



OFFERYNNAU STATUDOL
CYMRU

WELSH STATUTORY
INSTRUMENTS

2018 Rhif 576 (Cy. 103)

2018 No. 576 (W. 103)

**PENSIYNAU
GWASANAETHAU
CYHOEDDUS, CYMRU**

**PUBLIC SERVICE PENSIONS,
WALES**

**Rheoliadau Cynllun Pensiwn y
Diffoddwyr Tân (Cymru)
(Diwygio) 2018**

**The Firefighters' Pension Scheme
(Wales) (Amendment) Regulations
2018**

NODYN ESBONIADOL

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

Mae'r Rheoliadau hyn yn diwygio Rheoliadau Cynllun Pensiwn y Diffoddwyr Tân (Cymru) 2015 ("Rheoliadau 2015") a oedd yn sefydlu cynllun ar gyfer talu pensiynau a buddion eraill i ddiffoddwyr tân yng Nghymru o 1 Ebrill 2015 ymlaen.

Mae rheoliadau 3, 5, 6, 7 ac 8(2) yn gwneud mân ddiwygiadau i egluro darpariaethau Rheoliadau 2015.

Mae rheoliad 4 yn diwygio rheoliad 80A o Reoliadau 2015 i egluro sut y dylid cyfrifo'r cyfandaliad pan fo hawl gan aelod i gael taliad ar unwaith o swm cyfwerth â'r pensiwn afiechyd haen isaf yng Nghynllun Pensiwn y Dynion Tân (Cymru) 1992 (a nodir yn Atodlen 2 i Orchymyn Cynllun Pensiwn y Dynion Tân 1992) ac yntau'n arfer yr opsiwn i gymudo rhan o'r pensiwn am gyfandaliad.

Mae rheoliad 8(3) yn diwygio paragraffau 37 a 38 o Atodlen 2 i Reoliadau 2015 er mwyn darparu ar gyfer y trefniadau trosiannol mewn achos pan fo'r awdurdod yn penderfynu cael barn ysgrifenedig ymarferydd meddygol cymwysedig annibynnol (ymarferydd meddygol fel y'i diffinnir yn Rheoliadau 2015) cyn penderfynu ynghylch hawlogaeth aelod i gael dyfarniad afiechyd ac nad yw'r penderfyniad wedi ei wneud cyn dyddiad trosiant yr aelod. Mae'r diwygiadau yn darparu bod aelodau y rhoddir dyfarniad afiechyd iddynt wedi hynny yn parhau yn eu cynllun pensiwn presennol.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Firefighters' Pension Scheme (Wales) Regulations 2015 ("the 2015 Regulations") which established a scheme for the payment of pensions and other benefits to firefighters in Wales from 1 April 2015.

Regulations 3, 5, 6, 7 and 8(2) make minor amendments to clarify the provisions of the 2015 Regulations.

Regulation 4 amends regulation 80A of the 2015 Regulations to clarify how the lump sum should be calculated where a member is entitled to the immediate payment of an equivalent amount to the lower tier ill health pension in the Firefighters' Pension (Wales) Scheme 1992 (set out in Schedule 2 to the Firemen's Pension Scheme Order 1992) and exercises the option to commute part of the pension for a lump sum.

Regulation 8(3) amends paragraphs 37 and 38 of Schedule 2 to the 2015 Regulations to provide for the transitional arrangements in the event that the authority decides to obtain the written opinion of an independent qualified medical practitioner (a medical practitioner as defined in the 2015 Regulations) before making a determination about a member's entitlement to an ill-health award and the determination has not been made before the member's transition date. The amendments provide that members who are subsequently granted an ill health award remain in their existing pension scheme.

Mae rheoliad 9 yn cywiro mân wall yn Rheoliadau Cynllun Pensiwn y Diffoddwyr Tân (Cymru) (Darpariaethau Trosiannol a Chanlyniadol) 2015.

Mae'r diwygiadau a wneir gan y Rheoliadau yn cael effaith o 1 Ebrill 2015 ymlaen, ac eithrio'r rhai a wneir gan reoliad 8(3) sy'n cael effaith o 1 Mehefin 2018 ymlaen.

