

- (c) the date on which any election under rule G3 takes effect.
- (2) If before his retirement date he—
  - (a) retires with an ill-health pension, and resumes service as a regular firefighter, or
  - (b) having made an election under rule G3, cancels it,
 the contributions again become payable, and continue to be payable as provided in paragraph (1).
- (3) If for any period the total of—
  - (a) the periodical contributions calculated in accordance with paragraph 3 or 4 of Part I of Schedule 8, and
  - (b) his pension contributions under rule G2 and any additional or further contributions remaining payable by virtue of rule G4,
 exceeds 15% of his pensionable pay, the excess is not payable by way of contributions under paragraph (1), but he shall make a lump sum payment of its actuarial equivalent as determined by the Government Actuary.
- (4) If the fire authority are satisfied that payment of the periodical contributions is causing, or is likely to cause, financial hardship they may consent to the discontinuance of payment for such period as they think fit.

**Effect of payment for increased benefits**

**G8.—**(1) Where a person has paid a lump sum, or begun paying periodical contributions, in accordance with an election under rule G6—

- (a) if he becomes entitled to a pension under rule B1, B2, B3 or B5 (ordinary, short-service, ill-health and deferred pensions) the amount of the pension, before any commutation under rule B7, shall be increased by the appropriate amount, and
  - (b) awards mentioned in paragraph 2(2), 3(2), 4 and 5 of Part III of Schedule 8 shall be increased in accordance with that Part.
- (2) Subject to paragraph (3), where the person—
- (a) dies while serving as a regular firefighter, or
  - (b) retires with an ill-health pension, or
  - (c) retires on or after his retirement date,
- the appropriate amount is the number of sixtieths of his average pensionable pay specified in the election.

- (3) If the person had begun paying periodical contributions and—
- (a) payment of those contributions had at any time been discontinued under rule G7(4), or
  - (b) he had made and subsequently cancelled an election under rule G3,
- the appropriate amount is the amount described in paragraph 1 of Part II of Schedule 8.

- (4) Where on—
- (a) ceasing to be a member of a brigade in circumstances not falling within paragraph (2), or
  - (b) making an election under rule G3 which is not subsequently cancelled,
- the person does not become entitled to the repayment of his aggregate pension contributions, the appropriate amount is to be ascertained from paragraphs (5) and (6).

- (5) Subject to paragraph (6)—
- (a) if he had paid a lump sum, the appropriate amount is the number of sixtieths of his average pensionable pay specified in the election, and
  - (b) if he had begun paying periodical contributions, the appropriate amount is the amount described in paragraph 2 of Part II of Schedule 8.

- (6) Where he retires with an ordinary pension before his retirement date, the appropriate amount is the amount specified in paragraph (5)(a) or (b) reduced by the actuarial valuation described in paragraph 3 of Part II of Schedule 8.

**PART H**

**DETERMINATION OF QUESTIONS AND APPEALS**

**Determination by fire authority**

**H1.—**(1) The question whether a person is entitled to any and if so what awards shall be determined in the first instance by the fire authority.

(2) Subject to paragraph (3), before deciding, for the purpose of determining that question or any other question arising under this Scheme—

- (a) whether a person has been disabled,
- (b) whether any disablement is likely to be permanent,
- (c) whether any disablement has been occasioned by a qualifying injury,
- (d) the degree to which a person is disabled,
- (e) whether a person has become capable of performing the duties of a regular firefighter, or
- (f) any other issue wholly or partly of a medical nature,

the fire authority shall obtain and consider the written opinion of at least one qualified medical practitioner selected by them.

(3) If by reason of the person's refusal or wilful or negligent failure to submit to medical examination by the practitioner or practitioners selected by them the authority are unable to obtain the opinion mentioned in paragraph (2), they may—

- (a) on such other medical evidence as they think fit, or
- (b) without medical evidence,

give such decision on the issue as they may in their discretion choose to give.

#### **Appeal to medical referee**

**H2.—**(1) Where—

- (a) an opinion of the kind mentioned in rule H1(2) has been obtained, and
- (b) within 14 days of his being notified of the fire authority's decision on the issue the person concerned applies to them for a copy of the opinion,

the authority shall supply him with a copy.

(2) If he is dissatisfied with the opinion he may appeal against it to an independent person nominated by the Secretary of State as medical referee.

(3) A fire authority shall be bound by any decision on a medical issue duly given on an appeal under this rule.

(4) Further provisions as to appeals under this rule are contained in Part I of Schedule 9.

