OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2014 Rhif 3256 (Cy. 331)

2014 No. 3256 (W. 331)

GWASANAETHAU TÂN AC ACHUB, CYMRU

FIRE AND RESCUE SERVICES, WALES

PENSIYNAU, CYMRU

PENSIONS, WALES

Gorchymyn Cynllun Digolledu'r Diffoddwyr Tân (Cymru) (Diwygio) 2014

The Firefighters' Compensation Scheme (Wales) (Amendment) Order 2014

NODYN ESBONIADOL

(Nid yw'r nodyn hwn yn rhan o'r Gorchymyn)

Mae'r Gorchymyn hwn yn diwygio Atodlen 1 i Orchymyn Cynllun Digolledu'r Diffoddwyr Tân (Cymru) 2007 (O.S. 2007/1073 (Cy. 111)) lle nodir y cynllun digolledu ar gyfer diffoddwyr tân a phobl sy'n ddibynnol ar ddiffoddwyr tân yng Nghymru ("y Cynllun Digolledu").

Mae erthygl 3 o'r Gorchymyn yn cynnwys darpariaethau trosiannol mewn perthynas â'r diwygiadau sydd wedi eu gwneud gan erthygl 2 o'r Gorchymyn hwn a pharagraffau 6 a 7 o'r Atodlen iddo – maent yn darparu bod y Cynllun Digolledu, ar ei ffurf anniwygiedig, i barhau i fod yn gymwys mewn rhai amgylchiadau penodol.

Mae'r diwygiadau sydd wedi eu gwneud i reol 2 (dyfarndaliad ar gyfer neu mewn perthynas â diffoddwr tân wrth gefn neu wirfoddol) o Ran 8 (achosion arbennig) yn dileu, o 1 Ebrill 2014 ymlaen, hawl diffoddwr tân wrth gefn a oedd yn cael ei gyflogi fel diffoddwr tân wrth gefn cyn 6 Ebrill 2006 i ddyfarndaliad anaf wedi ei gyfrifo fel petai'n ddiffoddwr tân llawn amser. Mae'r newidiadau hyn yn ganlyniad i newidiadau i drefniadau pensiwn ar gyfer diffoddwyr tân wrth gefn sydd wedi eu gwneud gan Orchymyn Cynllun Pensiwn y Diffoddwyr Tân (Cymru) (Diwygio) 2014 (O.S. 2014/3254 (Cy. 330)).

Mae'r diwygiadau i reol 6 (cyfrif gwasanaeth at ddiben dyfarndalu) a rheol 7 (anaf cymwys) o Ran 1 (darpariaethau cyffredinol) a'r rhai i reol 4 o Ran 10 yn ganlyniad i'r diwygiadau i reol 2.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends Schedule 1 to the Firefighters' Compensation Scheme (Wales) Order 2007 (S.I. 2007/1073 (W. 111)) in which is set out the compensation scheme for firefighters and dependants of firefighters in Wales ("the Compensation Scheme").

Article 3 of the Order contains transitional provisions in relation to the amendments made by article 2 of, and paragraphs 6 and 7 of the Schedule to, this Order – they provide for the Compensation Scheme in its unamended form to continue to apply in certain circumstances.

The amendments made to rule 2 (award for or in relation to a retained or volunteer firefighter) of Part 8 (special cases) remove the right of a retained firefighter who was employed as a retained firefighter before 6 April 2006 to an injury award calculated as though he or she were a wholetime firefighter from 1 April 2014. These changes are consequential on changes to pension arrangements for retained firefighters made by the Firefighters' Pension Scheme (Wales) (Amendment) Order 2014 (S.I. 2014/3254 (W. 330)).

The amendments to rule 6 (reckoning of service for purpose of awards) and rule 7 (qualifying injury) of Part 1 (general provisions) and those to rule 4 of Part 10 are consequential on the amendments to rule 2.

Mae'r amrywiol ddiwygiadau sy'n rhoi “regular or retained firefighters” yn lle cyfeiriad at “regular firefighter” yn cywiro telerau cyffredinol y Cynllun Digolledu y bwriadwyd iddynt fod yn gymwys i ddiffoddwyr tân wrth gefn a ddechreuodd gael eu cyflogi fel diffoddwyr tân wrth gefn ar ôl 5 Ebrill 2006. Effaith y diwygiadau sydd wedi eu gwneud i reol 2 o Ran 8 gan y Gorchymyn hwn yw bod darpariaethau cyffredinol y Cynllun Digolledu yn gymwys i bob diffoddwr tân wrth gefn nad yw'n dod o fewn y darpariaethau trosiannol.

Mae'r diwygiadau i Ran 1 (pensiwn arbennig) o Atodlen 2 (dyfarndaliadau ar gyfer priodau a phartneriaid sifil), Rhan 1 (lwfans arbennig plentyn) o Atodlen 3 (dyfarndaliadau ar farwolaeth: plant) a Rhan 1 (pensiwn arbennig perthynas dibynnol sy'n oedolyn) o Atodlen 4 (dyfarndaliadau ar farwolaeth: darpariaethau ychwanegol) yn mewnosod fformiwla i gyfrifo dyfarndaliad mewn cysylltiad â diffoddwyr tân wrth gefn.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar wneud Asesiadau Effaith Rheoleiddiol mewn perthynas â'r Gorchymyn hwn. O ganlyniad, paratowyd asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Gorchymyn hwn.

