

- Interests) Act 1951(a) ("the 1951 Act"), other than service specified in paragraph 5(b) of that Schedule,
- (b) part-time service under the National Service Act 1948(b), otherwise than pursuant to a training notice under that Act, and
 - (c) service for the purposes of training only performed by a person mentioned in paragraph 7 of Schedule 1 to the 1951 Act for a period shorter than 7 days.

Compulsory retirement on account of age

A13.—(1) This rule applies to every whole-time member of a brigade appointed on terms under which he is or may be required to engage in fire-fighting.

(2) Subject to paragraph (3), a person to whom this rule applies shall retire—

- (a) if he holds the rank of assistant divisional officer or a higher rank, on attaining the age of 60, or
- (b) if he holds the rank of station officer or a lower rank, on attaining the age of 55.

(3) In special cases the fire authority may extend the service of a person to whom this rule applies for a further period if they are satisfied that such extension would be in the interests of efficiency.

Compulsory retirement on grounds of efficiency of brigade

A14. A whole-time member of a brigade who—

- (a) was appointed on terms under which he is or may be required to engage in fire-fighting, and
- (b) has attained the age of 50, and
- (c) has, or but for an election under rule G3 would have, completed 25 years' pensionable service,

may be required by the fire authority to retire on the grounds that his retention in the brigade would not be in the general interests of its efficiency.

Compulsory retirement on grounds of disablement

A15.—(1) Subject to paragraph (2), a regular firefighter may be required by the fire authority to retire on the date on which the authority determine that he ought to retire on the ground that he is permanently disabled.

(2) A retirement under this rule is void if, on an appeal against the medical opinion on which the fire authority acted in determining that he ought to retire, the medical referee decides that the appellant is not permanently disabled.

Effective date of retirement

A16. For the purposes of this Scheme a member of a brigade shall be taken to retire immediately after his last day of service.

PART B

PERSONAL AWARDS

Ordinary pension

B1.—(1) Subject to paragraph (2), this rule applies to a regular firefighter who retires if he then—

- (a) has attained the age of 50, and
- (b) is entitled to reckon at least 25 years' pensionable service, and
- (c) does not become entitled to an ill-health award under rule B3.

(2) This rule does not apply—

- (a) to a person whose notice of retirement states that he is retiring for the purpose of joining another brigade, or
- (b) unless his notice of retirement was given with the permission of the fire authority, to a chief officer, or in Scotland a firemaster, who retires before attaining the age of 55, or

(a) 1951 c.65.

(b) 1948 c.64.

- (c) where immediately before the person's retirement an election under rule G3 not to pay pension contributions had effect.

(3) A person to whom this rule applies becomes entitled on retiring to an ordinary pension calculated in accordance with Part I of Schedule 2.

Short service award

B2.—(1) This rule applies, unless immediately before his retirement an election under rule G3 not to pay pension contributions had effect, to a regular firefighter—

- (a) who retires as required by rule A13 (compulsory retirement on account of age) and does not on retiring become entitled to an ordinary pension under rule B1, or
- (b) who retires on or after attaining the age of 65, is entitled to reckon at least 2 years' pensionable service, and is not entitled to any other pension or gratuity under this Part.

(2) A person to whom this rule applies becomes entitled on retiring—

- (a) if he is entitled to reckon at least 2 years' pensionable service, to a short service pension calculated in accordance with Part II of Schedule 2, and
- (b) in any other case, to a short service gratuity calculated in accordance with Part IV of Schedule 2.

Ill-health award

B3.—(1) This rule applies, unless immediately before his retirement an election under rule G3 not to pay pension contributions had effect, to a regular firefighter who is required to retire under rule A15 (compulsory retirement on grounds of disablement).

(2) A person to whom this rule applies becomes entitled on retiring—

- (a) if he is entitled to reckon at least 2 years' pensionable service or the infirmity was occasioned by a qualifying injury, to an ill-health pension calculated in accordance with Part III of Schedule 2, and
- (b) in any other case, to an ill-health gratuity calculated in accordance with Part IV of Schedule 2.

Injury award

B4.—(1) This rule applies to a regular firefighter who has retired and is permanently disabled if the infirmity was occasioned by a qualifying injury.

(2) A person to whom this rule applies is entitled—

- (a) to a gratuity, and
- (b) subject to paragraphs (3) and (4), to an injury pension,

both calculated in accordance with Part V of Schedule 2.

