to pay mandatory special period pension contributions in respect of the member's service during the mandatory special period.

(8) The mandatory special period pension contributions may be paid by periodic contributions which must be calculated in accordance with tables provided by the Scheme Actuary so as to discharge the member's liability over a period of 10 years or may be paid by way of a lump sum contribution.

(9) If a special firefighter member makes a contributions election, or retires, the member must cease to pay periodic contributions and the member may then pay within three months of the date of the contributions election a lump sum of an amount equivalent to the contributions which would otherwise be paid calculated in accordance with tables provided by the Scheme Actuary.

(10) Where paragraph (9) applies so that a lump sum may be payable as a result of the member's retirement, the member may pay all or part of the lump sum required by that sub-paragraph by deduction from any lump sum which the member may be entitled to receive pursuant to a notice to commute a portion of his or her pension under rule 9 (commutation: general) or rule 10 (commutation: small pensions) of Part 3.

(11) A special firefighter member who elects under paragraph (5) of rule 11A of Part 12 to transfer the member's accrued rights in the 1992 Scheme to the member special membership of this Scheme must pay mandatory special period pension contributions for the period of the

member's service during the mandatory special period from the later of the date on which the member's pensionable service under the 1992 Scheme ended and 1 July 2000.

(12) A special firefighter member who elects under paragraph (5) of rule 16 of Part 12 to convert the member's accrued rights as a special firefighter member to standard membership, must pay mandatory special period pension contributions for the period of the member's service during the mandatory special period before 6 April 2006 and from that date must pay pension contributions as if the member had been a standard member until the date on which the member joined this Scheme as a standard member.

(13) Interest is payable in respect of the special pension contribution required to be paid in respect of a special member's service during the mandatory special period as follows—

- (a) for the purposes of calculating interest under this paragraph, it is assumed that in respect of the mandatory special period pension contributions were payable by monthly periodic contributions from the first pay date following the start of the mandatory special period;
- (b) interest starts to accrue from the date that the first monthly contribution would have been paid in accordance with sub-paragraph (a) and ceases to accrue on the date that the lump sum contribution or final periodic contribution is paid in accordance with paragraphs (2), (4), (5) and (8) of this rule;
- (c) in relation to mandatory special period pension contributions which are paid by lump sum contribution, interest must be calculated by applying the past interest rate to the contribution payable in accordance with rule 3(1A) of Part 11 compounded monthly between the month each contribution would have been made in accordance with sub-paragraph (a) until the calculation date;
- (d) in relation to mandatory special period pension contributions which are paid by periodic contribution—
 - (i) interest must be calculated as for a lump sum contribution under sub-paragraph (c);
 - (ii) the amount of interest payable must then be adjusted in

accordance with tables provided by the Scheme Actuary so as to allow for interest at the future interest rate in relation to the period from the calculation date to the date that the contribution is paid, so as to discharge liability over a period of ten years;

(e) for the purpose of this rule—

“calculation date” (“*y dyddiad cyfrifo*”) means—

- (i) in the case of a lump sum contribution, the date when the lump sum is paid; and
- (ii) in the case of payment of the mandatory special period pension contribution by periodic contribution, the date when the member joined this Scheme as a special member;

“future interest rate” (“*cyfradd llog y dyfodol*”) is a rate equivalent to 1.5% plus the FTSE Actuaries UK Gilt 10 years yield index less the average of the FTSE Actuaries UK Index-linked Gilt 5 to 15 years index with assumed inflation rates of 0% and 5%; and

“past interest rate” (“*cyfradd llog gynr*”) is a rate equivalent to the interest available on the most recent issue of five-year fixed interest savings certificates from National Savings and Investments available on the 15th day of each month which would have been applicable to the period in question.

Election to purchase service during the limited period: supplemental provision

6B.—(1) Subject to paragraph (12), an election under rule 6A must be made by giving written notice to the authority during the period of four months beginning with the date on which the authority gave notice under rule 5A(13).

(2) In preparing the tables required by paragraphs (5) and (9) of rule 6A the Scheme Actuary must have regard to the rate of contribution referable to the period in respect of which the contribution relates and must use such other factors as the Scheme Actuary considers appropriate.

(3) The period of a person’s service referred to in paragraphs (1), (3) or (7) of rule 6A is that part of the service set out in the authority’s notice to the person under rule 5A(13) in respect

of which the person elects to pay mandatory special period pension contributions from a date selected by the person before 6 April 2006, or which applies under rule 6A(11), and ending on the earliest of the date on which the person joined this Scheme as a special member or a standard member, the date, if applicable, on which the person was dismissed or retired from employment as a regular or retained firefighter and 31 March 2015.

(4) Where a person is required under paragraph (2), or has chosen under paragraphs (4) or (8) of rule 6A, to pay a lump sum contribution and this sum has not been paid within six months of the person's election under paragraphs (1), (4) or (8), or such longer period as the authority may notify in writing to the person, the election under paragraphs (1), (4) or (8) (as the case may be) must be treated as not having been made.