Gellir cael copïau o'r asesiad hwn oddi wrth: Is-adran Diogelwch Cymunedol Llywodraeth Leol, Llywodraeth Cymru, Parc Busnes Rhyd-y-car, Merthyr Tudful, CF48 1UZ (ffôn 03000628219).

The various amendments which substitute “regular or retained firefighter” for a reference to “regular firefighter” correct the general terms of the Compensation Scheme which were intended to apply to retained firefighters who took up employment as a retained firefighter after 5 April 2006. The effect of the amendments made to rule 2 of Part 8 by this Order is that the general provisions of the Compensation Scheme apply to all retained firefighters who do not fall within the transitional provisions.

The amendments to Part 1 (special pension) of Schedule 2 (awards for spouses and civil partners), Part 1 (child's special allowance) of Schedule 3 (awards on death: children) and Part 1 (adult dependent relative's special pension) of Schedule 4 (awards on death: additional provisions) insert a formula to calculate an award in respect of retained firefighters.

The Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation has been considered in relation to this Order. As a result, a regulatory impact assessment has been prepared as to the likely costs and benefits of this Order.

A copy of this assessment can be obtained from the Local Government Community Safety Division, Welsh Government, Rhydycar Business Park, Merthyr Tydfil, CF48 1UZ (telephone 03000628219).

2014 Rhif 3256 (Cy. 331)

GWASANAETHAU TÂN AC ACHUB, CYMRU

PENSIYNAU, CYMRU

Gorchymyn Cynllun Digolledu'r Diffoddwyr Tân (Cymru) (Diwygio) 2014

Gwnaed	*8 Rhagfyr 2014*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru	*10 Rhagfyr 2014*
Yn dod i rym	*31 Rhagfyr 2014*

Mae'r Gorchymyn hwn wedi ei wneud drwy arfer pwerau a roddir gan adrannau 34, 60 a 62(**1**) o Ddeddf Gwasanaethau Tân ac Achub 2004(**2**).

Yn unol ag adran 34(5) o'r Ddeddf honno, ymgynghorodd Gweinidogion Cymru â'r personau hynny a oedd yn briodol, yn eu barn hwy, cyn gwneud y Gorchymyn.

Mae Gweinidogion Cymru yn gwneud y Gorchymyn a ganlyn:

Enwi, cychwyn a dehongli

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Cynllun Digolledu'r Diffoddwyr Tân (Cymru) (Diwygio) 2014.

(**1**) Breiniwyd pwerau o dan adrannau 34 a 60 o Ddeddf y Gwasanaethau Tân ac Achub 2004, mewn perthynas â Chymru, yng Nghynulliad Cenedlaethol Cymru gan adran 62 o Ddeddf Gwasanaethau Tân ac Achub 2004. Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru o dan adran 162 o Ddeddf Llywodraeth Cymru 2006 (p. 32) a pharagraff 30 o Atodlen 11 iddi.

(**2**) 2004 p. 21.

2014 No. 3256 (W. 331)

FIRE AND RESCUE SERVICES, WALES

PENSIONS, WALES

The Firefighters' Compensation Scheme (Wales) (Amendment) Order 2014

Made	*8 December 2014*
Laid before the National Assembly for Wales	*10 December 2014*
Coming into force	*31 December 2014*

This Order is made in exercise of powers conferred by sections 34, 60 and 62(**1**) of the Fire and Rescue Services Act 2004(**2**).

In accordance with section 34(5) of that Act, the Welsh Ministers have consulted such persons as they considered appropriate before making the Order.

The Welsh Ministers make the following Order:

Title, commencement and interpretation

1.—(1) The title of this Order is the Firefighters' Compensation Scheme (Wales) (Amendment) Order 2014.

(**1**) Powers under sections 34 and 60 of the Fire and Rescue Services Act 2004 were vested, in relation to Wales, in the National Assembly for Wales by section 62 of the Fire and Rescue Services Act 2004. The functions of the National Assembly for Wales were transferred to the Welsh Ministers under section 162 of, and paragraph 30 of Schedule 11 to, the Government of Wales Act 2006 (c. 32).

(**2**) 2004 c. 21.

(2) Daw'r Gorchymyn hwn i rym ar 31 Rhagfyr 2014 ond yn ddarostyngedig i baragraff (3) mae'n cael effaith o 1 Ebrill 2014.

(3) Mae'r diwygiadau sydd wedi eu gwneud gan erthygl 2 a'r darpariaethau a ganlyn o'r Atodlen yn cael effaith o 1 Ebrill 2006—

(a) paragraff 1(2), (3), (4)(a), (b)(ii), (iii) a (iv), (5)(a)(ii) a (6);

(b) paragraff 2(2)(a) ac (c);

(c) paragraffau 3, 4 a 5;

(d) paragraff 7(2)(b) a (3);

(e) paragraffau 8, 9, 10 ac 11;

(f) paragraffau 1(1), 2(1) a 7(1) i'r graddau y mae'n angenrheidiol at ddibenion is-baragraffau (a) i (e).

(4) Yn y Gorchymyn hwn—

ystyr "y Cynllun Digolledu" ("*the Compensation Scheme*") yw'r Cynllun a nodir yn Atodlen 1 i Orchymyn Cynllun Digolledu'r Diffoddwyr Tân (Cymru) 2007(**1**);

mae i "diffoddwr tân wrth gefn" yr ystyr a roddir i "retained firefighter" yn y Cynllun Digolledu (fel y'i diwygiwyd gan y Gorchymyn hwn).

