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WELSH STATUTORY INSTRUMENTS

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**2015 No. 622**

**The Firefighters' Pension Scheme (Wales) Regulations 2015**

**PART 9**

**Firefighters' Pension Fund**

**Interpretation of Part**

**130.** In this Part—

“the audited information” (“*yr wybodaeth archwiliedig*”) means—

- (a) the audited accounts referred to in regulation 134(1)(d),
- (b) any report by the auditor in relation to those accounts, and
- (c) if the scheme manager revises the information referred to in regulation 134(1)(e) and (f), that revised information;

“FPF” (“*CBDT*”) has the meaning given in regulation 131 (establishment of Firefighters' Pension Fund);

“estimate” (“*amcangyfrif*”) means the information referred to in regulation 134(1)(a) and (b) (information to be provided to the Welsh Ministers);

“relevant financial year” (“*blwyddyn ariannol berthnasol*”) means a financial year ending on or after 31 March 2016 in respect of which the scheme manager is required by regulation 134(1) to provide information to the Welsh Ministers; and

“revised estimate” (“*amcangyfrif diwygiedig*”) means the revised information referred to in regulation 134(4);

“the un-audited information” (“*yr wybodaeth nas archwiliwyd*”) means the information referred to in regulation 134(1)(c), (e) and (f).

**Establishment of Firefighters' Pension Fund**

**131.** The Firefighters' Pension Fund established and maintained by the scheme manager for the purposes of the 1992 Scheme, and used by the scheme manager for payments and receipts required or authorised to be made under the NFPS, must also be used for the purpose of payments and receipts required or authorised to be made under these Regulations.

**Payments into the Firefighters' Pension Fund**

**132.** The scheme manager must pay into the FPF—

- (a) any employer contribution paid by the employer which is required by regulation 126 (employer contributions);
- (b) any employer additional contribution paid by the employer in respect of a higher tier ill health pension which is required by regulation 127(1) (employer additional contribution: ill-health award);

- (c) any employer additional contribution paid by the employer in respect of a lower tier ill health pension which is required by regulation 127(3) (employer additional contribution: ill-health award);
- (d) any employer additional contribution paid by the employer in respect of an employer initiated retirement which is required by regulation 129(1) (employer additional contribution: employer initiated retirement);
- (e) any member contributions paid under regulation 119 (member contributions), regulation 120 (contributions during absence from work due to illness, injury, trade dispute or authorised absence), regulation 121 (contributions during absence from work on reserve forces service leave) or regulation 122 (contributions during child-related leave);
- (f) any member contributions for added pension paid under Schedule 1 (payments for added pension);
- (g) any club transfer value payment received; and
- (h) any transfer value payment received.

#### **Payments to be made from the Firefighters' Pension Fund**

**133.** The scheme manager must make payments out of the FPF in respect of the following—

- (a) any repayment of a member's contributions and payments required by regulation 125 (refund of all member contributions and payments for additional pension made by member);
- (b) any refund of the amount of the employer additional contribution for an ill-health award under regulation 128 (refund of employer additional contribution for ill-health award following review);
- (c) any pension or award payable under this scheme;
- (d) any club transfer value payment to be paid in respect of a member's accrued benefits in this scheme; and
- (e) any transfer value payment required to be paid in respect of a member's accrued benefits in this scheme.

#### **Information to be provided to the Welsh Ministers**

**134.—(1)** The scheme manager must for each financial year ending on or after 31 March 2016 ("relevant financial year") send the following information in writing to the Welsh Ministers—

- (a) the total amount that the scheme manager estimates will be payable out of the FPF in that financial year;
- (b) the total amount that the scheme manager estimates will be credited to the FPF in that financial year;
- (c) the un-audited accounts relating to the FPF for that financial year;
- (d) the audited accounts relating to the FPF for that financial year;
- (e) the total amount paid out of the FPF in that financial year; and
- (f) the total amount paid into the FPF in that financial year.