(3) Payment of an injury pension is subject to paragraph 4 of Part V of Schedule 2.

(4) Where the person retired before becoming permanently disabled, no payment in respect of an injury pension shall be made for the period before he became permanently disabled.

Deferred pension

B5.—(1) This rule applies to a regular firefighter who is entitled to reckon at least 2 years' pensionable service or, though not so entitled—

- (a) has an earlier period of service as a regular firefighter which, disregarding breaks in service of not more than a month, is continuous and which, after deducting from it any period during which an election under rule G3 not to pay pension contributions had effect and aggregating the remainder with his pensionable service, amounts to 2 years or more, or
- (b) is entitled to reckon pensionable service by virtue both of service as a regular firefighter and of a period of other employment which together amount to 2 years or more.

(2) If a person to whom this rule applies ceases to be a member of a brigade, otherwise than in pursuance of a notice of retirement stating that he is retiring for the purpose of joining another brigade, or elects under rule G3 not to pay pension contributions, in circumstances in which—

- (a) no transfer value or cash equivalent is payable in respect of him, and
- (b) he does not become entitled to any award under rules B1 to B4,

he becomes entitled to a deferred pension calculated in accordance with Part VI of Schedule 2.

(3) If-

- (a) a person to whom, when he was a regular firefighter, this rule applied has been awarded an ill-health pension under rule B3, and
- (b) the unsecured portion of that pension is terminated under rule K1(3) otherwise than on his rejoining his brigade,

he becomes entitled to a deferred pension calculated in accordance with Part VI of Schedule 2.

(4) A deferred pension becomes payable-

- (a) from the 60th birthday of the person entitled to it, or
- (b) from any earlier date on which he becomes permanently disabled,

and no payment in respect of the pension shall be made for any earlier period.

(5) A person who under rule F4(4)(b) relinquishes his entitlement to a deferred pension ceases to be entitled to it.

Repayment of aggregate pension contributions

B6.—(1) This rule applies to a regular firefighter who ceases to be a member of a brigade, otherwise than in pursuance of a notice of retirement stating that he is retiring for the purpose of joining another brigade, or elects under rule G3 not to pay pension contributions, in circumstances in which-

- (a) no transfer value or cash equivalent is payable in respect of him, and
- (b) he does not become entitled to any award under rules B1 to B5 or J1.

(2) A person to whom this rule applies becomes entitled to the repayment of his aggregate pension contributions.

Commutation - general provision

B7.—(1) This rule applies to an ordinary, short service, ill-health or deferred pension under this Part; in relation to a deferred pension, it has effect as if references to retirement and to the date of retirement were references respectively to the pension's coming into payment and to the date of its coming into payment.

(2) A person entitled or prospectively entitled to a pension to which this rule applies may commute for a lump sum a portion of the pension ("the commuted portion").

(3) The lump sum is the actuarial equivalent of the commuted portion at the date of retirement, calculated from tables prepared by the Government Actuary.

(4) The commuted portion must not in any case exceed a quarter of the full amount of the pension.

(5) In the case of an ordinary pension, unless-

- (a) when the person retires he is entitled to reckon at least 30 years' service, or
- (b) he retires as required by rule A13 (compulsory retirement on account of age), or
- (c) he retires on or after his 55th birthday and notice of commutation is given with the consent of the fire authority,

the commuted portion must not be such that the lump sum exceeds two and a quarter times the full amount of the pension.

(6) The full amount of a pension is its amount as calculated under Part I, II, III or VI of Schedule 2, disregarding any reduction under any other provision of this Scheme.

(7) In order to commute a portion of a pension a person must, not earlier than 4 months before his intended retirement nor later than 6 months after his retirement, give the fire authority written notice of commutation specifying the portion.

(8) Notice of commutation takes effect from the later of-

- (a) the date on which it is received by the fire authority, and
- (b) the date of the person's retirement,

except that it does not take effect if it was given more than 4 months before retirement or relates to an ill-health pension the unsecured portion of which has already been terminated under rule K1(3).

(9) When a person's notice of commutation takes effect the fire authority shall-

- (a) reduce the pension, as from the effective date, by the commuted portion, and
- (b) pay him the lump sum, reduced, where the effective date is the date of receipt of the notice, by the difference between the aggregate payments made in respect of the pension and the aggregate payments that would have been made in respect of it if it had been reduced from the date of retirement.

