



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2018 Rhif 577 (Cy. 104)

2018 No. 577 (W. 104)

**GWASANAETHAU TÂN AC
ACHUB, CYMRU**

**FIRE AND RESCUE
SERVICES, WALES**

PENSIYNAU, CYMRU

PENSIONS, WALES

Gorchymyn Cynlluniau Pensiwn a
Chynllun Digolledu'r Diffoddwyr
Tân (Cymru) (Diwygio) 2018

The Firefighters' Pension Schemes
and Compensation Scheme (Wales)
(Amendment) Order 2018

NODYN ESBONIADOL

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

EXPLANATORY NOTE

(This note is not part of the Order)

Mae'r Gorchymyn hwn yn diwygio Cynllun Pensiwn y Dynion Tân (Cymru) (a nodir yn Atodlen 2 i Orchymyn Cynllun Pensiwn y Dynion Tân 1992) fel y mae'n cael effaith yng Nghymru ("Cynllun 1992"); Cynllun Pensiwn Newydd y Diffoddwyr Tân (Cymru) (a nodir yn Atodlen 1 i Orchymyn Cynllun Pensiwn y Diffoddwyr Tân (Cymru) 2007); Cynllun Digolledu'r Diffoddwyr Tân (Cymru) (a nodir yn Atodlen 1 i Orchymyn Cynllun Digolledu'r Diffoddwyr Tân (Cymru) 2007) ("Cynllun Digolledu 2007") a Gorchymyn Cynllun Pensiwn y Dynion Tân (Cymru) (Diwygio a Darpariaethau Trosiannol) 2016.

This Order amends the Firefighters' Pension (Wales) Scheme (set out in Schedule 2 to the Firemen's Pension Scheme Order 1992) as it has effect in Wales ("the 1992 Scheme"); the New Firefighters' Pension Scheme (Wales) (set out in Schedule 1 to the Firefighters' Pension Scheme (Wales) Order 2007); the Firefighters' Compensation Scheme (Wales) (set out in Schedule 1 to the Firefighters' Compensation Scheme (Wales) Order 2007) ("the 2007 Compensation Scheme") and the Firefighters' Pension (Wales) Scheme (Amendment and Transitional Provisions) Order 2016.

Mae erthygl 2 yn diwygio Cynllun 1992, yn benodol, er mwyn darparu bod priod neu bartner sifil sy'n goroesi diffoddwr tân a fu farw o ganlyniad i anaf a gafwyd wrth gyflawni dyletswydd, neu wrth deithio i gyflawni dyletswydd neu o'i chyflawni, i gadw ei hawlogaeth i bensiwn neu arian rhodd o dan Ran C o Gynllun 1992 os yw'n priodi, yn ailbriodi, yn ffurfio partneriaeth sifil neu bartneriaeth sifil ddilynol ar 1 Ebrill 2015 neu wedi hynny. Mae hefyd yn darparu bod pensiwn neu arian rhodd a dynnwyd yn ôl am y rhesymau hyn cyn 1 Ebrill 2015 yn cael ei adfer gydag effaith o'r dyddiad hwnnw. Mae erthygl 2 hefyd yn gwneud

Article 2 amends the 1992 Scheme, in particular, to provide that the surviving spouse or civil partner of a firefighter who died from an injury received in the exercise of duty, or travelling to or from duty, is to retain his or her entitlement to a pension or gratuity under Part C of the 1992 Scheme if he or she marries, remarries, forms a civil partnership or subsequent civil partnership on or after 1 April 2015. It further provides that a pension or gratuity which had been withdrawn for these reasons prior to 1 April 2015 is reinstated with effect from that date. Article 2 also makes a number of unrelated amendments to the 1992 Scheme, including to

nifer o ddiwygiadau i Gynllun 1992 nad ydynt yn gysylltiedig, gan gynnwys er mwyn egluro, o dan Ran G o Gynllun 1992, fod diffoddwr tân o dan 50 oed sydd wedi cyfrif 30 mlynedd o wasanaeth pensiynadwy yn cael ei drin fel cyflogai i'r awdurdod tân ac achub at ddibenion cyfraniadau blynyddol y cyflogwr, a phan fo diffoddwr tân o'r fath wedi trefnu ar gyfer buddion pensiwn ychwanegol bod rhaid i'r diffoddwr tân dalu cyfraniadau mewn perthynas â'r rhain hyd nes y bydd y diffoddwr tân yn cyrraedd 50 oed. Pan fo'r diffoddwr tân yn cyrraedd 50 oed bydd y gofynion yn rheol G2(1) o Gynllun 1992 yn gymwys i'r diffoddwr tân. Yn gysylltiedig â hyn, mae erthygl 5 yn diwygio'r ddarpariaeth drosiannol a wneir gan Orchymyn Cynllun Pensiwn y Dynion Tân (Cymru) (Diwygio a Darpariaethau Trosiannol) 2016 i'w gwneud yn glir nad yw taliadau a wneir gan awdurdod tân ac achub o dan y ddarpariaeth honno yn cynnwys unrhyw swm mewn cysylltiad â chyfraniad diffoddwr tân mewn perthynas â budd pensiwn ychwanegol.

Mae erthygl 3 yn diwygio Cynllun Pensiwn Newydd y Diffoddwyr Tân (Cymru) er mwyn cael gwared ar y gofyniad bod rhaid i bartner sy'n cydfyw sy'n goroesi fod wedi ei enwebu gan yr aelod o'r cynllun fel amod cymhwysra ar gyfer pensiwn goroeswr. Mae erthygl 3 hefyd yn gwneud nifer o ddiwygiadau i'r Cynllun hwnnw nad ydynt yn gysylltiedig er mwyn cywiro gwallau mewn croesgyfeiriadau.

Mae erthygl 4(3) yn dirymu rheol 5 o Ran 3 o Gynllun Digolledu 2007 er mwyn caniatáu, gydag effaith o 1 Ebrill 2015, i berson sydd â'r hawl i bensiwn neu arian rhodd o dan y cynllun hwnnw ei gadw ar ôl priodi, aillbriodi, neu ffurfio partneriaeth sifil neu bartneriaeth sifil ddilynol. Mae pensiwnau neu arian rhodd a dynnwyd yn ôl cyn 1 Ebrill 2015 am y rhesymau hyn yn cael eu hadfer gydag effaith o'r dyddiad hwnnw.

