



Ein cyf/Our ref LF-LA-321-15

Dame Rosemary Butler AM
Presiding Officer
National Assembly for Wales

31 March 2015

Dear Rosemary,

THE FIREFIGHTERS' PENSION SCHEME (WALES) (TRANSITIONAL AND CONSEQUENTIAL PROVISIONS) REGULATIONS 2015; THE FIREFIGHTERS' COMPENSATION SCHEME AND PENSION SCHEME (WALES) (AMENDMENT) ORDER 2015; THE FIREFIGHTERS' PENSION (WALES) SCHEME (CONTRIBUTIONS) (AMENDMENT) ORDER 2015

In accordance with guidance I am notifying you that section 11A(4) of the Statutory Instruments Act 1946, as inserted by paragraph 3 of Schedule 10 to the Government of Wales Act 2006 (which affords the rule that statutory instruments come into force at least 21 days from the date of laying) will be breached for the introduction of the above statutory instruments. The Explanatory Memorandum is attached for your information. These instruments were laid in Table Office on Tuesday, 31 March 2015. The Firefighters' Compensation Scheme and Pension Scheme (Wales) (Amendment) Order 2015 will come into force on 31 March 2015 and the Firefighters' Pension Scheme (Wales) (Transitional and Consequential Provisions) Regulations 2015 and the Firefighters' Pension (Wales) Scheme (Contributions) (Amendment) Order 2015 will come into force on 1 April 2015.

Under the Public Services Pension Act 2013 (2013 Act), the Welsh Ministers have introduced the Firefighters' Pension Scheme (Wales) Regulations 2015 (SI 2015/622 (W. 50)) (2015 Scheme) from 1 April 2015. Following the introduction of the 2015 Scheme, under Section 18(1) of the 2013 Act, all existing schemes will close; this will include the New Firefighter Pension Scheme (Wales) 2007 (the 2007 scheme) and the old firefighters' pension scheme (the 1992 scheme) which closed to firefighters who joined the service on or after 6 April 2006.

These instruments aim to set out how members move from a final salary scheme (ie, the 1992 or 2007 Schemes) to the career-average 2015 Scheme. In particular, the Regulations protect the rights that members have accrued in the 1992 and 2007 schemes, ensuring that these rights will be correctly represented and administered from the time that the member joins the 2015 Scheme.

The Firefighters' Pension Scheme (Wales) (Transitional and Consequential Provisions) Regulations 2015 are made under sections 1(1) and (2), 2(1), 3(1), (2), (3)(a) and (c), (6) and (7), 18(5) and (6), paragraph 6(b) of Schedule 2, Schedule 3 and paragraphs 1(2)(ii), 2(2)(ii) and 5(1) of Schedule 7 to the 2013 Act and deal with the benefits of firefighters who are members of the 1992 Scheme or the 2007 Scheme and subsequently under the 2015 Scheme.

The Firefighters' Compensation Scheme and Pension Scheme (Wales) (Amendment) Order 2015 is made under the following powers:

- Section 34 and 62 of the Fire and Rescue Services Act 2004 ("the 2004 Act") authorises the Welsh Ministers, by order, to make provision for a pension scheme for firefighters.
- Section 34 of the 2004 Act also authorises the Welsh Ministers, by order, to make a scheme for the payment of compensation to, or in respect of, firefighters who have been injured or who have died. Section 34(3) provides that an order under that section may take effect from a date which is earlier than that on which the order is made.

The Firefighters' Pension (Wales) Scheme (Contributions) (Amendment) Order 2015 is made under Section 26 of the Fire Services Act 1947 which enables the Welsh Ministers to establish a pension scheme, by order, for the payment of pensions, allowances and gratuities to employees of fire brigades and includes provision for the making of employee contributions.

As mentioned above, the Welsh Ministers have already made regulations establishing a new Pension Scheme for firefighters, from 1 April this year. This Scheme differs in two critical areas from that to be established in England. However, the Regulations referred to in this correspondence, which deal with the transition of existing unprotected scheme members into a new 2015 Scheme, do not depend at all on the design of that new Scheme. Furthermore, these Regulations deal in large measure with the terms of the Firefighters' Pension Scheme 1992, which predates devolution and on which there is little policy or legal expertise outside the UK Government.

Thus, the final versions of the Instruments made in England have been replicated with the only amendments made in Wales being to provide a Welsh language text, to reflect the Welsh SI format and to provide for gender-neutral drafting. This has meant significant delays in introducing the regulations as the final English regulations were not available to Welsh Government until 6 March 2015. In order for these to be in force for 1 April 2015 it is necessary to breach the 21 day rule. If the Orders were brought into force on a date later than 1 April 2015, under Section 18(1) of the 2013 Act this would mean that all scheme members would stop accruing pension benefits in the old Schemes. That would mean that members would need to be auto-enrolled into the new Pension Scheme by the next day – including those who have protected rights to remain in their current Scheme.

All three instruments will follow the negative resolution procedure, and all have been subject to a Regulatory Impact Assessment. An Explanatory Memorandum has also been prepared, which includes the Regulatory Impact Assessment. The Explanatory Memorandum has been laid, together with the Instruments, in Table Office.

A copy of this letter goes to David Melding AM, Chair of the Constitutional and Legislative Affairs Committee and to Chris Warner, Head of Policy and Legislation Committee.

Yours sincerely,

A handwritten signature in black ink that reads "Jane". The signature is written in a cursive style with a long horizontal line above the first letter.

Jane Hutt AC / AM
Y Gweinidog Cyllid a Busnes y Llywodraeth
Minister for Finance and Government Business