O F F E R Y N N A U S T A T U D O L C Y M R U

2016 Rhif 1136 (Cy. 274)

GWASANAETHAU TÂN AC ACHUB, CYMRU

PENSIYNAU, CYMRU

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

NODYN ESBONIADOL

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

Mae'r Gorchymyn hwn yn diwygio Cynllun Pensiwn y Dynion Tân (a nodir yn Atodlen 2 i Orchymyn Cynllun Pensiwn y Dynion Tân 1992 fel y mae'n cael effaith yng Nghymru) ("y Cynllun").

Mae erthygl 2(2) yn dileu'r rhwymedigaeth ar ddiffoddwyr tân i dalu cyfraniadau ar gyfer y cyfnod ar ôl iddynt ennill yr hawlogaeth pensiwn mwyaf a ganiateir nes iddynt gyrraedd 50 oed, yr oedran isaf ar gyfer tynnu allan fuddion. Mae'r newid yn cael effaith o 1 Rhagfyr 2006. Mae adran 12 o Ddeddf Blwydd-daliadau 1972 yn caniatáu i ddarpariaethau gael effaith ôl-weithredol.

Mae erthyglau 2(3) a 3 yn darparu bod unrhyw gyfraniadau o'r fath a dalwyd rhwng 1 Rhagfyr 2006 a'r dyddiad y daw'r Gorchymyn hwn i rym yn cael eu had-dalu. Mae'r fformiwla a nodir yn erthygl 3 yn ystyried llog a hefyd godiad sy'n adlewyrchu'r dreth a fydd yn daladwy o dan Ddeddf Cyllid 2004. O dan erthygl 2(3) gwneir taliadau o'r Gronfa Bensiwn y Diffoddwyr Tân berthnasol y mae'n ofynnol i bob awdurdod tân ac achub ei sefydlu a'i chynnal at ddibenion y Cynllun.

Ystyriwyd Cod Ymarfer Gweinidogion Cymru ar gynnal Asesiadau Effaith Rheoleiddiol ar gyfer 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.

W E L S H S T A T U T O R Y I N S T R U M E N T S

2016 No. 1136 (W. 274)

FIRE AND RESCUE SERVICES, WALES

PENSIONS, WALES

The Firefighters' Pension (Wales) Scheme (Amendment and Transitional Provisions) Order 2016

EXPLANATORY NOTE

(This note is not part of the Order)

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 Scheme").

Article 2(2) removes the obligation on firefighters to pay contributions for the period after they have reckoned the maximum permissible pension entitlement until they reach age 50, the minimum age to draw benefits. The change takes effect from 1 December 2006. Section 12 of the Superannuation Act 1972 permits provisions to have retrospective effect.

Articles 2(3) and 3 make provision for the repayment of any such contributions paid between 1 December 2006 and the date this Order comes into force. The formula set out in article 3 takes account of both interest and an uplift reflecting the tax charge that will be payable under the Finance Act 2004. Under article 2(3), payments will be made from the relevant Firefighters' Pension Fund which each fire and rescue authority is required to establish and maintain for the purposes of the Scheme.

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.

OFFERYNNAU STATUDOL CYMRU

2016 Rhif 1136 (Cy. 274)

GWASANAETHAU TÂN AC ACHUB, CYMRU

PENSIYNAU, CYMRU

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

Gwnaed	*22 Tachwedd 2016*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru	*25 Tachwedd 2016*
Yn dod i rym	*31 Rhagfyr 2016*

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddir i'r Ysgrifennydd Gwladol gan adran 26(1) i (5) o Ddeddf Gwasanaethau Tân 1947(**1**) ac adran 12 o Ddeddf Blwydd-daliadau 1972(**2**) fel

(**1**) 1947 p. 41, a ddiddymwyd 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). Drwy erthygl 4 o'r offeryn hwnnw newidiwyd enw'r Cynllun fel y mae'n cael effaith yng Nghymru yn Gynllun Pensiwn y Dynion Tân (Cymru). 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 Cymorth Gwladol 1973 (p. 38) ac Atodlen 27 iddi, adran 1 o Ddeddf Cymorth Gwladol (Darpariaethau Canlyniadol) 1975 (p. 18) ac Atodlen 1 iddi, adran 32 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.