Roedd Cynllun Digolledu 2007 yn disodli'r darpariaethau cyfatebol yng Nghynllun 1992. Mae erthygl 4(2) yn diwygio'r trefniadau trosiannol yn erthygl 4 o Orchymyn Cynllun Digolledu'r Diffoddwyr Tân (Cymru) 2007 fel y bydd darpariaeth gyfatebol yn gymwys i ddyfardaliadau arbennig a dyfardaliadau mwy o dan reol C2 neu C3 o Gynllun 1992 sy'n ymwneud â dyfarniadau neu benderfyniadau a wnaed cyn 1 Ebrill 2006 sy'n berthnasol i ba un a yw anaf cymwys wedi peri marwolaeth (yn rhinwedd erthygl 4(1) o'r Gorchymyn hwnnw mae Cynllun 1992 ar y ffurf yr oedd yn bodoli yn union cyn 1 Ebrill 2006 yn parhau i gael effaith o dan yr amgylchiadau hyn).

clarify that under Part G of the 1992 Scheme a firefighter below the age of 50 who has reckoned 30 years' pensionable service is treated as an employee of the fire and rescue authority for the purposes of annual employer contributions and that where such a firefighter has arrangements for additional pension benefits the firefighter must pay contributions in relation to these until the firefighter attains the age of 50. When the firefighter attains 50 the requirements in rule G2(1) of the 1992 Scheme will apply to the firefighter. Related to this, article 5 amends the transitional provision made by the Firefighters' Pension (Wales) Scheme (Amendment and Transitional Provisions) Order 2016 to make it clear that payments made by a fire and rescue authority under that provision do not include any sum in respect of a firefighter's contribution in relation to additional pension benefit.

Article 3 amends the New Firefighters' Pension Scheme (Wales) to remove the requirement that a surviving cohabiting partner must have been nominated by the scheme member as a condition of eligibility for a survivor's pension. Article 3 also makes a number of unrelated amendments to that Scheme in order to correct errors in cross-references.

Article 4(3) revokes rule 5 of Part 3 of the 2007 Compensation Scheme so as to allow, with effect from 1 April 2015, a person entitled to a pension or gratuity under that scheme to retain it following marriage, remarriage or forming a civil partnership or subsequent civil partnership. Pensions or gratuities which had been withdrawn prior to 1 April 2015 for these reasons are reinstated with effect from that date.

The 2007 Compensation Scheme superseded corresponding provisions of the 1992 Scheme. Article 4(2) amends the transitional arrangements in article 4 of the Firefighters' Compensation Scheme (Wales) Order 2007 so that equivalent provision will apply to special and augmented awards under rule C2 or C3 of the 1992 Scheme that relate to determinations or decisions made before 1 April 2006 relevant to whether death has been occasioned by a qualifying injury (by virtue of article 4(1) of that Order the 1992 Scheme in the form in which existed immediately before 1 April 2006 continues to have effect in these circumstances).

Mae'r diwygiadau a wneir gan erthygl 3(2) i (7) a (9) o'r Gorchymyn hwn yn cael effaith o 6 Ebrill 2006, mae'r diwygiadau a wneir gan erthygl 2(4)(b) yn cael effaith o 1 Rhagfyr 2006, mae'r diwygiad a wneir gan erthygl 5 yn cael effaith o 31 Rhagfyr 2016; mae'r diwygiadau eraill yn cael effaith o 1 Ebrill 2015. Rhoddir y pŵer i roi effaith ôl-weithredol i'r Gorchymyn hwn, mewn cysylltiad â Chynllun 1992, gan adran 12 o Ddeddf Blwydd-daliadau 1972 fel y'i cymhwysir gan adran 16(3) o'r Ddeddf honno ac, mewn cysylltiad â Chynllun Digolledu 2007 a Chynllun Pensiwn Newydd y Diffoddwyr Tân (Cymru), gan adran 34(3) o Ddeddf Gwasanaethau Tân ac Achub 2004.

Ystyriwyd Cod Asesiadau Effaith Rheoleiddiol Gweinidogion Cymru ar Is-ddeddfwriaeth mewn perthynas â'r Gorchymyn hwn. O ganlyniad, ystyriwyd nad oedd yn angenrheidiol cynnal asesiad effaith rheoleiddiol o'r costau a'r manteision sy'n debygol o ddeillio o gydymffurfio â'r Gorchymyn hwn.

The amendments made by article 3(2) to (7) and (9) of this Order have effect from 6 April 2006, the amendments made by article 2(4)(b) have effect from 1 December 2006, the amendment made by article 5 has effect from 31 December 2016; the other amendments have effect from 1 April 2015. The power to give this Order retrospective effect is conferred, in respect of the 1992 Scheme, by section 12 of the Superannuation Act 1972 as applied by section 16(3) of that Act and, in respect of the 2007 Compensation Scheme and the New Firefighters' Pension Scheme (Wales), by section 34(3) of the Fire and Rescue Services Act 2004.

The Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation has been considered in relation to this Order. As a result, it was not considered necessary to carry out a regulatory impact assessment as to the likely costs and benefits of complying with this Order.

