OFFERYNNAU STATUDOL CYMRU

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GWASANAETHAU TÂN AC ACHUB, CYMRU

PENSIYNAU, CYMRU

Gorchymyn Cynllun Pensiwn y Dynion Tân (Cymru) (Diwygio) 2009

Gwnaed - - - - *13 Mai 2009*
Gosodwyd gerbron Cynulliad Cenedlaethol Cymru - - *15 Mai 2009*
Yn dod i rym yn unol ag erthygl 1(2)

Mae Gweinidogion Cymru, drwy arfer y pwerau a roddwyd i'r Ysgrifennydd Gwladol yn adran 26(1) i (5) o Ddeddf Gwasanaethau Tân 1947(**1**) ac adran 12 o Ddeddf Blwydd-daliadau 1972(**2**), fel y'u cymhwysir gan adran 16(3) o'r Ddeddf honno(**3**), ac a freinir yn awr ynddynt hwy(**4**), yn gwneud y Gorchymyn canlynol:

(**1**) 1947 p.41, diddymwyd gan adran 52 o Ddeddf y Gwasanaethau Tân ac Achub 2004 (p.21) ac Atodlen 2 i'r Ddeddf honno. Mae is-adrannau (1) i (5) o adran 26 yn parhau mewn grym, at ddibenion y cynllun a sefydlwyd o dan yr adran honno fel Cynllun Pensiwn y Dynion Tân ac a welir yng Ngorchymyn Cynllun Pensiwn y Dynion Tân 1992 (O.S. 1992/129), gan Orchymyn Deddf y Gwasanaethau Tân ac Achub 2004 (Cynllun Pensiwn y Dynion Tân) (Cymru) 2004 (O.S. 2004/2918 (Cy.257)). Newidiwyd enw'r cynllun i Gynllun Pensiwn y Dynion Tân (Cymru) gan erthygl 4(1) o'r Gorchymyn hwnnw. Diwygiwyd y Cynllun ymhellach gan Orchymyn Pensiwn Dynion Tân (Cymru) (Diwygio) 2006 (O.S. 2006/1672 (Cy.160)) a Gorchymyn Cynllun Pensiwn y Dynion Tân (Cymru) (Diwygio) 2007 (O.S. 2007/1074 (Cy.112)). Diwygiwyd adran 26 o Ddeddf 1947 gan adran 1 o Ddeddf y Gwasanaethau Tân 1951 (p.27), adran 42 o Ddeddf Lluoedd Arfog Wrth Gefn ac Atodol (Amddiffyn Buddiannau Sifil) 1951 (p.65), adran 33 o Ddeddf Lladrad 1968 (p.60) ac Atodlen 3 i'r Ddeddf honno, adrannau 16 a 29 o Ddeddf Blwydd-daliadau 1972 (p.11) ac Atodlen 8 i'r Ddeddf honno, adran 100 o Ddeddf Nawdd Cymdeithasol 1973 (p.38), ac Atodlen 27 i'r Ddeddf honno, adran 1 o Ddeddf Nawdd Cymdeithasol (Darpariaethau Canlyniadol) 1975 (p.18) ac Atodlen 1 i'r Ddeddf honno, adran 32 o Ddeddf y Llysoedd Ynadon 1980 (p.43), adran 1 o Ddeddf Pensiynau'r Heddlu a'r Dynion Tân 1997 (p.52) ac Atodlen 25 i Ddeddf Partneriaeth Sifil 2004 (p.33), ac erthygl 2 o Orchymyn Nawdd Cymdeithasol (Addasu Deddf y Gwasanaethau Tân 1947) 1976 (O.S. 1976/551).

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

(**3**) Mae adran 16 yn parhau mewn grym at ddibenion Cynllun Pensiwn y Dynion Tân (a ailenwyd yn Gynllun Pensiwn y Dynion Tân (Cymru) gan Orchymyn Deddf y Gwasanaethau Tân ac Achub 2004 (Cynllun Pensiwn y Dynion Tân) (Cymru) 2004 (O.S. 2004/2918 (Cy.257))).