(10) Where notice of commutation relating to an ill-health pension has taken effect and the unsecured portion of the pension is terminated under rule K1(3)–

- (a) no reduction shall be made under paragraph (9) in the secured portion of the ill-health pension, insofar as it is payable under rule K1(5), but
- (b) if the person later becomes entitled to another pension, other than an injury pension, for the purposes of which he is entitled to reckon the period of pensionable service that was reckonable for the purposes of the ill-health pension, the unsecured portion of the other pension shall be reduced by the amount by which the ill-health pension would have been reduced if its unsecured portion had not been terminated,

and where sub-paragraph (b) applies and notice of commutation is given in respect of the other pension, the portion of it that may be commuted is reduced by the amount of the reduction under sub-paragraph (b).

(11) For the purposes of this rule no account shall be taken of any increase under rule I2(3) or I4 in an award to a serviceman.

Commutation – small pensions

B8.—(1) Where the amount of any pension payable under this Part to a person who has attained state pensionable age, together with any increase under the Pensions (Increase) Act 1971(a), does not exceed £260, or any greater amount prescribed by regulations for the time being in force under paragraph 15(4) of Schedule 16 to the Social Security Act 1973(b), the fire authority may in their discretion commute the pension for a gratuity.

(2) The amount of a gratuity under this rule is the actuarial equivalent of the pension, calculated from tables prepared by the Government Actuary.

(3) Where a person is entitled to more than one pension, the pensions shall be treated as one for the purposes of this rule.

Allocation

B9.—(1) This rule applies to an ordinary, short service, ill-health or deferred pension under this Part.

(2) A person entitled or prospectively entitled to a pension to which this rule applies may allocate a portion of the pension in favour of a beneficiary, that is to say–

- (a) his spouse, or
- (b) some other person who the fire authority are satisfied is substantially dependent on him.

(3) A person who has allocated a portion of an ordinary pension may allocate a further portion of it–

- (a) in favour of the same beneficiary, or
- (b) if that beneficiary has died, in favour of some other beneficiary.

(4) A person who–

- (a) has allocated a portion of any pension to which this rule applies, and
- (b) proposes to marry or re-marry, and
- (c) has not attained the age of 70,

may allocate a further portion of the pension in favour of his spouse by that marriage.

(5) No more than one third of a pension may be allocated under this rule.

(6) In order to allocate a portion of a pension a person must give the fire authority written notice of allocation specifying–

- (a) the portion, and
- (b) the beneficiary,

and must have satisfied the authority as to his good health.

(7) A person's notice of allocation, which may be sent by post, must be given–

- (a) if he has not retired but is entitled to retire with an ordinary pension, before his intended retirement,
- (b) if he is in receipt of a pension and has not attained the age of 70 and proposes to marry or re-marry, and the beneficiary is his spouse by that marriage, before but not earlier than 2 months before his intended marriage,

(a) 1971 c.56.

(b) 1973 c.38.

- (c) if the pension is a deferred pension, before but not earlier than 2 months before the pension comes into payment, or
 - (d) in any other case, before but not earlier than 2 months before his intended retirement.
- (8) Where a person has complied with paragraphs (6) and (7) the fire authority shall forthwith notify him in writing that they have accepted the notice of allocation.
- (9) Where the notice of allocation has been accepted and paragraph (7)(a) applies, the notice takes effect as from the earlier of—
- (a) the date on which the authority's notification under paragraph (8) was received, and
 - (b) the date of the person's retirement.
- (10) Where the notice of allocation has been accepted and paragraph (7)(b), (c) or (d) applies, the notice—
- (a) takes effect only if the relevant event occurs within 2 months of its being given, and
 - (b) if it takes effect, does so as from the date of the relevant event.
- (11) Where paragraph (7)(b) applies the relevant event is the marriage, where paragraph (7)(c) applies it is the coming into payment of the pension, and where paragraph (7)(d) applies it is the person's retirement.
- (12) Where a notice of allocation has taken effect and the pension to which it relates has become payable, the pension shall, even if the beneficiary has died, be reduced by the allocated portion as from the later of—
- (a) the date from which the pension is payable, and
 - (b) the date on which the notice took effect,
- and if the beneficiary survives the pensioner the fire authority shall, as from the pensioner's death, pay the beneficiary a pension which is the actuarial equivalent of the allocated portion.
- (13) The actuarial equivalent shall be calculated from tables prepared by the Government Actuary and in force at the time when the notice took effect, which shall—
- (a) take account of the ages of the pensioner and the beneficiary at that time, and
 - (b) make different provision according to whether or not the notice took effect under paragraph (9),
- and separate calculations shall be made in respect of separate allocations.
- (14) Where notice of allocation in respect of an ordinary pension was given when the person was entitled to retire with an ordinary pension and has taken effect, then—
- (a) if he dies before retiring and the beneficiary survives him, the fire authority shall pay the beneficiary the pension they would have paid by virtue of the notice if the ordinary pension had become payable immediately before the death, and
 - (b) if he retires with an ill-health pension, the notice shall be treated as having been given in respect of that pension.
- (15) In the case of a chief officer, or in Scotland a firemaster, in determining for the purposes of this rule—
- (a) whether he is entitled to retire with an ordinary pension, or
 - (b) if he dies before retiring, what pension would have been paid if he had retired immediately before he died,
- no account shall be taken of the restriction on entitlement to an ordinary pension imposed by rule B1(2)(b).
- (16) For the purposes of this rule no account shall be taken of any increase under rule I2(3) or I4 in an award to a serviceman.