(**2**) 1972 p. 11; diwygiwyd adran 12 gan Ddeddf Pensiynau (Darpariaethau Amrywiol) 1990 (p. 7).

WELSH STATUTORY INSTRUMENTS

2016 No. 1136 (W. 274)

FIRE AND RESCUE SERVICES, WALES

PENSIONS, WALES

The Firefighters' Pension (Wales) Scheme (Amendment and Transitional Provisions) Order 2016

Made	*22 November 2016*
Laid before the National Assembly for Wales	*25 November 2016*
Coming into force	*31 December 2016*

The Welsh Ministers, in exercise of the powers conferred upon the Secretary of State by section 26(1) to (5) of the Fire Services Act 1947(**1**) and section 12 of the Superannuation Act 1972(**2**) as

(**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). By article 4 of that instrument the name of the scheme as it has effect in Wales was changed to the Firefighters' Pension (Wales) Scheme. 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 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.

(**2**) 1972 c. 11; section 12 was amended by the Pensions (Miscellaneous Provisions) Act 1990 (c. 7).

y'u cymhwysir gan adran 16(3)(**1**) o'r Ddeddf honno, ac a freinir bellach ynddynt hwy(**2**), yn gwneud y Gorchymyn a ganlyn.

Enwi a chychwyn

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Cynllun Pensiwn y Dynion Tân (Cymru) (Diwygio a Darpariaethau Trosiannol) 2016.

(2) Daw'r Gorchymyn hwn i rym ar 31 Rhagfyr 2016 ond mae erthygl 2(2) yn cael effaith o 1 Rhagfyr 2006(**3**).

Diwygio Gorchymyn Cynllun Pensiwn y Dynion Tân 1992

2.—(1) Mae Atodlen 2 i Orchymyn Cynllun Pensiwn y Dynion Tân 1992(**4**) (lle y mae Cynllun Pensiwn y Dynion Tân (Cymru) wedi ei nodi), wedi ei diwygio fel a ganlyn.

(2) Yn rheol G2 (cyfraniadau pensiwn)(**5**)—

(a) ym mharagraff (1) yn lle "A regular firefighter shall" rhodder "Subject to paragraph (1B), a regular firefighter shall"; a

(b) cyn paragraff (2) mewnosoder—

"(1B) Paragraph (1) does not apply to a firefighter below the age of 50 who has reckoned 30 years or more pensionable service."

(**1**) 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 Orchymyn Deddf Gwasanaethau Tân ac Achub 2004 (Cynllun Pensiwn y Dynion Tân) (Cymru) 2004 (O.S. 2004/2918 (Cy. 257)).

(**2**) At ddibenion Cynllun Pensiwn y Dynion Tân (Cymru), 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'r Cynulliad o dan adran 26 o Ddeddf Gwasanaethau Tân 1947 wedi eu breinio bellach yng Ngweinidogion Cymru i'r graddau y maent yn arferadwy o ran Cymru.

(**3**) Mae pŵer i roi effaith ôl-weithredol wedi ei roi gan adran 12(1) o Ddeddf Blwydd-daliadau 1972 (p. 11).

(**4**) O.S 1992/129; fe'i 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).

(**5**) Rhoddwyd paragraffau (1) ac (1A) yn lle paragraff (1) gan erthygl 2 o O.S. 2007/1074 (Cy. 112) ac Atodlen 1 iddo; diwygiwyd paragraff (1), a dirymwyd paragraff (1A), gan erthygl 3 o O.S. 2012/974 (Cy. 128). Gwnaed diwygiadau eraill i reol G2 nad ydynt yn berthnasol i'r offeryn hwn.

applied by section 16(3)(**1**) of that Act, and now vested in them(**2**), make the following Order.

Title and commencement

1.—(1) The title of this Order is the Firefighters' Pension (Wales) Scheme (Amendment and Transitional Provisions) Order 2016.

(2) This Order comes into force on 31 December 2016 but article 2(2) has effect from 1 December 2006(**3**).

