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STATUTORY INSTRUMENTS

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**1995 No. 3230**

**FIRE SERVICES**

**The South Wales Fire Services  
(Combination Scheme) Order 1995**

*Made* - - - - *10th December 1995*

*Coming into force* - - *11th December 1995*

Whereas it appears to the Secretary of State that it is expedient in the interests of efficiency that a combination scheme should be made for the areas of the new principal councils referred to in paragraph 3 of the scheme set out in the Schedule hereto (“the scheme”), being new principal areas within the meaning of section 23 of the Local Government (Wales) Act 1994(1) (“the 1994 Act”), and no scheme satisfactory to him has been submitted to him by those councils;

And whereas the proposed scheme relates only to new principal areas;

And whereas notice of the general nature of the scheme has been given under section 6(2) of the Fire Services Act 1947(2) (“the 1947 Act”) to the existing authorities whose areas lie wholly or partly within the proposed combined area, and to each of the new principal councils concerned:

And whereas the Secretary of State has considered the representations made to him with respect to the scheme before the end of the period specified in such notice;

And whereas a draft of the Order containing the draft scheme has been laid before Parliament for a period of forty days pursuant to section 6 of the Statutory Instruments Act 1946(3), and that period has expired without either House resolving that the Order be not made;

Now, therefore, in exercise of the powers conferred upon him by section 23 of the 1994 Act, sections 6 and 8 of the 1947 Act, section 7(2) of the Fire Services Act 1959(4) and section 25(2) of the Welsh Language Act 1993(5), the Secretary of State hereby makes the following Order:

**Citation and commencement**

**1.** This Order may be cited as the South Wales Fire Services (Combination Scheme) Order 1995 and shall come into force on the day after the day on which it is made.

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(1) 1994 c. 19.  
(2) 1947 c. 41. Section 6 was modified in its application to Wales until 1st April 1996 by section 23 of the Local Government (Wales) Act 1994 (c. 19).  
(3) 1946 c. 36.  
(4) 1959 c. 44.  
(5) 1993 c. 38.

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2. The combination scheme set out in the Schedule to this Order, which shall be known as the South Wales Fire Services Combination Scheme, shall have effect.

Home Office  
10th December 1995

*Blatch*  
Minister of State

## SCHEDULE

### THE SOUTH WALES FIRE SERVICES COMBINATION SCHEME

#### PART I

##### CITATION, COMMENCEMENT AND INTERPRETATION

###### **Citation and commencement**

1. This scheme may be cited as the South Wales Fire Services Combination Scheme and shall come into force—

- (a) for the purposes of constituting an authority as the fire authority for the combined area constituted by the scheme, and the performance by that authority of any functions necessary for bringing the scheme into full operation on 1st April 1996, on the day on which the South Wales Fire Services(Combination Scheme) Order 1995(6) comes into force, and
- (b) for all other purposes, on 1st April 1996.

###### **Interpretation**

2. In this scheme any reference to a paragraph or a Part is a reference to a paragraph or a Part of this scheme, and—

- “the Authority” means the fire authority constituted for the combined area by virtue of paragraph 4;
- “the combined area” means the fire authority area comprising the areas referred to in paragraph 3;
- “the combined fire service fund” means the combined fire service fund established by virtue of paragraph 6;
- “constituent authority” means a council referred to in paragraph 3; and
- “the fire brigade” means, unless otherwise indicated, the fire brigade established for the combined area by virtue of paragraph 5.

#### PART II

##### GENERAL

###### **The combined area**

3. The areas of the following councils, namely Blaenau Gwent County Borough Council, Bridgend County Borough Council, Caerphilly County Borough Council, Cardiff County Council, Merthyr Tydfil County Borough Council, Monmouthshire County Council, Newport County Borough Council, Rhondda Cynon Taff County Borough Council, Torfaen County Borough Council and the Vale of Glamorgan County Borough Council, shall be combined and shall become the combined area.

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(6) [S.I. 1995/3230](#).

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### **Combined Fire Authority**

4.—(1) There shall be constituted as the fire authority for the combined area an authority to be known as the South Wales Fire Authority or Awdurdod Tân De Cymru.

(2) The Authority shall be constituted in accordance with the provisions of Part III.

### **Fire brigade for combined area**

5.—(1) There shall be established a fire brigade for the combined area which shall be known as the South Wales Fire Service or Gwasanaeth Tân De Cymru.