Limitation of commuted or allocated portion of pension

- B10.—**(1) A person may not commute under rule B7 or allocate under rule B9—
- (a) so much of any pension that it becomes payable at a rate less than two thirds of the rate at which it would have been payable but for those rules and Parts VII and VIII of Schedule 2, or
 - (b) in the case of a deferred pension in relation to which, when it becomes payable, he has a guaranteed minimum, so much of the pension that its weekly amount, including any increase under the Pensions (Increase) Act 1971, is then less than the guaranteed minimum.
- (2) For the purposes of this rule no account shall be taken of any increase under rule I2(3) or I4 in an award to a serviceman.

Deduction of tax from certain awards

B11. A fire authority may deduct from any payment which is chargeable to tax under section 598 of the Income and Corporation Taxes Act 1988(a) (repayment of employee's contributions) the amount of tax charged.

PART C

AWARDS ON DEATH - SPOUSES

Spouse's ordinary pension

C1.—(1) This rule applies where a person entitled to reckon at least 3 years' pensionable service dies, leaving a surviving spouse—

- (a) while serving as a regular firefighter, unless an election under rule G3 not to pay pension contributions had effect at the time of his death, or
- (b) while in receipt of an ordinary, short service or ill-health pension, or
- (c) while in receipt of an injury pension, if he has been but no longer is in receipt both of that pension and of an ill-health pension, or
- (d) in consequence of an injury on account of which he retired from service as a regular firefighter with an ill-health gratuity, if he has not since had any period of such service.

(2) Where this rule applies the surviving spouse is, subject to paragraph (3), entitled to an ordinary pension calculated, subject to Part I of Schedule 11 (calculation in certain cases where deceased serving or entitled to pension on 1st July 1973), in accordance with Part I of Schedule 3.

(3) Where the deceased died while serving as a regular firefighter, the surviving spouse may, by giving notice to the fire authority within 3 months after the date of the death, elect to have, instead of an ordinary pension, a reduced pension and a gratuity.

(4) The amount of the reduced pension is 75% of that of the ordinary pension which would otherwise have been payable.

(5) The amount of the gratuity is the greater of—

- (a) 6 times the amount of the reduced pension, and
- (b) the deceased's average pensionable pay,

but if the surviving spouse has received any pension payments at a rate higher than that of the reduced pension the fire authority shall recover the overpayment by reducing the gratuity.

(6) The fire authority may in their discretion accept a notice of election under paragraph (3) given more than 3 months after the date of the death.

Spouse's special award

C2.—(1) This rule applies where a person who is or has been a regular firefighter dies from the effects—

- (a) of a qualifying injury, or
- (b) of infirmity of mind or body occasioned by a qualifying injury,

leaving a surviving spouse.

(2) Where this rule applies the surviving spouse is entitled—

- (a) to a special pension calculated in accordance with Part II of Schedule 3, and
- (b) subject to paragraph (5), to a gratuity.

(3) Where the deceased died while serving as a regular firefighter the amount of the gratuity is the total of 25% of his average pensionable pay and the greater of—

- (a) his average pensionable pay, and
- (b) two and a quarter times the amount of the pension that would have been payable under rule B3 if on the date of his death he had retired on the ground of permanent disablement.

(4) In any other case the amount of the gratuity is 25% of the deceased's average pensionable pay.

(5) Where the deceased was entitled to an injury gratuity under rule B4—

(a) 1988 c.1.