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ACHUB, CYMRU**

**FIRE AND RESCUE
SERVICES, WALES**

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**Gorchymyn Cynlluniau Pensiwn a
Chynllun Digolledu'r Diffoddwyr
Tân (Cymru) (Diwygio) 2018**

**The Firefighters' Pension Schemes
and Compensation Scheme (Wales)
(Amendment) Order 2018**

Gwnaed 9 Mai 2018

Made 9 May 2018

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 10 Mai 2018

Laid before the National Assembly for Wales
10 May 2018

Yn dod i rym 1 Mehefin 2018

Coming into force 1 June 2018

Gwneir y Gorchymyn hwn drwy arfer y pwerau a roddir gan adran 26(1) i (5) o Ddeddf Gwasanaethau Tân 1947(1) ac adran 12 o Ddeddf Blwydd-daliadau

This Order is made in the exercise of the powers conferred by section 26(1) to (5) of the Fire Services Act 1947(1) and section 12 of the Superannuation

(1) 1947 p. 41, a ddiwymwyd gan adran 52 o Ddeddf y Gwasanaethau Tân ac Achub 2004 (p. 21), ac Atodlen 2 iddi. Mae is-adrannau (1) i (5) o adran 26 yn parhau i gael effaith, o ran Cymru, at ddibenion y cynllun a sefydlwyd o dan yr adran honno fel Cynllun Pensiwn y Dynion Tân ac a nodir yng Ngorchymyn Cynllun Pensiwn y Dynion Tân 1992 (O.S. 1992/129), yn rhinwedd erthygl 3 o O.S. 2004/2918 (Cy. 257). Newidiwyd enw'r cynllun i Gynllun Pensiwn y Dynion Tân (Cymru) gan erthygl 4 o'r offeryn hwnnw. Diwygiwyd adran 26 o Ddeddf Gwasanaethau Tân 1947 gan adran 1 o Ddeddf Gwasanaethau Tân 1951 (p. 27), adran 42 o Ddeddf y Lluoedd Wrth Gefn a'r Lluoedd Ategol (Diogelu Buddiannau Sifil) 1951 (p. 65), adran 33 o Ddeddf Dwyn 1968 (p. 60), ac Atodlen 3 iddi, adrannau 16 a 29 o Ddeddf Blwydd-daliadau 1972 (p. 11), ac Atodlen 8 iddi, adrannau 100 a 101 o Ddeddf Nawdd Cymdeithasol 1973 (p. 38), ac Atodlen 27 iddi, adran 1 o Ddeddf Nawdd Cymdeithasol (Darpariaethau Canlyniadol) 1975 (p. 18), ac Atodlen 1 iddi, adran 32(2) o Ddeddf Llysoedd Ynadon 1980 (p. 43), adran 1 o Ddeddf Pensiynau'r Heddlu a'r Dynion Tân 1997 (p. 52), adran 256 o Ddeddf Partneriaeth Sifil 2004 (p. 33), ac Atodlen 25 iddi, a chan O.S. 1976/551. I'r graddau y caiff Cynllun Pensiwn y Dynion Tân ei barhau mewn grym, o ran Cymru, yn rhinwedd O.S. 2004/2918 (erthygl 3(1)), mae adran 26(1) i (5) yn cael effaith fel pe rhoddid cyfeiriad at "National Assembly for Wales" yn lle pob cyfeiriad at "Secretary of State"; gweler erthygl 2 o O.S. 2006/1672 (Cy. 160). Yn rhinwedd paragraff 30 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006 (p. 32), mae swyddogaethau o dan adran 26 o Ddeddf Gwasanaethau Tân 1947 bellach wedi eu breinio yng Ngweinidogion Cymru i'r graddau y maent yn arferadwy o ran Cymru.

(1) 1947 c. 41, repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c. 21). Subsections (1) to (5) of section 26 continue to have effect, in relation to Wales, for the purposes of the scheme established under that section as the Firemen's Pension Scheme and set out in the Firemen's Pension Scheme Order 1992 (S.I. 1992/129), by virtue of article 3 of S.I. 2004/2918 (W. 257). The name of the scheme was changed to the Firefighters' Pension (Wales) Scheme by article 4 of that instrument. Section 26 of the Fire Services Act 1947 was amended by section 1 of the Fire Services Act 1951 (c. 27), section 42 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951 (c. 65), section 33 of, and Schedule 3 to, the Theft Act 1968 (c. 60), sections 16 and 29 of, and Schedule 8 to, the Superannuation Act 1972 (c. 11), sections 100 and 101 of, and Schedule 27 to, the Social Security Act 1973 (c. 38), section 1 of, and Schedule 1 to, the Social Security (Consequential Provisions) Act 1975 (c. 18), section 32(2) of the Magistrates' Courts Act 1980 (c. 43), section 1 of the Police and Firemen's Pensions Act 1997 (c. 52), section 256 of, and Schedule 25 to, the Civil Partnership Act 2004 (c. 33), and by S.I. 1976/551. In so far as the Firefighters' Pension Scheme is continued in force, in relation to Wales, by virtue of S.I. 2004/2918 (article 3(1)), section 26(1) to (5) have effect as if for each reference to the "Secretary of State" there were substituted a reference to the "National Assembly for Wales"; see article 2 of S.I. 2006/1672 (W. 160). By virtue of paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (c. 32) functions under section 26 of the Fire Services Act 1947 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales.

1972(1) fel y'u cymhwysir gan adran 16(3)(2) o'r Ddeddf honno, a chan adrannau 34 a 62 o Ddeddf y Gwasanaethau Tân ac Achub 2004(3), ac a freinir bellach yng Ngweinidogion Cymru.

Cyn gwneud y Gorchymyn hwn, ac yn unol ag adran 34(5) o Ddeddf Gwasanaethau Tân ac Achub 2004, ymgynghorodd Gweinidogion Cymru â'r personau hynny yr oeddent yn ystyried eu bod yn briodol.

Mae Gweinidogion Cymru yn gwneud y Gorchymyn a ganlyn.

Enwi a chychwyn

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Cynlluniau Pensiwn a Chynllun Digolledu'r Diffoddwyr Tân (Cymru) (Diwygio) 2018 a daw i rym ar 1 Mehefin 2018.

(2) Mae'r diwygiadau a wneir gan—

- (a) erthygl 2(2), (3), (4)(a) a (5); a
 - (b) erthyglau 3(8) a 4;
- yn cael effaith o 1 Ebrill 2015.

(3) Mae'r diwygiadau a wneir gan erthygl 3(2) i (7) a (9) yn cael effaith o 6 Ebrill 2006.

(4) Mae'r diwygiadau a wneir gan erthygl 2(4)(b) yn cael effaith o 1 Rhagfyr 2006.

(5) Mae'r diwygiad a wneir gan erthygl 5 yn cael effaith o 31 Rhagfyr 2016(4).