Diwygio Gorchymyn Cynllun Digolledu'r Diffoddwyr Tân (Cymru) 2007

2. Mae Atodlen 1 i Orchymyn Cynllun Digolledu'r Diffoddwyr Tân (Cymru) 2007 wedi ei diwygio'n unol â'r Atodlen i'r Gorchymyn hwn.

Darpariaethau trosiannol

3.—(1) Nid yw'r diwygiadau sydd wedi eu gwneud gan erthygl 2 a pharagraffau 6 (dyfarndaliad ar gyfer neu mewn perthynas â diffoddwr tân wrth gefn neu wirfoddol) a 7 (atal dyblygu) o'r Atodlen i'r Gorchymyn hwn i gael effaith mewn perthynas â pherson y mae dyfarniad neu benderfyniad perthnasol wedi ei wneud mewn cysylltiad ag ef cyn 1 Ebrill 2014 o ran a yw anaf cymwys (gan ddod o fewn ystyr rheol 7 o Ran 1 o'r Cynllun Digolledu) wedi peri marwolaeth neu anabledd parhaol.

(2) This Order comes into force on 31 December 2014 but subject to paragraph (3) has effect from 1 April 2014.

(3) The amendments made by article 2 and the following provisions of the Schedule have effect from 1 April 2006—

(a) paragraph 1(2), (3), (4)(a), (b)(ii), (iii) and (iv), (5)(a)(ii) and (6);

(b) paragraph 2(2)(a) and (c);

(c) paragraphs 3, 4 and 5;

(d) paragraph 7(2)(b) and (3);

(e) paragraphs 8, 9, 10 and 11;

(f) paragraphs 1(1), 2(1) and 7(1) so far as necessary for the purposes of sub-paragraphs (a) to (e).

(4) In this Order—

"the Compensation Scheme" ("*y Cynllun Digolledu*") means the Scheme set out in Schedule 1 to the Firefighters' Compensation Scheme (Wales) Order 2007(**1**);

"retained firefighter" ("*diffoddwr tân wrth gefn*") has the meaning given in the Compensation Scheme (as amended by this Order).

Amendment of the Firefighters' Compensation Scheme (Wales) Order 2007

2. Schedule 1 to the Firefighters' Compensation Scheme (Wales) Order 2007 is amended in accordance with the Schedule to this Order.

Transitional provisions

3.—(1) The amendments made by article 2 and paragraphs 6 (award for or in relation to a retained or volunteer firefighter) and 7 (prevention of duplication) of the Schedule to this Order are not to have effect in relation to a person in respect of whom a determination or decision relevant to whether death or permanent disablement has been occasioned by a qualifying injury (coming within the meaning of rule 7 of Part 1 of the Compensation Scheme) has been made before 1 April 2014.

(**1**) O.S. 2007/1073 (Cy. 111).

(**1**) S.I. 2007/1073 (W. 111).

(2) Nid yw'r diwygiadau sydd wedi eu gwneud gan erthygl 2 a pharagraffau 6 a 7 o'r Atodlen i'r Gorchymyn hwn i gael effaith mewn perthynas â pherson sydd wedi bod mewn cyflogaeth barhaus fel diffoddwr tân wrth gefn er 5 Ebrill 2006 ac sydd wedi dioddef anaf wrth gyflawni dyletswyddau'r person fel diffoddwr tân cyn i'r Gorchymyn hwn ddod i rym, pan ddyfernir wedi hynny fod yr anaf yn anaf cymwys (gan ddod o fewn ystyr rheol 7 o Ran 1 o'r Cynllun Digolledu) a bod y person yn dioddef o anabledd parhaol o ganlyniad i'r anaf hwnnw.

(3) Mewn achos y mae paragraff (1) neu (2) yn gymwys iddo ac mewn perthynas â'r darpariaethau a grybwyllir yn y paragraff dan sylw, mae darpariaethau'r Cynllun Digolledu, ar y ffurf yr oeddent yn bodoli yn union cyn 1 Ebrill 2014, i barhau i gael effaith mewn perthynas â pherson o'r fath.

(2) The amendments made by article 2 and paragraphs 6 and 7 of the Schedule to this Order are not to have effect in relation to a person who has been in continuous employment as a retained firefighter since 5 April 2006 and has sustained an injury in the performance of the person's duties as a firefighter before the coming into force of this Order where it is subsequently determined that that injury is a qualifying injury (coming within the meaning of rule 7 of Part 1 of the Compensation Scheme) and that the person is permanently disabled as a result of that injury.

(3) In a case to which paragraph (1) or (2) applies and in relation to the provisions mentioned in that paragraph, the provisions of the Compensation Scheme, in the form in which they existed immediately before 1 April 2014, are to continue to have effect in relation to such a person.

Leighton Andrews

Y Gweinidog Gwasanaethau Cyhoeddus, un o Weinidogion Cymru

8 Rhagfyr 2014

Minister for Public Services, one of the Welsh Ministers

8 December 2014

YR ATODLEN Erthygl 2

Diwygiadau i Orchymyn Cynllun Digolledu'r Diffoddwyr Tân (Cymru) 2007

Diwygiadau i Ran 1 (darpariaethau cyffredinol)

1.—(1) Mae Rhan 1 wedi ei diwygio fel a ganlyn.

