

## **EXPLANATORY MEMORANDUM TO**

### **THE FIREFIGHTERS' PENSION SCHEME (WALES) (AMENDMENT) ORDER 2013**

This Explanatory Memorandum has been prepared by the Department of Local Government and Communities and is laid before the National Assembly for Wales in conjunction with the above subordinate legislation and in accordance with Standing Order 27.1.

#### **Minister's Declaration**

In my view, this Explanatory Memorandum gives a fair and reasonable view of the expected impact of the Firefighters' Pension Scheme (Wales)(Amendment) Order 2013. I am satisfied the benefits of making the Orders outweigh any costs.

**Lesley Griffiths AM**

**Minister for Local Government and Government Business**

**25 June 2013**

## **Description**

1. The making of an Order using the executive powers of the Welsh Ministers in section 34 of the Fire and Rescue Services Act 2004.

## **Matters of special interest to the Constitutional and Legislative Affairs Committee**

2 No matters of special interest.

## **Legislative background**

3. In 1992 the UK Government established a pension scheme for firefighters in England and Wales.

4. By virtue of sections 34 and 62 of the Fire and Rescue Services Act 2004, the former National Assembly for Wales was authorised to establish one or more (new) schemes making provision for the payment of pensions, allowances and gratuities for persons employed by Fire and Rescue Authorities (FRAs) in Wales.

5. The powers of the National Assembly for Wales were transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006.

6. Following the UK Government's proposals for England, in 2007 the Welsh Ministers made a further pension scheme by way of the Firefighters' Pension Scheme (Wales) Order 2007. That Order established a new pension scheme for firefighters employed in the Fire and Rescue Services in Wales. The 1992 Scheme was closed to those firefighters who joined the service on or after 6 April 2006 but those who were members of the 1992 scheme were given the opportunity to become members of the 2007 scheme.

7. The scheme created by the 2007 Order was called the New Firefighters' Pension Scheme (Wales).

8. The Order will follow the negative resolution procedure.

## **Purpose & intended effect of the legislation**

9. This Order amends Schedule 1 to the Firefighters' Pension (Wales) Order 2007 to ensure the New Firefighters' Pension Scheme (Wales) complies with the requirements prescribed by the Pensions Act 2008 ("2008 Act") and the Occupational and Personal Pension Schemes (Automatic Enrolment) Regulations 2010 ("2010 Regulations") with regards to arrangements which the employer must make in respect of automatic enrolment and automatic enrolment of a jobholder in a qualifying scheme.

10. It is intended the Order will come into force on 1 August 2013.

## **Consultation**

11. Consultation took place between 18 February 2013 and 13 May 2013, and sought views on whether the draft Order achieves the policy intention and whether the proposed amendments are properly consistent with the 2008 Act and 2010 Regulations.

12. The consultation sought views on the proposals through five specific questions. Three responses were received in relation to the formal consultation, all respondents have asked for their details to remain confidential. A summary of the responses received is as follows:-

- All respondents either had no view or agreed the proposed amendments meet the FRA requirements under Workplace Pension Reform and no further amendments were suggested.
- All respondents also agreed with the removal of the current provision which enables FRAs to stop a member rejoining the scheme unless they have undergone a medical examination and satisfied them they are in good health. A comment though was made that this could become costly for employers.
- Two of the three respondents agreed with the proposal where a member who has been automatically enrolled or re-enrolled in the Scheme or has opted in, should be able to opt out within the first month by giving written notice rather than by complying with all formal notice requirements contained in the 2010 Regulations. One respondent commented this would result in an inequality issue between National Firefighter Pension Scheme Members and employed Local Government Pension Scheme Members of the FRS.
- Two of the three respondents agreed with the proposal where a member should be entitled to a return of pension contributions if, following automatic enrolment or re-enrolment or opting into the scheme, the member gives notice to leave the scheme within a three month timescale. One respondent commented the return of contributions should mirror requirements set out in the 2010 Regulations.

13. The Welsh Government has given careful consideration to the responses received and considers it appropriate to make the proposed amendments to the 2007 Scheme as set out in the statutory consultation exercise. The Welsh Government considers it essential that Welsh firefighters' pensions should maintain collective parity with firefighters' pension schemes across the UK.

## **Regulatory Impact Assessment (RIA)**

14. The Welsh Ministers' Code of Practice on the carrying out of Regulatory Impact Assessments has been considered in relation to the proposed Order. As the Order is made to reflect provisions in the Pension Act 2008 and the Occupational and Personal Pension Schemes (Automatic Enrolment)

Regulations 2010 with regards to arrangements which an employer must make for automatic enrolment, it has not been considered necessary for a Regulatory Impact Assessment (RIA) to be conducted.

15. The Order has no impact on –

(a) the statutory duties of the Welsh Ministers concerning equality of opportunity (section 77 of the Government of Wales Act 2006), the Welsh language (section 78) and sustainable development (section 79); and

(b) the local government, voluntary sector and business schemes made under sections 73, 74 and 75 of the Government of Wales Act 2006 respectively.