

(d) by reason of his being an adopted child, in respect of a child adopted on or after the relevant date, or
(e) except in the case of a legitimate or adopted child of the deceased, in respect of a child who was not substantially dependent on the deceased at the time of the death,
the relevant date being in each case the date on which the deceased ceased to be a regular firefighter.

(2) No allowance under this Part shall be paid in respect of a person who—

- (a) has attained the age of 16 but has not attained the age of 17, and
- (b) is in full-time employment,

unless the employment constitutes full-time training of at least one year's duration for a trade, profession or calling ("full-time vocational training").

(3) No allowance under this Part shall be paid in respect of a person who has attained the age of 17 unless—

- (a) he is permanently disabled and one of the conditions in paragraph (4) is satisfied, or
- (b) he is undergoing full-time education or full-time vocational training and either he has not attained the age of 19 or the condition in paragraph (5) is satisfied.

(4) The conditions mentioned in paragraph (3)(a) are—

- (a) that he was both permanently disabled and substantially dependent on the deceased at the time of the death, or
- (b) that he became permanently disabled while in receipt of an allowance under this Part, or
- (c) that the fire authority, having regard to all the circumstances, in their discretion determine to pay an allowance to him.

(5) The condition mentioned in paragraph (3)(b) is that he was undergoing full-time education or full-time vocational training immediately before his 19th birthday and either—

- (a) he has since continued to do so without any period of interruption, or
- (b) the fire authority, having regard to all the circumstances, in their discretion determine to pay an allowance to him notwithstanding any period of interruption.

(6) Part IV of Schedule 4 has effect for the reduction, in certain circumstances, of allowances under this Part.

(7) No special gratuity under rule D3 shall be paid in respect of a person who attained the age of 17 before the date of the death unless at that date he was—

- (a) undergoing full-time education or full-time vocational training, or
- (b) both permanently disabled and substantially dependent on the deceased.

PART E

AWARDS ON DEATH—ADDITIONAL PROVISIONS

Lump sum death grant

E1.—(1) On the death of a person while serving as a regular firefighter a lump sum death grant becomes payable unless an election under rule G3 not to pay pension contributions had effect at the time of the death.

(2) The grant is payable whether or not any pension or gratuity is payable under Part C.

(3) The amount of the grant is twice that of the deceased's pensionable pay, expressed as an annual rate—

- (a) at the time of the death, or
- (b) if he was then absent from duty without pay, immediately before that absence began.

(4) The grant is to be paid—

- (a) to any surviving spouse who qualifies for it, or
- (b) if there is no such surviving spouse, to the personal representatives.

(5) A surviving spouse who qualifies for the grant is one who was not living apart from the deceased at the time of the death.

Adult dependent relative's special pension

E2.—(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, and there is an adult dependent relative.

(2) An adult dependent relative is—

(a) a parent of the deceased, or

(b) a brother or sister of the deceased who had attained the age of 19 before the death, or

(c) a child of the deceased who has, whether before or after the death, attained the age of 19, who was substantially dependent on the deceased immediately before the death.

(3) If the fire authority, having regard to all the circumstances of the case, in their discretion so determine, they may grant a special pension to an adult dependent relative.

(4) A special pension under this rule—

(a) shall be calculated in accordance with Part I of Schedule 5, and

(b) is payable for such period or periods as the fire authority may, in their discretion, from time to time determine.

Dependent relative's gratuity

E3.—(1) This rule applies where a person dies—

(a) while serving as a regular firefighter, or

(b) while in receipt of a pension other than a deferred pension, and there is a dependent relative.

(2) A relative is a person who is, or is a child of, a surviving spouse or a parent, grandparent or child of the deceased, and a dependent relative is any relative who—

(a) was substantially dependent on the deceased immediately before the death, and

(b) is not entitled to any award under this Scheme.

(3) If the fire authority think fit, they may grant a gratuity to a dependent relative; but the aggregate of all gratuities granted under this rule in respect of the death shall not exceed the amount of the deceased's aggregate pension contributions.

Payment of balance of contributions to estate

E4.—(1) This rule applies where a person dies—

(a) while in receipt of an ordinary, short service or ill-health pension, or

(b) while entitled to a deferred pension, or

(c) while serving as a regular firefighter,

and the aggregate of the relevant amounts is less than the amount of his aggregate pension contributions.

(2) Where paragraph (1)(a) or (b) applies, the relevant amounts are—

(a) the sums paid in respect of the pension mentioned in paragraph (1) ("the pension"),

(b) if the pension was an ill-health pension and the deceased was also in receipt of an injury pension, the sums paid by way of pension and gratuity under rule B4,

(c) if the pension was reduced under rule B7 (commutation), the lump sum paid under that rule,

(d) if the pension was reduced under rule B9 (allocation), the sums that would otherwise have been paid in respect of the allocated portion,

(e) any gratuity payable in respect of the death, and

(f) the actuarial value, calculated from tables prepared from time to time by the Government Actuary, of any surviving spouse's pension or child's allowance payable in respect of the death.