(2) Yn rheol 2(1) (dehongli)—

(a) yn lle'r diffiniad o "pensionable pay" rhodder—

""pensionable pay"—

(a) in relation to a person who is a member of the 1992 Scheme, is to be construed in accordance with rule G1 of that Scheme;

(b) in relation to a person who is a member of the 2007 Scheme, is to be construed in accordance with rule 1 of Part 11 of that Scheme; and

(c) in the case of a person who is not a member of either scheme, is to be construed in accordance with rule 11 of this Part;";

(b) yn y man priodol mewnosoder—

""relevant service", except in rule 1 of Part 7 (servicemen) and rule 1 of Part 7A (reservists), means service which either was, or would, but for an election under rule G3 of the 1992 Scheme or rule 5 of Part 2 of the 2007 Scheme or a failure to elect under rule G2A of the 1992 Scheme or rule 4 of Part 11 of the 2007 Scheme, have been reckonable as pensionable service;";

(c) yn lle'r diffiniadau o "retained firefighter" a "retained or volunteer firefighter" rhodder—

""retained firefighter" means a person who is employed by an authority—

(a) as a retained firefighter, but not as a regular firefighter or a volunteer firefighter,

(b) on terms under which the person is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),

SCHEDULE Article 2

Amendments to the Firefighters' Compensation Scheme (Wales) 2007

Amendments to Part 1 (general provisions)

1.—(1) Part 1 is amended as follows.

(2) In rule 2(1) (interpretation)—

(a) for the definition of "pensionable pay" substitute—

""pensionable pay"—

(a) in relation to a person who is a member of the 1992 Scheme, is to be construed in accordance with rule G1 of that Scheme;

(b) in relation to a person who is a member of the 2007 Scheme, is to be construed in accordance with rule 1 of Part 11 of that Scheme; and

(c) in the case of a person who is not a member of either scheme, is to be construed in accordance with rule 11 of this Part;";

(b) at the appropriate place insert—

""relevant service", except in rule 1 of Part 7 (servicemen) and rule 1 of Part 7A (reservists), means service which either was, or would, but for an election under rule G3 of the 1992 Scheme or rule 5 of Part 2 of the 2007 Scheme or a failure to elect under rule G2A of the 1992 Scheme or rule 4 of Part 11 of the 2007 Scheme, have been reckonable as pensionable service;";

(c) for the definitions of "retained firefighter" and "retained or volunteer firefighter" substitute—

""retained firefighter" means a person who is employed by an authority—

(a) as a retained firefighter, but not as a regular firefighter or a volunteer firefighter,

(b) on terms under which the person is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),

(c) otherwise than in a temporary capacity, and

(d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that the person receives;";

(d) yn y man priodol mewnosoder—

""volunteer firefighter" means a person who is employed by an authority—

(a) as a volunteer firefighter but not as a regular firefighter or a retained firefighter,

(b) on terms under which the person is, or may be, required to engage in fire-fighting or may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),

(c) otherwise than in a temporary capacity, and

(d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that the person receives; ".

(3) Yn rheol 3—

(a) yn lle'r pennawd rhodder—

"Exclusive application to regular and retained firefighters";

(b) ym mharagraff (1) yn lle "regular firefighters" rhodder "regular and retained firefighters";

(c) ym mharagraff (2) yn lle "regular firefighter" rhodder "regular or retained firefighter".

(4) Yn rheol 6 (cyfrif gwasanaeth at ddiben dyfarnu)—

(a) ym mharagraff (2) yn lle "regular firefighter" rhodder "regular or retained firefighter";

(b) ym mharagraff (3)—

(i) yn lle "retained or volunteer firefighter" rhodder "volunteer firefighter";

(ii) hepgorer "and Part 2 of Schedule 2";

(iii) ar ôl "any period of service" mewnosoder "as a retained firefighter or"; a

(iv) yn lle "pensionable service" rhodder "relevant service".

(5) Yn rheol 7 (anaf cymwys)

(a) ym mharagraff (1)—

(i) yn is-baragraff (b) hepgorer "retained or"; a

(c) otherwise than in a temporary capacity, and

(d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that the person receives;";

(d) at the appropriate place insert—

""volunteer firefighter" means a person who is employed by an authority—

(a) as a volunteer firefighter but not as a regular firefighter or a retained firefighter,

(b) on terms under which the person is, or may be, required to engage in fire-fighting or may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),

(c) otherwise than in a temporary capacity, and

(d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that the person receives;".

(3) In rule 3—

(a) for the heading substitute—

"Exclusive application to regular and retained firefighters";

(b) in paragraph (1) for "regular firefighters" substitute "regular and retained firefighters";

(c) in paragraph (2) for "regular firefighter" substitute "regular or retained firefighter".

(4) In rule 6 (reckoning of service for purpose of awards)—

(a) in paragraph (2) for "regular firefighter" substitute "regular or retained firefighter";

(b) in paragraph (3)—

(i) for "retained or volunteer firefighter" substitute "volunteer firefighter";

(ii) omit "and Part 2 of Schedule 2";

(iii) after "any period of service" insert "as a retained firefighter or"; and

(iv) for "pensionable service" substitute "relevant service".