(5) Where a person has chosen under paragraphs (4) or (8) of rule 6A to pay periodic contributions—

- (a) where the first contribution has not been paid within three months of the election under paragraphs (4) or (8), or such longer period as the authority may notify in writing to the person, the election must be treated as not having been made;
- (b) where three or more consecutive periodic contributions have not been paid and the amount remains outstanding, the authority must require, by written notice, the special member to pay the outstanding periodic contributions within a period of 28 days beginning with the date the notice is served on the special member, and to resume the periodical contributions;
- (c) if payment of the outstanding amount is not made within that period, or if a subsequent periodic contribution is not made within 28 days of it being due, the special member must be treated as having ceased to pay mandatory special period contributions from the date that the last contribution was received and may not resume payment of such contributions.

(6) Subject to paragraphs (8) and (11), where paragraphs (5) or (9) of rule 6A apply, and the special deferred member or special firefighter member, as the case may be, does not pay the lump sum within the period specified in that

paragraph, the period of service purchased must be treated as if it were the period ascertained in accordance with the formula—

$$A \times (B/C)$$

where—

A is the number of 45ths of special pensionable service which the member elected to purchase,

B is the period in respect of which mandatory special period pension contributions have been made in accordance with the election, and

C is the period in respect of which mandatory special period pension contributions would have been made in accordance with the election.

(7) In the case of a firefighter to whom paragraph (11) of rule 6A applies—

- (a) the pension contribution as a standard member during the limited period must be calculated as though these were mandatory special period pension contributions under paragraph (8) of rule 6A;
- (b) where paragraph (9) of rule 6A applies, and the special firefighter member does not pay the lump sum within the period specified in that paragraph, the period of service purchased as a standard member must be treated as if it were the period ascertained in accordance with the formula—

$$A \times (B/C)$$

where—

A is the number of 60ths of pensionable service as a standard member which the member elected to purchase,

B is the period in respect of which pension contributions as a standard member have been paid during the limited period, and

C is the period in respect of which mandatory special period pension contributions would have been made in accordance with the election.

(8) Where periodic contributions cease as mentioned in paragraphs (5) or (9) of rule 6A when a pension becomes payable, the pension must not be paid until the earlier of the date on which the lump sum mentioned in that paragraph has been paid or the special member has given notice that they will not pay the lump

sum or the period mentioned in that paragraph has expired.

(9) Where service is purchased by the payment of periodic contributions under paragraphs (4) or (8) of rule 6A, the service accrues at the end of each year in accordance with the contributions paid.

(10) An election under rule 6A—

- (a) takes effect on the day on which the notice of the election is received by the authority; and
- (b) is irrevocable once the lump sum has been paid or, as the case may be, the first periodical contribution has been paid.

(11) Where the special member dies before the mandatory special period pension contributions due in accordance with rule 6A have been paid, those contributions must be treated as paid and service during the mandatory special period must be treated as special pensionable service.

(12) Where it is not reasonably practicable to comply with the requirement in paragraph (1) within the period specified, the election must be given by written notice as soon as reasonably practicable after the end of that period but in any event may not take effect after 31 December 2015.”

(10) In rule 7 (duration of periodical contributions and premature cessation)—

- (a) in paragraph (3), after “Where a sub-paragraph of paragraph (2) applies” insert “and the additional service is not special pensionable service”;
- (b) after paragraph (3) insert—

“(3A) Where a sub-paragraph of paragraph (2) applies and the additional service is special pensionable service, paragraph (3) applies with the substitution of the following for the definition of “A”—

““A” is the number of 45ths of additional special pensionable service which the special member elected to purchase.””;

- (c) in paragraph (4)—

- (i) after sub-paragraph (a) insert—

“(aa) where the person qualifies for a special member’s ordinary pension, as part of the special pensionable service on which the special member’s ordinary pension is calculated;”;

(ii) in sub-paragraph (b), after “pensionable service” insert “or special pensionable service”; and

(d) in paragraph (5), after “pensionable service” insert “or special pensionable service”.

(11) In rule 8 (discontinuance and resumption of periodical contributions)—

(a) in paragraph (4) for “The period of additional service” substitute “Subject to paragraph (4A), the period of additional service”;

(b) after paragraph (4) insert—

“(4A) Where the firefighter member is a special member, in paragraph (4) “A” is the number of 45ths of additional special pensionable service which the special member elected to purchase.”

(12) In rule 9(1) (periodical contributions in respect of periods of unpaid service or absence), after “pensionable service” insert “or special pensionable service”.

(13) In rule 10 (effect of purchasing additional service by lump sum payment), in paragraphs (1) and (2), after “pensionable service” insert “or special pensionable service”.

Amendment of Part 12 (transfers into and out of the Scheme)

11.—(1) Part 12 is amended as follows.

(2) In rule 2(3) (entitlement to transfer value payment), after “pensionable service” insert “or special pensionable service”.