Diwygio Gorchymyn Cynllun Pensiwn y Dynion Tân 1992

2.—(1) Mae Atodlen 2 i Orchymyn Cynllun Pensiwn y Dynion Tân 1992(5) (lle y mae Cynllun Pensiwn y Dynion Tân (Cymru) wedi ei nodi), wedi ei diwygio fel a ganlyn.

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- (1) 1972 p. 11; diwygiwyd adran 12 gan Ddeddf Pensiwnau (Darpariaethau Amrywiol) 1990 (p. 7).
 - (2) Diddymwyd adran 16 gan adran 52 o Ddeddf Gwasanaethau Tân ac Achub 2004, ac Atodlen 2 iddi, ond mae'n parhau i gael effaith, o ran Cymru, yn rhinwedd erthygl 3(2) o O.S. 2004/2918 (Cy. 257).
 - (3) 2004 p. 21. Mae'r pwerau a roddir gan adran 34 o Ddeddf Gwasanaethau Tân ac Achub 2004 bellach wedi eu breinio yng Ngweinidogion Cymru i'r graddau y maent yn arferadwy o ran Cymru. Yr oeddent wedi eu breinio'n flaenorol yng Nghynulliad Cenedlaethol Cymru yn rhinwedd adran 62 o'r Ddeddf honno. Yn rhinwedd paragraffau 30 a 32 o Atodlen 11 i Ddeddf Llywodraeth Cymru 2006, fe'u trosglwyddwyd i Weinidogion Cymru.
 - (4) Mae pŵer i roi effaith ôl-weithredol wedi ei roi gan adran 12(1) o Ddeddf Blwydd-daliadau 1972 a chan adran 34(3) o Ddeddf Gwasanaethau Tân ac Achub 2004.
 - (5) O.S. 1992/129; diwygiwyd gan O.S.au 1997/2309 a 2851, 1998/1010, 2001/3649 a 3691, 2004/1912 a 2918 (Cy. 257), 2006/1672 (Cy. 160), 2007/1074 (Cy. 112), 2009/1226 (Cy. 109), 2010/234, 2013/736 (Cy. 88), 2014/522 (Cy. 63) a 3242 (Cy. 329) a 2015/1016 (Cy. 71).

Act 1972(1) as applied by section 16(3)(2) of that Act, and by sections 34 and 62 of the Fire and Rescue Services Act 2004(3), now vested in the Welsh Ministers.

Before making this Order, and in accordance with section 34(5) of the Fire and Rescue Services Act 2004, the Welsh Ministers consulted such persons as they considered appropriate.

The Welsh Ministers make the following Order.

Title and commencement

1.—(1) The title of this Order is the Firefighters' Pension Schemes and Compensation Scheme (Wales) (Amendment) Order 2018 and it comes into force on 1 June 2018.

(2) The amendments made by—

- (a) article 2(2), (3), (4)(a) and (5); and
 - (b) articles 3(8) and 4;
- have effect from 1 April 2015.

(3) The amendments made by article 3(2) to (7) and (9) have effect from 6 April 2006.

(4) The amendments made by article 2(4)(b) have effect from 1 December 2006.

(5) The amendment made by article 5 has effect from 31 December 2016(4).

Amendment of the Firemen's Pension Scheme Order 1992

2.—(1) Schedule 2 to the Firemen's Pension Scheme Order 1992(5) (in which is set out the Firefighters' Pension (Wales) Scheme) is amended as follows.

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- (1) 1972 c. 11; section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).
 - (2) Section 16 was repealed by section 52 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 but continues to have effect, in relation to Wales, by virtue of article 3(2) of S.I. 2004/2918 (W. 257).
 - (3) 2004 c. 21. The powers conferred by section 34 of the Fire and Rescue Services Act 2004 are now vested in the Welsh Ministers so far as they are exercisable in relation to Wales. They were previously vested in the National Assembly for Wales by virtue of section 62 of that Act. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006, they were transferred to the Welsh Ministers.
 - (4) Power to give retrospective effect is conferred by section 12(1) of the Superannuation Act 1972 and by section 34(3) of the Fire and Rescue Services Act 2004.
 - (5) S.I. 1992/129; amended by S.I.s 1997/2309 and 2851, 1998/1010, 2001/3649 and 3691, 2004/1912 and 2918 (W. 257), 2006/1672 (W. 160), 2007/1074 (W. 112), 2009/1226 (W. 109), 2010/234, 2013/736 (W. 88), 2014/522 (W. 63) and 3242 (W. 329) and 2015/1016 (W. 71).

(2) Yn Rhan B (dyfarndaliadau personol)—

(a) yn rheol B1A(3)(1) (pensiwn gwasanaeth parhaus)—

(i) yn is-baragraff (a), yn lle “paragraph (1)(a)” rhodder “paragraph (1)(b)”;

(ii) yn lle is-baragraff (b) rhodder—

“(b) paragraph (1) of this rule applies as if the age ascertained under sub-paragraph (a) were substituted for “normal pension age”.”;

(b) yn rheol B2A(2) (pensiwn parhaus), yn lle “rule B1A(3)(i)” rhodder “rule B1A(3)(a)”;

(c) yn rheol B5A(4B)(a)(3) (yr hawlogaeth i gael dau pensiwn), yn lle “(A/B) x (B/C) x G” rhodder “(A/E) x (B/C) x G”;

(d) yn rheol B5D(1A)(4) (budd pensiwn ychwanegol: darpariaethau atodol), yn lle “paragraph (3)(i)” rhodder “paragraph (3)(a)”.