(5) In rule 7 (qualifying injury)—

(a) in paragraph (1)—

(i) in sub-paragraph (b) omit "retained or"; and

(ii) yn lle "regular firefighter" rhodder "regular or retained firefighter";

(b) ym mharagraff (3) hepgorer y geiriau—

(i) "and paragraph (4) of rule 3 of Part 10"; a

(ii) "retained or".

(6) Ar ôl rheol 10 (dyddiad effeithiol yr ymddeoliad), mewnosoder—

"Determining pensionable pay in certain cases

11.—(1) Where an award is to be calculated in respect of a person who is not, or was not, a member of the 1992 Scheme or the 2007 Scheme, the definition of "pensionable pay" is to be construed in accordance with—

(a) rule G1 of the 1992 Scheme in the case of a person who elected not to pay pension contributions under rule G3 of that Scheme;

(b) rule 1 of Part 11 of the 2007 Scheme in the case of a person who elected not to pay pension contributions under rule 5 of Part 2 of that Scheme; and

(c) rule 1 of Part 11 of the 2007 Scheme where an election had been made at different times under both schemes.

(2) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 1992 Scheme, the award must be calculated on the basis of the pay which would have been the person's average pensionable pay if the person had not made an election.

(3) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 2007 Scheme, the award must be calculated on the basis of the pay which would have been the person's final pensionable pay if the person had not made an election.

(4) For the purposes of calculating a retained firefighter's pensionable pay (whether or note that person is or was a member of the 2007 Scheme), a fire and rescue authority must determine the period of the person's service from their records.

(ii) for "regular firefighter" substitute "regular or retained firefighter";

(b) in paragraph (3) omit the words—

(i) "and paragraph (4) of rule 3 of Part 10"; and

(ii) "retained or".

(6) After rule 10 (effective date of retirement) insert—

"Determining pensionable pay in certain cases

11.—(1) Where an award is to be calculated in respect of a person who is not, or was not, a member of the 1992 Scheme or the 2007 Scheme, the definition of "pensionable pay" is to be construed in accordance with—

(a) rule G1 of the 1992 Scheme in the case of a person who elected not to pay pension contributions under rule G3 of that Scheme;

(b) rule 1 of Part 11 of the 2007 Scheme in the case of a person who elected not to pay pension contributions under rule 5 of Part 2 of that Scheme; and

(c) rule 1 of Part 11 of the 2007 Scheme where an election had been made at different times under both schemes.

(2) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 1992 Scheme, the award must be calculated on the basis of the pay which would have been the person's average pensionable pay if the person had not made an election.

(3) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 2007 Scheme, the award must be calculated on the basis of the pay which would have been the person's final pensionable pay if the person had not made an election.

(4) For the purposes of calculating a retained firefighter's pensionable pay (whether or not that person is or was a member of the 2007 Scheme), a fire and rescue authority must determine the period of the person's service from their records.

(5) Where an authority are not able to determine the period of the person's service from their records, the person, or any other person entitled to an award under this Scheme, may provide the authority with documents to assist them to determine the person's period of service.

(6) Where an authority are not able to determine the period of the person's service and the authority do not hold records of that person's pay for that period, and the necessary documents cannot be provided in accordance with paragraph (5), the authority may estimate the person's pensionable pay for that period from the records which they hold and may in particular make the estimate on the basis of the average of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period."

(5) Where an authority are not able to determine the period of the person's service from their records, the person, or any other person entitled to an award under this Scheme, may provide the authority with documents to assist them to determine the person's period of service.

(6) Where an authority are not able to determine the period of the person's service and the authority do not hold records of that person's pay for that period, and the necessary documents cannot be provided in accordance with paragraph (5), the authority may estimate the person's pensionable pay for that period from the records which they hold and may in particular make the estimate on the basis of the average of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period."

Diwygiadau i Ran 2 (dyfarndaliadau anafiadau a digolledu mewn perthynas â dyletswydd)

2.—(1) Mae Rhan 2 wedi ei diwygio fel a ganlyn.

(2) Yn rheol 2 (diffoddwyr tân rhan-amser, wrth gefn a gwirfoddol)—

(a) ym mharagraff (1) yn lle "this Part" rhodder "rule 1" a hepgorer "by virtue of which his pensionable service is reckonable";

(b) ym mharagraff (2)(a) hepgorer "retained or";

(c) ym mharagraff (2)(b) yn lle "this Part" rhodder "rule 1"; a

(d) ar ôl paragraff (2) mewnosoder—

"(3) Where a person—

(a) is employed as a retained firefighter; and

(b) is entitled to an award under rule 1,

the award must be calculated in accordance with Part 3 of Schedule 1."

Amendments to Part 2 (injury awards and duty-related compensation)

2.—(1) Part 2 is amended as follows.

(2) In rule 2 (part-time, retained and volunteer firefighters)—

(a) in paragraph (1) for "this Part" substitute "rule 1" and omit "by virtue of which his pensionable service is reckonable";

(b) in paragraph (2)(a) omit "retained or";

(c) in paragraph (2)(b) for "this Part" substitute "rule 1"; and

(d) after paragraph (2) insert—

"(3) Where a person—

(a) is employed as a retained firefighter; and

(b) is entitled to an award under rule 1,

the award must be calculated in accordance with Part 3 of Schedule 1."

Diwygiadau i Ran 3 (dyfarndaliadau ar farwolaeth: priodau a phartneriaid sifil)

3.—(1) Mae Rhan 3 wedi ei diwygio fel a ganlyn.

