

EXPLANATORY MEMORANDUM TO;

- **THE FIREFIGHTERS' PENSION (WALES) SCHEME (CONTRIBUTIONS) (AMENDMENT) ORDER 2013 , AND**
- **THE FIREFIGHTERS' PENSION SCHEME (WALES)(CONTRIBUTIONS) (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 (Wales) Scheme (Contributions) (Amendment) Order 2013 and the Firefighters' Pension Scheme (Wales) (Contributions) (Amendment) Order 2013. I am satisfied that the benefits of making the Orders outweigh any costs.

Lesley Griffiths AM

Minister for Local Government and Government Business

26 March 2013

Description

1. The making of Orders, using the executive powers of the Welsh Ministers within section 26 of the Fire Services Act 1947 and section 34 of the Fire and Rescue Services Act 2004, to increase the pension contribution rates of firefighters from 1 April 2013.

Matters of special interest to the Constitutional and Legislative Affairs Committee

2. The Orders could not be laid until discussions with bodies representing firefighters regarding the increased contribution rates were concluded. The UK and other Devolved Administrations are introducing similar Orders which will increase the contribution rates of the firefighters who are members of their schemes by the same amounts as set out in these Orders. As Ministers wish to maintain parity with the UK Government on pension schemes Welsh Government officials held back introducing the Orders until the UK Government provided firm confirmation these discussions were complete and their Orders would come into force by 1 April 2013.
3. In order for the increased pension contribution rates to be in force for 1 April 2013 it is necessary to breach the 21 day rule. The Presiding Officer has been notified of the breach by letter. If the Orders were brought into force on a date later than the 1 April 2013, this would either diminish the yield from the contribution rate increases, or would require higher contribution rates to be imposed in order to recoup the lost yield from missed months.

Legislative background

4. By virtue of section 26 of the Fire Services Act 1947 the former National Assembly for Wales was authorised to amend the 1992 Firefighters' Pension Scheme in relation to Wales.
5. By virtue of sections 34 and 62 of the Fire and Rescue Services Act 2004, the former National Assembly for Wales was authorised to bring into operation one or more (new) schemes making provision for the payment of pensions, allowances and gratuities for persons employed by fire and rescue authorities in Wales.
6. 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.
7. In 1992, two of the Commissioners for Her Majesty's Treasury established the Firemen's Pension Scheme Order. 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. At that time, the 1992 Scheme was closed to those who joined the services on or after 6 April 2006.

8. Both Orders will follow the negative resolution procedure.

Purpose & intended effect of the legislation

9. These Orders amend the Firefighters' Pension (Wales) Scheme (the 1992 scheme) and the New Firefighters' Pension Scheme (Wales) (the 2007 scheme) by increasing the pension contribution rates of firefighters in Wales.

10. It is intended the Orders will come into force on 1 April 2013.

Consultation

11. Consultation was undertaken with Chief Fire Officers, Chief Executives of local authorities, Welsh Local Government Association (WLGA) and representative bodies including the Fire Brigades Union (FBU). Please refer to the Regulatory Impact Assessment consultation paragraph below for further information.

PART 2 – REGULATORY IMPACT ASSESSMENT

a) Options

Do Nothing – In order to deliver savings of £1.2 billion in respect of public service pension schemes in the financial years 2012-2013 up to 2014-15, the UK Government and devolved administrations were required to increase member contributions to such schemes in the financial years beginning April 2012 and April 2013. Failure by the Welsh Government to apply pension contribution increases to firefighters' pensions in Wales will result in deductions from the Welsh Government Budget.

Make the Legislation - The Orders will ensure the Welsh Ministers increase the firefighters' contribution rates from 1 April 2013. Further increases will be required in 2014-15 in order to deliver the savings required by UK Government, for which further orders will be required.

b) Benefits

12. The replies to consultation have been considered. The benefits of increased firefighters' pension contribution rates include:

- There will be no increase in employee contributions for those earning less than £15,000.
- There should be no more than a 1.5 percentage point increase in total by 2014-15 for those earning up to £21,000.
- High earners will pay more, but no more than 6 percentage points (before tax relief) by 2014-15.

c) Costs

13. Following negotiations between the Department of Communities and Local Government (DCLG) and HM Treasury last year, a decision to introduce reduced levels of contributions in 2012-13 and 2013-14 was agreed by HM Treasury, although they did not agree to fund the cost of the reductions. The cost of income foregone in both years (2012-13 & 2013-14) in Wales is £328,000. These costs can be accommodated from the Fire and Rescue Resilience Revenue BEL and as such there should be no impact upon the Local Government and Communities main expenditure group.
14. The review of "opt-outs" from the firefighters' pension schemes will continue during 2013-14. The data provided will provide vital information to enable Welsh Government to have an informed view on the impact of the reforms over the period of the implementation up to 2014.