(**4**) Diddymwyd Deddf y Gwasanaethau Tân 1947 ("Deddf 1947") gan adran 52 o Ddeddf y Gwasanaethau Tân ac Achub 2004 (p.21) ("Deddf 2004") ac Atodlen 2 i'r Ddeddf honno. Parhawyd i gadw mewn grym swyddogaethau'r Ysgrifennydd Gwladol o dan is-adrannau (1) i (5) o adran 26 o Ddeddf 1947, at ddibenion y cynllun a sefydlwyd o dan yr adran honno fel Cynllun Pensiwn y Dynion Tân ac a welir yng Ngorchymyn Cynllun Pensiwn y Dynion Tân 1992 (O.S. 1992/129), gan adran 36 o Ddeddf 2004 ac O.S. 2004/2918 (Cy.257) a wnaed o dan y Ddeddf honno. Yr oedd pwerau yr Ysgrifennydd Gwladol o dan adran 36 o Ddeddf 2004 yn arferadwy gan Gynulliad Cenedlaethol Cymru yn rhinwedd adran 62 o Ddeddf 2004. Trosglwyddwyd swyddogaethau Cynulliad Cenedlaethol Cymru i Weinidogion Cymru o dan adran 162 o Ddeddf Llywodraeth Cymru 2006 a pharagraff 30 o Atodlen 11 i'r Ddeddf honno.

Enwi, cychwyn a chymhwyso

1.—(1) Enw'r Gorchymyn hwn yw Gorchymyn Cynllun Pensiwn y Dynion Tân (Cymru) (Diwygio) 2009.

(2) Daw'r Gorchymyn hwn i rym ar 9 Mehefin 2009, ond—

(a) mae'r diwygiad a wneir gan erthygl 2 a pharagraff 1 o'r Atodlen i'r graddau y mae a wnelo â'r rheol newydd B5A (yr hawlogaeth i ddau bensiwn) yn cael effaith o 1 Ebrill 2007; a

(b) mae'r diwygiadau eraill yn cael effaith o 1 Gorffennaf 2007.

(3) Mae'r Gorchymyn hwn yn gymwys o ran Cymru.

Diwygio Gorchymyn Cynllun Pensiwn y Dynion Tân 1992

2. Diwygir Atodlen 2 i Orchymyn Cynllun Pensiwn y Dynion Tân 1992(**5**) (y nodir Cynllun Pensiwn y Dynion Tân (Cymru) ynddi) yn unol â'r Atodlen i'r Gorchymyn hwn.

Brian Gibbons
Gweinidog dros Gyfiawnder Cymdeithasol a Llywodraeth Leol, un o Weinidogion Cymru

13 Mai 2009

(**5**) O.S. 1992/129; a ddiwygiwyd gan O.S. 1997/2309 a 2851, 1998/1010, 2001/3649 a 3691, 2004/1912, 2006/1672 (Cy.160) a 2007/1074 (Cy.112). Gwnaed y Cynllun o dan adran 26 o Ddeddf y Gwasanaethau Tân 1947 (p.41). Diddymwyd y Ddeddf honno gan adran 52 o Ddeddf y Gwasanaethau Tân ac Achub 2004 (p.21) ("Deddf 2004") ac Atodlen 2 i Ddeddf 2004. Mae is-adrannau (1) i (5) o adran 26 yn parhau mewn grym, at ddibenion y cynllun a sefydlwyd o dan yr adran honno fel Cynllun Pensiwn y Dynion Tân, gan adran 36 o Ddeddf 2004 ac O.S. 2004/2918 (Cy.257) a wnaed o dan y Ddeddf honno. Newidiwyd enw'r cynllun, mewn perthynas â Chymru, gan erthygl 4(1) o O.S. 2004/2918 (Cy.257).