(3) Yn Rhan C (dyfarndaliadau yn sgil marwolaeth – priodau), yn rheol C9 (effaith ailbriodi)—

(a) ym mharagraff (1), yn lle “A person” rhodder “Subject to paragraphs (3) to (6), a person”;

(b) ym mharagraff (2), yn lle “Where a person” rhodder “Subject to paragraphs (3) to (6), where a person”;

(c) ar ôl paragraff (2) mewnosoder—

“(3) Paragraphs (1) and (2) do not apply in relation to a person (“P”) who is entitled to a pension or gratuity under this Part, where—

(a) P is either—

(i) entitled to a pension under rule C1 (spouse’s ordinary pension), rule C4 (spouse’s accrued pension), rule C5 (limitation on award to spouse or civil partner by reference to date of marriage or formation of partnership), rule C6 (spouse or civil partner’s requisite benefit and temporary pension) or rule C8 (limitation where spouses living apart); or

(2) In Part B (personal awards)—

(a) in rule B1A(3)(1) (continuous service pension)—

(i) in sub-paragraph (a), for “paragraph (1)(a)” substitute “paragraph (1)(b)”;

(ii) for sub-paragraph (b) substitute—

“(b) paragraph (1) of this rule applies as if the age ascertained under sub-paragraph (a) were substituted for “normal pension age”.”;

(b) in rule B2A(2) (continued pension), for “rule B1A(3)(i)” substitute “rule B1A(3)(a)”;

(c) in rule B5A(4B)(a)(3) (entitlement to two pensions), for “(A/B) x (B/C) x G” substitute “(A/E) x (B/C) x G”;

(d) in rule B5D(1A)(4) (additional pension benefit: supplementary provisions), for “paragraph (3)(i)” substitute “paragraph (3)(a)”.

(3) In Part C (awards on death – spouses), in rule C9 (effect of remarriage)—

(a) in paragraph (1), for “A person” substitute “Subject to paragraphs (3) to (6), a person”;

(b) in paragraph (2), for “Where a person” substitute “Subject to paragraphs (3) to (6), where a person”;

(c) after paragraph (2) insert—

“(3) Paragraphs (1) and (2) do not apply in relation to a person (“P”) who is entitled to a pension or gratuity under this Part, where—

(a) P is either—

(i) entitled to a pension under rule C1 (spouse’s ordinary pension), rule C4 (spouse’s accrued pension), rule C5 (limitation on award to spouse or civil partner by reference to date of marriage or formation of partnership), rule C6 (spouse or civil partner’s requisite benefit and temporary pension) or rule C8 (limitation where spouses living apart); or

(1) Mewnosodwyd rheol B1A gan reoliad 4 o O.S. 2015/1016 (Cy. 71), ac Atodlen 3 iddo.

(2) Mewnosodwyd rheol B2A gan reoliad 4 o O.S. 2015/1016 (Cy. 71), ac Atodlen 3 iddo.

(3) Mewnosodwyd rheol B5A gan erthygl 2 o O.S. 2009/1226 (Cy. 109), a’r Atodlen iddo, a mewnosodwyd paragraffau (4A) a (4B) gan erthygl 2 o O.S. 2014/3242 (Cy. 329), a’r Atodlen iddo.

(4) Mewnosodwyd rheol B5D gan erthygl 2 o O.S. 2009/1226 (Cy. 109), a’r Atodlen iddo, a mewnosodwyd paragraff (1A) gan reoliad 4 o O.S. 2015/1016 (Cy. 71), ac Atodlen 3 iddo.

(1) Rule B1A was inserted by regulation 4 of and Schedule 3 to S.I. 2015/1016 (W. 71).

(2) Rule B2A was inserted by regulation 4 of, and Schedule 3 to, S.I. 2015/1016 (W. 71).

(3) Rule B5A was inserted by article 2 of, and the Schedule to, S.I. 2009/1226 (W. 109) and paragraphs (4A) and (4B) inserted by article 2 of, and the Schedule to, S.I. 2014/3242 (W. 329).

(4) Rule B5D was inserted by article 2 of, and the Schedule to, S.I. 2009/1226 (W. 109) and paragraph (1A) inserted by regulation 4 of, and Schedule 3 to, S.I. 2015/1016 (W. 71).

- (ii) receiving a gratuity under rule C8(7); and
- (b) the deceased spouse or civil partner of P (“D”) died as a result of an injury—
 - (i) received in the exercise of D’s duties as a firefighter; or
 - (ii) sustained while on a journey necessary to enable D to report for duty or return home after duty.

(4) Where P’s entitlement to a pension or any part of a gratuity under this Part was removed by virtue of paragraph (1) or (2) prior to 1 April 2015 and the conditions in paragraph (3) were satisfied in relation to P, entitlement to the pension or part of gratuity is reinstated with effect from 1 April 2015 and the pension or part of gratuity becomes payable as from that date.

(5) Nothing in paragraph (4) requires the making of any payment where the person to whom the payment would otherwise have been made has died prior to 1 April 2015.

(6) Where a payment is required to be made under paragraph (4) in respect of a person who has died between 1 April 2015 and 1 June 2018, the amount due must be paid to that person’s personal representatives.”

- (4) Yn Rhan G (tâl pensiynadwy a chyfraniadau)—
- (a) yn rheol G1 (tâl pensiynadwy a thâl pensiynadwy cyfartalog)—
 - (i) ym mharagraffau (10) ac (11)(1), yn lle “paragraph 34 of Schedule 2” rhodder “paragraph 33 of Schedule 2”;
 - (ii) ym mharagraff (11), yn lle “paragraph 34(4) of Schedule 2” rhodder “paragraph 33(4) of Schedule 2”;
 - (iii) ym mharagraff (13), yn lle “paragraph 34(3) of Schedule 2” rhodder “paragraph 33(3) of Schedule 2”; a
 - (b) yn rheol G2 (cyfraniadau pensiwn)—
 - (i) ym mharagraff (1), yn lle “paragraph (1B)”(2) rhodder “paragraphs (1B) to (1D)”;
 - (ii) ar ôl paragraff (1B) mewnosoder—
“(1C) A firefighter who is—
 - (a) below the age of 50 and has reckoned 30 years’ pensionable service; and

- (ii) receiving a gratuity under rule C8(7); and
- (b) the deceased spouse or civil partner of P (“D”) died as a result of an injury—
 - (i) received in the exercise of D’s duties as a firefighter; or
 - (ii) sustained while on a journey necessary to enable D to report for duty or return home after duty.

(4) Where P’s entitlement to a pension or any part of a gratuity under this Part was removed by virtue of paragraph (1) or (2) prior to 1 April 2015 and the conditions in paragraph (3) were satisfied in relation to P, entitlement to the pension or part of gratuity is reinstated with effect from 1 April 2015 and the pension or part of gratuity becomes payable as from that date.