(2) Yn rheol 1 (dyfarndaliad arbennig ar gyfer priod neu bartner sifil), ym mharagraff (1) a pharagraff (3), yn lle "regular firefighter" ym mhob man y digwydd rhodder "regular or retained firefighter".

(3) Yn rheol 2 (dyfarndaliad mwy ar gyfer priod neu bartner sifil), ym mharagraff (1), yn lle "regular firefighter" rhodder "regular or retained firefighter".

Amendments to Part 3 (awards on death: spouses and civil partners)

3.—(1) Part 3 is amended as follows.

(2) In rule 1 (special award for spouse or civil partner), in paragraph (1) and paragraph (3), for "regular firefighter" in each place where it occurs substitute "regular or retained firefighter".

(3) In rule 2 (augmented award for spouse or civil partner), in paragraph (1), for "regular firefighter" substitute "regular or retained firefighter".

Diwygiadau i Ran 4 (dyfarndaliadau ar farwolaeth: plant)

4.—(1) Mae Rhan 4 wedi ei diwygio fel a ganlyn.

(2) Yn rheol 1(1) (lwfans arbennig i blentyn) a rheol 2(1) (arian rhodd arbennig plentyn), yn lle "regular firefighter" ym mhob man y digwydd rhodder "regular or retained firefighter".

(3) Yn rheol 3(1) (lwfans neu arian rhodd arbennig plentyn: cyfyngiadau) yn lle "be a regular firefighter" rhodder "be either a regular or retained firefighter".

Amendments to Part 4 (awards on death: children)

4.—(1) Part 4 is amended as follows.

(2) In rule 1(1) (child's special allowance) and rule 2(1) (child's special gratuity), for "regular firefighter" in each place where it occurs substitute "regular or retained firefighter".

(3) In rule 3(1) (child's special allowance or gratuity: limitations) for "be a regular firefighter" substitute "be either a regular or retained firefighter".

Diwygiadau i Ran 5 (dyfarndaliadau ar farwolaeth: darpariaethau ychwanegol)

5. Yn Rhan 5, yn rheol 1(1) (pensiwn arbennig perthynas dibynnol sy'n oedolyn), rheol 2(1)(a) (arian rhodd perthynas dibynnol) a rheol 5(1)(a) (cynnydd o ran pensiynau a lwfansau yn ystod y 13 wythnos gyntaf), yn lle "regular firefighter" ym mhob man y digwydd rhodder "regular or retained firefighter".

Amendments to Part 5 (awards on death: additional provisions)

5. In Part 5, in rule 1(1) (adult dependent relative's special pension), rule 2(1)(a) (dependent relative's gratuity) and rule 5(1)(a) (increase of pensions and allowances during first 13 weeks), for "regular firefighter" in each place where it occurs substitute "regular or retained firefighter".

Diwygiadau i Ran 8 (achosion arbennig)

6. Yn Rhan 8, yn rheol 2 (dyfarndaliad ar gyfer neu mewn perthynas â diffoddwr tân wrth gefn neu wirfoddol)—

(a) yn y pennawd i'r rheol hepgorer "retained or";

(b) ym mharagraff (1)(a) hepgorer "retained firefighter or"; ac

(c) yn mharagraffau (5)(b) a (10)(a) a (b) hepgorer "retained or" ym mhob man y digwydd.

Amendments to Part 8 (special cases)

6. In Part 8, in rule 2 (award for or in relation to a retained or volunteer firefighter)—

(a) in the heading to the rule omit "retained or";

(b) in paragraph (1)(a) omit "retained firefighter or"; and

(c) in paragraphs (5)(b) and (10)(a) and (b) omit "retained or" in each place where it occurs.

Diwygiadau i Ran 10 (dyfarndalu a darpariaethau ariannol)

7.—(1) Mae Rhan 10 wedi ei diwygio fel a ganlyn.

(2) Yn rheol 3 (atal dyblygu)—

(a) ym mharagraff (4) yn lle is-baragraff (a)(ii) rhodder—

"(ii) under rule 1, 1A, 2 or 3 of Part 3 of the 2007 Scheme to an ordinary, special member's ordinary, ill health or deferred pension, or"; a

(b) ym mharagraff (6) yn lle "regular firefighter" rhodder "regular or retained firefighter".

(3) Yn rheol 4 (atal dyblygu: dyfarndaliadau anafiadau eraill i bersonau sy'n ddiffoddwyr tân rheolaidd ac wrth gefn)—

(a) ym mharagraff (2)—

Amendments to Part 10 (payment of awards and financial provisions)

7.—(1) Part 10 is amended as follows.

(2) In rule 3 (prevention of duplication)—

(a) in paragraph (4) for sub-paragraph (a)(ii) substitute—

"(ii) under rule 1, 1A, 2 or 3 of Part 3 of the 2007 Scheme to an ordinary, special member's ordinary, ill health or deferred pension, or"; and

(b) in paragraph (6) for "regular firefighter" substitute " regular or retained firefighter".