Ystyriwyd Cod Aseidiadau Effaith Rheoleiddiol Gweinidogion Cymru ar Is-ddeddfwriaeth mewn perthynas â'r Rheoliadau hyn. 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 Rheoliadau hyn.

Regulation 9 corrects a minor error in the Firefighters' Pension Scheme (Wales) (Transitional and Consequential Provisions) Regulations 2015.

The amendments made by the Regulations have effect from 1 April 2015, except for those made by regulation 8(3) which have effect from 1 June 2018.

The Welsh Ministers' Regulatory Impact Assessment Code for Subordinate Legislation has been considered in relation to these Regulations. 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 these Regulations.

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**The Firefighters' Pension Scheme
(Wales) (Amendment) Regulations
2018**

Gwnaed 9 Mai 2018

Made 9 May 2018

*Gosodwyd gerbron Cynulliad Cenedlaethol
Cymru* 10 Mai 2018

Laid before the National Assembly for Wales
10 May 2018

Yn dod i rym 1 Mehefin 2018

Coming into force 1 June 2018

Mae Gweinidogion Cymru yn gwneud y Rheoliadau hyn drwy arfer y pwerau a roddir gan adrannau 1(1) a (2)(f)(1), 2(1), 3(1) i (3) a 18(5)(a) a (6) o Ddeddf Pensiynau'r Gwasanaethau Cyhoeddus 2013(2) ac Atodlenni 2 (paragraff 6(b)) a 3 (paragraffau 1 i 4) iddi.

The Welsh Ministers make these Regulations in exercise of the powers conferred by sections 1(1) and (2)(f)(1), 2(1), 3(1) to (3) and 18(5)(a) and (6) of, and Schedules 2 (paragraph 6(b)) and 3 (paragraphs 1 to 4) to, the Public Service Pensions Act 2013(2).

Yn unol ag adran 21 o'r Ddeddf honno, mae Gweinidogion Cymru wedi ymgynghori â chynrychiolwyr y personau hynny y mae'n ymddangos yn debygol i Weiniogion Cymru y bydd y Rheoliadau hyn yn effeithio arnynt.

In accordance with section 21 of that Act, the Welsh Ministers have consulted the representatives of such persons as appear to the Welsh Ministers likely to be affected by these Regulations.

Enwi a chychwyn

1.—(1) Enw'r Rheoliadau hyn yw Rheoliadau Cynllun Pensiwn y Diffoddwyr Tân (Cymru) (Diwygio) 2018.

(2) Daw'r Rheoliadau hyn i rym ar 1 Mehefin 2018.

(3) Yn ddarostyngedig i baragraff (4), mae'r diwygiadau a wneir gan y Rheoliadau hyn yn cael effaith o 1 Ebrill 2015 ymlaen.

(4) Mae'r diwygiadau a wneir gan reoliad 8(3) yn cael effaith o 1 Mehefin 2018 ymlaen.

Title and commencement

1.—(1) The title of these Regulations is the Firefighters' Pension Scheme (Wales) (Amendment) Regulations 2018.

(2) These Regulations come into force on 1 June 2018.

(3) Subject to paragraph (4), the amendments made by these Regulations have effect from 1 April 2015.

(4) The amendments made by regulation 8(3) have effect from 1 June 2018.

(1) *Gweler* hefyd adran 1(3) ac Atodlen 1.
(2) 2013 p. 25.

(1) *See* also section 1(3) and Schedule 1.
(2) 2013 c. 25.

Diwygio Rheoliadau Cynllun Pensiwn y Diffoddwyr Tân (Cymru) 2015

2. Mae Rheoliadau Cynllun Pensiwn y Diffoddwyr Tân (Cymru) 2015(1) sy'n sefydlu Cynllun Pensiwn y Diffoddwyr Tân (Cymru) 2015 wedi eu diwygio yn unol â rheoliadau 3 i 8.

Diwygio Rhan 3 (aelodaeth o'r cynllun)

3. Yn Rhan 3 (aelodaeth o'r cynllun), yn nhestun Saesneg rheoliad 30 (aelod â chredyd pensiwn), yn lle "WRA 1999" rhodder "WRPA 1999"(2).

