

SL(5)216 – The Firefighters’ Pension Scheme and Compensation Scheme (Wales) (Amendment) Order 2018

Background and Purpose

This Order amends:

- The Firefighters’ Pension (Wales) Scheme (set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992 - SI 1992/129 as amended, as it has effect in Wales) (“the 1992 Scheme”);
- The New Firefighters’ Pension Scheme (Wales) (set out in Schedule 1 to the Firefighters’ Pension Scheme (Wales) Order 2007 – SI 2007/1072, as amended) (“the 2007 Order”);
- The Firefighters’ Compensation Scheme (Wales) (set out in Schedule 1 to the Firefighters’ Compensation Scheme (Wales) Order 2007 – SI 2007/1073, as amended) (“the 2007 Compensation Scheme”) and
- The Firefighters’ Pension (Wales) Scheme (Amendment and Transitional Provisions) Order 2016 – SI 2016/1136.

The 1992 Scheme and the 2007 Compensation Scheme currently provide that any surviving partner loses his or her entitlement to survivor’s benefits on remarriage or formation of a new civil partnership. This Order amends these specific provisions to allow the surviving spouse or civil partner of a firefighter who dies or has died from an injury received in the exercise of duty, or travelling to or from duty, to retain her or his entitlement to a survivor’s benefit if s/he remarries or forms a civil partnership on or after 1 April 2015. In addition, benefits withdrawn prior to 1 April 2015 due to operation of the schemes are to be reinstated with effect from that date.

In addition, the Order amends the 2007 Order to remove the requirement that a surviving cohabiting partner be nominated as a condition for eligibility for a survivor’s pension, following the Supreme Court ruling in the case of Brewster¹.

The Order also makes some technical amendments concerning the 1992 Scheme, the 2007 Order and the Firefighters’ Pension (Wales) Scheme (Amendment and Transitional Provisions) Order 2016.

Procedure

Negative

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

¹ [2017] UKSC 8. In the matter of an application by Denise Brewster for Judicial Review (Northern Ireland)



Merits Scrutiny

A point is identified for reporting under Standing Order 21.3 in respect of this instrument.

The provisions in the Order are all retrospective. The power to give retrospective effect is conferred in respect of the 1992 Scheme by section 12 of the Superannuation Act 1972 as applied by section 16(3) of that Act and in respect of the 2007 Compensation Scheme and the New Firefighters' Pension Scheme (Wales), by section 34(3) of the Fire and Rescue Services Act 2004.

Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

No government response is required.

Legal Advisers

Constitutional and Legislative Affairs Committee

15 May 2018