(3) In rule 4 (prevention of duplication: other injury awards for persons who are both regular and retained firefighters)—

(a) in paragraph (2)—

(i) yn lle “both a regular firefighter and” rhodder “a volunteer firefighter and a retained firefighter or as a regular firefighter”;

(ii) hepgorer y geiriau yn is-baragraff (a);

(iii) yn is-baragraff (b)(i), ar ôl “regular firefighter” mewnosoder “or a retained firefighter”; a

(iv) yn is-baragraff (b)(ii) yn lle “retained firefighter” rhodder “volunteer firefighter”;

(b) ym mharagraff (3)—

(i) ar ôl “regular firefighter” mewnosoder “or a retained firefighter”; a

(ii) yn lle “retained firefighter” rhodder “volunteer firefighter”; ac

(c) ym mharagraff (4) yn lle “retained firefighter” rhodder “volunteer firefighter”.

(4) Yn rheol 5 (atal dyblygu: dyfarndaliadau eraill ar gyfer priodau neu blant personau sy'n ddiffoddwyr tân rheolaidd ac wrth gefn), ar ddiwedd paragraff (3) mewnosoder—

“(g) a survivor’s pension under rule 1 of Part 4 of the 2007 Scheme,

(h) a survivor’s bereavement pension under rule 4 of Part 4 of the 2007 Scheme,

(i) a child’s pension under rule 6 of Part 4 of the 2007 Scheme,

(j) a child’s bereavement pension under rule 9 of Part 4 of the 2007 Scheme,

(k) a death grant under rule 1 of Part 5 of the 2007 Scheme,

(l) a post-retirement death grant under rule 2 of Part 5 of the 2007 Scheme.”

Diwygiadau i Atodlen 1 (dyfarndaliadau anafiadau a digolledu mewn perthynas â dyletswydd)

8.—(1) Mae Atodlen 1 wedi ei diwygio fel a ganlyn.

(2) Yn Rhan 1 (cyfrifo dyfarndaliadau ar gyfer gwasanaeth llawn amser) hepgorer is-baragraff (2) o baragraff 1.

(3) Yn Rhan 2 (cyfrifo dyfarndaliadau ar gyfer gwasanaeth rhan-amser)—

(a) ym mharagraff 1 hepgorer “by virtue of which his pensionable service is reckonable”; a

(b) ym mharagraff 2(1), yn y diffiniadau o “B”, “C” a “D”, yn lle “pensionable service” rhodder “relevant service” ym mhob man y digwydd y geiriau.

(i) for “both a regular firefighter and” substitute “a volunteer firefighter and a retained firefighter or as a regular firefighter”;

(ii) omit the words in sub-paragraph (a);

(iii) in sub-paragraph (b)(i) after “regular firefighter” insert “or a retained firefighter”; and

(iv) in sub-paragraph (b)(ii) for “retained firefighter” substitute “volunteer firefighter”;

(b) in paragraph (3)—

(i) after “regular firefighter” insert “or a retained firefighter”; and

(ii) for “retained firefighter” substitute “volunteer firefighter”; and

(c) in paragraph (4) for “retained firefighter” substitute “volunteer firefighter”.

(4) In rule 5 (prevention of duplication: other awards for spouses or children of persons who are both regular and retained firefighters), at the end of paragraph (3) insert—

“(g) a survivor’s pension under rule 1 of Part 4 of the 2007 Scheme,

(h) a survivor’s bereavement pension under rule 4 of Part 4 of the 2007 Scheme,

(i) a child’s pension under rule 6 of Part 4 of the 2007 Scheme,

(j) a child’s bereavement pension under rule 9 of Part 4 of the 2007 Scheme,

(k) a death grant under rule 1 of Part 5 of the 2007 Scheme,

(l) a post-retirement death grant under rule 2 of Part 5 of the 2007 Scheme.”

Amendments to Schedule 1 (injury awards and duty-related compensation)

8.—(1) Schedule 1 is amended as follows.

(2) In Part 1 (calculation of awards for full-time service) omit sub-paragraph (2) of paragraph 1.

(3) In Part 2 (calculation of awards for part-time service)—

(a) in paragraph 1 omit “by virtue of which his pensionable service is reckonable”; and

(b) in paragraph 2(1), in the definitions of “B”, “C” and “D”, for “pensionable service” substitute “relevant service” in each place where the words occur.

(4) Yn Rhan 3 (cyfrifo dyfarndaliadau ar gyfer gwasanaeth wrth gefn neu wirfoddol) yn lle "paragraph 1(2)" rhodder "paragraph 1" ac yn lle "pensionable service" rhodder "relevant service".

Diwygiadau i Atodlen 2 (dyfarndaliadau ar gyfer priodau a phartneriaid sifil)

9. Yn Rhan 1 (pensiwn arbennig) o Atodlen 2—

(a) ym mharagraff 1 yn lle "Subject to paragraph 2" rhodder "Subject to paragraphs 2 and 3";

(b) ym mharagraff 2, yn y diffiniadau o "B", "C" a "D", yn lle "pensionable service" rhodder "relevant service" ym mhob man y digwydd y geiriau; ac

(c) ar ôl paragraff 2 mewnosoder—

"**3.**—(1) Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, the amount of special pension must be calculated in accordance with the formula—

$$A \times (B / C)$$

where—

A is the amount calculated under paragraph 1 as if the final pensionable pay was the pay which the deceased would have received had the deceased been a whole-time employee of a fire and rescue authority;

B is the period in years of the deceased's pensionable retained service; and

C is the period in years of the deceased's relevant service.

(2) Where the person was a member of the 2007 Scheme, neither B nor C is to exceed 40 years."