#### **Appeal to Crown Court or Sheriff**

**H3.—**(1) Where a person claims that he is entitled to an award or to any payment in respect of an award and the fire authority—

- (a) do not admit the claim at all, or
- (b) do not admit the claim to its full extent,

the authority shall reconsider the case if he applies to them to do so.

(2) If he is dissatisfied with any determination given by the fire authority on reconsidering the case, he may appeal to the Crown Court, which may, subject to paragraph (3), make such order or declaration in the matter as appears to it to be just.

(3) Nothing in paragraph (2) shall be taken to authorise the Crown Court—

- (a) to make an order or declaration controlling the exercise of any discretion vested in the fire authority by any provision of this Scheme except rule K5 (withdrawal of pension on conviction),
- (b) to reopen any medical issue decided on an appeal under rule H2, or
- (c) to question any certificate as to pensionable service which has become conclusive under rule F1(5).

(4) In the case of a person to whom this Scheme applies by virtue of temporary employment falling within rule A4(2)(d), paragraphs (2) and (3) have effect with the substitution for references to the Crown Court of references to an appeal tribunal appointed by the Secretary of State.

(5) Further provisions as to appeal tribunals are contained in Part II of Schedule 9.

(6) Subject to paragraph (4), this rule applies to Scotland with the substitution for the references in paragraphs (2) and (3) to the Crown Court of references to the sheriff having jurisdiction—

- (a) in the place where the person in respect of whose service the award or payment is claimed last served as a regular firefighter, or
- (b) if this Scheme applies to him by virtue of temporary employment falling within rule A4(2)(a) to (c), in the place where he served as a regular firefighter immediately before entering that employment, or

- (c) if his Scheme applies to him by virtue of employment falling within rule A5(2), in the place where the central training institution is situated.

## PART I

### SERVICEMEN

#### Preliminary

**11.—**(1) A serviceman is a person who immediately before undertaking relevant service in the armed forces was a regular firefighter.

(2) For the purposes of this Scheme a serviceman is, unless the context otherwise requires or a contrary intention appears, to be treated as having continued to be a regular firefighter during his period of relevant service in the armed forces (referred to in this Part as his “forces period”).

#### Awards to servicemen

**12.—**(1) This rule applies to a serviceman who at the end of his forces period is permanently disabled.

(2) Subject to paragraphs (3) and (4), rule B3 (ill-health award) has effect in relation to a serviceman to whom this rule applies as if he had been required to retire under rule A15 (compulsory retirement on grounds of disablement) at the end of his forces period.

(3) Where the infirmity that occasioned his incapacity for the performance of duty was occasioned by an injury received during his forces period or by a qualifying injury the fire authority may, in their discretion—

- (a) pay him, instead of an ill-health gratuity under rule B3(2)(b), a pension at the rate of 1/12th of his average pensionable pay, and
- (b) subject to paragraph (4), increase any such pension, or any ill-health pension payable to him under rule B3(2)(a).

(4) Paragraph 1 of Schedule 10 has effect for limiting increases under paragraph (3)(b) above.

#### Awards on death of servicemen

**13.—**(1) This rule applies in the case of a serviceman who—

- (a) dies during his forces period, or
- (b) was permanently disabled at the end of his forces period, has not since been a regular firefighter, and dies either from the effects of an injury that occasioned his incapacity for the performance of duty or while in receipt of a pension.

(2) Subject to paragraphs (3) and (4), where this rule applies—

- (a) rule C1 (spouse’s ordinary pension) has effect as if the serviceman had died in the circumstances mentioned in rule C1(1)(b) to (d), and
- (b) if the serviceman died during his forces period and no pension is payable under rule C1, rule C7 (spouse’s award where no other award payable) has effect as if he had died in the circumstances mentioned in rule C7(1).

(3) If the serviceman dies from the effects of an injury received during his forces period or a qualifying injury the fire authority may, in their discretion—

- (a) pay the surviving spouse, instead of a gratuity under rule C7(2)(b), a pension of the appropriate amount, and
- (b) subject to paragraph (5), increase any such pension and any pension or child’s allowance payable under rule C1 or D1.

(4) The appropriate amount mentioned in paragraph (3)(a) is £379.78 increased as described in rule E9(7) and (8) (flat-rate awards).

(5) Paragraphs 2 and 3 of Schedule 10 have effect for limiting increases under paragraph (3)(b) above.

#### Servicemen who resume service as regular firefighters

**14.** If as a result of an injury received during his forces period a serviceman who has resumed service as a regular firefighter—