(3) In rule 4(5)(b) (applications for transfer value payments), after “pensionable service” insert “or special pensionable service”.

(4) In rule 6 (calculating amounts of transfer value payments)—

(a) in paragraph (1), after “the guarantee date” insert “and different guidance and tables must be provided for standard and special members”;

(b) in paragraph (4), after sub-paragraph (b) insert—

“, and

(c) any mandatory special period pension contributions.”

(5) In rule 8(3) (applications for acceptance of transfer value payment from another scheme), after “pensionable service” insert “or as special pensionable service”.

(6) In rule 9 (procedure for applications under rule 8)—

- (a) in paragraph (1)(c) for “paragraph (2)” substitute “paragraphs (2) to (4)”;
- (b) in paragraph (2) for “In the case” substitute “Subject to paragraph (4), in the case”;
- (c) after paragraph (2) insert—

“(3) Where the application under rule 8 is made by a special firefighter member who was not already a member of this Scheme when that member elected to become a special firefighter member, sub-paragraph (c) of paragraph (1) and paragraph (2) do not apply.

(4) In the case of a person referred to in paragraph (3) and in the case of a transfer value payment to be made under public sector transfer arrangements, the application under rule 8 must be made by that person during the period of twelve months beginning with the day on which the authority gave the applicant the notice required by rule 5A(13) of Part 11.”

(7) In rule 10(2) (acceptance of transfer value payments), after “pensionable service” insert “or special pensionable service”.

(8) In rule 11 (calculation of transferred-in pensionable service)—

- (a) in paragraph (1), after “pensionable service” insert “or special pensionable service”;
- (b) after paragraph (4) insert—

“(4A) The Scheme Actuary must provide different guidance and tables for the purpose of this rule in the case of special members.”

(9) After Chapter 3 insert—

“CHAPTER 3A

TRANSFERS TO SPECIAL MEMBERSHIP

Transfer of accrued rights under the 1992 Scheme to special membership of this Scheme

11A.—(1) A person who is a deferred member of the 1992 Scheme and took up employment as a retained firefighter immediately after the termination of the person’s employment as a regular firefighter and who is entitled to join this Scheme as a special firefighter member, may apply in writing to the authority by which the person is employed for a statement of the amount of service to be treated as accrued if the person were to elect to transfer the person’s accrued rights under the 1992 Scheme to the person’s special membership of this Scheme.

(2) Where the application under paragraph (1) is made at the same time as an application under

rule 5A(5) (purchase of service during the limited period) of Part 11 the authority must provide a statement of the amount of service to be treated as special pensionable service if the applicant were to elect to transfer the applicant's accrued rights under the 1992 Scheme to the applicant's special membership of this Scheme at the same time as the authority give the notice under rule 5A(13) of Part 11.

(3) Where an application under paragraph (1) is not made at the time specified in paragraph (2), it must be made during the period of 12 months beginning with the day on which the authority gave the applicant the notice required by rule 5(13).

(4) Where paragraph (3) applies to the application, the authority must provide a statement of the amount of service to be treated as special pensionable service if the applicant were to elect to transfer the applicant's accrued rights under the 1992 Scheme to the applicant's special membership of this Scheme within three months of the date of the application.

(5) A person who receives a statement under paragraph (2) or (4) may elect to transfer the person's accrued rights under the 1992 Scheme to the person's special membership of this Scheme.

(6) Where the application is made within the time specified in paragraph (2) and the election to transfer accrued rights in the 1992 Scheme is made at the same time as the election to pay mandatory special period pension contributions under rule 6A of Part 11, the period of the applicant's pensionable service accrued under the 1992 Scheme must be treated as special pensionable service accrued in this Scheme.

(7) Where the application is made within the period specified in paragraph (3), a transfer value must be accepted under the public sector transfer arrangements and the period of special pensionable service which the member shall be entitled to count must be calculated in accordance with those arrangements.

(8) An election under paragraph (5) is made by giving written notice to the authority and takes effect on the day on which the notice is received by the authority."

(10) In rule 12 (transfer of pension history between Welsh authorities) after "pensionable service" insert "or special pensionable service".

(11) After Chapter 5 insert—

“CHAPTER 6

CONVERTING MEMBERSHIP BETWEEN STANDARD AND SPECIAL MEMBERSHIP

Converting membership from special membership to standard membership

16.—(1) A person who is entitled to join this Scheme as a special firefighter member and is a standard member of this Scheme in respect of service which the person would otherwise be able to reckon as special pensionable service may apply in writing to the authority for a statement of the amount of service to be treated as accrued if the person converted the person’s special membership to standard membership of this Scheme.

(2) Any application under paragraph (1) must be made at the same time as an application under rule 5A(5) (purchase of service during the limited period) of Part 11.

(3) At the same time as the authority give the notice under rule 5A(13) of Part 11, the authority must provide a statement of the additional service to be treated as pensionable service if the person converted their special membership to standard membership.