Amendment of the Firemen's Pension Scheme Order 1992

2.—(1) Schedule 2 to the Firemen's Pension Scheme Order 1992(**4**) (in which is set out the Firefighters' Pension (Wales) Scheme) is amended as follows.

(2) In rule G2 (pension contributions)(**5**)—

(a) in paragraph (1) for "A regular firefighter shall" substitute "Subject to paragraph (1B), a regular firefighter shall"; and

(b) before paragraph (2) insert—

"(1B) Paragraph (1) does not apply to a firefighter below the age of 50 who has reckoned 30 years or more pensionable service."

(**1**) 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 the Fire and Rescue Services Act 2004 (Firefighters' Pension Scheme) (Wales) Order 2004 (S.I. 2004/2918 (W. 257)).

(**2**) For the purposes of the Firefighters' Pension (Wales) Scheme, 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) the Assembly's 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.

(**3**) Power to give retrospective effect is conferred by section 12(1) of the Superannuation Act 1972 (c. 11).

(**4**) 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).

(**5**) Paragraphs (1) and (1A) were substituted for paragraph (1) by article 2 of, and Schedule 1 to, S.I. 2007/1074 (W. 112); paragraph (1) was amended, and paragraph (1A) revoked, by article 3 of S.I. 2012/974 (W. 128). There are other amendments to rule G2 which are not relevant to this instrument.

(3) Yn rheol LA1(3) (sefydlu, cynnal a gweithredu Cronfa Bensiwn y Diffoddwyr Tân, etc.)(**1**)—

(a) ar ddiwedd is-baragraff (d) yn lle "." rhodder "; and"; a

(b) ar ôl is-baragraff (d) mewnosoder—

"(e) sums payable under article 3 of the Firefighters' Pension (Wales) Scheme (Amendment and Transitional Provisions) Order 2016."

Darpariaeth drosiannol

3.—(1) Rhaid i awdurdod tân ac achub dalu'r swm gofynnol fel y'i disgrifir ym mharagraff (3) i ddiffoddwr tân sy'n dod o fewn paragraff (2).

(2) Mae diffoddwr tân yn dod o fewn y paragraff hwn os talodd y diffoddwr tân gyfraniadau pensiwn yn y cyfnod sy'n dechrau ar 1 Rhagfyr 2006 ac yn gorffen ar 31 Rhagfyr 2016 yn unol â rheol G2(1) o Gynllun Pensiwn y Dynion Tân (Cymru) nad oeddynt yn daladwy o ganlyniad i erthygl 2(2) o'r Gorchymyn hwn.

(3) Y swm gofynnol yw cyfandaliad sy'n hafal i $(A + B) \times C$, pan—

A yw cyfanswm pob cyfraniad a dalwyd net unrhyw dreth a fyddai'n daladwy gan y diffoddwr tân pe na bai'r cyfraniad wedi ei dalu;

B yw'r llog ar A a gyfrifir yn unol â pharagraff (4); ac

C yw 100/60.

(4) O ran llog—

(a) rhaid ei gyfrifo ar wahân mewn perthynas â phob cyfraniad a delir; a

(b) rhaid ei gymhwyso'n adlog ar sail y gyfradd log flaenorol o ddydd i ddydd ar gyfer y cyfnod a bennir ym mharagraff (5).

(5) Mae'r cyfnod a bennir at ddibenion paragraff (4)(b) yn dechrau ar ddiwrnod cyntaf y mis y talwyd pob cyfraniad ynddo ac mae'n dod i ben ar ddiwrnod olaf y mis cyn y mis y telir y cyfanswm gofynnol ynddo.

(6) Pan fo taliad yn ofynnol o dan baragraff (1) mewn cysylltiad â diffoddwr tân a fu farw cyn 31 Rhagfyr 2016 neu sy'n marw ar y dyddiad hwnnw neu wedyn ond cyn i'r taliad gael ei wneud, rhaid i'r awdurdod tân ac achub dalu'r swm dyledus i gynrychiolwyr personol y diffoddwr tân.

(7) At ddibenion yr erthygl hon—

(**1**) Mewnosodwyd Rhan LA gan O.S. 2007/1074 (Cy. 112).