(3) Where paragraph (1)(c) applies, the relevant amounts are those described in paragraph (2)(e) and (f).

(4) The fire authority shall pay the difference between the aggregate of the relevant amounts and the deceased's aggregate pension contributions to his personal representatives.

Gratuity in lieu of surviving spouse's pension

E5.—(1) Where the amount of any pension payable under Part C to a widow, together with any increase under the Pensions (Increase) Act 1971(a), does not exceed £260, or any greater amount

(a) 1971 c.56.

prescribed by regulations for the time being in force under paragraph 15(4) of Schedule 16 to the Social Security Act 1973(a), the fire authority may in their discretion commute the pension for a gratuity.

(2) Subject to rule E7, where—

- (a) the weekly amount of a pension payable under rule C1 or C2 to a widow exceeds her guaranteed minimum pension, and
- (b) the deceased had not attained state pensionable age, and
- (c) the fire authority are satisfied that there are sufficient reasons, and
- (d) the widow consents,

the fire authority may in their discretion commute for a gratuity that part of the pension which is in excess of her guaranteed minimum pension, or so much of that part as may be commuted without contravening rule E7.

(3) Subject to rule E7, where—

- (a) a widower is entitled to a pension under rule C1 or C2, and
- (b) the fire authority are satisfied that there are sufficient reasons, and
- (c) the widower consents,

the fire authority may in their discretion commute for a gratuity the pension or so much of it as may be commuted without contravening rule E7.

(4) A gratuity under this rule shall be calculated in accordance with Part II of Schedule 5.

Gratuity in lieu of child's allowance

E6.—(1) Subject to rule E7, where—

- (a) a child is entitled to an allowance under Part D, and
- (b) the fire authority are satisfied that there are sufficient reasons, and
- (c) a surviving parent or the child's guardian or, if he has neither, the child himself consents,

the fire authority may in their discretion commute for a gratuity the allowance or so much of it as may be commuted without contravening rule E7.

(2) A gratuity under this rule shall be calculated in accordance with Part III of Schedule 5.

Limitation on discretion to commute pension or allowance for gratuity

E7.—(1) This rule applies where a person dies while in receipt of an ordinary, short service, ill-health or deferred pension ("the principal pension").

(2) The fire authority may not under rule E5 or E6 commute the whole or a part of any pension or allowance for a gratuity the actuarial value of which exceeds the permitted amount.

(3) The permitted amount is $A - B - C$, where—

- A is a quarter of the actuarial value of the principal pension, disregarding any reduction under rule B7 (commutation),
- B is the actuarial value of any other gratuity under rule E5 or E6, and
- C is the actuarial value of any lump sum paid under rule B7.

(4) The actuarial value of any pension, gratuity or lump sum is its actuarial value at the time of the deceased's retirement as calculated by the Government Actuary.

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

Increase of pensions and allowances during first 13 weeks

E8.—(1) Paragraphs (2) to (4) apply to a surviving spouse's ordinary, special or accrued pension ("the survivor's pension") where the deceased died—

- (a) while serving as a regular firefighter, or
- (b) while in receipt of a pension.

(2) For each of the first 13 weeks for which it is payable the survivor's pension shall if necessary be increased so that the total of—

- (a) the survivor's pension, and
- (b) any children's allowances payable,

is not less than the appropriate amount.

(3) The appropriate amount is—

(a) 1973 c.38.

- (a) where paragraph (1)(a) applies, the deceased's pensionable pay for a week, and
- (b) where paragraph (1)(b) applies, the weekly amount of the deceased's pension together with any increase in it under the Pensions (Increase) Act 1971, immediately before the death.

(4) For the purposes of paragraph (3)(b)—

- (a) any reduction in the deceased's pension under paragraph 3 of Part V of Schedule 2 (additional benefits) or under Part VIII of that Schedule (uprating of widows' pensions) shall be disregarded, and
- (b) where the deceased died while in receipt of an injury pension as well as an ordinary, short service or ill-health pension, the reference to the weekly amount of the deceased's pension shall be construed as a reference to the aggregate weekly amount of both the pensions.

(5) Paragraphs (6) and (7) apply to a child's ordinary, special or accrued allowance where the deceased died as mentioned in paragraph (1) and—

- (a) there is no surviving spouse, or
- (b) a surviving spouse did not become entitled to a pension which was payable for a continuous period of 13 weeks.

(6) Subject to paragraph (7), for each of the first 13 weeks for which it is payable an allowance shall if necessary be increased—

- (a) so that the amount paid in respect of it is not less than the appropriate amount ascertained in accordance with paragraphs (3) and (4), or
- (b) where two or more allowances are payable, so that the amount paid in respect of each of them is not less than that appropriate amount divided by the number of allowances.

(7) No allowance shall be increased under paragraph (6) for any week for which a pension is payable to a surviving spouse.