(4) For the purpose of calculating the pensionable service that a person would be treated as having accrued in this Scheme as a standard member on the conversion of the person’s accrued rights as a special firefighter member, the authority must apply the conversion factors set out in the tables in Annex 3 applying the factors to the age the person was on 6 April 2006.

(5) Where the applicant elects in writing to convert special membership to standard membership, the election must be made at the same time as the election to purchase service during the limited period under paragraphs (1), (3) or (7) of rule 6A of Part 11 and may not be made at any other time.

(6) An authority must not accept a person’s election to convert membership from special membership to standard membership if the aggregate of—

- (a) the pensionable service treated as accrued; and
- (b) the prospective pensionable service, on the assumption that the person continues to be a standard member of this Scheme until he or she reaches normal retirement age,

would exceed 40 years by the time of his or her 60th birthday.

(7) When the payments required by rule 6A(12) of Part 11 have been made—

- (a) the additional pensionable service notified by the authority under paragraph (3) must be added to the pensionable service as a standard member;
- (b) from the date the authority add that service, the member ceases to be a special firefighter member.

(8) An election under paragraph (5) is made by giving written notice to the authority and takes effect on the day on which the notice is received by the authority.

Converting membership from standard membership to special membership

17.—(1) This rule applies—

- (a) to a person who is entitled to join this Scheme as a special firefighter member and who is a standard member of this Scheme;
- (b) in respect of pensionable service which the person would be entitled to treat as special pensionable service.

(2) A person to whom this rule applies may apply to the authority for a statement of the amount of service which the person would be entitled to treat as special pensionable service if the person converted standard membership to special membership and the amount of the payments required by sub-paragraphs (b) and (c) of paragraph (5).

(3) An application under paragraph (2) must be made in writing at the same time as an application under rule 5A(5) (purchase of service during the limited period) of Part 11.

(4) At the same time as the authority give the notice under rule 5A(13) of Part 11, the authority must provide—

- (a) a statement of the amount of service to be treated as special pensionable service if the applicant were to elect to convert the applicant's accrued rights as a standard member to the applicant's special membership;
- (b) a statement of the amount of the payments required by paragraph (5).

(5) Where the member elects to transfer the member's accrued rights as a standard member

of this Scheme to the member's special membership—

- (a) the member may only make the election at the same time as the member makes an election to pay mandatory special period pension contributions under rule 6A of Part 11;
- (b) the member must pay an amount representing the difference between the pension contribution under rule 3(1) of Part 11 which the member has paid as a standard member and the pension contribution required to be paid as a special member under paragraph (1A) of that rule;
- (c) the member must pay interest on the amount payable under sub-paragraph (b) in accordance with paragraph (13);
- (d) the member must pay those amounts in the same manner in which the member chooses to pay mandatory special period pension contributions under rule 6A of Part 11.

(6) When the payments required by paragraph (5) have been paid, and subject to paragraph (7), the member's pensionable service as a standard member is converted to special pensionable service.

(7) Where a member's pensionable service includes a period ("the transferred-in period") which the member is entitled to count as pensionable service in accordance with rules 10 and 11 of this Part, the transferred-in period is converted to special pensionable service in accordance with guidance and tables provided by the Scheme Actuary for the purposes of this paragraph.

(8) Subject to paragraph (9), where rule 6A(3) (election to purchase service during the limited period) of Part 11 applies, and the member does not within the period specified in that paragraph pay a lump sum equivalent to the balance of the payment referred to in paragraph (5)(b), ascertained in accordance with tables provided by the Scheme Actuary, the period of service as a standard member converted to special pensionable service is treated as if it were the period ascertained in accordance with the formula—

$$A \times (B/C)$$

where—

A is the period of service as a standard member which the member elected to convert,

B is the period of that service in respect of which the payment referred to in paragraph (5)(b) has been paid, and

C is the period of that service in respect of which the payment referred to in paragraph (5)(b) would have been paid in accordance with the member's election.

(9) Where the special member dies before the payment referred to in paragraph (5)(b) has been made in full, it is treated as having been made in full and the period of service as a standard member which the member had elected to convert is treated as special pensionable service.

(10) This paragraph applies where a special member's pensionable service as a standard member has been converted to special pensionable service in accordance with this rule and—

- (a) where the member is required to make the payment referred to in paragraph (5)(b) by lump sum, the lump sum has not been paid within six months of the election under paragraph (5) or such longer period as the authority may notify in writing to the person; or
- (b) where the member is required to make the payment by periodic contribution, three or more consecutive periodic contributions have not been paid and the amount remains outstanding.

(11) Where paragraph (10) applies in the circumstances referred to in paragraph (10)(a)—

- (a) the election to convert is treated as having been revoked; and
- (b) any contributions that the member has paid must be credited against the mandatory special period pension contributions payable by the member.

