

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.

- (a) if it was of the same or a larger amount, no gratuity is payable under this rule, and
- (b) if it was of a smaller amount, the gratuity under this rule shall be reduced by that amount.

Spouse's augmented award

C3.—(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, and one of the conditions in paragraph (2) is satisfied.

(2) The conditions are—

- (a) that the injury was received in the execution of duties performed, in circumstances in which there was an intrinsic likelihood of his receiving a fatal injury, for the immediate purpose of saving the life of another person or of preventing loss of human life, or
- (b) that the fire authority are of the opinion that the preceding condition may be satisfied and that this rule should apply, or
- (c) that the fire authority are of the opinion that the injury was received in such circumstances that it would be inequitable if this rule were not to apply.

(3) Where this rule applies, rule C2 applies with the modifications set out in paragraphs (4) and (5) below.

(4) For the purpose of calculating the special pension, Part II of Schedule 3 has effect with the substitution for "45%" of "50%".

(5) Unless they produce a more favourable result, rule C2(3) to (5) does not apply, and the amount of the gratuity is twice the annual pensionable pay, at the date of the death, of a regular firefighter holding the rank of firefighter in the brigade maintained by the London Fire and Civil Defence Authority and entitled to reckon 30 years' service for the purposes of pay.

Spouse's accrued pension

C4.—(1) This rule applies, whether or not the pension has come into payment, where a person entitled to a deferred pension dies leaving a surviving spouse.

(2) For the purposes of paragraph (1) a person shall be treated as entitled to a deferred pension if he would have been entitled to one but for its commutation under rule B8.

(3) Where this rule applies the surviving spouse is entitled to an accrued pension calculated in accordance with Part III of Schedule 3.

Limitation on award to widow with reference to date of marriage

C5.—(1) A widow is not entitled to an ordinary pension under rule C1, a special award under rule C2, an augmented award under rule C3, an accrued pension under rule C4 or an award under rule C7 unless she was married to the deceased during a period before he last ceased to be a regular firefighter.

(2) A widow who but for paragraph (1) would be entitled to a pension or other award mentioned in that paragraph is instead entitled to a pension calculated in accordance with Part IV of Schedule 3.

Widow's requisite benefit and temporary pension

C6.—(1) This rule applies where—

- (a) a man entitled to reckon less than 3 years' pensionable service who is or has been a regular firefighter and by whom pension contributions have at any time been payable under rule G2 dies, leaving a widow, after the beginning of the tax year in which he attained or would have attained state pensionable age, and
- (b) neither rule C2 nor rule C4 applies.

(2) Where this rule applies the widow is entitled—

- (a) in respect of the first 13 weeks following the death, to a temporary pension, and
- (b) after the last of those 13 weeks, to a requisite benefit pension.

(3) The weekly amount of the temporary pension is A—B, where—

A is the weekly amount, immediately before he died, of the deceased's pensionable pay or, as

the case may be, his pension or pensions (including any increase under the Pensions (Increase) Act 1971(a)), and

B is the weekly amount of any children's allowances payable in respect of his death.

(4) The requisite benefit pension shall be calculated in accordance with Part V of Schedule 3.

(5) If—

(a) the deceased died while serving as a regular firefighter, and

(b) the amount of the capitalised value of the requisite benefit pension, as calculated by the Government Actuary, is less than that of his average pensionable pay,

the widow is entitled to a gratuity equal to the difference between those amounts.

Spouse's award where no other award payable

C7.—(1) This rule applies where a person by whom pension contributions have at any time been payable under rule G2 dies while serving as a regular firefighter—

(a) in the case of a man, before the end of the tax year preceding that in which he would have attained state pensionable age, or

(b) in the case of a woman, at any time,

leaving a surviving spouse, and neither rule C1 nor rule C2 nor rule C4 applies.

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

(a) in respect of the first 13 weeks following the death, to a temporary pension calculated as if rule C6(2)(a) and (3) had applied, and

(b) to a gratuity of an amount equal to the deceased's average pensionable pay.

Limitation where spouses living apart

C8.—(1) A surviving spouse who at the time of the death was living apart from the deceased is not entitled to any award under rules C1 to C7.

(2) Except where paragraph (3) applies, a surviving spouse who but for paragraph (1) would be entitled to an award under rule C1, C2, C3 or C4 is entitled instead to a requisite benefit pension calculated in accordance with Part V of Schedule 3.

(3) Where—

(a) the surviving spouse would but for paragraph (1) be entitled to an award under rule C1, C2, C3 or C4, and

(b) at the time of the death the deceased was making relevant contributions, or was liable to do so by virtue of an agreement or of an order or decree of a competent court,

the surviving spouse is entitled to a pension of the appropriate amount.

(4) Relevant contributions are contributions paid or payable—

(a) for the support of the spouse, or

(b) to the spouse for the support of a child of the spouse's,

the amount of which exceeds that of the requisite benefit pension that would otherwise be payable under paragraph (2).

(5) The appropriate amount is the lesser of—

(a) the amount of a pension calculated in accordance with, as the case may be, rule C1, C2, C3 or C4, and

(b) the amount of the relevant contributions.

(6) The fire authority may determine that, for such period as they think fit, a pension under paragraph (2) or (3) shall be paid at such increased rate, not exceeding that of the pension which would have been payable but for paragraph (1), as they think fit.

(7) Where but for paragraph (1) the surviving spouse would be entitled to a gratuity, the fire authority may decide that the gratuity be paid in whole or part, as they think fit.

Effect of remarriage

C9.—(1) A person entitled to a pension under this Part who remarries is not entitled to receive any payment on account of the pension in respect of any subsequent period; but if the marriage is dissolved or the other party to it dies the fire authority may pay the whole or any part of the pension for such period after the dissolution or death as they think fit.

(a) 1971 c.56.

(2) Where a person entitled to a gratuity under this Part remarries any part of the gratuity that has not already been paid ("the outstanding amount") ceases to be payable; but if the marriage is dissolved or the other party to it dies the fire authority may pay the person the whole or any part of the outstanding amount.

PART D

AWARDS ON DEATH—CHILDREN

Child's ordinary allowance

D1.—(1) This rule applies where a person dies, leaving a child—

- (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) Subject to rule D5, where this rule applies the child is entitled to an ordinary allowance calculated, subject to Part II 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 4.

Child's special allowance

D2.—(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 child.

(2) Subject to rule D5, where this rule applies the child is entitled to a child's special allowance calculated in accordance with Part II of Schedule 4.

Child's special gratuity

D3.—(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 child but not leaving a surviving spouse entitled to a gratuity under rule C2, and one of the conditions in rule C3(2) is satisfied.

(2) Subject to rule D5, where this rule applies the child is entitled to a gratuity in addition to a child's special allowance.

(3) Where only one child is entitled to a gratuity, its amount is that specified in rule C3(5) ("the full amount"); where two or more children are entitled, the amount of each gratuity is the full amount divided by the number of children entitled.

Child's accrued allowance

D4.—(1) This rule applies, whether or not the pension has come into payment, where a person entitled to a deferred pension dies leaving a child.

(2) Subject to rule D5, where this rule applies the child is entitled to an accrued allowance calculated in accordance with Part III of Schedule 4.

Child's allowance or special gratuity—limitations

D5.—(1) No allowance or gratuity under this Part shall be paid—

- (a) in respect of a child born on or after the relevant date who is not a child of a marriage that took place before that date, or
- (b) by reason of his being a step-child, in respect of a child of a spouse whose marriage to the deceased took place on or after the relevant date, or
- (c) by reason of his being substantially dependent on the deceased, in respect of a child who was not so dependent before the relevant date, or