

Constitutional and Legislative Affairs Committee Draft Report CLA

Title: The Firefighters' Compensation Scheme and Pension Scheme (Wales) (Amendment) Order 2015

This Order amends Schedule 1 to the Firefighters' Compensation Scheme (Wales) Order 2007 (SI 2007/1073) which provides for a compensation scheme for firefighters and dependants of firefighters in Wales ("the Compensation Scheme"). The amendments to the Compensation Scheme set out in Schedule 1 to this Order are consequential on the coming into force of the Firefighter's Pensions Scheme (Wales) 2015 set out in the Firefighters' Pension (Wales) Regulations 2015 (SI 2015/622) for firefighters employed by fire and rescue authorities in Wales.

Further, this Order also amends Schedule 1 to the Firefighters' Pension Scheme (Wales) Order 2007 (SI 2007/1072) which set out the New Firefighters' Pension Scheme (Wales) ("the 2007 Scheme").

Procedure: Negative

Technical Scrutiny

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

Merits Scrutiny

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

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) is breached for the introduction of the above-mentioned statutory instrument.

In a letter dated 31 March 2015 to the Presiding Officer, the Welsh Government's response was:

"... 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.”

Legal Advisers

Constitutional and Legislative Affairs Committee

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