(12) Where paragraph (10) applies in the circumstances referred to in paragraph (10)(b)—

- (a) the authority must require, by written notice, the member to pay the outstanding amount within a period of 28 days beginning with the date the notice is served on the member, and to resume the periodical contributions;
- (b) if payment of the outstanding amount is not made within that period, or if a subsequent periodic contribution is not made within 28 days of it being due,

the election to convert is treated as revoked; and

- (c) any contributions that the member has paid must be credited against the mandatory special period pension contributions payable by the member.

(13) Interest on the amount referred to in paragraph (5)(b) (“the relevant amount”) is calculated as follows—

- (a) for the purposes of this paragraph, it is assumed that the pension contributions due under rule 3(1A) of Part 11 (pension contributions) were payable at the same time as the contributions which the member paid under rule 3(1) of that Part;
- (b) interest starts to accrue on the relevant amount from the beginning of the period of pensionable service which is to be treated as special pensionable service in accordance with this rule and ceases to accrue on the calculation date;
- (c) where the relevant amount is to be paid by lump sum, interest is calculated by applying the past interest rate to that amount compounded monthly between the month each contribution under rule 3(1A) of Part 11 would have been made in accordance with sub-paragraph (a) until the calculation date;
- (d) where the relevant amount is to be paid by periodic contribution—
 - (i) interest is calculated as for a lump sum payment under sub-paragraph (c);
 - (ii) the amount of interest payable is then adjusted in accordance with tables provided by the Scheme Actuary so as to allow for interest at the future interest rate in relation to the period from the calculation date to the date that the contribution is paid, so as to discharge liability over a period of ten years;
- (e) for the purpose of this rule—

“calculation date” (*“dyddiad cyfrifo”*) means—

 - (i) in the case of a lump sum contribution, the date when the lump sum is paid; and

- (ii) in the case of payment of the relevant amount by periodic contribution, the date when the member joined this Scheme as a special member;

“future interest rate” (“*cyfradd llog y dyfodol*”) is a rate equivalent to 1.5% plus the FTSE Actuaries UK Gilt 10 years yield index less the average of the FTSE Actuaries UK Index-linked Gilt 5 to 15 years index with assumed inflation rates of 0% and 5%;

“past interest rate” (“*cyfradd llog gynt*”) is a rate equivalent to the interest available on the most recent issue of five-year fixed interest savings certificates from National Savings and Investments available on the 15th day of each month which would have been applicable to the period in question.

(14) An election under paragraph (5) must be made by giving written notice to the authority and takes effect on the day on which the notice is received by the authority.

Converting membership from standard membership to special membership – special pensioner members

18.—(1) This rule applies—

- (a) to a person who is entitled to be a special pensioner member and who is in receipt of an ordinary pension, a higher tier ill-health pension or a lower tier ill-health pension;
- (b) in respect of pensionable service which the person would be entitled to treat as special pensionable service.

(2) A person to whom this rule applies may apply to the authority for a statement of the amount of pensionable service which the member would be entitled to treat as special pensionable service and the amount of the payments required by sub-paragraphs (b) and (c) of paragraph (5).

(3) An application under paragraph (2) must be made in writing at the same time as an application under rule 5A(5) (purchase of service during the limited period) of Part 11.

(4) At the same time as the authority give the notice under rule 5A(13) of Part 11, the authority must provide—

- (a) a statement of the amount of pensionable service which may be

treated as special pensionable service;
and

- (b) a statement of the amount of the payments required by paragraph (5).

(5) Where the member elects to have pensionable service treated as special pensionable service—

- (a) the member may only make the election at the same time as the member makes an election to pay mandatory special period pension contributions under rule 6A of Part 11;
- (b) the member must pay an amount representing the difference between the pension contribution under rule 3(1) of Part 11 which the member has paid as a standard member and the pension contribution required to be paid as a special member under paragraph (1A) of that rule;
- (c) the member must pay interest on the amount payable under sub-paragraph (b) in accordance with paragraph (12);
- (d) the member must pay that amount by lump sum payment.

(6) When the payment required by paragraph (5) has been paid, and subject to paragraph (7)—

- (a) the member's pensionable service as a standard member must be treated as special pensionable service;
- (b) the member must continue to receive the member's ordinary or ill-health pension in respect of the member's pensionable service as a standard member;
- (c) the member must, in addition, receive the member's special member's ordinary pension or ill-health pension in respect of the member's special pensionable service as a special member but the special member's ordinary pension or ill-health pension in respect of the member's special pensionable service is reduced in accordance with tables produced by the Scheme Actuary so that the total amount of pension that the member receives in accordance with sub-paragraph (b) and this sub-paragraph does not exceed the amount the member would have received as a special member if—

- (i) the member had not been an ordinary member of the Scheme; and
- (ii) all of the member's service from the start of the mandatory special period to the date that the member's special member's ordinary pension or ill-health pension, as the case may be, becomes payable and which is eligible to be treated as special pensionable service, was treated as special pensionable service.

(7) Where a member's pensionable service includes a period ("the transferred-in period") which the member is entitled to count as pensionable service in accordance with rules 10 and 11 of this Part, the transferred-in period is converted to special pensionable service in accordance with guidance and tables provided by the Scheme Actuary for the purposes of this paragraph.

