

SL(5)215 – The Firefighters’ Pension Scheme (Wales) (Amendment) Regulations 2018

Background and Purpose

These Regulations amend the Firefighters’ Pension Scheme (Wales) Regulations (SI 2015/622) (‘the 2015 Regulations’) by making a number of technical amendments. The 2015 Regulations established a scheme (‘the 2015 scheme’) for the payment of pensions and other benefits to firefighters in Wales from 1 April 2015.

In addition, these Regulations also amend The Firefighters’ Pension Scheme (Wales) (Transitional and Consequential Provisions) Regulations 2015 (which govern the transfer of members from the 1992 and 2007 schemes into the 2015 scheme) to make a minor technical amendment.

Procedure

Negative

Technical Scrutiny

No points are identified for reporting under Standing Order 21.2 in respect of this instrument.

Merits Scrutiny

A point is identified for reporting under Standing Order 21.3 in respect of this instrument.

The provisions within The Firefighters’ Pension Scheme (Wales) (Amendment) Regulations 2018 are retrospective and have effect from 1 April 2015, the date on which the 2015 scheme came in to force, (with the exception of regulation 8(3) which has effect 1 June 2018).

The power to make retrospective provision in regulations is conferred by section 3(3)(b) of the Public Service Pensions Act 2013 (‘the 2013 Act’). Section 23 of the 2013 Act sets out a procedure for making retrospective provision including:

- under subsection (1) a requirement for consent to be obtained from persons likely to be affected by the provisions where retrospective provision appears to have significant adverse effects in relation to the pension payable or in respect of members of the scheme: or
- under subsection (2) a requirement to consult persons likely to be affected by the provisions (with a view to reaching agreement with such persons) where retrospective provision appears to not have significant adverse effects as specified in subsection (1) but to have significant adverse effects in any other way in relation to members of the scheme.

In relation to the retrospective procedure under section 23 of the 2014 Act, the Welsh Government has clarified to Legal Services of the Assembly that section 23 does not apply to these Regulations because there are no significant adverse effect on members of the scheme and the purpose of the Regulations is to correct errors and/or clarify matters or in relation to the other provisions which have retrospective effect. This explanation appears satisfactory. In addition, the Welsh Government has also confirmed that a full consultation exercise has been carried out in the development of these Regulations with bodies that represent pension scheme members.



Implications arising from exiting the European Union

No points are identified for reporting under Standing Order 21.3 in respect of this instrument.

Government Response

The Welsh Government is fully aware of the effect of section 23 of the Public Service Pensions Act 2013. This requires the Welsh Ministers to consult, and/or seek the consent of, scheme members or their representatives to any retrospective changes to scheme rules which would have a significant adverse effect on scheme members. The Welsh Government believes these regulations would have no such effect. Their only purpose is to correct technical errors and ambiguities in the scheme rules, so any effect on members is neutral or positive. A full consultation exercise was nevertheless carried out and the draft SI was annexed. None of the respondents, including all of the main firefighters' unions, raised any issues in relation to any significant adverse effects.

Legal Advisers

Constitutional and Legislative Affairs Committee

15 May 2018

