

- (a) is permanently disabled, or
 - (b) dies, whether or not while serving as a regular firefighter,
- the fire authority may, in relation to any award payable to or in respect of him, exercise the like discretions as are conferred on them by, as the case may be, rule I2(3) and (4) or rule I3(3) to (5).

Servicemen who do not resume service in their former brigade

I5.—(1) Subject to paragraph (3), a serviceman who does not resume service in his former brigade within one month from the end of his forces period shall be treated for the purposes of the material provisions as having left his former brigade at the end of that period.

(2) The material provisions are those of rules B5 (deferred pension), C5 (limitation on widow's award), F3 (previous service reckonable without payment), F4 (previous service reckonable on payment), F9(9) (no award where transfer value paid) and G1 (pensionable pay and average pensionable pay) and paragraph 1 of Part IV of Schedule 11 (persons serving on 10th July 1956).

(3) The serviceman may apply for the consent mentioned in rule F4(1)(b) (former fire authority's consent to joining new brigade) within one month from the end of his forces period.

Pensionable service

I6. For the purposes of rule F2(1) a serviceman shall be treated as having continued during his forces period to serve in his former brigade.

Pension contributions

I7.—(1) Subject to paragraph (2), for the purposes of rule G2 a serviceman's pensionable pay during his forces period is the pay he would have received if he had continued to serve in his former brigade.

(2) A serviceman shall for those purposes be treated as having received no pensionable pay (and accordingly is not liable to pay contributions) in respect of any period during which the total of—

- (a) his service pay, and
- (b) any payments under Part V of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951(a),

is less than the pensionable pay described in paragraph (1).

PART J

SPECIAL CASES

Guaranteed minimum pensions

J1.—(1) This rule applies where a person who is or has been a regular firefighter has a guaranteed minimum in relation to a pension provided by this Scheme by reason of service which is contracted-out employment by reference to the Scheme.

(2) Subject to paragraphs (3) to (7)—

- (a) the person is entitled from the date on which he attains state pensionable age to a pension at a weekly rate equal to his guaranteed minimum,
- (b) in the case of a man who dies at any time and leaves a widow, she is entitled to a pension at a weekly rate equal to half his guaranteed minimum, and
- (c) in the case of a woman who dies at any time and leaves a widower, the widower is entitled to a pension at a weekly rate equal to half of that part of the deceased's guaranteed minimum which is attributable to earnings factors for the tax year 1988–89 and subsequent tax years.

(3) A pension to which a person is entitled under paragraph (2)(a) is not payable for any period within 5 years after his attaining state pensionable age during which—

- (a) he is continuing to serve as a regular firefighter, or
- (b) a decision under rule K4 (withdrawal of Part B pension during employment as regular firefighter) taken by the fire authority before he attained state pensionable age has effect.

(4) An entitlement to a pension under paragraph (2)(b) or (c) ceases if the person entitled remarries before attaining state pensionable age.

(a) 1951 c.65.

- (5) Where a person is entitled to a pension under any other provision of this Scheme—
- (a) a pension under paragraph (2) is payable only if it is greater than the other pension, disregarding any secured portion, and
 - (b) if a pension under paragraph (2) is paid, only the secured portion, if any, of the other pension is payable.
- (6) For the purposes of paragraph (5)—
- (a) a pension includes any increase in it under the Pensions (Increase) Act 1971(a), and
 - (b) in the case of a person entitled to both an injury pension and either an ill-health, ordinary, short service or deferred pension, those pensions shall be treated as one.
- (7) In relation to a pension under paragraph (2)—
- (a) rule B8 (commutation of small pensions) applies as it applies in relation to a pension under Part B, and
 - (b) rule K5 (forfeiture) applies as it applies in relation to a pension under Part B or C but as if rule K5(2)(b) were omitted.
- (8) A pension under paragraph (2) shall not be reduced or extinguished except as provided in this rule.