Diwygio Rhan 5 (buddion ymddeol)

4. Yn Rhan 5 (buddion ymddeol), yn rheoliad 80A(3) (opsiwn i gymudo rhan o swm cyfwerth), ar ôl paragraff (3) mewnosoder—

"(4) Pan fo hawl gan y person i gael taliad ar unwaith o swm cyfwerth â phensiwn afiechyd haen isaf Cynllun 1992 ac yntau'n arfer yr opsiwn i gymudo o dan y rheoliad hwn, cyfrifir y cyfandaliad yn unol â rheol B7 (cymudo – darpariaeth gyffredinol) o Gynllun 1992."

Diwygio Rhan 6 (buddion marwolaeth)

5.—(1) Mae Rhan 6 (buddion marwolaeth) wedi ei diwygio fel a ganlyn.

(2) Yn rheoliad 87(1) (pensiwn sy'n daladwy i bartner sy'n goroesi, ar farwolaeth aelod actif) yn lle "gyda mwy na thri" rhodder "gydag o leiaf dri".

(3) Yn rheoliad 101(3) a (4) (pensiwn profedigaeth: plentyn cymwys), yn lle "pensiwn partner sy'n goroesi", ym mhob lle y mae'r geiriau'n digwydd, rhodder "pensiwn plentyn cymwys".

Diwygio Rhan 8 (cyfraniadau)

6.—(1) Mae Rhan 8 (cyfraniadau) wedi ei diwygio fel a ganlyn.

(2) Yn rheoliad 120(2) (cyfraniadau yn ystod absenoldeb o'r gwaith oherwydd salwch, anaf, anghydfod undebol neu absenoldeb awdurdodedig), ar ôl "hwnnw" mewnosoder "wneud dewisiad i".

Amendment of the Firefighters' Pension Scheme (Wales) Regulations 2015

2. The Firefighters' Pension Scheme (Wales) Regulations 2015(1) which establish the Firefighters' Pension Scheme (Wales) 2015 are amended in accordance with regulations 3 to 8.

Amendment of Part 3 (scheme membership)

3. In Part 3 (scheme membership), in the English text of regulation 30 (pension credit member), for "WRA 1999" substitute "WRPA 1999"(2).

Amendment of Part 5 (retirement benefits)

4. In Part 5 (retirement benefits), in regulation 80A(3) (option to commute part of an equivalent amount), after paragraph (3) insert—

"(4) Where the person is entitled to the immediate payment of an equivalent amount to the 1992 Scheme lower tier ill-health pension and exercises the option to commute under this regulation, the lump sum is calculated in accordance with rule B7 (commutation – general provision) of the 1992 Scheme."

Amendment of Part 6 (death benefits)

5.—(1) Part 6 (death benefits) is amended as follows.

(2) In regulation 87(1) (surviving partner's pension payable on death of active member), for "more than", substitute "at least".

(3) In regulation 101(3) and (4) (bereavement pension: eligible child), for "surviving partner's pension", in each place where the words occur, substitute "eligible child's pension".

Amendment of Part 8 (contributions)

6.—(1) Part 8 (contributions) is amended as follows.

(2) In regulation 120(2) (contributions during absence from work due to illness, injury, trade dispute or authorised absence), after "may" insert "elect to".

(1) O.S. 2015/622 (Cy. 50), a ddiwygiwyd gan O.S. 2015/1016 (Cy. 71).

(2) Ystyr "WRPA 1999" yw Deddf Diwygio Lles a Phensiynau 1999 (p. 30); gweler rheoliad 3 o O.S. 2015/622 (Cy. 50).

(3) Mewnosodwyd rheoliad 80A gan reoliad 2 o O.S. 2015/1016 (Cy. 71) a pharagraff 5(f) o Atodlen 1 iddo.

(1) S.I. 2015/622 (W. 50), amended by S.I. 2015/1016 (W. 71).

(2) "WRPA 1999" means the Welfare Reform and Pensions Act 1999 (c. 30); see regulation 3 of S.I. 2015/622 (W. 50).

(3) Regulation 80A was inserted by regulation 2 of, and paragraph 5(f) of Schedule 1 to, S.I. 2015/1016 (W. 71).