(5) Nothing in paragraph (4) requires the making of any payment where the person to whom the payment would otherwise have been made has died prior to 1 April 2015.

(6) Where a payment is required to be made under paragraph (4) in respect of a person who has died between 1 April 2015 and 1 June 2018, the amount due must be paid to that person’s personal representatives.”

- (4) In Part G (pensionable pay and contributions)—
- (a) in rule G1 (pensionable pay and average pensionable pay)—
 - (i) in paragraphs (10) and (11)(1), for “paragraph 34 of Schedule 2” substitute “paragraph 33 of Schedule 2”;
 - (ii) in paragraph (11), for “paragraph 34(4) of Schedule 2” substitute “paragraph 33(4) of Schedule 2”;
 - (iii) in paragraph (13), for “paragraph 34(3) of Schedule 2” substitute “paragraph 33(3) of Schedule 2”; and
 - (b) in rule G2 (pension contributions)—
 - (i) in paragraph (1), for “paragraph (1B)”(2) substitute “paragraphs (1B) to (1D)”;
 - (ii) after paragraph (1B) insert—
“(1C) A firefighter who is—
 - (a) below the age of 50 and has reckoned 30 years’ pensionable service; and

(1) Mewnosodwyd rheol G1(10) i (13) gan O.S. 2015/1016 (Cy. 71).
 (2) Mewnosodwyd rheol G2(1B) gan O.S. 2016/1136 (Cy. 274).

(1) Rule G1(10) to (13) was inserted by S.I. 2015/1016 (W. 71).
 (2) Rule G2(1B) was inserted by S.I. 2016/1136 (W. 274).

- (b) entitled to be credited with additional pension benefit under rule B5B or B5C,

until the firefighter attains the age of 50, pays pensions contributions to the fire and rescue authority only in relation to that additional pension benefit.

(1D) Contributions payable under paragraph (1C) are payable—

- (a) at the rate of 11% in the period starting on 1 December 2006 and ending on 31 March 2012; and
- (b) on and after 1 April 2012 at the rate specified in the Table in paragraph 3 of Part A1 of Schedule 8.”; a

(iii) yn lle paragraff (4) rhodder—

“(4) The annual contribution is such percentage of the authority’s estimate of the aggregate of the pensionable pay, for the year in respect of which the contribution is made, of those firefighters employed by the authority who are—

- (a) required by paragraph (1) to make pensions contributions in that year; and
- (b) below the age of 50 and have reckoned 30 years’ pensionable service,
- as shall have been notified to them for that year by the Secretary of State.”

(5) Yn Rhan 2A(1) (pensiwn gwasanaeth parhaus) o Atodlen 2 (dyfarndaliadau personol) yn lle “40 years”, lle y mae’r geiriau’n digwydd am y tro cyntaf, rhodder “30 years”.

Diwygio Gorchymyn Cynllun Pensiwn y Diffoddwyr Tân (Cymru) 2007

3.—(1) Mae Atodlen 1 i Orchymyn Cynllun Pensiwn y Diffoddwyr Tân (Cymru) 2007(2) wedi ei diwygio fel a ganlyn.

(2) Yn y Tabl Cynnwys, ym mhenawdau Pennod 1 o Ran 4 a rheolau 1 a 5 o’r Bennod honno, yn lle “phartneriaid enwebedig” rhodder “phartneriaid sy’n cyd-fyw”.

(3) Yn Rhan 1 (enwi a dehongli), yn rheol 2(1) (dehongli)—

- (b) entitled to be credited with additional pension benefit under rule B5B or B5C,

until the firefighter attains the age of 50, pays pensions contributions to the fire and rescue authority only in relation to that additional pension benefit.

(1D) Contributions payable under paragraph (1C) are payable—

- (a) at the rate of 11% in the period starting on 1 December 2006 and ending on 31 March 2012; and
- (b) on and after 1 April 2012 at the rate specified in the Table in paragraph 3 of Part A1 of Schedule 8.”; and

(iii) for paragraph (4) substitute—

“(4) The annual contribution is such percentage of the authority’s estimate of the aggregate of the pensionable pay, for the year in respect of which the contribution is made, of those firefighters employed by the authority who are—

- (a) required by paragraph (1) to make pensions contributions in that year; and
- (b) below the age of 50 and have reckoned 30 years’ pensionable service,
- as shall have been notified to them for that year by the Secretary of State.”

(5) In Part 2A(1) (continuous service pension) of Schedule 2 (personal awards), for “40 years”, where the words occur for the first time, substitute “30 years”.

Amendment of the Firefighters’ Pension Scheme (Wales) Order 2007

3.—(1) Schedule 1 to the Firefighters’ Pension Scheme (Wales) Order 2007(2) is amended as follows.

(2) In the Table of Contents, in the headings to Chapter 1 of Part 4 and rules 1 and 5 of that Chapter, for “nominated partners” substitute “cohabiting partners”.

(3) In Part 1 (title and interpretation), in rule 2(1) (interpretation)—

(1) Mewnosodwyd Rhan 2A gan reoliad 4 o O.S. 2015/1016 (Cy. 71) ac Atodlen 3 iddo.

(2) O.S. 2007/1072 (Cy. 110); gwnaed diwygiadau perthnasol gan O.S. 2015/1016 (Cy. 71).

(1) Part 2A was inserted by regulation 4 of and Schedule 3 to S.I. 2015/1016 (W. 71).

(2) S.I. 2007/1072 (W. 110); relevant amendments were made by S.I. 2015/1016 (W. 71).