Revaluation of guaranteed minimum

- J2.**—(1) This article applies where a person—
- (a) has ceased to serve as a regular firefighter, or
 - (b) has elected under rule G3 not to pay pension contributions,
- and has taken a right to a cash equivalent by exercising the option conferred by paragraph 13(2) of Schedule 1A to the Social Security Pensions Act 1975(b) (“the Pensions Act”) wholly or partly in the way specified in paragraph 13(2)(b) (purchase of annuity).
- (2) Where this rule applies, to the extent that the person’s guaranteed minimum is otherwise appropriately secured within the meaning of section 52C(4) of the Pensions Act(c)—
- (a) for the purposes of section 35(2) of that Act (amount of guaranteed minimum) his earnings factors shall be determined by reference to the last order under section 21 of that Act to come into force before the end of the tax year in which he ceased to serve or, as the case may be, in which his election under rule G3 took effect and without reference to any subsequent order, and
 - (b) the weekly equivalent mentioned in section 35(2) of that Act shall be increased in accordance with any additional requirements for the time being prescribed for the purposes of section 45(1)(b) (exclusion from liability to pay a limited revaluation premium).

Whole-time member of brigade who is not a regular firefighter

- J3.**—(1) This rule applies where a person who is a whole-time member of a brigade but is not a regular firefighter suffers an injury, without his own default—
- (a) while in attendance at a fire, and
 - (b) in the execution of his duties as a member of the brigade.
- (2) If the person retires in consequence of the injury, the fire authority may, subject to paragraph (4), grant him such pension or gratuity as they think fit.
- (3) If the person dies from the effects of the injury, either before or after retiring from the brigade, the fire authority may, subject to paragraph (4)—
- (a) grant such pension and gratuity as they think fit to any surviving spouse, and
 - (b) grant such allowance as they think fit to any child, or if the deceased was a woman, to any child who was substantially dependent on her at the time of her death.
- (4) The total of—
- (a) any benefit under this rule, and
 - (b) any relevant additional benefit payable to the recipient,
- must not exceed the appropriate amount.

(a) 1971 c.56.

(b) 1975 c.60; Schedule 1A was inserted by the Social Security Act 1985 (c.53), Schedule 1, paragraph 3, and amended by the Social Security Act 1986 (c.50), Schedule 10, paragraphs 29 and 30.

(c) Section 56C was inserted by the Social Security Act 1985, Schedule 1, paragraph 2, and amended by the Social Security Act 1986, Schedule 10, paragraph 26.

- (5) An additional benefit is any payment of whatever nature made—
- (a) by the fire authority otherwise than under this rule, or
 - (b) by any other local authority, or
 - (c) by a Minister of the Crown,

except a benefit payable under Chapter IV or Chapter V of Part II of the Social Security Act 1975(a); and a relevant additional benefit is, in relation to a pension or allowance under this rule, one by way of periodical payments and, in relation to a gratuity under this rule, one otherwise than by way of periodical payments.

- (6) The appropriate amount is—
- (a) for a pension or gratuity under paragraph (2), that of the injury pension or gratuity under rule B4,
 - (b) for a pension or gratuity under paragraph (3)(a), that of the special pension or gratuity under rule C2, and
 - (c) for an allowance under paragraph (3)(b), that of the special allowance under rule D2, which would have been payable on the required assumptions.
- (7) The required assumptions are—
- (a) in every case, that the person was a regular firefighter of the rank of, as the case may be, fireman or firewoman,
 - (b) where paragraph (2) applies, that the person retired on account of a qualifying injury during the first year of service and that paragraph 2 of Part V of Schedule 2 (reduction of injury pension on account of certain other pensions) did not apply, and
 - (c) where paragraph (3) applies, that the person died or retired during the first year of service and died from the effects of a qualifying injury.

Part-time member of brigade

J4.—(1) This paragraph applies to a person who was a part-time member of a brigade and has retired and is permanently disabled if the infirmity that occasioned his incapacity for the performance of duty was occasioned by a qualifying injury.

(2) A person to whom paragraph (1) applies shall be treated for the purposes of rules B3 (ill-health award) and B4 (injury award) as having been a regular firefighter falling within the description in paragraph (7), and rules B7 (commutation), B9 (allocation), B10 (limitation of commuted or allocated portion), K1 (cancellation), K2 (reassessment) and K3 (reduction in case of default) apply accordingly in relation to the awards to which he is thus entitled.