(8) Subject to paragraph (9), where rule 6A(5) or (9) (election to purchase service during the limited period) of Part 11 applies, and the member does not within the period specified in that paragraph pay a lump sum equivalent to the balance of the payment referred to in paragraph (5)(b), ascertained in accordance with tables provided by the Scheme Actuary, the period of service as a standard member converted to special pensionable service is treated as if it were the period ascertained in accordance with the formula—

$$A \times (B/C)$$

where—

A is the period of service as a standard member which the member elected to convert,

B is the period of that service in respect of which the payment referred to in paragraph (5)(b) has been paid, and

C is the period of that service in respect of which the payment referred to in paragraph (5)(b) would have been paid in accordance with the election.

(9) Where the special member dies before the payment referred to in paragraph (5)(b) has been made in full, it must be treated as having been made in full and the period of service as a standard member which the member had elected to convert must be treated as special pensionable service.

(10) This paragraph applies where—

- (a) a member's pensionable service as a standard member has been converted to special pensionable service in accordance with this rule; and
- (b) the lump sum due in respect of the amount payable in accordance with paragraph (5)(b) has not been paid within six months of the election under paragraph (5) or such longer period as the authority may notify in writing to the person.

(11) Where paragraph (10) applies—

- (a) the election to convert must be treated as having been revoked; and
- (b) any amount that the member has paid in respect of the amount due under paragraph (5)(b) must be credited against the mandatory special period pension contributions payable by the member.

(12) Interest on the amount referred to in paragraph (5)(b) ("the relevant amount") is calculated as follows—

- (a) for the purposes of this paragraph, it is assumed that the pension contributions due under rule 3(1A) of Part 11 (pension contributions) were payable at the same time as the contributions which the member paid under rule 3(1) of that Part;
- (b) interest starts to accrue on the relevant amount from the beginning of the period of pensionable service which is to be treated as special pensionable service in accordance with this rule and ceases to accrue on the calculation date;
- (c) where the relevant amount is to be paid by lump sum, interest is calculated by applying the past interest rate to that amount compounded monthly between the month each contribution under rule 3(1A) of Part 11 would have been made in accordance with sub-paragraph (a) until the calculation date;
- (d) where the relevant amount is to be paid by periodic contribution—
 - (i) interest is calculated as for a lump sum payment under sub-paragraph (c);
 - (ii) the amount of interest payable is then adjusted in accordance with tables provided by the Scheme Actuary so as to allow for interest

at the future interest rate in relation to the period from the calculation date to the date that the contribution is paid, so as to discharge liability over a period of ten years;

(e) for the purpose of this rule—

“calculation date” (“*dyddiad cyfrifo*”) means—

- (i) in the case of a lump sum contribution, the date when the lump sum is paid; and
- (ii) in the case of payment of the relevant amount by periodic contribution, the date when the member joined this Scheme as a special member;

“future interest rate” (“*cyfradd llog y dyfodol*”) is a rate equivalent to 1.5% plus the FTSE Actuaries UK Gilt 10 years yield index less the average of the FTSE Actuaries UK Index-linked Gilt 5 to 15 years index with assumed inflation rates of 0% and 5%;

“past interest rate” (“*cyfradd llog gyt*”) is a rate equivalent to the interest available on the most recent issue of five-year fixed interest savings certificates from National Savings and Investments available on the 15th day of each month which would have been applicable to the period in question.

(13) An election under paragraph (5) must be made by giving written notice to the authority and takes effect on the day on which the notice is received by the authority.”

Amendment of Part 13 (firefighters’ pension fund)

12. In Part 13 (Firefighters’ Pension Fund), in rule 2 (payments and transfers into Firefighters’ Pension Fund), after paragraph (10) insert—

“(11) Where an authority exercises their discretion not to withdraw or abate the whole or any part of a pension under rule 3 (withdrawal of pension during service as a firefighter) of Part 9 (review, withdrawal and forfeiture of awards), the authority must in the financial year in which payment is not withdrawn or abated, transfer into the FPF an amount equal to the amount of pension paid during that financial year to that person which might have been abated or withdrawn.”

Amendment of Part 14 (payment of awards)

13.—(1) Part 14 is amended as follows.

(2) In rule 1 (authorities responsible for payment of awards)—

- (a) in paragraph (1) for “An award” substitute “Subject to paragraph (3), an award”;
- (b) after paragraph (2) insert—

“(3) An award payable to or in respect of a special member by reason of the member having been employed as a retained firefighter is payable by the authority by whom the member was employed, or, in the case of a special member whose contracts of employment as a retained firefighter are treated as one employment in accordance with rule 4(2) of this Part, the authority which last employed the member.”

(3) In rule 4 (pensions under more than one contract of employment)—

- (a) renumber the existing paragraph as “(1)”;
- (b) at the end insert—

“(2) Where a person is, or is eligible to be, a special member of this Scheme in respect of more than one contract of employment (whether with the same or different authorities) the person may elect to treat those employments as one employment.

