

YR ATODLEN

Erthygl 2

Diwygiadau i Orchymyn Cynllun Digolledu'r Diffoddwyr Tân (Cymru) 2007

**Diwygiadau i Ran 1 (darpariaethau cyffredinol)**

1.—(1) Mae Rhan 1 wedi ei diwygio fel a ganlyn.

(2) Yn rheol 2(1) (dehongli)—

(a) yn lle'r diffiniad o “pensionable pay” rhodder—

““pensionable pay”—

- (a) in relation to a person who is a member of the 1992 Scheme, is to be construed in accordance with rule G1 of that Scheme;
- (b) in relation to a person who is a member of the 2007 Scheme, is to be construed in accordance with rule 1 of Part 11 of that Scheme; and
- (c) in the case of a person who is not a member of either scheme, is to be construed in accordance with rule 11 of this Part;”;

(b) yn y man priodol mewnosoder—

““relevant service”, except in rule 1 of Part 7 (servicemen) and rule 1 of Part 7A (reservists), means service which either was, or would, but for an election under rule G3 of the 1992 Scheme or rule 5 of Part 2 of the 2007 Scheme or a failure to elect under rule G2A of the 1992 Scheme or rule 4 of Part 11 of the 2007 Scheme, have been reckonable as pensionable service;”;

(c) yn lle'r diffiniadau o “retained firefighter” a “retained or volunteer firefighter” rhodder—

““retained firefighter” means a person who is employed by an authority—

- (a) as a retained firefighter, but not as a regular firefighter or a volunteer firefighter,
- (b) on terms under which the person is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),
- (c) otherwise than in a temporary capacity, and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that the person receives;”;

(d) yn y man priodol mewnosoder—

““volunteer firefighter” means a person who is employed by an authority—

- (a) as a volunteer firefighter but not as a regular firefighter or a retained firefighter,
- (b) on terms under which the person is, or may be, required to engage in fire-fighting or may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),
- (c) otherwise than in a temporary capacity, and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that the person receives;”.

(3) Yn rheol 3—

(a) yn lle'r pennawd rhodder—

*“Exclusive application to regular and retained firefighters”;*

*Statws* This is the original version (as it was originally made). Dim ond ar ei ffurf wreiddiol y mae'r eitem hon o ddeddfwriaeth ar gael ar hyn o bryd.

- (b) ym mharagraff (1) yn lle “regular firefighters” rhodder “regular and retained firefighters”;
  - (c) ym mharagraff (2) yn lle “regular firefighter” rhodder “regular or retained firefighter”.
- (4) Yn rheol 6 (cyfrif gwasanaeth at ddiben dyfarnu)—
- (a) ym mharagraff (2) yn lle “regular firefighter” rhodder “regular or retained firefighter”;
  - (b) ym mharagraff (3)—
    - (i) yn lle “retained or volunteer firefighter” rhodder “volunteer firefighter”;
    - (ii) hepgorer “and Part 2 of Schedule 2”;
    - (iii) ar ôl “any period of service” mewnosoder “as a retained firefighter or”; a
    - (iv) yn lle “pensionable service” rhodder “relevant service”.
- (5) Yn rheol 7 (anaf cymwys)
- (a) ym mharagraff (1)—
    - (i) yn is-baragraff (b) hepgorer “retained or”; a
    - (ii) yn lle “regular firefighter” rhodder “regular or retained firefighter”;
  - (b) ym mharagraff (3) hepgorer y geiriau—
    - (i) “and paragraph (4) of rule 3 of Part 10”; a
    - (ii) “retained or”.
- (6) Ar ôl rheol 10 (dyddiad effeithiol yr ymddeoliad), mewnosoder—

**“Determining pensionable pay in certain cases**

**11.**—(1) Where an award is to be calculated in respect of a person who is not, or was not, a member of the 1992 Scheme or the 2007 Scheme, the definition of “pensionable pay” is to be construed in accordance with—

- (a) rule G1 of the 1992 Scheme in the case of a person who elected not to pay pension contributions under rule G3 of that Scheme;
- (b) rule 1 of Part 11 of the 2007 Scheme in the case of a person who elected not to pay pension contributions under rule 5 of Part 2 of that Scheme; and
- (c) rule 1 of Part 11 of the 2007 Scheme where an election had been made at different times under both schemes.

(2) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 1992 Scheme, the award must be calculated on the basis of the pay which would have been the person’s average pensionable pay if the person had not made an election.

(3) Where, in accordance with paragraph (1), the definition of pensionable pay is to be construed in the case of a person in accordance with the 2007 Scheme, the award must be calculated on the basis of the pay which would have been the person’s final pensionable pay if the person had not made an election.

(4) For the purposes of calculating a retained firefighter’s pensionable pay (whether or not that person is or was a member of the 2007 Scheme), a fire and rescue authority must determine the period of the person’s service from their records.

(5) Where an authority are not able to determine the period of the person’s service from their records, the person, or any other person entitled to an award under this Scheme, may provide the authority with documents to assist them to determine the person’s period of service.

