**EXPLANATORY MEMORANDUM TO**

**THE FIREFIGHTERS' PENSION SCHEME (AMENDMENT) (ENGLAND) ORDER 2013**

**2013 No. 703**

**AND**

**THE FIREFIGHTERS' PENSION SCHEME (ENGLAND) (AMENDMENT) ORDER 2013**

**2013 No. 704**

**1.** This explanatory memorandum has been prepared by the Department for Communities and Local Government and is laid before Parliament by Command of Her Majesty. This memorandum contains information for the Joint Committee on Statutory Instruments.

## 2. Purpose of the instrument

2.1. The Firefighters' Pension Scheme (Amendment) (England) Order 2013 (No. 703) amends the Firefighters' Pension Scheme 1992 (set out in Schedule 2 to the Firemen's Pension Scheme Order 1992 (No. 129)) to:

- provide for new employee pension contributions rates to apply to members of the Firefighters' Pension Scheme 1992; and
- introduce a new band of pensionable pay, so that any firefighter who earns more than £15,000 and up to and including £21,000 will pay a lower rate than those earning more than £21,000 and up to and including £30,000.

2.2. The Firefighters' Pension Scheme (England) (Amendment) Order 2013 (No. 704) amends the New Firefighters' Pension Scheme (England) (set out in Schedule 1 to the Firefighters' Pension Scheme (England) Order 2006 (No. 3432)) to:

- provide for new employee pension contributions rates to apply to members of the New Firefighters' Pension Scheme 2006; and
- introduce a new band of pensionable pay, so that any firefighter who earns more than £15,000 and up to and including £21,000 will pay a lower rate than those earning more than £21,000 and up to and including £30,000.

## 3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 The attention of the Joint Committee on Statutory Instruments is drawn to the coming into effect date of the Orders on 1 April 2013 which, the Department

for Communities and Local Government regrets, breaks the 21 day rule. Please see section 8 for further details.

3.2 The Department has issued an immediate bulletin to the Chairmen and Chief Fire Officers of, and Clerks to, all Fire and Rescue Authorities, the Chief Executive of the County Council and the London Commissioner to inform them of the revised contribution rates from 1 April 2013. In addition, members of the Firefighters' Pension Committee and key contacts within all fire and rescue authorities have also been informed.

## 4. Legislative Context

4.1 The Firefighters' Pension Scheme (Amendment) (England) Order 2013 is made under section 26(1) to (5) of the Fire Services Act 1947. That section enables the Secretary of State by order to bring into operation the Firefighters' Pension Scheme enabling fire authorities to pay pensions, allowances and gratuities to persons employed as members of fire brigades. The section also enables provision to be made for the making of contributions by persons in respect of whose service awards may be made under the Scheme. The section also enables the Scheme to be varied by a subsequent order made by the Secretary of State.

4.2 The Firefighters' Pension Scheme was made under that power. This instrument amends the provision made in that Scheme for the making of contributions and increases the amount to be paid according to the pensionable salary of the member, as well as introducing a new band of pensionable pay.

4.3 The Firefighters' Pension Scheme (England) (Amendment) Order 2013 is made under sections 34 and 60 of the Fire and Rescue Services Act 2004. Section 34 enables the Secretary of State to make an order bringing into operation a scheme making provision for the payment of pensions, allowances and gratuities in respect of persons who are employed by a fire and rescue authority or who have died while so employed. The section enables provision to be made for the making of contributions by persons in respect of whose service awards may be made. The section also enables the Scheme to be varied by a subsequent order made by the Secretary of State.

4.4 The New Firefighters' Pension Scheme (England) was made under section 34. This instrument amends the provision made in that Scheme for the making of contributions and increases the amount to be paid according to the pensionable salary of the member, as well as introducing a new band of pensionable pay.

## 5. Territorial Extent and Application

5.1 These instruments apply to England.

## 6. European Convention on Human Rights

6.1 As these instruments are subject to negative resolution procedure and do not amend primary legislation, no statement is required.

## 7. Policy background

- What is being done and why

*The Hutton review of public service pensions*

7.1 In June 2010, the Government commissioned Lord Hutton of Furness to chair the Independent Public Service Pensions Commission to review public service pensions and to make recommendations on how they can be made sustainable and affordable in the long-term, and fair to both public sector workers and the taxpayer. As part of the review, the Commission was invited to produce an interim report, to consider the case for delivering savings on public service pensions within the Spending Review period.

7.2 The Commission published its interim report on 7 October 2010. The report set out that the value and cost of public service pensions have increased by around a third because of longer life expectancy over the last fifty years, and that these costs had generally fallen to the taxpayer. Lord Hutton therefore recommended that if the Government wished to make short term savings, then raising contribution rates would be the most effective way to achieve that objective. This would also make for a fairer balance between what employees pay and what other taxpayers contribute.

*Spending Review*

7.3 The Government accepted Lord Hutton's rationale and announced at Spending Review 2010 that public sector workers would be asked to contribute more towards their pensions. In particular, the Spending Review set out plans for savings of £2.8bn per year, equivalent to an average increase of 3.2 percentage points in employee contributions to be phased in over three years, by 2014-15.

*Design principles*

7.4 The Government set out that any proposed increases in contribution rates should protect low earners and be progressive, so that high earners pay proportionally higher increases to reflect their more generous pensions. The Government also determined a number of design parameters for scheme design to achieve the required savings, these were:

- there should 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 would pay more, but no more than 6 percentage points (before tax relief) by 2014-15.

