

SL(6)530 – The Firefighters’ Pension Schemes (Miscellaneous Amendments) (Wales) Regulations 2024

Background and Purpose

These Regulations ensure that firefighters’ pensions are revalued by the correct rate in respect of 2021 and 2022, by remedying issues arising as a consequence of HM Treasury’s Public Service Pensions Revaluation Order for those two years. The Regulations also make correcting amendments to the Firefighters’ Pensions (Remediable Service) (Wales) Regulations 2023 (“the 2023 Regulations”) and the Firefighters’ Pension Scheme (Wales) Order 2007.

Procedure

Negative.

The Regulations were made by the Welsh Ministers before they were laid before the Senedd. The Senedd can annul the Regulations within 40 days (excluding any days when the Senedd is: (i) dissolved, or (ii) in recess for more than four days) of the date they were laid before the Senedd.

Technical Scrutiny

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

Merits Scrutiny

The following two points are identified for reporting under Standing Order 21.3 in respect of this instrument.

1. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

The Explanatory Memorandum notes that regulation 3, which amends the Firefighters’ Pension Scheme (Wales) Regulations 2015 to correct an issue with the valuation of accrued pension rights for 2021 and 2022, has retrospective effect and that:

This is unavoidable: it corrects an error made by HM Treasury which affected the calculation of accrued pension for the years 2021 and 2022. That error only came to light after the relevant calculations had been made and can only be corrected retrospectively.

However, the Explanatory Note to the Regulations states that regulation 4 also has retrospective effect and this is not explained in the Explanatory Memorandum. It would be



useful to understand why the Explanatory Memorandum does not address the retrospective effect of regulation 4.

The retrospective effect of these provisions is permitted by section 3(3)(b) of the Public Service Pensions Act 2013.

2. Standing Order 21.3(ii) – that it is of political or legal importance or gives rise to issues of public policy likely to be of interest to the Senedd.

The Committee has previously reported on the 2023 Regulations and the Firefighters' Pension Schemes and Compensation Scheme (Amendment) (Wales) Order 2024 ("the 2024 Order"). Several points were noted in these reports. The Explanatory Memorandum to these Regulations states that regulations 4 and 5 address a number of those points. However, the Cabinet Secretary for Housing and Local Government has written to the Chair of the Committee in relation to one of the reporting points previously raised. Her letter states:

I have also given further consideration to Technical Scrutiny point 6 of your Committee's report on the 2024 Order. In our response to that point, we noted the difference between the Welsh language and English language texts in the heading for paragraph 1 of Schedule 2 to the Order, and confirmed that the Welsh language text should have been drafted to reflect the English language text. We originally proposed to amend the Welsh language text accordingly at the next available opportunity.

On reflection I think it is more appropriate to allow that heading in the Welsh language text to remain. The amendment required to address Technical Scrutiny point 3 is best dealt with by amending the Firefighters' Pension Scheme (Wales) Order 2007. So, to address Technical Scrutiny point 6, we would additionally have to amend the Firefighters' Pension Schemes and Compensation Scheme (Amendment) (Wales) Order 2024. Given that the heading in issue is inoperative, and it is not carried through to the amended instrument (the Firefighters' Compensation Scheme (Wales) Order 2007), any benefit to be gained in making such an amendment would be negligible and I do not consider it would be proportionate.

Welsh Government response

A Welsh Government response is required for the first reporting point only.

Legal Advisers

Legislation, Justice and Constitution Committee

30 September 2024



Senedd Cymru
Pwyllgor Deddfwriaeth, Cyfiawnder a'r Cyfansoddiad
—
Welsh Parliament
Legislation, Justice and Constitution Committee