(6) Where an authority are not able to determine the period of the person’s service and the authority do not hold records of that person’s pay for that period, and the necessary documents

cannot be provided in accordance with paragraph (5), the authority may estimate the person's pensionable pay for that period from the records which they hold and may in particular make the estimate on the basis of the average of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period."

### **Diwygiadau i Ran 2 (dyfarndaliadau anafiadau a digolledu mewn perthynas â dyletswydd)**

2.—(1) Mae Rhan 2 wedi ei diwygio fel a ganlyn.

(2) Yn rheol 2 (diffoddwyr tân rhan-amser, wrth gefn a gwirfoddol)—

(a) ym mharagraff (1) yn lle "this Part" rhodder "rule 1" a hepgorer "by virtue of which his pensionable service is reckonable";

(b) ym mharagraff (2)(a) hepgorer "retained or";

(c) ym mharagraff (2)(b) yn lle "this Part" rhodder "rule 1"; a

(d) ar ôl paragraff (2) mewnosoder—

“(3) Where a person—

(a) is employed as a retained firefighter; and

(b) is entitled to an award under rule 1,

the award must be calculated in accordance with Part 3 of Schedule 1.”

### **Diwygiadau i Ran 3 (dyfarndaliadau ar farwolaeth: priodau a phartneriaid sifil)**

3.—(1) Mae Rhan 3 wedi ei diwygio fel a ganlyn.

(2) Yn rheol 1 (dyfarndaliad arbennig ar gyfer priod neu bartner sifil), ym mharagraff (1) a pharagraff (3), yn lle "regular firefighter" ym mhob man y digwydd rhodder "regular or retained firefighter".

(3) Yn rheol 2 (dyfarndaliad mwy ar gyfer priod neu bartner sifil), ym mharagraff (1), yn lle "regular firefighter" rhodder "regular or retained firefighter".

### **Diwygiadau i Ran 4 (dyfarndaliadau ar farwolaeth: plant)**

4.—(1) Mae Rhan 4 wedi ei diwygio fel a ganlyn.

(2) Yn rheol 1(1) (lwfans arbennig i blentyn) a rheol 2(1) (arian rhodd arbennig plentyn), yn lle "regular firefighter" ym mhob man y digwydd rhodder "regular or retained firefighter".

(3) Yn rheol 3(1) (lwfans neu arian rhodd arbennig plentyn: cyfyngiadau) yn lle "be a regular firefighter" rhodder "be either a regular or retained firefighter".

### **Diwygiadau i Ran 5 (dyfarndaliadau ar farwolaeth: darpariaethau ychwanegol)**

5. Yn Rhan 5, yn rheol 1(1) (pensiwn arbennig perthynas dibynnol sy'n oedolyn), rheol 2(1)(a) (arian rhodd perthynas dibynnol) a rheol 5(1)(a) (cynnydd o ran pensiynau a lwfansau yn ystod y 13 wythnos gyntaf), yn lle "regular firefighter" ym mhob man y digwydd rhodder "regular or retained firefighter".

### **Diwygiadau i Ran 8 (achosion arbennig)**

6. Yn Rhan 8, yn rheol 2 (dyfarndaliad ar gyfer neu mewn perthynas â diffoddwr tân wrth gefn neu wirfoddol)—

(a) yn y pennawd i'r rheol hepgorer "retained or";

(b) ym mharagraff (1)(a) hepgorer "retained firefighter or"; ac

(c) yn mharagraffau (5)(b) a (10)(a) a (b) hepgorer “retained or” ym mhob man y digwydd.

### **Diwygiadau i Ran 10 (dyfarndalu a darpariaethau ariannol)**

7.—(1) Mae Rhan 10 wedi ei diwygio fel a ganlyn.

(2) Yn rheol 3 (atal dyblygu)—

(a) ym mharagraff (4) yn lle is-baragraff (a)(ii) rhodder—

“(ii) under rule 1, 1A, 2 or 3 of Part 3 of the 2007 Scheme to an ordinary, special member’s ordinary, ill health or deferred pension, or”; a

(b) ym mharagraff (6) yn lle “regular firefighter” rhodder “regular or retained firefighter”.

(3) Yn rheol 4 (atal dyblygu: dyfarndaliadau anafiadau eraill i bersonau sy’n ddiffoddwyr tân rheolaidd ac wrth gefn)—

(a) ym mharagraff (2)—

(i) yn lle “both a regular firefighter and” rhodder “a volunteer firefighter and a retained firefighter or as a regular firefighter”;

(ii) hepgorer y geiriau yn is-baragraff (a);

(iii) yn is-baragraff (b)(i), ar ôl “regular firefighter” mewnosoder “or a retained firefighter”; a

(iv) yn is-baragraff (b)(ii) yn lle “retained firefighter” rhodder “volunteer firefighter”;

(b) ym mharagraff (3)—

(i) ar ôl “regular firefighter” mewnosoder “or a retained firefighter”; a

(ii) yn lle “retained firefighter” rhodder “volunteer firefighter”; ac

(c) ym mharagraff (4) yn lle “retained firefighter” rhodder “volunteer firefighter”.