(2) The information in paragraph (1) must be sent in the form specified in writing by the Welsh Ministers.

(3) Subject to paragraph (7), the scheme manager must send the estimate for each relevant financial year to the Welsh Ministers by such date before the start of the relevant financial year as the Welsh Ministers, may, in writing, specify.

(4) If the scheme manager revises any of the information sent in the estimate, the scheme manager must send the revised information (“the revised estimate”) to the Welsh Ministers by such date during the relevant financial year as the Welsh Ministers may, in writing, specify.

(5) The scheme manager must send the un-audited information to the Welsh Ministers by such date after the end of the relevant financial year as the Welsh Ministers may, in writing, specify.

(6) The scheme manager must send the audited information to the Welsh Ministers by such date after the end of the financial year as the Welsh Ministers may, in writing, specify.

(7) In relation to the relevant financial year ending on 31 March 2016 the scheme manager must send the estimate to the Welsh Ministers as soon as reasonably practicable after the start of that financial year.

### **Estimated deficits**

**135.**—(1) Where, having taken into account the estimate and any other relevant information, it appears to the Welsh Ministers that the total amount likely to be payable out of the FPF in the relevant financial year will exceed the total amount likely to be payable into that FPF in that year, the Welsh Ministers must pay an amount to the scheme manager equal to 80% of the likely deficit.

(2) Where, having taken into account any revised estimate and any other relevant information, it appears to the Welsh Ministers that—

(a) the total amount likely to be payable out of the FPF in the relevant financial year will exceed the total amount likely to be paid into the FPF in that year; and

(b) 80% of the likely deficit is more than—

(i) the amount paid or payable by the Welsh Ministers to the scheme manager under paragraph (1) in relation to the relevant financial year, or

(ii) where no such amount was paid or payable by the Welsh Ministers, zero,

the Welsh Ministers may pay to the scheme manager such amount as the Welsh Ministers think fit.

(3) Where the Welsh Ministers have paid an amount to a scheme manager under paragraphs (1) and (2), the total of these amounts must not exceed 80% of the likely deficit of the FPF for that year.

(4) Where the Welsh Ministers pay an amount to a scheme manager under paragraph (2), any amount paid or payable by the scheme manager to the Welsh Ministers in relation to the relevant financial year under regulation 136(1) (estimated surpluses) must not be paid or, if paid, the Welsh Ministers must repay it.

(5) The Welsh Ministers must make the payment to the scheme manager under paragraph (1) before the end of July of the relevant financial year or as soon as reasonably practicable thereafter.

(6) Where the Welsh Ministers make a payment under paragraph (2) or a repayment under paragraph (4), the payment or repayment must be made before the end of the relevant financial year or as soon as reasonably practicable thereafter.

### **Estimated surpluses**

**136.**—(1) Where, having taken into account the estimate and any other relevant information, it appears to the Welsh Ministers that the total amount likely to be paid into the FPF in the relevant financial year will exceed the total amount likely to be payable out of the FPF in that year, the Welsh Ministers must require the scheme manager to pay to the Welsh Ministers an amount equal to 80% of the likely surplus.

(2) Where, having taken into account any revised estimate and any other relevant information, it appears to the Welsh Ministers that—

- (a) the total amount likely to be paid into the FPF in the relevant financial year will exceed the total amount likely to be payable out of the FPF in that year; and
- (b) 80% of the likely surplus is more than—
  - (i) the amount paid or payable by the scheme manager to the Welsh Ministers under paragraph (1) in relation to the relevant financial year, or
  - (ii) where no such amount was paid or payable by the scheme manager, zero,

the Welsh Ministers may require the scheme manager to pay to the Welsh Ministers such amount as the Welsh Ministers may by notice in writing specify.

(3) Where the scheme manager has paid an amount to the Welsh Ministers under paragraphs (1) and (2), the total of these amounts must not exceed 80% of the likely surplus of the FPF for that year.