(2) The first chief officer of the fire brigade shall be N. Musselwhite Esq.

(3) The Authority shall submit an establishment scheme for their area to the Secretary of State in accordance with section 7 of the Fire Services Act 1959(7).

### **Financial provisions etc.**

6.—(1) The expenses of the Authority shall be paid out of a combined fire service fund constituted and administered in accordance with the provisions of Part IV.

(2) Contributions shall be paid into the combined fire service fund by constituent authorities in accordance with the said provisions.

7. The Authority shall appoint a treasurer of the combined fire service fund.

### **Officers and employees**

8. The provisions of Part V shall have effect with respect to officers and employees of the Authority.

9. The Authority may appoint such other officers and employees as they think necessary for the efficient discharge of their functions.

10. The Authority may make arrangements with any constituent authority for the use by the Authority of the services of officers and employees of the constituent authority and for the making of contracts and payments on behalf of the Authority by the constituent authority.

## **PART III**

### **CONSTITUTION OF COMBINED FIRE AUTHORITY**

11.—(1) The Authority shall consist of not more than 25 members save that, where the minimum number of members of the Authority resulting from the operation of paragraph 12 would be greater than 25, the Authority shall consist of that number of members.

(2) Each member of the Authority shall be appointed by a constituent authority from its own members in accordance with this Part.

12. Each constituent authority shall, so far as is practicable, appoint such number of representatives to be members of the Authority as is proportionate to the number of local government electors in its area in relation to the number of such electors in each of the other constituent authorities' areas.

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(7) 1959 c. 44.

**13.** A member of the Authority shall come into office on the date of his appointment and shall, subject to paragraphs 14 to 16, hold office for such period or periods as shall be determined by the constituent authority which appoints him.

**14.** A member of the Authority may resign his membership by giving notice in writing to that effect to the officer of the Authority whose function it is to receive such notice.

**15.—(1)** A member of the Authority who ceases to be a member of the council which appointed him shall cease to be a member of the Authority.

(2) A person shall be disqualified from being a member of the Authority if he holds any paid office or employment (other than the office of chairman or vice-chairman), appointments to which are or may be made or confirmed by the Authority, by any committee or sub-committee of the Authority, or by a joint committee or board on which the Authority are represented.

**16.—(1)** If a member of the Authority resigns, becomes disqualified or otherwise ceases to be a member of the Authority before the expiry of his period of office, the council which appointed him shall appoint a representative to replace him, who shall come into office on the date of his appointment and, unless he resigns, becomes disqualified or otherwise ceases to be a member of the Authority, shall hold office for the remainder of the period for which his predecessor would have held office had he not resigned, become disqualified or otherwise ceased to be a member of the Authority.

(2) If a member of the Authority resigns, becomes disqualified or otherwise ceases to be a member of the Authority within six months before the end of his term of office, the council which appointed him shall not be required to appoint a representative to replace him for the remainder of such term unless, on the occurrence of the vacancy (or in the case of a number of simultaneous vacancies, the occurrence of the vacancies) the total number of unfilled vacancies in the membership of the Authority exceeds one third of the number of members of the Authority referred to in paragraph 11.

**17.—(1)** The Authority shall elect a chairman, and may elect a vice-chairman, from among its members.

(2) The chairman and, if a vice-chairman is elected, the vice-chairman, shall, subject to paragraphs 13 to 16, hold office for a period of one year from the date of their election.

(3) Sub-paragraph (2) shall not prevent a person who holds or has held office as chairman or vice-chairman, as the case may be, from being elected or re-elected to either of those offices.

(4) On a casual vacancy occurring in the office of chairman or, if a vice-chairman has been elected, the vice-chairman, the Authority shall elect from its members a person to replace the chairman, and may so elect a person to replace the vice-chairman, as the case may be.

(5) The election to replace the chairman under sub-paragraph (4) shall take place not later than the next following ordinary meeting of the Authority.

**18.** The first meeting of the Authority shall be held as soon as it is practicable to do so and shall be convened by the Chief Executive of Cardiff County Council, and subsequent meetings shall be convened in such a manner as the Authority shall determine.

**19.** At a meeting of the Authority the quorum shall be one third of the total number of members of the Authority, or such greater number of members as the Authority may determine.

