

Government Response: *The Firefighters' Pension Schemes and Compensation Scheme (Amendment) (Wales) Order 2024*

Technical Scrutiny point 1: The Welsh Government notes that there is a difference between the English and Welsh texts in terms of the reference in parenthesis to the heading of Schedule 2 of the Firemen's Pension Scheme Order 1992. The English text is correct, and the Welsh text should instead read "*Cynllun Pensiwn y Dynion Tân*" without the "1992" following it.

Given that the particular scheme referred to is the one set out in a 1992 Order, and is commonly referred to as "the 1992 scheme", or similar, we do not consider that there is any scope for either a difference in legal effect between the English text and the Welsh text, nor any scope for confusion arising from the difference.

Technical Scrutiny point 2: The Welsh Government notes that in Schedule 1 to the Order, in paragraph 1(2)(a), the definition for "*cyfnod cyfyngedig estynedig*" ("*extended limited period*") comes before the definition for "*cyfnod cyflogaeth arbennig*" ("*special employment period*") and that the list is not therefore strictly in alphabetical order.

The likelihood of a reader being confused about where the appropriate place is to make the insertions is however very slim. Other than the issue identified above, the list in paragraph 1(2)(a) is otherwise in alphabetical order in the Welsh text; and with reference to the English text, a reader would see that the equivalent list in the English text is also in alphabetical order. Moreover, the list of definitions in rule 2(1) of the New Firefighters' Pension Scheme (Wales) in the Welsh text is in alphabetical order. We therefore consider that it is relatively clear that the new definitions should be inserted in alphabetical order.

Technical Scrutiny point 3: The Welsh Government notes that the text of the Welsh and English provisions of new rule 5C(7) (inserted by paragraph 6(3) of Schedule 1 to the Order) produce opposite meanings. The English text identified is correct, and the equivalent Welsh text should read "*Where the authority **do not** hold records of that person's pay for that period...*" (emphasis added).

The Welsh text will be amended accordingly at the next available opportunity.

Technical Scrutiny point 4: The Welsh Government notes that in Schedule 1 to the Order, in paragraph 6(3), in new rule 5C(8), reference is made to "*a whole-time regular **competent** firefighter*" (emphasis added), whereas elsewhere the term "regular firefighter" is used.

The term "regular firefighter" as defined in the New Firefighters' Pension Scheme (Wales) encapsulates persons matching that description, at any grade. A "regular

competent firefighter” is intended to refer to the grade “competent firefighter” held by persons matching the description of “regular firefighter”. A “competent firefighter” is the grade that is reached once a trainee firefighter completes their introductory training and gains a certain level of initial experience. Reaching that grade also entitles a firefighter to a higher rate of pay, and the purpose of this provision is to put beyond doubt that it is that rate of pay which should be used to calculate pensionable pay in the absence of evidence that another rate is appropriate. The term “competent firefighter” is used by all Fire and Rescue Services in the UK and is defined in the “Grey Book” of standard terms and conditions for firefighters agreed at a UK level between employers and unions. By contrast, the term “firefighter” could be taken to mean anyone in that grade (including trainees and those undergoing development), or anyone employed in firefighting at any grade, both of which would be unclear in this context.

We acknowledge that it may have been clearer for the provision to refer to “*pensionable pay of a whole-time regular firefighter **at the grade of competent firefighter** employed in a similar role...*” (emphasis added) to ensure consistency of the use of the term “regular firefighter”. In those circumstances, “competent firefighter” would not need to be defined as such a grade is universally applied by fire and rescue authorities in Wales. However, in considering the wider scheme and the commonly understood term for the grade “competent firefighter”, we consider that a reasonable interpretation of this provision would read it in accordance with the intention set out in this paragraph.

Technical Scrutiny point 5: The Welsh Government notes that in Schedule 1 to the Order, paragraphs 7(4) and 7(7) do not explicitly state which rule they amend. We acknowledge that 7(4) and 7(7) could instead have been 7(3)(d) and 7(6)(d), respectively (and accordingly the numbering following them should have been different).

However, we consider that it is sufficiently clear which rules paragraphs 7(4) and 7(7) amend when reading the provisions in their context (rule 16(5) and 18(8) respectively).

Technical Scrutiny point 6: The Welsh Government notes that there is a difference in the headings for paragraph 1 of Schedule 2 to the Order, between the Welsh and English texts. The reference to “*Part 1*” in the English text is correct, and the Welsh translation should reflect that.

The Welsh text will be amended accordingly at the next appropriate opportunity.

Merit Scrutiny point 7: The Welsh Government notes that the pension scheme set out in Schedule 2 to the Firemen’s Pension Scheme Order is described inconsistently in a number of places in the different texts, and that the correct name of the scheme is the Firefighters’ Pension (Wales) Scheme.

We acknowledge that the references to that scheme are incorrect in the Explanatory Note, and that in footnote (1) on page 4 of the Order, a different shortened term is used, but that the scheme is not otherwise incorrectly specified in the body of the Order.

We consider the likelihood that this may cause confusion to be low.