(4) Where the Welsh Ministers require the scheme manager to pay an amount under paragraph (2), any amount paid or payable by the Welsh Ministers to the scheme manager in relation to the relevant financial year under regulation 135(1) (estimated deficits) must not be paid or, if paid, the scheme manager must repay it.

(5) The Welsh Ministers must give to the scheme manager, on or before 3 March of the relevant financial year, written notice of the amount of any payment or repayment that the Welsh Ministers require the scheme manager to make under paragraph (1), (2) or (4).

(6) Where the scheme manager is required to make a payment under paragraphs (1) or (2) or to make a repayment under paragraph (4), the payment or repayment must be made before the end of the relevant financial year or as soon as reasonably practicable thereafter.

### **Actual deficits**

**137.**—(1) Where, having taken into account the un-audited information and any other relevant information, it appears to the Welsh Ministers that the total amount likely to be payable out of the FPF in the relevant financial year exceeds the total amount likely to be paid or payable into the FPF in that year—

- (a) where the likely deficit (“the un-audited deficit”) exceeds the total of any amount paid or payable to the scheme manager in relation to that year under regulation 135(1) or (2) (estimated deficits) (“the regulation 135 total”), the Welsh Ministers must pay to the scheme manager the amount of the un-audited deficit less the regulation 135 total;
- (b) where the un-audited deficit is less than the regulation 135 total, the amount of the regulation 135 total less the un-audited deficit is not payable under regulation 135 (1) or (2) and, if already paid, the scheme manager must repay that amount to the Welsh Ministers;
- (c) where no amount was paid or payable by the Welsh Ministers to the scheme manager in relation to the relevant financial year under regulation 135(1) or (2), the Welsh Ministers must pay to the scheme manager the amount of the un-audited deficit; and
- (d) any amount paid or payable to the Welsh Ministers in relation to that year under regulation 136(1) or (2) is not payable and, if already paid, the Welsh Ministers must repay it to the scheme manager.

(2) Where, having taken into account the audited information and any other relevant information, it appears to the Welsh Ministers that the total amount paid or payable out of the FPF in the relevant year exceeds the total amount paid or payable into the FPF in that year—

- (a) where the difference between those total amounts (“the audited deficit”) exceeds the total of any amounts paid (but not repaid or repayable) or payable to the scheme manager in relation to that year under paragraph (1)(a) or (c) or regulation 135(1) or (2) (“the un-audited total”), the Welsh Ministers must pay to the scheme manager the amount of the audited deficit less the un-audited total;

- (b) where the audited deficit is less than the un-audited total, the amount of the un-audited total less the audited deficit is not payable under paragraphs (1)(a) or (c) or regulation 135(1) or (2) and, if already paid, the scheme manager must repay it to the Welsh Ministers;
- (c) where no amount was paid or payable by the Welsh Ministers to the scheme manager in relation to the relevant financial year under paragraphs (1)(a) or (c) or regulation 135(1) or (2), the Welsh Ministers must pay to the scheme manager the amount of the audited deficit; and
- (d) any amount paid or payable to the Welsh Ministers in relation to the relevant financial year under regulation 136(1) or (2) or regulation 138(1)(a) or (c) is not payable and, if already paid, the Welsh Ministers must repay it to the scheme manager.

(3) Where the Welsh Ministers, or the scheme manager, as the case maybe, are required to make a payment or repayment under paragraph (1), it must be made before the end of July in the financial year following the relevant financial year (“the second year”) or as soon as reasonably practicable thereafter.

(4) Where the Welsh Ministers or the scheme manager, as the case maybe, are required to make a payment or repayment under paragraph (2), it must be made before the end of July in the financial year following the second year or as soon as reasonably practicable thereafter.