Consultation

15. Consultation was commenced on 15 January 2013 for four weeks. Nine responses were received in relation to the formal consultation and these are detailed below:-
 - **Welsh Fire & Rescue Services** – All 3 Fire and Rescue Services (FRS) agree that the proposed tiered contributions meet the design parameters as set out in the consultation. South Wales FRS have noted their concerns that new firefighters may not enter the pension schemes due to the increased member contributions which would lead to issues in the future including an earlier drain on pension funds as there will be less firefighters in the scheme. For Mid & West Wales FRS they consider the issue to be an increase in firefighters retiring earlier than expected. Similar concerns were raised by North Wales FRS who added that these issues could result in a reduction in experience in the service leading to increased costs in terms of training and recruitment. None of the services highlighted concerns in relation to a high number of opt outs.
 - **Fire Brigades Union (FBU)** – The FBU position on the contribution increases is that they are unjustified and self-defeating. In similar terms to the FBU's position for the 2012 contribution rate increases they are opposed to the proposed increases on a number of grounds, including affordability, sustainability, fairness and cost to employees. The FBU have detailed the financial impact of opt outs based on UK data and maintain that they believe the impact of increases would lead to firefighters' "opting out" of the pension schemes which could in turn threaten the viability of future schemes.
 - **Association of Principal Fire Officers** – APFO are opposed to the proposed increases specifically in relation to the unfair treatment of higher earners, concerns over future pay bands for new firefighters, the possible increased level of opt-outs which could lead to members to consider retiring earlier. Their view is that the increases should not be a blanket approach across the public sector.
 - **Fire Officer's Association (FOA)** – The FOA believe the increases are unfair in relation to other parts of the public sector. The Association would

prefer a flat rate percentage increase where higher earners would still pay more in relation to lower paid colleagues. The FOA are concerned about the level of opt outs with the consequential reduction in income for the fire pension schemes.

- **Individual Fire & Rescue Service Staff** – All opposed to the contribution rate increases.

16. The Welsh Government has considered the responses to the consultation and remains committed to public service pension schemes that are affordable, sustainable and fair for public service workers. It recognises the importance of ensuring that those who have devoted their working lives to public services are able to enjoy good quality pensions in retirement and the Welsh Government has made it clear that at a time of pay constraints and pressures of household finance, the UK Government's policy of increasing public service pensions' contributions is unwanted and disruptive.

17. However, the Welsh Government considers it essential that Welsh firefighters' pensions maintain collective parity with firefighters' pension schemes across the UK. The Welsh Government agrees with the UK Government policy that any proposed increases in contributions rates should protect low earners and be progressive, so that high earners pay proportionally higher increases to reflect their more generous pensions. It also agrees with the UK Government's preferred parameters for scheme design to achieve the required savings as set out in the Chief Secretary' to the Treasury's Written Ministerial Statement of 19 July 2010. These parameters are reflected in the contribution rates contained in the two Orders.

18. Failure by the Welsh Government to apply pension contribution increases to firefighters' pensions in Wales will result in deductions from the 2013-14 Welsh Government Budget.

19. Welsh Government will continue to collect data on the impact of the proposed increases to employee contributions on the level of membership opt outs in relation to opt outs in Wales to provide information in order to have an informed view on the impact of the reforms over the period of implementation to 2015.

Competition Assessment

20. Not applicable.

Post implementation review

21. The Welsh Government will review the impact of next year's increases, including on opt-outs and equality, before taking final decisions on how future increases will be delivered.

22. The Orders have no impact on the statutory duties of Welsh Ministers relating to equality of opportunity (section 77 of the Government of Wales Act 2006 (GOWA)), the Welsh language (section 78 GOWA), or sustainable

development (section 79 GOWA), and will have no impact on the local government, voluntary sector or business schemes made under sections 73, 74 and 75 of GOWA respectively.