- (a) yn y diffiniad o “plentyn”, ym mharagraff (a)(iii), yn lle “bartner enwebedig” rhodder “bartner sy’n cyd-fyw”;
- (b) hepgorer y diffiniad o “partner enwebedig”; ac
- (c) yn y man priodol mewnosoder—
“mae i “partner sy’n cyd-fyw” (“*cohabiting partner*”) yr ystyr a roddir gan reol 1(6) o Ran 2;”.
- (4) Yn Rhan 2 (aelodaeth o’r cynllun, diweddu ac ymddeol), yn rheol 1 (aelodaeth o’r cynllun)—
- (a) ym mharagraff (5)(b), yn lle “bartner enwebedig” rhodder “bartner sy’n cyd-fyw”;
- (b) yn lle paragraff (6) rhodder—
“(6) At ddibenion paragraff (5), partner sy’n cyd-fyw i aelod-ddiffoddwr tân, aelod gohiriedig neu aelod-bensiynwr (y cyfeirir ato yn y paragraff hwn fel “yr aelod o’r cynllun”) yw person—
- (a) sy’n byw gyda’r aelod o’r cynllun fel pe bai’r person hwnnw a’r aelod o’r cynllun yn briodau neu’n bartneriaid sifil; a
- (b) ar y dyddiad y mae’r cwestiwn o statws y partner sy’n cyd-fyw mewn perthynas â’r aelod o’r cynllun i fod i gael ei ystyried—
- (i) nad yw’n briod nac yn bartner sifil i unrhyw berson,
- (ii) a allai ymrwymo i briodas neu bartneriaeth sifil â’r aelod o’r cynllun o dan gyfraith Cymru a Lloegr,
- (iii) sy’n dibynnu’n ariannol ar yr aelod o’r cynllun, neu sydd, gyda’r aelod o’r cynllun, yn dibynnu’n ariannol ar ei gilydd, a
- (iv) sydd mewn perthynas hirdymor â’r aelod o’r cynllun.”;
- (c) hepgorer paragraff (7)(b);
- (d) hepgorer paragraffau (8) a (9).
- (5) Yn Rhan 3 (dyfarndaliadau personol), yn rheol 11(2)(a) (dyrannu pensiwn), yn lle “bartner enwebedig” rhodder “bartner sy’n cyd-fyw”.
- (6) Ym Mhennod 1 o Ran 4 (pensiynau goroeswyr)—
- (a) ym mhennawd y Bennod ac ym mhennawd rheol 1, yn lle “phartneriaid enwebedig” rhodder “phartneriaid sy’n cyd-fyw”;
- (a) in the definition of “child”, in paragraph (a)(iii), for “nominated partner” substitute “cohabiting partner”;
- (b) omit the definition of “nominated partner”; and
- (c) in the appropriate place insert—
““cohabiting partner” (“*partner sy’n cyd-fyw*”) has the meaning given by rule 1(6) of Part 2;”.
- (4) In Part 2 (scheme membership, cessation and retirement), in rule 1 (scheme membership)—
- (a) in paragraph (5)(b), for “nominated partner” substitute “cohabiting partner”;
- (b) for paragraph (6) substitute—
“(6) For the purposes of paragraph (5), the cohabiting partner of a firefighter member, deferred member or pensioner member (referred to in this paragraph as “the scheme member”) is a person who—
- (a) is living with the scheme member as if that person and the scheme member were spouses or civil partners; and
- (b) at the date on which the question of the cohabiting partner’s status in relation to the scheme member falls to be considered—
- (i) is not the spouse or civil partner of any person,
- (ii) could enter into a marriage or a civil partnership with the scheme member under the law of England and Wales,
- (iii) is financially dependent on the scheme member, or is, with the scheme member, in a state of mutual financial dependency, and
- (iv) is in a long-term relationship with the scheme member.”;
- (c) omit paragraph (7)(b);
- (d) omit paragraphs (8) and (9).
- (5) In Part 3 (personal awards), in rule 11(2)(a) (allocation of pension), for “nominated partner” substitute “cohabiting partner”.
- (6) In Chapter 1 of Part 4 (survivors’ pensions)—
- (a) in the Chapter heading and in the heading to rule 1, for “nominated partners” substitute “cohabiting partners”;

- (b) yn rheol 1, yn y geiriau sy'n cau paragraff (1), yn lle “bartner enwebedig” rhodder “bartner sy'n cyd-fyw”;
- (c) ym mhennawd rheol 5, yn lle “phartneriaid enwebedig” rhodder “phartneriaid sy'n cyd-fyw”.

(7) Yn Rhan 7 (personau wrth gefn), yn rheol 3 (dyfardaliadau yn sgil marwolaeth neu anabledd parhaol), yn y geiriau sy'n cau paragraff (3), yn lle “bartner enwebedig” rhodder “bartner sy'n cyd-fyw”.

(8) Yn Rhan 11 (tâl pensiynadwy, cyfraniadau pensiwn a phrynu gwasanaeth ychwanegol)—

- (a) yn rheol 1 (tâl pensiynadwy)—
 - (i) ym mharagraffau (7) ac (8), yn lle “baragraff 33 o Atodlen 2” rhodder “baragraff 32 o Atodlen 2”;
 - (ii) ym mharagraff (8), yn lle “pharagraff 33(4) o Atodlen 2” rhodder “pharagraff 32(4) o Atodlen 2”; a
 - (iii) ym mharagraff (9), yn lle “paragraff 33(3) o Atodlen 2” rhodder “paragraff 32(3) o Atodlen 2”;
- (b) yn rheol 2 (tâl pensiynadwy terfynol), ym mharagraff (2A)(b), yn lle “paragraff 33(4) o Atodlen 2” rhodder “paragraff 32(4) o Atodlen 2”.

(9) Yn Rhan 15, hepgorer rheolau 5(3) a 6(3).

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

4.—(1) Mae Gorchymyn Cynllun Digolledu'r Diffoddwyr Tân (Cymru) 2007(1) wedi ei ddiwygio fel a ganlyn.

(2) Yn erthygl 4 (darpariaeth drosiannol: penderfyniadau a dyfarniadau a wnaed cyn 1 Ebrill 2006)—

- (a) ym mharagraff (1), ar ôl “disablement” mewnosoder “or death”;
- (b) ym mharagraff (2), ar ôl “1 April 2006,” mewnosoder “subject to the amendments made by paragraphs (3) and (4)”;
- (c) ar ôl paragraff (2) mewnosoder—
“(3) Omit rule C9 (effect of a new relationship).

- (b) in rule 1, in the closing words of paragraph (1), for “nominated partner” substitute “cohabiting partner”;

- (c) in the heading to rule 5, for “nominated partner” substitute “cohabiting partners”.