(3) In rule LA1(3) (establishment, maintenance and operation of Firefighters' Pension Fund, etc.)(**1**)—

(a) at the end of sub-paragraph (d) for "." substitute "; and"; and

(b) after sub-paragraph (d) insert—

"(e) sums payable under article 3 of the Firefighters' Pension (Wales) Scheme (Amendment and Transitional Provisions) Order 2016."

Transitional provision

3.—(1) A fire and rescue authority must pay the required amount as described in paragraph (3) to a firefighter who falls within paragraph (2).

(2) A firefighter falls within this paragraph if in the period beginning on 1 December 2006 and ending on 31 December 2016 the firefighter paid pensions contributions pursuant to rule G2(1) of the Firefighters' Pension (Wales) Scheme which as a consequence of article 2(2) of this Order did not fall to be payable.

(3) The required amount is a lump sum equal to $(A + B) \times C$, where—

A is the total value of each contribution paid net of any tax that would have been payable by the firefighter had the contribution not been paid;

B is the interest on A calculated in accordance with paragraph (4); and

C is 100/60.

(4) Interest must be—

(a) calculated separately in relation to each contribution paid; and

(b) applied on a compound basis at the past interest rate on a day to day basis for the period specified in paragraph (5).

(5) The period specified for the purposes of paragraph (4)(b) begins on the first day of the month in which each contribution was paid and ends on the last day of the month before the month in which the payment of the required amount is made.

(6) Where a payment is required to be made under paragraph (1) in respect of a firefighter who died before 31 December 2016 or who dies on or after that date but before the payment is made, the fire and rescue authority must pay the sum due to the firefighter's personal representatives.

(7) For the purposes of this article—

(**1**) Part LA was inserted by S.I. 2007/1074 (W. 112).

mae i “awdurdod tân ac achub” yr un ystyr a roddir i “fire and rescue authority” yn Neddf Gwasanaethau Tân ac Achub 2004(**1**);

“cyfradd log flaenorol” (“*past interest rate*”) yw cyfradd sy’n gyfwerth â chyfradd sylfaenol Banc Lloegr a oedd yn gymwys ar bob diwrnod o’r cyfnod a bennir ym mharagraff (5); ac

ystyr “cyfradd sylfaenol Banc Lloegr” (“*Bank of England base rate*”) yw—

(a) y gyfradd a gyhoeddir o bryd i’w gilydd gan Bwyllgor Polisi Ariannol Banc Lloegr fel y gyfradd fasnachu swyddogol, sef y gyfradd y mae’r Banc yn fodlon ei defnyddio mewn trafodiadau i ddarparu hylifedd byrdymor yn y marchnadoedd arian; neu

(b) pan fo gorchymyn mewn grym o dan adran 19 (pwerau wrth gefn) o Ddeddf Banc Lloegr 1998(**2**), unrhyw gyfradd gyfwerth a bennir gan y Trysorlys o dan yr adran honno.

“Bank of England base rate” (“*cyfradd sylfaenol Banc Lloegr*”) means—

(a) the rate announced from time to time by the Monetary Policy Committee of the Bank of England as the official dealing rate, being the rate at which the Bank is willing to enter into transactions for providing short term liquidity in the money markets; or

(b) where an order under section 19 (reserve powers) of the Bank of England Act 1998(**1**) is in force, any equivalent rate determined by the Treasury under that section;

“fire and rescue authority” (“*awdurdod tân ac achub*”) has the same meaning as in the Fire and Rescue Services Act 2004(**2**); and

“past interest rate” (“*cyfradd log flaenorol*”) is a rate equivalent to the Bank of England base rate applicable on each day of the period specified in paragraph (5).

Carl Sargeant

Ysgrifennydd y Cabinet dros Gymunedau a Phlant, un o Weinidogion Cymru
22 Tachwedd 2016

Cabinet Secretary for Communities and Children, one of the Welsh Ministers
22 November 20126

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(**1**) 2004 p. 21.
(**2**) 1998 p. 11.

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(**2**) 2004 c. 21.

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2016 Rhif 1136 (Cy. 274)

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FIRE AND RESCUE SERVICES, WALES

PENSIYNAU, CYMRU

PENSIONS, WALES

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

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