(4) Yn rheol 5 (atal dyblygu: dyfarndaliadau eraill ar gyfer priodau neu blant personau sy’n ddiffoddwyr tân rheolaidd ac wrth gefn), ar ddiwedd paragraff (3) mewnosoder—

“(g) a survivor’s pension under rule 1 of Part 4 of the 2007 Scheme,

(h) a survivor’s bereavement pension under rule 4 of Part 4 of the 2007 Scheme,

(i) a child’s pension under rule 6 of Part 4 of the 2007 Scheme,

(j) a child’s bereavement pension under rule 9 of Part 4 of the 2007 Scheme,

(k) a death grant under rule 1 of Part 5 of the 2007 Scheme,

(l) a post-retirement death grant under rule 2 of Part 5 of the 2007 Scheme.”

### **Diwygiadau i Atodlen 1 (dyfarndaliadau anafiadau a digolledu mewn perthynas â dyletswydd)**

8.—(1) Mae Atodlen 1 wedi ei diwygio fel a ganlyn.

(2) Yn Rhan 1 (cyfrifo dyfarndaliadau ar gyfer gwasanaeth llawn amser) hepgorer is-baragraff (2) o baragraff 1.

(3) Yn Rhan 2 (cyfrifo dyfarndaliadau ar gyfer gwasanaeth rhan-amser)—

(a) ym mharagraff 1 hepgorer “by virtue of which his pensionable service is reckonable”; a

(b) ym mharagraff 2(1), yn y diffiniadau o “B”, “C” a “D”, yn lle “pensionable service” rhodder “relevant service” ym mhob man y digwydd y geiriau.

(4) Yn Rhan 3 (cyfrifo dyfarndaliadau ar gyfer gwasanaeth wrth gefn neu wirfoddol) yn lle “paragraph 1(2)” rhodder “paragraph 1” ac yn lle “pensionable service” rhodder “relevant service”.

## Diwygiadau i Atodlen 2 (dyfarndaliadau ar gyfer priodau a phartneriaid sifil)

### 9. Yn Rhan 1 (pensiwn arbennig) o Atodlen 2—

- (a) ym mharagraff 1 yn lle “Subject to paragraph 2” rhodder “Subject to paragraphs 2 and 3”;
- (b) ym mharagraff 2, yn y diffiniadau o “B”, “C” a “D”, yn lle “pensionable service” rhodder “relevant service” ym mhob man y digwydd y geiriau; ac
- (c) ar ôl paragraff 2 mewnosoder—

“3.—(1) Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, the amount of special pension must be calculated in accordance with the formula—

$$A \times (B/C)$$

where—

A is the amount calculated under paragraph 1 as if the final pensionable pay was the pay which the deceased would have received had the deceased been a whole-time employee of a fire and rescue authority;

B is the period in years of the deceased’s pensionable retained service; and

C is the period in years of the deceased’s relevant service.

(2) Where the person was a member of the 2007 Scheme, neither B nor C is to exceed 40 years.”

## Diwygiadau i Atodlen 3 (dyfarndaliadau ar farwolaeth: plant)

### 10. Yn Rhan 1 (lwfans arbennig plentyn) o Atodlen 3—

- (a) ym mharagraff 1 yn lle “Subject to paragraph 4” rhodder “Subject to paragraphs 4 and 5”;
- (b) ym mharagraff 4(1) hepgorer “which is reckonable as pensionable service,”; ac
- (c) ar ôl paragraff 4 mewnosoder—

“5. Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, the amount of the special allowance must be calculated in accordance with the formula—

$$A \times (B/C)$$

where—

A is the amount calculated under paragraphs 1 to 3 of this Part as if the final pensionable pay was the pay the deceased would have received had the deceased been a whole-time employee of a fire and rescue authority;

B is the period in years of the deceased’s pensionable retained service;

C is the period in years of the deceased’s relevant service.”

## Diwygiadau i Atodlen 4 (dyfarndaliadau ar farwolaeth: darpariaethau ychwanegol)

### 11. Yn Rhan 1 (pensiwn arbennig perthynas dibynnol sy’n oedolyn) o Atodlen 4—

- (a) ym mharagraff 1, yn lle “Subject to paragraphs 2 and 3” rhodder “Subject to paragraphs 2, 3 and 4”;
- (b) ym mharagraff 3 hepgorer “which is reckonable as pensionable service,”; ac
- (c) ar ôl paragraff 3 mewnosoder—

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“4. Where the deceased was employed as a retained firefighter but not as a regular firefighter at the time of death, paragraphs 1 and 2 apply with the modification that for any reference to the deceased’s final pensionable pay there is to be substituted the product of the formula—

$$A \times (B/C)$$

where—

A is the amount of pay which the deceased would have received had the deceased been a whole-time employee of a fire and rescue authority;

B is the period in years of the deceased’s pensionable retained service;

C is the period in years of the deceased’s relevant service.”