(7) In Part 7 (reservists), in rule 3 (awards on death or permanent disablement), in the closing words of paragraph (3), for “nominated partner” substitute “cohabiting partner”.

(8) In Part 11 (pensionable pay, pension contributions and purchase of additional service)—

- (a) in rule 1 (pensionable pay)—
 - (i) in paragraphs (7) and (8), for “paragraph 33 of Schedule 2” substitute “paragraph 32 of Schedule 2”;
 - (ii) in paragraph (8), for “paragraph 33(4) of Schedule 2” substitute “paragraph 32(4) of Schedule 2”; and
 - (iii) in paragraph (9), for “paragraph 33(3) of Schedule 2” substitute “paragraph 32(3) of Schedule 2”;
- (b) in rule 2 (final pensionable pay), in paragraph (2A)(b), for “paragraph 33(4) of Schedule 2” substitute “paragraph 32(4) of Schedule 2”.

(9) In Part 15, omit rules 5(3) and 6(3).

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

4.—(1) The Firefighters' Compensation Scheme (Wales) Order 2007(1) is amended as follows.

(2) In article 4 (transitional provision: decisions and determinations made before 1 April 2006)—

- (a) in paragraph (1), after “disablement” insert “or death”;
- (b) in paragraph (2), after “1 April 2006,” insert “subject to the amendments made by paragraphs (3) and (4)”;
- (c) after paragraph (2) insert—
“(3) Omit rule C9 (effect of a new relationship).

(1) O.S. 2007/1073 (Cy. 111); diwygiwyd gan O.S.au 2010/234, 2014/3256 (Cy. 331) a 2015/1013 (Cy. 69).

(1) S.I. 2007/1073 (W. 111); amended by S.I.s 2010/234, 2014/3256 (W. 331) and 2015/1013 (W. 69).

(4) Where entitlement to a pension or any part of a gratuity under this Part was removed by virtue of rule C9 prior to 1 April 2015, entitlement to the pension or part of gratuity is reinstated with effect from 1 April 2015 and the pension or part of gratuity becomes payable as from that date.

(5) Nothing in paragraph (4) requires the making of any payment where the person to whom the payment would otherwise have been made has died prior to 1 April 2015.

(6) Where a payment is required to be made under paragraph (4) in respect of a person who has died between 1 April 2015 and 1 June 2018, the amount due must be paid to that person's personal representatives."

(3) Yn Atodlen 1, yn Rhan 3 (dyfarndaliadau yn sgil marwolaeth: priodau a phartneriaid sifil)—

(a) hepgorer rheol 5 (effaith perthynas newydd);
a

(b) ar ôl rheol 5, mewnosoder—

“Reinstatement of entitlement to pension and gratuity

5A.—(1) The revocation of rule 5 of this Part by the Firefighters’ Pension Schemes and Compensation Scheme (Wales) (Amendment) Order 2018 has the effect of reinstating entitlement to a pension or any part of a gratuity under this Part which was removed by virtue of paragraph (1) or (2) prior to 1 April 2015, with effect from and payable as from that date.

(2) Nothing in paragraph (1) requires the making of any payment where the person to whom the payment would otherwise have been made has died prior to 1 April 2015.

(3) Where a payment is required to be made under paragraph (1) in respect of a person who has died between 1 April 2015 and 1 June 2018, the amount due must be paid to that person's personal representatives."

(4) Where entitlement to a pension or any part of a gratuity under this Part was removed by virtue of rule C9 prior to 1 April 2015, entitlement to the pension or part of gratuity is reinstated with effect from 1 April 2015 and the pension or part of gratuity becomes payable as from that date.

(5) Nothing in paragraph (4) requires the making of any payment where the person to whom the payment would otherwise have been made has died prior to 1 April 2015.

(6) Where a payment is required to be made under paragraph (4) in respect of a person who has died between 1 April 2015 and 1 June 2018, the amount due must be paid to that person's personal representatives."

(3) In Schedule 1, in Part 3 (awards on death: spouses and civil partners)—

(a) omit rule 5 (effect of new relationship); and

(b) after rule 5, insert—

“Reinstatement of entitlement to pension and gratuity

5A.—(1) The revocation of rule 5 of this Part by the Firefighters’ Pension Schemes and Compensation Scheme (Wales) (Amendment) Order 2018 has the effect of reinstating entitlement to a pension or any part of a gratuity under this Part which was removed by virtue of paragraph (1) or (2) prior to 1 April 2015, with effect from and payable as from that date.

(2) Nothing in paragraph (1) requires the making of any payment where the person to whom the payment would otherwise have been made has died prior to 1 April 2015.

(3) Where a payment is required to be made under paragraph (1) in respect of a person who has died between 1 April 2015 and 1 June 2018, the amount due must be paid to that person's personal representatives."

Diwygio Gorchymyn Cynllun Pensiwn y Dynion Tân (Cymru) (Diwygio a Darpariaethau Trosiannol) 2016

5. Yn y disgrifiad o “A” ym mharagraff (3) o erthygl 3 (darpariaeth drosiannol) o Orchymyn Cynllun Pensiwn y Dynion Tân (Cymru) (Diwygio a Darpariaethau Trosiannol 2016(1), ar ôl “cyfraniad”, y tro cyntaf y mae’n ymddangos, mewnosoder “(heb gynnwys unrhyw gyfraniad mewn perthynas â budd pensiwn ychwanegol)”.

Amendment of the Firefighters’ Pension (Wales) Scheme (Amendment and Transitional Provisions) Order 2016

5. In the description of “A” in paragraph (3) of article 3 (transitional provision) of the Firefighters’ Pension (Wales) Scheme (Amendment and Transitional Provisions) Order 2016(1), after “contribution”, the first time that it appears, insert “(not including any contribution in relation to an additional pension benefit)”.

Alun Davies

Ysgrifennydd y Cabinet dros Lywodraeth Leol a Gwasanaethau Cyhoeddus, un o Weinidogion Cymru
9 Mai 2018

Cabinet Secretary for Local Government and Public Services, one of the Welsh Ministers
9 May 2018

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(1) O.S. 2016/1136 (Cy. 274).

(1) S.I. 2016/1136 (W. 274).

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