(3) An election under paragraph (2) must be made by giving notice in writing to the authority which last employed the person at the same time as the application under rule 5A(5) of Part 11.”

Annex ZA – commuted portion: special members**14.** Before Annex A1 insert—**“Annex ZA Part 3, rule 9(2A) and Part 6, rule 3(7B)****Commuted portion: special members**

Years	<i>Age in years and completed months on day pension commences</i>											
	0	1	2	3	4	5	6	7	8	9	10	11
Below 50	23.4											
50	22.4	22.3	22.3	22.3	22.3	22.2	22.2	22.2	22.2	22.1	22.1	22.1
51	22.1	22.0	22.0	22.0	22.0	21.9	21.9	21.9	21.9	21.8	21.8	21.8
52	21.8	21.7	21.7	21.7	21.7	21.6	21.6	21.6	21.6	21.5	21.5	21.5
53	21.5	21.4	21.4	21.4	21.3	21.3	21.3	21.3	21.2	21.2	21.2	21.1
54	21.1	21.1	21.1	21.1	21.0	21.0	21.0	20.9	20.9	20.9	20.9	20.8
55	20.8	20.8	20.8	20.8	20.7	20.7	20.6	20.6	20.6	20.5	20.5	20.5
56	20.4	20.4	20.4	20.4	20.3	20.3	20.3	20.2	20.2	20.2	20.1	20.1
57	20.1	20.0	20.0	20.0	19.9	19.9	19.9	19.8	19.8	19.8	19.7	19.7
58	19.7	19.6	19.6	19.6	19.5	19.5	19.5	19.4	19.4	19.4	19.3	19.3
59	19.3	19.2	19.2	19.2	19.1	19.1	19.1	19.0	19.0	19.0	18.9	18.9
60	18.9	18.8	18.8	18.8	18.7	18.7	18.6	18.6	18.6	18.5	18.5	18.5
61	18.4	18.4	18.4	18.4	18.3	18.2	18.2	18.2	18.1	18.1	18.1	18.0
62	18.0	18.0	17.9	17.9	17.8	17.8	17.8	17.7	17.7	17.7	17.6	17.6
63	17.5	17.5	17.5	17.5	17.4	17.4	17.3	17.3	17.2	17.2	17.2	17.1
64	17.1	17.1	17.0	17.0	16.9	16.9	16.9	16.8	16.8	16.8	16.7	16.7
65	16.6	”										

Amendment of Annex A1 (pension contributions)**15.**—(1) Annex A1 is amended as follows.

(2) For paragraph 5 substitute—

“5. Pensionable pay in the first column of the Table below does not include payments made to a firefighter member by the authority in respect of any benefits which are pensionable under rule 7B(1) of Part 3, but those payments must be included in the member’s pensionable pay for the purposes of the application of the rate specified in the second column.”

Annex AB1 – pension contributions for special members**16.** After Annex A1, insert—**“Annex AB1 Part 11, rule 3(1A)****Pension contributions for special members**

1. The rate of the pension contribution mentioned in rule 3(1A) of Part 11 is that specified in the Table below by reference to the amount of the pensionable pay of the special firefighter member in the first column of the Table and by reference to the appropriate period.

2. The amount of pensionable pay of a retained firefighter for the purpose of the first column of the Table is that firefighter’s reference pay.

3. The amount of pensionable pay of a part-time regular firefighter for the purpose of the first column of the Table is the amount of pensionable pay of a whole-time regular firefighter of equivalent role and length of service.

4. Where there has been a permanent material change to the terms and conditions of a firefighter member's employment which affects the member's pensionable pay, from the date of that change pensionable pay is calculated by reference to the revised amount.

5. In relation to any period before 1 July 2013, pensionable pay in the first column of the Table below does not include any payments made to a special firefighter member by the authority in respect of the member's continual professional development, but those payments must be included in the member's pensionable pay for the purposes of the application of the rate specified in the second or third column, as the case may be.

6. In relation to any period which commences on or after 1 July 2013, pensionable pay in the first column of the Table below does not include any payments made to a special firefighter member by the authority in respect of any benefits which are pensionable under rule 7B(1) of Part 3, but those payments must be included in the member's pensionable pay for the purposes of the application of the rate specified in the second or third column, as the case may be.