**20.—(1)** The following provisions of the Local Government Act 1972<sup>(8)</sup> namely sections 82(1), 94 to 98, 101 to 106, 99 and Part VI of Schedule 12 shall, subject to sub-paragraph (2), apply to the Authority and its members as if references in those provisions to a principal council or to a local authority, other than references to a community council, were references to the Authority.

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(8) 1972 c. 70.

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(2) Section 101(6) of the Local Government Act 1972 shall have effect, by virtue of sub-paragraph (1), as if for the words “levying, or issuing a precept for, a rate” there were substituted the words “assessing or varying the contributions to be paid into the combined fire service fund by the constituent authorities”.

## PART IV

### COMBINED FIRE SERVICE FUND

**21.**—(1) Each constituent authority shall, in respect of each financial year, pay into the combined fire service fund, in accordance with the provisions of this paragraph, a contribution equal to its appropriate proportion of the net expenses of the Authority in respect of that year.

(2) The Authority shall, before 31st December in any year, submit to each constituent authority an estimate of its net expenses for the next financial year, and shall subsequently, before 15th February, give notice to each constituent authority of the amount of the contribution to be paid by that authority under this paragraph in the next financial year.

(3) Subject to sub-paragraphs (4) and (5), each constituent authority shall, at such intervals as are agreed between it and the Authority, make an interim payment into the combined fire service fund of such an amount as is so agreed on account of the said contribution.

(4) Subject to sub-paragraph (5), if a constituent authority and the Authority fail to agree, or subsequently disagree, as to the intervals at which payments should be made under sub-paragraph (3) or as to the amounts of such payments, each payment shall, until the end of the financial year or subsequent agreement between the two authorities, whichever is sooner —

(a) be made on the first working day of each month, and

(b) be of such an amount as would, if added to payments of an equal amount made on the first working day of each remaining month of the financial year, equal the outstanding balance of the contribution to be paid by the constituent authority under this paragraph.

(5) Notwithstanding the provisions of sub-paragraphs (3) and (4) any payments made under those sub-paragraphs shall be made at such times, and shall be of such amounts, as are at all times sufficient to enable the financial obligations of the Authority to be met.

(6) The Authority may, after consultation with each constituent authority, revise the estimate referred to in sub-paragraph (2) at any time before the end of the financial year to which that estimate relates and shall, as soon as is practicable, give notice in writing to each constituent authority of the revised amount of the contribution to be paid by that authority under this paragraph.

(7) Where a constituent authority receives notice under sub-paragraph (6) the interim payments payable thereafter under sub-paragraphs (3) or (4) shall, subject to sub-paragraph (5), be so increased or reduced as to adjust to the difference.

(8) If the Authority makes arrangements with any constituent authority under paragraph 10 for the making of payments on behalf of the Authority by that constituent authority, the interim payments to be made by that constituent authority under this paragraph shall, subject to sub-paragraph (5), take into account payments made by that constituent authority on behalf of the Authority.

(9) For the purposes of this paragraph the net expenses of the Authority, in respect of any financial year, shall be the amount of its expenditure in respect of that year less all income which is credited to the combined fire service fund in respect of that year, other than contributions paid or payable under sub-paragraph (1), but may, for the purposes of preparing the estimate referred to in sub-paragraph (2) and if the Authority so resolve, include such amount or amounts as the Authority considers appropriate with a view to minimising any upward revision of an estimate under sub-paragraph (6).

(10) In this paragraph—

“appropriate proportion” means, in the absence of agreement between the constituent authorities, an amount determined by reference to the proportion which the population of the area of each constituent authority bears to the total population of the combined area, the population in any area being the number of persons usually resident in that area, as estimated by the Registrar General and indicated in the latest data available from him on 30th June in the year preceding the financial year referred to in sub-paragraph (1);

“financial year” means the period of twelve months beginning on 1st April; and

“working day” means a day other than a Saturday or a Sunday, Good Friday, Christmas Day or a day which is, or is to be observed as, a bank holiday, or a holiday under the Banking and Financial Dealings Act 1971(9) in England and Wales.

22. The Authority shall have the power to pay out of the combined fire service fund compensation to persons employed by Mid Glamorgan, South Glamorgan and Gwent county councils who in consequence of this scheme, or anything done thereunder, suffer direct pecuniary loss by reason of the determination of their appointments or the diminution of their emoluments.

## PART V

### OFFICERS AND EMPLOYEES OF THE AUTHORITY

23. There shall be transferred—

- (a) to the fire brigade members of the fire brigades maintained by Mid Glamorgan, South Glamorgan and Gwent county councils, and
- (b) to employment by the Authority persons employed by those councils wholly or mainly for the purposes of the fire brigades maintained by them.