*Firefighters' Pension Schemes – 2012 contribution increases*

7.5 The two firefighters' pension schemes, like other public service schemes, were asked to deliver savings from increases to employee contribution rates. A statutory consultation paper proposing increases in the firefighters' pension schemes in England, from 1 April 2012, was published on 9 September 2011. This consultation proposed tariffs designed to deliver a 1.28 percentage point increase, on average, across the two firefighters' pension schemes. The Government response to that consultation was published on 29 March 2012.

7.6 In light of the responses received to the statutory consultation, Ministers decided it was appropriate, in the specific case of the firefighters' pension schemes, to proceed with an altered contribution rate to generate an increased yield of 0.64 percentage points, rather than the originally proposed 1.28 percentage points.

- Consolidation

7.7 There are no current plans to consolidate the legislation governing either the Firefighters' Pension Scheme 1992 or the New Firefighters' Pension Scheme 2006.

## 8. Consultation outcome – Firefighters' Pension Schemes – 2013 contribution increases

8.1 On 29 November 2012, the Department published the consultation paper, *Firefighters' Pension Scheme (1992) and New Firefighters' Pension Scheme (2006): Proposed increases to employee contributions rates, effective from 1 April 2013 - Consultation*. The consultation ran for an eight week period and closed on 25 January.

8.2 This consultation paper set out the proposed changes to increases in employee contributions by 1.28 percentage points from 1 April 2013 (leading to a cumulative 1.92 percentage point increase during 2012-13 and 2013-14). In light of research undertaken during 2012 that, across the two schemes, members of the New Firefighters' Pension Scheme 2006 were the most likely to opt out the proposals provided some protection to the level of increases faced by these scheme members.

8.3 The proposals also introduced a new band of pensionable pay for any scheme members earning more than £15,000 and up to and including £21,000 to ensure that the Government's design parameters for scheme design were adhered to.

8.4 On publication, the Department drew the consultation paper to the attention of members of the Firefighters' Pension Committee, which includes Trade Unions, the Local Government Association and other key representative bodies. The Department also announced the consultation in the 'Fire and Rescue Monthly Bulletin', which was sent on 3 December 2012 to the Chairs

and Chief Fire Officers of, and Clerks to, all Fire and Rescue Authorities, the Chief Executive of the County Council and the London Commissioner.

8.5 There were 22 responses to the consultation, of which 8 were from individuals, 10 were from fire and rescue authorities and 4 were from representative bodies (of which 3 were trade unions).

8.6 Broadly, some respondents offered support for elements of the proposals as set out in the consultation, for example, the protection for members of the New Firefighters' Pension Scheme 2006 or the continuation of tiered pensionable pay bands. However, many respondents did not agree with the proposals, with some arguing that further increases were not necessary at all and others stating that the Government had not taken adequate account of research undertaken into firefighters' attitudes to their pension scheme, including on increased contributions. The main concerns expressed were that:

- the increased contribution rates would:
  - be the tipping point where members chose to opt out or not join the pension scheme;
  - have an impact on workforce issues, including earlier retirement for senior officers who would be forced to pay more, or deterring individuals from applying for promotion if it meant paying increased contributions; and
- the proposals did not take into account that firefighters already pay one of the highest contribution rates in public sector pension schemes.

8.7 Some respondents suggested that any increases should be implemented over a greater period of time than three years, suggesting that the altered, and reduced, contribution increases implemented in 2012-13 had gone some way to mitigate the potential number of firefighters leaving their pension scheme.

*Government response to the consultation*

8.8 The statutory consultation on contribution increases closed on 25 January. Detailed consideration has been given to the responses to the consultation, with Ministers considering the responses alongside the evidence on firefighters opting out of, or choosing not to join, the pension scheme and discussions with key stakeholders on the wider proposals to reform the firefighters' pension scheme from April 2015. This detailed consideration has, with regret, meant that the Department has not been able to lay the legislation in time to observe the 21 day rule.

8.9 The Government has concluded that the rationale remains to proceed with increased contributions from April 2013, and to provide some protection for members of the New Firefighters' Pension Scheme 2006, as set out in the consultation. This will help rebalance costs between taxpayers and public sector workers including firefighters.

8.10 A more detailed analysis of the consultation outcome will be available on the Departmental website. The Government is mindful of the need to continue monitoring the effects of contribution increases. All evidence will be carefully considered, including on those opting out or choosing not to join the scheme, before making decisions on contribution increases from April 2014.

8.11 The intention remains to bring the Orders into force on 1 April 2013. The Department has issued an immediate bulletin to the Chairs and Chief Fire Officers of, and Clerks to, all Fire and Rescue Authorities, the Chief Executive of the County Council and the London Commissioner to inform them of the revised contribution rates from April. In addition, members of the Firefighters Pension Committee and key contacts within all fire and rescue authorities have also been informed.

## 9. Guidance

9.1 The Department does not intend to issue any guidance on complying with these statutory instruments.

## 10. Impact

10.1 The impact on business, charities or voluntary bodies is nil.

10.2 There is no impact on the public sector as a whole.

10.3 An Impact Assessment has not been prepared for this instrument.

## 11. Regulating small business

11.1 The legislation does not apply to small business.

## 12. Monitoring & review

12.1 The Government will review the impact of 2013-14 contribution increases, including on the number of members opting out or choosing not to join the scheme, before taking final decisions on how future increases will be delivered. Interested parties will have the opportunity to provide evidence and views to the Government.

## 13. Contact

Sharon Mayers at the Department for Communities and Local Government Tel: 0303 444 3565 or email: sharon.mayers@communities.gsi.gov.uk can answer any queries regarding the instrument.