Flat-rate awards

E9.—(1) This rule applies where an election has effect under—

- (a) paragraph 2 of Part I of Schedule 3 (spouse's ordinary pension), or
- (b) paragraph 3 of Part III of Schedule 3 (spouse's accrued pension), or
- (c) paragraph 3 of Part I of Schedule 4 (child's ordinary allowance), or
- (d) paragraph 3 of Part I of Schedule 4 as applied by Part III of that Schedule (child's accrued allowance).

(2) Subject to paragraph (3), where paragraph (1)(a) or (b) applies the amount of the pension is—

- (a) if the deceased's last rank was not higher than sub-officer ("Case A"), £379.78,
- (b) if it was higher than sub-officer but not higher than divisional officer (Grade 1) ("Case B"), £494.54, and
- (c) if it was higher than divisional officer (Grade 1) ("Case C"), £594.18,

increased, in each case, in accordance with paragraph (7).

(3) Where—

- (a) paragraph (1)(a) applies and the deceased was entitled to reckon at least 10 years' pensionable service, or
- (b) paragraph (1)(b) applies and the deceased ceased to serve as a regular firefighter after 5th April 1975 and would, had he continued to serve until he could have been required to retire on account of age, have become entitled to reckon at least 10 years' pensionable service,

the amount specified in, as the case may be, paragraph (2)(a), (b) or (c) is increased by £29.91.

(4) Where paragraph (1)(c) or (d) applies and one of the child's parents is alive, the amount of the allowance is—

- (a) in Case A, £107.99,
- (b) in Case B, £127.29, and
- (c) in Case C, £157.02,

increased, in each case, in accordance with paragraph (7).

(5) Subject to paragraph (6), where paragraph (1)(c) or (d) applies and neither of the child's parents is alive, the amount of the allowance is—

- (a) in Case A, £159.11,
- (b) in Case B, £188.84, and

(c) in Case C, £233.19,
increased, in each case, in accordance with paragraph (7).

(6) The fire authority may in any particular case from time to time determine to substitute for the amount specified in paragraph (5)(a), (b) or (c) a higher amount not exceeding—

- (a) in Case A, £209.19,
- (b) in Case B, £249.88, and
- (c) in Case C, £311.44.

(7) An amount arrived at under paragraphs (2) to (6) ("the basic rate") shall be increased to an amount equal to the annual rate (rounded up to the nearest penny) at which the pension or allowance would for the time being be payable if it had been an official pension, within the meaning of the Pensions (Increase) Act 1971 ("the 1971 Act"), which began, and first qualified for increases under the 1971 Act, on 30th June 1978 and was then payable at the basic rate.

(8) In calculating an increased amount under paragraph (7) any increase that would have occurred under the 1971 Act in respect of a period beginning before 12th November 1979 shall be disregarded.

PART F

PENSIONABLE SERVICE AND TRANSFER VALUES

Reckoning of and certificates as to pensionable service

F1.—(1) Subject to paragraph (2), a person is entitled to reckon as pensionable service the total of the periods he is entitled to reckon under rules F2 to F7 and, in the case of a serviceman, any period reckonable under rule I6 (relevant service in armed forces).

(2) No period is reckonable as pensionable service under more than one provision of rules F2 to F7.

(3) Within 6 months of the date on which a person becomes entitled to reckon a period as pensionable service under rule F3, F4, F5, F6, F7 or I6 the fire authority shall supply him with a certificate showing the pensionable service he was entitled to reckon on that date ("the material date").

(4) A person who is dissatisfied with a certificate supplied to him under paragraph (3) may, within 3 months after being supplied with it, appeal to the Secretary of State, who shall either confirm or vary the certificate.

(5) If he does not appeal, the certificate as supplied, and if he does appeal, the certificate as confirmed or varied, is conclusive as to the pensionable service he was entitled to reckon on the material date.

(6) If he claims a pension or gratuity, or dies, after the material date but before a certificate has been supplied, paragraph (3) ceases to apply; if he does so before a certificate has become conclusive, the certificate ceases to have effect and paragraph (4) ceases to apply.

(7) For the purposes of paragraphs (3) to (6) a serviceman shall be treated as only becoming entitled to reckon service under rule I6 if and when he resumes service in his former brigade.

Current service

F2.—(1) Subject to paragraphs (2) and (3), a person serving as a regular firefighter is entitled to reckon as pensionable service—

- (a) any period of service as a regular firefighter after 31st March 1972, except a period during which pension contributions were not payable under rule G2, in the brigade in which he is serving, and
- (b) if he was serving in that brigade both on and immediately before 1st April 1972, any period he was entitled to reckon immediately before that date.

(2) A person is not entitled to reckon as pensionable service by virtue of paragraph (1)—

- (a) if he has left and rejoined the brigade after 31st March 1972, any period of service before he last rejoined the brigade, or
- (b) any period of absence from duty as a regular firefighter as a result of sickness or injury certified by a qualified medical practitioner to be due to his own misconduct, or
- (c) subject to paragraph (3), any period of absence from duty without pay.

(3) The fire authority maintaining the brigade in which a person is serving as a regular firefighter