

EXPLANATORY MEMORANDUM TO;

- **THE FIREFIGHTERS' PENSION (WALES) SCHEME (CONTRIBUTIONS) (AMENDMENT) ORDER 2012 , AND**
- **THE FIREFIGHTERS' PENSION SCHEME (WALES) (CONTRIBUTIONS) (AMENDMENT) ORDER 2012.**

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 2012, and the Firefighters' Pension Scheme (Wales) (Contributions) (Amendment) Order 2012. I am satisfied that the benefits of the Orders outweigh any costs.

Carl Sargeant AM

Minister for Local Government and Communities

28 March 2012

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 2012.

Matters of special interest to the Constitutional and Legislative Affairs Committee

2. The increased contribution rates for firefighters' pensions has been the subject of extensive negotiation between the bodies representing firefighters, their employers and the UK Government and devolved administrations. The agreed pension contribution rates contained within the Orders are lower than the rates which had previously been proposed by HM Treasury, and as such it has been necessary to obtain the consent of HM Treasury before the Orders could be finalised and laid. This consent was not secured until the 26 March 2012.
3. In order for the increased pension contribution rates to be in force for 1 April 2012 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 2012, 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 and section 12 of the Superannuation Act 1972 (as applied by section 16(3) of the 1972 Act and sections 36 and 62 of the Fire and Rescue Services Act 2004), 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 2007, the Welsh Ministers made 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 Scheme (1992) (Wales) and the New Firefighters' Pension Scheme (2007) (Wales) by increasing the pension contribution rates of firefighters in Wales.
10. It is intended that the Orders will come into force on 1st April 2012.

Consultation

11. Consultation was commenced on 26 October 2011 for eight weeks. A short consultation period was necessary because the UK Government has stated that contribution rises must be brought in by 1 April 2012. Four responses were received in relation to the formal consultation and these are detailed below:-

- **Fire Brigades Union** - opposed the proposed increases on a number of grounds, including affordability, sustainability, fairness and cost to employees. They believed 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** - opposed the proposed increases. Issues cited included the increased level of opt-outs expected, the unfair treatment of higher earners and staff being discouraged from applying for middle or senior management positions.
- **Member of FBU** - opposed the proposed increases as the members of the Firefighters' Pension Scheme 1992 and the New Firefighters' Pension Scheme 2007 already pay higher contributions than members of other public sector schemes.
- **Member of staff, Mid & West Wales Fire and Rescue Service** - opposed the proposed increases on the grounds that the schemes already have higher contribution rates than other public sector schemes, and considered that this would likely inhibit the fire and rescue services from attracting senior leaders from outside the organisation.

12. 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.

13. 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's Written Ministerial Statement of 19 July 2010. These parameters are reflected in the contribution rates contained in the two Orders.
14. Failure by the Welsh Government to apply pension contribution increases to firefighters' pensions in Wales will result in deductions from the 2012-13 Welsh Government Budget.

PART 2 – REGULATORY IMPACT ASSESSMENT

a) Options

15. **Do Nothing** - HM Treasury have indicated that, in order to deliver savings of £1.2 billion in respect of public service pension schemes in the financial year 2012-2013, the UK Government and devolved administrations need to increase member contributions to such schemes from April 2012.
16. **Make the Legislation** - The Orders will ensure that the Welsh Ministers increase the firefighters' contribution rates from 1 April 2012. Further increases will be required in 2013/14 and 2014/15 in order to deliver the savings required by UK Government, for which further orders will be required.

b) Benefits

17. 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.
 - Increases are introduced progressively so that lower paid workers receive some protection.
 - The application of increases in contributions for 2012/13 onwards will ensure there are no deductions on the 2012/13 Welsh Government budget.
 - The agreed reduced increases in the contribution rates of firefighters in 2012/13 will help to reduce the risk of opt-outs from the firefighters' pension schemes and maintain the schemes' viability.

c) Costs

18. Following negotiations between DCLG and HM Treasury a decision to introduce reduced levels of contributions in 2012/13 has been agreed by HM Treasury, although they have not agreed to fund the cost of the reductions. The cost of income foregone in 2012/13 in Wales is estimated at £416,000 based on the fire and rescue authorities' own records of pension scheme members as at June 2011. These costs could be accommodated from projected underspends in the 2012/13 Fire and Rescue Revenue BEL and as such there should be no impact upon the Local Government and Communities main expenditure group.
19. A review of "opt-outs" from the firefighters' pension schemes will be undertaken during 2012-13, following which a decision will need to be made in early 2013 in respect of contributions for the 2013/14 financial year and future years. This will require further discussions with representative bodies.

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.