(3) Yn rheoliad 128(5) (ad-dalu cyfraniad ychwanegol cyflogwr ar gyfer dyfarniad afiechyd, yn dilyn adolygiad) ar ôl “mewn cysylltiad â P” yn y lle cyntaf y mae’r geiriau hynny’n digwydd, mewnosoder “o’r dyddiad pan ddaeth yr hawlogaeth i ben”.

Diwygio Rhan 9 (cronfa bensiwn y diffoddwyr tân)

7. Yn Rhan 9 (cronfa bensiwn y diffoddwyr tân), yn nhestun Saesneg rheoliad 137(2)(b) (diffygion gwirioneddol), ar ôl “must repay it” mewnosoder “to”.

Diwygio Atodlen 2 (darpariaethau trosiannol)

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

(2) Yn Rhan 3A(1) (talau buddion afiechyd i aelodau trosiannol)—

- (a) ym mharagraff 22(2)(a), ar ôl “reol 2” mewnosoder “o Ran 3”; a
- (b) ym mharagraff 25(2), yn lle “B1A(3)(i)” yn y ddau le y mae’n digwydd rhodder “B1A(3)(a)”.

(3) Yn Rhan 3C(2) (darpariaethau trosiannol mewn perthynas ag CPNDT a Chynllun 1992)—

- (a) ym mharagraff 37—
 - (i) yn lle’r pennawd “Rheolwr cynllun yn penderfynu nad oes gan aelod o CPNDT hawl i ddyfarniad afiechyd” rhodder “Awdurdod yn penderfynu a oes hawlogaeth gan aelod o CPNDT i gael dyfarniad afiechyd”;
 - (ii) yn is-baragraff (2), yn lle “Os yw’r paragraff hwn yn gymwys” rhodder “Os yw’r awdurdod yn penderfynu wedi hynny nad oes hawl gan yr aelod o CPNDT i gael dyfarniad afiechyd”; a
- (iii) ar ôl is-baragraff (2) mewnosoder—

“(3) Os yw’r awdurdod yn penderfynu wedi hynny bod hawl gan yr aelod o CPNDT i gael dyfarniad afiechyd—

- (a) nid yw’r aelod yn ymuno â’r cynllun hwn;
- (b) mae’r aelod yn parhau i fod yn aelod o CPNDT; ac
- (c) mae’r dyfarniad afiechyd yn daladwy o dan reol 2 o Ran 3 (dyfarnid yn sgil ymddeoliad oherwydd afiechyd) o CPNDT.”; a

(3) In regulation 128(5) (refund of employer additional contribution for ill health award following review), after “in respect of P”, in the first place where those words occur, insert “from the date when the entitlement ceased”.

Amendment of Part 9 (firefighters’ pension fund)

7. In Part 9 (firefighters’ pension fund), in the English text of regulation 137(2)(b) (actual deficits), after “must repay it” insert “to”.

Amendment of Schedule 2 (transitional provisions)

8.—(1) Schedule 2 is amended as follows.

(2) In Part 3A(1) (payment of ill-health benefits to transition members)—

- (a) in paragraph 22(2)(a), after “rule 2” insert “of Part 3”; and
- (b) in paragraph 25(2), for both occurrences of “B1A(3)(i)” substitute “B1A(3)(a)”.

(3) In Part 3C(2) (transitional provisions relating to the NFPS and the 1992 Scheme)—

- (a) in paragraph 37—
 - (i) for the heading “Scheme manager determines member of the NFPS is not entitled to an ill-health award” substitute “Authority determines the entitlement of a member of the NFPS to an ill-health award”;
 - (ii) in sub-paragraph (2), for “If this paragraph applies,” substitute “If the authority subsequently determines that the member of the NFPS is not entitled to an ill-health award.”; and
- (iii) after sub-paragraph (2) insert—

“(3) If the authority subsequently determines that the member of the NFPS is entitled to an ill-health award—

- (a) the member does not join this scheme;
- (b) the member continues to be a member of the NFPS; and
- (c) the ill-health award is payable under rule 2 of Part 3 (awards on ill-health retirement) of the NFPS.”; and

(1) Mewnosodwyd Rhan 3A gan reoliad 2 o O.S. 2015/1016 (Cy. 71), a pharagraff 7(d) o Atodlen 1 iddo.

