

EXPLANATORY MEMORANDUM TO;

- **THE FIREFIGHTERS' PENSION (WALES) SCHEME (CONTRIBUTIONS) (AMENDMENT) ORDER 2014 , AND**
- **THE FIREFIGHTERS' PENSION SCHEME (WALES) (CONTRIBUTIONS) (AMENDMENT) ORDER 2014**

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 2014 and the Firefighters' Pension Scheme (Wales) (Contributions) (Amendment) Order 2014. I am satisfied the benefits of making the Orders outweigh any costs.

Lesley Griffiths AM

Minister for Local Government and Government Business

4 March 2014

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 2014.

Matters of special interest to the Constitutional and Legislative Affairs Committee

2. There are no issues of special interest.

Legislative background

3. Section 26 of the Fire Services Act 1947 conferred powers on the Secretary of State to make provision for a firefighters' pension scheme. In 1992, two of the Commissioners for Her Majesty's Treasury established the Firemen's Pension Scheme Order. These powers were transferred to the National Assembly for Wales by virtue of the National Assembly for Wales (Transfer of Functions) Order 1999 (S.I. 1999/672).

4. Sections 34 and 62 of the Fire and Rescue Services Act 2004 conferred powers on the National Assembly for Wales 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. 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.

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. Both Orders will follow the negative resolution procedure.

Purpose & intended effect of the legislation

7. 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.

8. It is intended the Orders will come into force on 1 April 2014.

Consultation

9. 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, April 2013 and April 2014. 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 2014.

b) Benefits

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

- No increase in employee contributions for those earning less than £15,000.
- 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

11. 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 was £328,000. For 2014-15 there are no costs associated with the increases and so no impact upon the Local Government and Communities main expenditure group.

12. The review of "opt-outs" from the firefighters' pension schemes will continue during 2014-15. Having reviewed the data collected to date, there has been no discernable increase in opt-out in Wales.

Consultation

13. Consultation commenced on 13 January 2013 for four weeks. The consultation sought views on the design parameters of the scheme, the proposed contribution rates and the impact of opt out rates on the scheme. Two responses were received in relation to the formal consultation and these are detailed below:-

- **South Wales Fire and Rescue Service (FRS)** – South Wales FRS acknowledge a tiered system of contribution rates was an effective way of ensuring fairness in any changes. The FRS believe the issue of opt outs should not be confined solely to the number of opt outs that have occurred, but also include firefighter recruits will opt not to join a Firefighters’ Pension Scheme, which will exacerbate existing funding concerns. The FRS are also concerned about the additional administrative burdens arising from “Auto-Enrolment” and a reduction in the Annual Allowance which they comment would directly impinge on the tiered contribution provisions and as such could have an adverse impact in the future.
- **Fire Brigade Union (FBU)** – The FBU have provided a comprehensive response to the consultation which goes into considerable detail beyond the questions raised within the consultation, however the main comments are the FBU believe there is no case for further increasing contributions. The FBU feel the proposal for increasing contributions will result in a significant number of firefighters deciding to either opt out of the scheme or not join the scheme. The FBU state this will produce a detrimental effect upon the future cash flow of the scheme and do not feel these proposals will deliver the savings expected by HM Treasury across all public sector pension schemes. The FBU also state due to the age and service profile of higher earners within the Fire and Rescue Service, tiered contributions are likely to result in a significant number of rapid retirements and are not convinced there is any justification for stand alone tiered contributions. They would have significantly more concern if tiered contributions were later to be combined with a career average related earnings (CARE) pension scheme, which is proposed for the new 2015 firefighter pension scheme.

14. The Welsh Government has considered the responses to the consultation and remains committed to public service pension schemes which are affordable, sustainable and fair for public service workers.

15. The Welsh Government acknowledges the administrative burden these changes make on the Fire and Rescue Services in Wales due to the level of change over the three year phased increases imposed and recognises the importance of ensuring those who have devoted their working lives to public services are able to enjoy good quality pensions in retirement. Welsh Government has made it clear, 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.

16. However, the Welsh Government considers it essential, Welsh firefighters’ pensions maintain collective parity with firefighters’ pension schemes across the UK. The Welsh Government agrees with the UK Government policy where the proposed increases in contributions rates protect low earners and be progressive, so high earners pay proportionally higher increases to reflect their more generous pensions. Failure by the Welsh Government to apply these pension contribution increases to firefighters’ pensions in Wales will result in deductions from the 2014-15 Welsh Government Budget which in times of austerity is not a viable option to consider.

17. In terms of opt outs, Welsh Ministers have been committed to review the impact of these increases on firefighters in Wales. Fire and Rescue Authorities in Wales have provided regular updates over the last 20 months on the impact of employee contributions increases on the level of membership opt-outs. In 2013-14, to date, 5 Whole-time Firefighters chose to opt-out of their pension scheme between April and December 2013. This equates to 0.2% of whole time duty system firefighters. Additionally, 21 retained duty system firefighters chose to opt-out, most of which maintaining their pension under the Whole-time scheme. Therefore although there have been opt-outs from the scheme there does not appear to be a significant level of opt outs to impact on the funding of scheme in Wales at this time. 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

18. Not applicable.

Post implementation review

19. The Welsh Government will continue to review the impact of the increases, of the proposed increases to employee contributions on the level of membership 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 and in consideration of the introduction of the new 2015 Firefighter Pension scheme from 1 April 2015.

20. 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.