

## Firefighters' Pension Scheme

### Technical Note: The Police and Firefighters' (Pensions etc.) Pensions (Amendment) (England and Wales) Regulations 2019 – SI [2019/378](#)

#### Background

The government opened a [consultation](#) on proposed amendments to the Firefighters Pension Scheme on 18 December 2018. This closed on 29 January 2019 and a copy of the LGA response to the consultation can be found [here](#).

The amendment order is a shared amendment order between the Firefighter and Police Pension Schemes. [Part 3](#) of the order refers specifically to the amendments of the Firefighters Pension Scheme and it is these amendments to which this note refers.

Amendment order [2019/378](#) has now been laid by the house on 28 February 2019, bringing the amendments into force from 01 April 2019.

- SI 2019/378

Part 3 of this amendment order makes minor amendments to the English Firefighter Pensions Regulations

- The two pension rule in the 1992 scheme to ensure the regulation appears as intended.
- Surviving Civil Partner benefits in the 1992 scheme and the compensation scheme to remove the restriction on using membership from April 1988 only in the calculation of a survivors pension for surviving civil partners and same-sex marriage.

#### Details

##### Two Pension Rule (B5A)

- Part 3, Chapter 1, rule 13<sup>1</sup> makes minor amendments to rule B5A in paragraphs 2, 6 & 9 of the 1992 scheme. This should not change any practice of calculating and applying the two pension rule.

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<sup>1</sup> <http://www.legislation.gov.uk/uksi/2019/378/regulation/13/made>

To see a full consolidated version of this rule with the amendments of SI 2019/378 please click [here](#)

### **Surviving Civil Partner Benefit amendments to comply with the Walker v Innospec judgment.**

- Civil Partners and Same Sex Marriage – Surviving Partners Pension

Widely referred to as the '[Walker judgment](#)', this judgment considered the restriction of service within the calculation of the surviving partners pension for civil partners<sup>2</sup> and same sex marriage<sup>3</sup> unlawful.

In respect of the 2006 and 2015 schemes no amendment was needed as there was no restriction of service, but the 1992 scheme<sup>4</sup> and the Compensation Scheme<sup>5</sup> restricted the service to be used to calculate a surviving partners pension for a civil partner or same sex marriage from **6 April 1988** onwards only.

As a consequence of the judgment, the restriction on service has been removed retrospectively.

Part 3, Chapter 1, rule 14 to 17, and Chapter 2 [amends](#) the following parts;

- **1992 Scheme**
  - Part C, rules C1, C4, C5, C6 & C8
  - Part J, Rule J1
  - Schedule 1, Part 3
  - Schedule 3, parts 3 & 4
- **Firefighters Compensation Scheme**
  - Part 3, rules 1, 3 & 4

Consolidated versions of these rules will be provided in due course.

This has the effect that Fire Authorities will need to;

- Identify and recalculate any survivors pension in payment under these rules.
- Identify and make additional payment to the estate of deceased survivor members who would have had a survivor pension in payment under these rules.

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2 Formed under the Civil Partnership Act 2004 <http://www.legislation.gov.uk/ukpga/2004/33/section/1>

3 Formed under the Marriage (Same Sex Couples) Act 2013  
<http://www.legislation.gov.uk/ukpga/2013/30/contents/enacted/data.htm>

4 Rule C5 paragraph 3 <http://www.legislation.gov.uk/uksi/2005/3228/schedule/1/paragraph/7/made>

5 Part 3 - <http://www.legislation.gov.uk/uksi/2006/1811/schedule/1/made>

- Identify and recalculate any CETV calculations (whether for a transfer or divorce) where the value of SUR (Survivors pension)<sup>6</sup> was calculated under these rules.

### **Actions for Fire Authorities and Local Pension Boards**

- 1. Need to ensure they are satisfied that the two pension rule is properly applied.**
  - 2. Identify and recalculate any survivors pension in payment under these rules.**
- Please note under the rules of the compensation scheme, a survivors pension is only paid where the former Firefighter died from the effect of a qualifying injury or of infirmity of mind or body occasioned by a qualifying injury.
- 3. Identify and make additional payment to the estate of deceased survivor members who would have had a survivor pension in payment under these rules.**
  - 4. Identify and recalculate any CETV calculations (whether for a transfer or divorce) where the value of the survivors pension was calculated under these rules.**

We recognise that scheme records may not be held in such a way that allows the administrator to identify such cases, and therefore a communications exercise will need to take place to all persons or relatives of such persons who may be affected. The communications group will be consulted on the most effective way to communicate this and further advice will be available as soon as possible.

### **Relevant links**

- SI 2019/378 - <http://www.legislation.gov.uk/uksi/2019/378/part/3/chapter/1/made>
- Explanatory Memorandum to SI 2019/378 - [http://www.legislation.gov.uk/uksi/2019/378/pdfs/uksiem\\_20190378\\_en.pdf](http://www.legislation.gov.uk/uksi/2019/378/pdfs/uksiem_20190378_en.pdf)
- Government response to consultation - <http://www.fpsboard.org/images/PDF/Consultations/HOresponse280219.pdf>
- Policy Equality Statement Dated 28 February 2019 - <http://www.fpsboard.org/images/PDF/Consultations/PES280219.pdf>

### **Consolidated Rules**

- **1992 Scheme**

Rule	With tracked SI amendments	Current version
Part B, Rule B5A	<a href="#">Two Pensions</a>	<a href="#">Two pensions</a>

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6 Paragraph 3.1.1 of Statutory Cash Equivalent Transfer Values [GAD Guidance](#) dated 27 July 2012

## **Version**

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## **Distribution**

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