ATODLEN Erthygl 2

DIWYGIO CYNLLUN PENSIWN Y DYNION TÂN (CYMRU)

1. Yn Rhan B (dyfarndaliadau personol), ar ôl rheol B5 (pensiwn gohiriedig), mewnosoder—

"**Entitlement to two pensions**

B5A.—(1) A regular firefighter who—

(a) on taking up a different role; or

(b) becoming entitled to a different rate of pay in his existing role,

suffers a reduction in the amount of his pensionable pay such that the amount to be taken into account in the calculation of the pension to which he will be entitled at normal pension age is less than it would otherwise have been, is entitled to two pensions.

(2) The amounts of the pensions shall be those found by applying the formulae set out in paragraphs (3) and (4) but, where the aggregate of those amounts exceeds that of the single award to which the firefighter would be entitled under paragraph (6) if he were to give notice under that paragraph or under paragraph (7) if he were to make an election under rule G3, his entitlement shall be to an amount equal to the amount of that single award.

(3) The amount of the first pension is that found by applying the formula—

$$A \times \frac{B}{C} \times \frac{D}{60}$$

where—

A is the firefighter's average pensionable pay for the year ending with his last day of service at the higher rate of pay;

B is the firefighter's pensionable service up to that day;

C is the firefighter's total pensionable service; and

D is the total number of 60ths that would have been used in the calculation of his single award had he given the instruction referred to in paragraph (6).

(4) The amount of the second pension is that found by applying the formula—

$$E \times \frac{F}{C} \times \frac{D}{60}$$

where—

C and D have the same meanings as in paragraph (3);

E is the firefighter's average pensionable pay for the year ending with his last day of service; and

F is—

(a) where the aggregate of—

(i) the pensionable service used to ascertain the value of B in his case for the purpose of the formula in paragraph (3); and

(ii) his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service,

exceeds 30, the difference between B and 30;

(b) in any other case, his pensionable service for the period commencing with his first day of service at the lower rate of pay and ending with his last day of service.

(5) Subject to paragraph (6), the pensions become payable on the date on which a pension would have become payable to the firefighter in whichever of the circumstances referred to in rules B1, B2, B3 and B5 applies in his case.

(6) A firefighter who is entitled to two pensions under this rule may, before leaving the employment of the fire and rescue authority by which he is employed, by written notice instruct the authority to make a single award which shall be calculated in accordance with whichever of rules B1, B2, B3 and B5 is applicable in his case.

(7) Where a firefighter who would be entitled to two pensions under paragraph (1) makes an election under rule G3, he shall be entitled instead to a single pension, calculated as if it were a deferred pension to which he was entitled under rule B5.

(8) In paragraph (1), "role", in relation to a firefighter, means the role in which he is for the time being employed, being a role set out in "Fire and Rescue Services Rolemaps" issued by the National Joint Council for Local Authority Fire and Rescue Services in August 2005(**6**).

Additional pension benefit: long service increment

B5B.—(1) A regular firefighter who—

(a) in respect of a period that includes 30 June 2007 is entitled to a long service increment or to an interim or transitional payment connected with long service, and

(b) on or after 1 October 2007—

(i) retires from employment as a regular firefighter, or

(ii) becomes entitled to a deferred pension under rule B5,

shall be credited with an amount of additional pension benefit.

(2) Subject to paragraph (3), the amount of additional pension benefit is that calculated in accordance with the formula—

$$\frac{A + (B \times 2) \times £990}{60}$$

where—

A is the number in years (counting part of a year as the appropriate fraction) by which the firefighter's pensionable service up to and including 30 June 2007 exceeds 15 but does not exceed 20; and

B is the number in years (counting part of a year as the appropriate fraction) by which his pensionable service up to and including 30 June 2007 exceeds 20.

(3) Where the Retail Prices Index for the month of September preceding the relevant tax year is higher than it was for September 2007, the amount of additional pension benefit (as calculated in accordance with paragraph (2) and, if applicable, this paragraph) shall be increased by the same percentage as the percentage increase in the Retail Prices Index.

(**6**) Gellir gweld y ddogfen yn http://www/lge.gov.uk/conditions/firefighters/content/documents/fire service rolemaps.pdf