(3) This paragraph applies where a person who is or has been a part-time member of a brigade dies from the effects—

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

(4) Where paragraph (3) applies and the deceased leaves a surviving spouse, the deceased shall be treated for the purposes of rules C2 (spouse's special award) and C3 (spouse's augmented award) as having been a regular firefighter falling within the description in paragraph (7), and rules C5 (limitation with reference to date of marriage), C8 (limitation where spouses living apart), C9 (effect of remarriage) and E5 (gratuity in lieu) apply accordingly in relation to awards to which the spouse is thus entitled.

(5) Where paragraph (3) applies and the deceased leaves a child, the deceased shall, subject to paragraph (6), be treated for the purposes of rules D2 (child's special allowance) and D3 (child's special gratuity) as having been a regular firefighter falling within the description in paragraph (7), and rules D5 (limitations) and E6 (gratuity in lieu) apply accordingly in relation to awards to which the child is thus entitled.

(6) Where the deceased was a woman paragraph (5) applies—

- (a) only in relation to a child who was substantially dependent on her at the time of her death, and
- (b) only if the fire authority so decide,

and where it does apply the child's special allowance is payable at such rate, not exceeding the full rate, as the fire authority from time to time think fit.

(7) The regular firefighter mentioned in paragraphs (2), (4) and (5) is one who—

- (a) held the same rank as the part-time member and had the same service in that rank,

(a) 1975 c.14.

- (b) was entitled to reckon as pensionable service a period equal to the part-time member's service as such, and
- (c) in respect of any service before 1st April 1980 paid pension contributions at the rate of 6p a week less than 6.75% of his pensionable pay.

Members of brigade other than regular firefighters – supplementary

J5.—(1) Part A applies for the interpretation of rules J3 and J4, and Part H, rule K5 (forfeiture) and Part L apply in relation to awards under those rules.

(2) Except as provided in paragraph (1) and in rules J3 and J4, this Scheme does not apply in relation to a member of a brigade who is not a regular firefighter.

Other special cases

J6. Parts IV and V of Schedule 11 have effect in the cases, and as respects the matters, mentioned in those Parts.

PART K

REVISION AND WITHDRAWAL OF AWARDS

Cancellation of ill-health and injury pensions

K1.—(1) As long as a person—

- (a) is in receipt of an ill-health pension, and
 - (b) would not, if he had continued to serve as a regular firefighter instead of retiring with an ill-health pension, have become entitled to retire with an ordinary pension, and
 - (c) if he had continued so to serve, could not have been required to retire on account of age,
- the fire authority may, if they wish to exercise the powers conferred by this rule, consider, at such intervals as they in their discretion think proper, whether he has become capable of performing the duties of a regular firefighter.

(2) The fire authority may also consider as mentioned in paragraph (1) in the case of a person who—

- (a) has elected under rule G3 not to pay pension contributions, and
- (b) is entitled under rule B5 to a deferred pension, and
- (c) has begun to receive payments in respect of the pension on becoming permanently disabled.

(3) If on any such consideration it is found that he has become capable of performing the duties of a regular firefighter, the authority may terminate the unsecured portion of his ill-health pension or, in a case falling within paragraph (2), may determine that payment of the deferred pension shall be suspended, that is to say, that the pension shall not be payable in respect of any period before he attains the age of 60.

(4) If within one month after the termination or suspension he presents himself for service in the brigade—

- (a) the fire authority shall permit him to resume service forthwith in a rank not lower than the rank he held when he retired with the pension, and
- (b) if they do not, the termination or suspension shall be deemed never to have taken effect.

(5) Where the unsecured portion of an ill-health pension is terminated, or payment of a deferred pension is suspended, under this rule—

- (a) the secured portion of an ill-health pension is not payable in respect of any period before the person attains state pensionable age,
- (b) any injury pension to which he is entitled is also terminated, and
- (c) unless he is entitled to a deferred pension, he shall be paid the amount, if any, by which his aggregate pension contributions exceed the amount specified in paragraph (6).

(6) The amount is the total of—

- (a) the sums paid in respect of the ill-health pension,
- (b) if, one month after the termination, he had a guaranteed minimum in relation to a pension provided by this Scheme, the actuarial value (calculated in accordance with tables prepared from time to time by the Government Actuary) of a pension equal to the guaranteed minimum and beginning at state pensionable age, and