24.—(1) A person to whom this paragraph applies who in consequence of this scheme, or anything done thereunder, suffers direct pecuniary loss by reason of the determination of his appointment or the diminution of his emoluments, shall be eligible for, and entitled to, payment of compensation by the Authority in respect of such loss in the same way as he would be so eligible or entitled if—

- (a) he were an eligible employee or a person referred to in regulation 5 of the Local Government (Compensation for Redundancy) Regulations 1994(10), and the Authority were an employing body or relevant body under those Regulations, or
- (b) he were a person who, having suffered a similar loss in similar circumstances, would be eligible for payment of compensation under any regulations providing for compensation for loss of remuneration made under section 24 of the Superannuation Act 1972(11) and in force on 1st April 1996,

as the case may be.

(2) This paragraph applies to a chief officer, deputy chief officer or assistant chief officer of any of the fire brigades maintained by Mid Glamorgan, South Glamorgan and Gwent county councils.

(3) Notwithstanding the provisions of the Firemen’s Pension Scheme 1992 (“the Pension Scheme”)(12), where the appointment of a person to whom this paragraph applies has been determined as mentioned in sub-paragraph (1) he shall be entitled to the immediate payment of any

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(9) 1971 c. 80.

(10) S.I. 1994/3025.

(11) 1972 c. 11.

(12) As set out in Schedule 2 to the Firemen’s Pension Scheme Order 1992 (S.I. 1992/129).

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ordinary pension which has accrued to him under rule B1 of the Pension Scheme if, by 1st April 1996—

- (a) he has attained the age of 50, and
- (b) he has, as a member of a fire brigade maintained under the 1947 Act, accrued a minimum of 5 years' service which is reckonable for the purposes of the said rule.

(4) Notwithstanding the provisions of the Pension Scheme, where a person to whom this paragraph applies suffers diminution of his emoluments as mentioned in sub-paragraph (1) his average pensionable pay may, for the purpose of determining any award under the Pension Scheme and if the Authority so decides, be adjusted as if he had been issued with a certificate under paragraph 4 of Schedule D1 to the Local Government Pension Scheme Regulations 1995(13) to the effect that he had suffered a material reduction in remuneration.

25. The following provisions of the Local Government Act 1972, namely sections 114, 115, 116, 117(1), (2) and (3), 118 and 119, shall apply to the officers and employees of the Authority as if references in those provisions to a local authority, other than references to a community council, were references to the Authority.

## PART VI

### PROPERTY, RIGHTS AND LIABILITIES

26. There shall be transferred from Mid Glamorgan, South Glamorgan and Gwent county councils to the Authority—

- (a) any property which is held by those councils in connection with the provision of fire services by those councils, and
- (b) any rights or liabilities held or incurred by those councils in connection with such services.

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### EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order makes a scheme which combines the areas of the following new principal councils in South Wales, namely Blaenau Gwent County Borough Council, Bridgend County Borough Council, Caerphilly County Borough Council, Cardiff County Council, Merthyr Tydfil County Borough Council, Monmouthshire County Council, Newport County Borough Council, Rhondda Cynon Taff County Borough Council, Torfaen County Borough Council and the Vale of Glamorgan County Borough Council (which would otherwise become individual fire authorities on 1st April 1996 by virtue of the Local Government (Wales) Act 1994) into a combined fire area. The scheme comes into force on the same day as the Order comes into force for the purpose of doing anything which is necessary to bring the scheme fully into operation on 1st April 1996. The scheme establishes a fire authority for the combined area, to be known as the South Wales Fire Authority or Awdurdod Tân De Cymru, and provides for the appointment and terms of office of its members, and for meetings of the Authority. The scheme establishes a fire brigade for the combined area, to be known as the

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(13) S.I. 1995/1019.



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South Wales Fire Service or Gwasanaeth Tân De Cymru, appoints its first chief officer, and provides for the submission of an establishment scheme to the Secretary of State. The scheme establishes a combined fire service fund and provides for the administration of the Authority's finances (including payment of compensation). The scheme also provides for the transfer of staff, and certain property, rights and liabilities from Mid Glamorgan, South Glamorgan and Gwent county councils (the fire authorities for the area prior to 1st April 1996) to the new combined authority.