Diwygiadau i Atodlen 3 (dyfarndaliadau ar farwolaeth: plant)

10. Yn Rhan 1 (lwfans arbennig plentyn) o Atodlen 3—

(a) ym mharagraff 1 yn lle "Subject to paragraph 4" rhodder "Subject to paragraphs 4 and 5";

(b) ym mharagraff 4(1) hepgorer "which is reckonable as pensionable service,"; ac

(c) ar ôl paragraff 4 mewnosoder—

"**5.** Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, the amount of

(4) In Part 3 (calculation of awards for retained or volunteer service) for "paragraph 1(2)" substitute "paragraph 1" and for "pensionable service" substitute "relevant service".

Amendments to Schedule 2 (awards for spouses and civil partners)

9. In Part 1 (special pension) of Schedule 2—

(a) in paragraph 1 for "Subject to paragraph 2" substitute "Subject to paragraphs 2 and 3";

(b) in paragraph 2, in the definitions of "B", "C" and "D", for "pensionable service" substitute "relevant service" in each place where the words occur; and

(c) after paragraph 2 insert—

"**3.**—(1) Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, the amount of special pension must be calculated in accordance with the formula—

$$A \times (B / C)$$

where—

A is the amount calculated under paragraph 1 as if the final pensionable pay was the pay which the deceased would have received had the deceased been a whole-time employee of a fire and rescue authority;

B is the period in years of the deceased's pensionable retained service; and

C is the period in years of the deceased's relevant service.

(2) Where the person was a member of the 2007 Scheme, neither B nor C is to exceed 40 years."

Amendments to Schedule 3 (awards on death: children)

10. In Part 1 (child's special allowance) of Schedule 3—

(a) in paragraph 1 for "Subject to paragraph 4" substitute "Subject to paragraphs 4 and 5";

(b) in paragraph 4(1) omit "which is reckonable as pensionable service,"; and

(c) after paragraph 4 insert—

"**5.** Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, the amount of

the special allowance must be calculated in accordance with the formula—

$$A \times (B / C)$$

where—

A is the amount calculated under paragraphs 1 to 3 of this Part as if the final pensionable pay was the pay the deceased would have received had the deceased been a whole-time employee of a fire and rescue authority;

B is the period in years of the deceased's pensionable retained service;

C is the period in years of the deceased's relevant service."

Diwygiadau i Atodlen 4 (dyfarndaliadau ar farwolaeth: darpariaethau ychwanegol)

11. Yn Rhan 1 (pensiwn arbennig perthynas dibynnol sy'n oedolyn) o Atodlen 4—

(a) ym mharagraff 1, yn lle "Subject to paragraphs 2 and 3" rhodder "Subject to paragraphs 2, 3 and 4";

(b) ym mharagraff 3 hepgorer "which is reckonable as pensionable service,"; ac

(c) ar ôl paragraff 3 mewnosoder—

"**4.**Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, paragraphs 1 and 2 apply with the modification that for any reference to the deceased's final pensionable pay there is to be be substituted the product of the formula—

$$A \times (B / C)$$

where—

A is the amount of pay which the deceased would have received had the deceased been a whole-time employee of a fire and rescue authority;

B is the period in years of the deceased's pensionable retained service;

C is the period in years of the deceased's relevant service."

the special allowance must be calculated in accordance with the formula—

$$A \times (B / C)$$

where—

A is the amount calculated under paragraphs 1 to 3 of this Part as if the final pensionable pay was the pay which the deceased would have received had the deceased been a whole-time employee of a fire and rescue authority;

B is the period in years of the deceased's pensionable retained service;

C is the period in years of the deceased's relevant service."

Amendments to Schedule 4 (awards on death: additional provisions)

11. In Part 1 (adult dependent relative's special pension) of Schedule 4—

(a) in paragraph 1 for "Subject to paragraphs 2 and 3" substitute "Subject to paragraphs 2, 3 and 4";

(b) in paragraph 3 omit "which is reckonable as pensionable service,"; and

(c) after paragraph 3 insert—

"**4.** Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, paragraphs 1 and 2 apply with the modification that for any reference to the deceased's final pensionable pay there is to be substituted the product of the formula—

$$A \times (B / C)$$

where—

A is the amount of pay which the deceased would have received had the deceased been a whole-time employee of a fire and rescue authority;

B is the period in years of the deceased's pensionable retained service;

C is the period in years of the deceased's relevant service."

©ↁ Hawlfraint y Goron 2014

Argraffwyd a chyhoeddwyd yn y Deyrnas Unedig gan The Stationery Office Limited o dan awdurdod ac arolygiaeth Carol Tullo, Rheolwr Gwasg Ei Mawrhydi ac Argraffydd Deddfau Seneddol y Frenhines.

© Crown copyright 2014

Printed and Published in the UK by the Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office and Queen's Printer of Acts of Parliament.

OFFERYNNAU STATUDOL CYMRU

WELSH STATUTORY INSTRUMENTS

2014 Rhif 3256 (Cy. 331)

2014 No. 3256 (W. 331)

GWASANAETHAU TÂN AC ACHUB, CYMRU

FIRE AND RESCUE SERVICES, WALES

PENSIYNAU, CYMRU

PENSIONS, WALES

Gorchymyn Cynllun Digolledu'r Diffoddwyr Tân (Cymru) (Diwygio) 2014

The Firefighters' Compensation Scheme (Wales) (Amendment) Order 2014

ISBN 978-0-348-11034-0

9 780348 110340

£6.00

W2171/12/14 ON