<i>Pensionable pay</i>	<i>Contribution rate from 1 April 2012 to 31 March 2013 (percentage of pensionable pay)</i>	<i>Contribution rate from 1 April 2013 to 31 March 2014 (percentage of pensionable pay)</i>	<i>Contribution rate from 1 April 2014 (percentage of pensionable pay)</i>
Up to and including £15,000	11.0%	11.0%	11.0%
More than £15,000 and up to and including £21,000	11.6%	11.9%	12.2%
More than £21,000 and up to and including £30,000	11.6%	12.9%	14.2%
More than £30,000 and up to and including £40,000	11.7%	13.2%	14.7%
More than £40,000 and up to and including £50,000	11.8%	13.5%	15.2%
More than £50,000 and up to and including £60,000	11.9%	13.7%	15.5%
More than £60,000 and up to and including £100,000	12.2%	14.1%	16.0%
More than £100,000 and up to and including £120,000	12.5%	14.5%	16.5%
More than £120,000	13.0%	15.0%	17.0%”

Amendment of Annex 1 (ill health pensions)

17. In Annex 1 after paragraph 3 insert—

“4. Where a special deferred member or a special pensioner member is entitled to a retrospective award on ill-health retirement, paragraph 2 applies with the substitution of “45” for “60”, “thirty” for “forty” and “special pensionable service” for “pensionable service”.

5.—(1) Where the person entitled to a lower tier ill-health pension or a higher tier ill-health pension is a special member, who is not also a standard member, paragraphs 1 and 2 apply with the substitution of “forty-five” for “sixty”, “45” for “60”, “thirty” for “forty” and “special pensionable service” for “pensionable service”.

(2) Where a person to whom sub-paragraph (1) of this paragraph applies is a retained firefighter, sub-paragraph (3) of paragraph 1 applies with the insertion after “actual annual pensionable pay” of “during the firefighter’s special pensionable service”.

6. In the case of a person who joined this Scheme as a special pensioner member or a special deferred member the person’s final pensionable pay is the amount determined by the authority and set out in the notice given under rule 5A(13) of Part 11.”

Amendment of Annex 2 (appeals to board of medical referees)

18.—(1) In Annex 2—

- (a) in sub-paragraph (3)(a) of paragraph 4, after “desirable” insert “so as to provide the board with sufficient information”;
- (b) after paragraph 8 insert—

“**8A.**—(1) Where the parties have received a copy of the report supplied under paragraph 8 and the parties agree that the board has made an error of fact which materially affects the board’s decision, the authority must within 28 days of receipt of the report—

- (a) supply the Welsh Ministers with two copies of a statement agreed between the parties setting out—
 - (i) the error of fact;
 - (ii) the correct fact, and
- (b) invite the board to reconsider its decision.

(2) The Welsh Ministers must within 14 days of receipt of the statement supply a copy of it to the board.

(3) As soon as reasonably practicable after receiving the statement, the board must reconsider its decision.

(4) Within 14 days of that reconsideration the board must—

- (a) give written notice to the Welsh Ministers that it has confirmed its decision, or revised its decision (as the case may be), and
- (b) if it has revised its decision, supply the Welsh Ministers with a written report of its revised decision.

(5) The Welsh Ministers must supply to the appellant and the authority a copy of the written notice confirming the board’s decision, or a copy of the written report of the board’s revised decision (as the case may be).”;

- (c) for sub-paragraph (3) of paragraph 10 substitute—

“(3) Where—

- (a) the appellant gives notice to the board—
 - (i) withdrawing the appeal;
 - (ii) requesting cancellation of, postponement of, or adjournment of the date appointed for an interview or medical examination under paragraph 6(2), andthe notice is given less than 22 working days before the date appointed under paragraph 6(2), or
- (b) the appellant’s acts or omissions cause the board to cancel, postpone or otherwise adjourn the date appointed under paragraph 6(2) less than 22 working days before the date so appointed,

the authority may require the appellant to pay them such sum, not exceeding the total amount of the fees and allowances payable to the board under paragraph 9(1), as the authority think fit.”

Annex 3 – converting membership from special membership to standard membership

19. After Annex 2 insert the following—

“Annex 3 Part 12, rule 16(4)

Converting membership from special membership to standard membership

Table A

Conversion factors

<i>Age at entry</i>	<i>Age 55 or under</i>	<i>Age 56</i>	<i>Age 57</i>	<i>Age 58</i>	<i>Age 59</i>	<i>Age 60</i>
25 and below	140%	139%	138%	136%	135%	133%
26	138%	139%	138%	136%	135%	133%
27	136%	137%	138%	136%	135%	133%
28	133%	135%	136%	136%	135%	133%
29	130%	132%	133%	134%	135%	133%
30	127%	129%	130%	132%	133%	133%
31	124%	126%	128%	129%	130%	131%
32	120%	123%	125%	126%	127%	129%
33	116%	119%	121%	123%	125%	126%
34	112%	115%	118%	120%	122%	123%
35	107%	111%	114%	116%	118%	120%
36	107%	106%	109%	112%	115%	117%
37	107%	106%	105%	108%	111%	113%
38	107%	106%	105%	103%	106%	109%
39	107%	106%	105%	103%	102%	105%
40 and above	107%	106%	105%	103%	102%	100%

Table B

Conversion factors for added 60ths

	<i>Age 55 or under</i>	<i>Age 56</i>	<i>Age 57</i>	<i>Age 58</i>	<i>Age 59</i>	<i>Age 60</i>
	107%	106%	105%	103%	102%	100%”