### **Actual surpluses**

**138.**—(1) Where, having taken into account the un-audited information and any other relevant information, it appears to the Welsh Ministers that the total amount paid into the FPF in the relevant financial year exceeds the total amount paid out of that FPF in that year—

- (a) where the difference between those total amounts (“the un-audited surplus”) exceeds the total of any amounts paid or payable to the Welsh Ministers by the scheme manager in relation to that year under regulation 136(1) or (2) (“the regulation 136 total”), the Welsh Ministers must require the scheme manager to pay to the Welsh Ministers the amount of the un-audited surplus less the regulation 136 total;
- (b) where the un-audited surplus is less than the regulation 136 total, the amount of the regulation 136 total less the un-audited surplus is not payable under regulation 136(1) or (2) and, if already paid, the Welsh Ministers must repay it to the scheme manager;
- (c) where no amount was paid or payable to the Welsh Ministers by the scheme manager in relation to the relevant financial year under regulation 136(1) or (2), the Welsh Ministers must require the scheme manager to pay to the Welsh Ministers the amount of the un-audited surplus; and
- (d) any amount paid or payable by the Welsh Ministers to the scheme manager in relation to that year under regulation 135(1) or (2) is not payable and, if already paid, the scheme manager must repay it to the Welsh Ministers.

(2) Where, having taken into account the audited information and any other relevant information, it appears to the Welsh Ministers that the total amount paid into the FPF in the relevant financial year exceeds the total amount payable out of that FPF in that year—

- (a) where the difference between those total amounts (“the audited surplus”) exceeds the total of any amounts paid (but not repaid or repayable) or payable to the Welsh Ministers by the scheme manager in relation to that year under paragraph (1)(a) or (c) or regulation 136(1) or (2) (“the un-audited regulation 136 total”), the Welsh Ministers must require the scheme manager to pay to the Welsh Ministers out of the FPF the amount of the audited surplus less the un-audited regulation 136 total;
- (b) where the audited surplus is less than the un-audited regulation 136 total, the amount of the un-audited regulation 136 total less the audited surplus is not payable under paragraphs (1)

- (a) or (c) or regulation 136(1) or (2) and, if already paid, the Welsh Ministers must repay it to the scheme manager;
  - (c) where no amount was paid or payable to the Welsh Ministers by the scheme manager in relation to the relevant financial year under paragraphs (1)(a) or (c) or regulation 136(1) or (2), the Welsh Ministers must require the scheme manager to pay to the Welsh Ministers the amount of the audited surplus; and
  - (d) any amount paid or payable by the Welsh Ministers to the scheme manager in relation to that year under regulation 135(1) or (2) or regulation 137(1)(a) or (c) is not payable and, if already paid, the scheme manager must repay it to the Welsh Ministers.
- (3) The Welsh Ministers must give to the scheme manager, on or before 3 July in the financial year after the relevant financial year (“the second year”), written notice of the amount of the payment that the Welsh Ministers require the scheme manager to make under paragraph (1)(a) or (c).
- (4) Where the Welsh Ministers or the scheme manager, as the case maybe, are required to make a payment or repayment under paragraph (1), it must be made before the end of July in the second year or as soon as reasonably practicable thereafter.
- (5) The Welsh Ministers must give to the scheme manager, on or before 3 July in the financial year that is the second financial year after the relevant financial year (“the third year”), written notice of the amount of any payment that the Welsh Ministers require the scheme manager to make under paragraph (2)(a) or (c).
- (6) Where the Welsh Ministers or the scheme manager, as the case may be, are required to make a payment or repayment under paragraph (2) of this regulation, it must be made before the end of July in the third year or as soon as reasonably practicable thereafter.

### **Duty to provide information**

**139.**—(1) The scheme manager must provide the Welsh Ministers with such information relevant to the exercise of the Welsh Ministers’ functions under this Part as the Welsh Ministers may, by written notice, require.

(2) The scheme manager must provide the information required within the period of time specified by the Welsh Ministers in that notice or within such additional period as may be allowed by the Welsh Ministers.