(2) Mewnosodwyd Rhan 3C gan reoliad 2 o O.S. 2015/1016 (Cy. 71), a pharagraff 7(d) o Atodlen 1 iddo.

(1) Part 3A was inserted by regulation 2 of, and paragraph 7(d) of Schedule 1 to, S.I. 2015/1016 (W. 71).

(2) Part 3C was inserted by regulation 2 of, and paragraph 7(d) of Schedule 1 to, S.I. 2015/1016 (W. 71).

(b) ym mharagraff 38—

- (i) yn lle'r pennawd “Rheolwr cynllun yn penderfynu nad oes gan aelod o Gynllun 1992 hawl i ddyfarniad afiechyd” rhodder “Awdurdod yn penderfynu a oes hawlogaeth gan aelod o Gynllun 1992 i gael dyfarniad afiechyd”;
- (ii) yng ngeiriau agoriadol is-baragraff (2), yn lle “Os yw'r paragraff hwn yn gymwys” rhodder “Os yw'r awdurdod yn penderfynu wedi hynny nad oes hawl gan yr aelod o Gynllun 1992 i gael dyfarniad afiechyd,”;
- (iii) yn is-baragraff (2)(b), yn lle “H2A (apelau yn erbyn barn sy'n seiliedig ar gyngor meddygol)” rhodder “H2 (apêl yn erbyn barn ar fater meddygol)”;
- (iv) ar ôl is-baragraff (2) mewnosoder—

“(3) Os yw'r awdurdod yn penderfynu wedi hynny bod hawl gan yr aelod o Gynllun 1992 i gael dyfarniad afiechyd—

 - (a) nid yw'r aelod yn ymuno â'r cynllun hwn;
 - (b) mae'r aelod yn parhau i fod yn aelod o Gynllun 1992; ac
 - (c) mae'r dyfarniad afiechyd yn daladwy o dan reol B3 (dyfarniadau afiechyd) o Gynllun 1992.”

Diwygio Rheoliadau Cynllun Pensiwn y Diffoddwyr Tân (Cymru) (Darpariaethau Trosiannol a Chanlyniadol) 2015

9. Yn y rhaglith i Reoliadau Cynllun Pensiwn y Diffoddwyr Tân (Cymru) (Darpariaethau Trosiannol a Chanlyniadol) 2015(1) hepgorer “(6) a (7),”.

(b) in paragraph 38—

- (i) for the heading “Scheme manager determines member of the 1992 Scheme is not entitled to an ill-health award” substitute “Authority determines the entitlement of a member of the 1992 Scheme to an ill-health award”;
- (ii) in the opening words of sub-paragraph (2), for “If this paragraph applies,” substitute “If the authority subsequently determines that the member of the 1992 Scheme is not entitled to an ill-health award,”;
- (iii) in sub-paragraph (2)(b), for “H2A (appeals against opinion based on medical advice)” substitute “H2 (appeal against opinion on a medical issue)”;
- (iv) after sub-paragraph (2) insert—

“(3) If the authority subsequently determines that the member of the 1992 Scheme is entitled to an ill-health award—

 - (a) the member does not join this scheme;
 - (b) the member continues to be a member of the 1992 Scheme; and
 - (c) the ill-health award is payable under rule B3 (ill-health awards) of the 1992 Scheme.”

Amendment of the Firefighters' Pension Scheme (Wales) (Transitional and Consequential Provisions) Regulations 2015

9. In the preamble to the Firefighters' Pension Scheme (Wales) (Transitional and Consequential Provisions) Regulations 2015(1) omit “(6) and (7),”.

Alun Davies

Ysgrifennydd y Cabinet dros Lywodraeth Leol a Gwasanaethau Cyhoeddus, un o Weinidogion Cymru
9 Mai 2018

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Cabinet Secretary for Local Government and Public Services, one of the Welsh Ministers
9 May 2018

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(1) O.S. 2015/1016 (Cy. 71).

(1) S.I. 2015/1016 (W. 71).

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