

(b) does not otherwise direct,
the fire authority shall refund to the appellant the amount specified in sub-paragraph (4).

(4) The amount is the total of-

- (a) any personal expenses actually and reasonably incurred by the appellant in respect of any interview under paragraph 4, and
- (b) if any such interview was attended by a qualified medical practitioner appointed by the appellant, any fees and expenses reasonably paid by the appellant in respect of such attendance.

(5) For the purposes of sub-paragraphs (2) and (3) any question arising as to whether the referee's decision is in favour of the fire authority or of the appellant shall be decided by the referee, or in default by the Secretary of State.

9. Any notice, information or document which an appellant is entitled to receive for the purposes of this Part shall be deemed to have been received by him if it was duly posted in a letter addressed to him at his last known place of residence.

PART II

Rule H3(5)

APPEAL TRIBUNALS

1. An appeal tribunal shall consist of three persons, including a retired member of a brigade who before he retired held a rank not lower than divisional officer (Grade 1) and-

- (a) a barrister or solicitor of at least 7 years' standing, or
- (b) in a case where the appellant ceased to perform duties in a Scottish brigade in order to enter the relevant employment ("a Scottish case"), an advocate or solicitor of at least 7 years' standing.

2.—(1) The tribunal shall-

- (a) determine, and
- (b) give the appellant and the Secretary of State ("the parties") reasonable notice of, the time and place for the hearing, and any postponed or adjourned hearing.

(2) Each of the parties may-

- (a) be represented before the tribunal by counsel, a solicitor, or some other person approved by the tribunal, and
- (b) adduce evidence and cross-examine witnesses.

(3) The tribunal shall apply the rules of evidence applicable-

- (a) in an appeal to the Crown Court under rule H3, or
- (b) in a Scottish case, in an appeal to the sheriff under that rule.

(4) Subject to sub-paragraphs (1) to (3), the tribunal shall determine its own procedure.

3. Subject to and in accordance with rules of court, an appeal on a point of law from a decision of an appeal tribunal shall lie-

- (a) to the High Court, or
- (b) in a Scottish case, to the Court of Session.

SCHEDULE 10

Rules I2 and I3

SERVICEMEN - INCREASED AWARDS

1. The total of-

- (a) the amount of a pension as increased under rule I2(3)(b), and
- (b) the amount of any service pension other than an allowance for constant attendance, wear and tear of clothing, or comforts,

must not exceed the amount of the injury pension to which the serviceman would have been entitled if rule B4 had applied.

2. The total of-

- (a) the amount of a pension as increased under rule I3(3)(b), and
 - (b) the amount of any service pension payable to the spouse in respect of the serviceman,
- must not exceed the amount of the special pension to which the spouse would have been entitled if rule C2 had applied.

3. The total of—

- (a) the amount of a child's allowance as increased under rule I3(3)(b), and
- (b) the amount of any service pension payable to or for the child in respect of the serviceman,

must not exceed the amount of the special allowance to which the child would have been entitled if rule D2 had applied.

SCHEDULE 11

SPECIAL CASES

PART I

Rule C1(2)

SPOUSES' AWARDS

1.—(1) Paragraphs 2 to 6 have effect for the calculation of a surviving spouse's ordinary pension where—

- (a) on 1st July 1973 the deceased was serving as a regular firefighter or was entitled to a pension other than a deferred pension, and
- (b) no election under paragraph 2 of Part I of Schedule 3 (flat-rate pension) has effect, and
- (c) no payments election was made.

(2) A payments election is an election under article 58, 59 or 60 of the 1973 Scheme made—

- (a) where before 1st April 1972 he last paid pension contributions at a rate related to 5% of his pensionable pay, for the purpose of avoiding the application of paragraphs 2 and 3 of Part II of Schedule 2 to the 1973 Scheme, and
- (b) in any other case, for the purpose of avoiding the application of paragraph 3 of that Part.

2.—(1) Subject to sub-paragraph (2), where before 1st April 1972 the deceased last paid pension contributions at a rate related to 5% of his pensionable pay the amount of the spouse's ordinary pension is half the amount specified in paragraph 4(1).

(2) The amount payable in respect of any week shall not be less than it would have been if the weekly amount of the pension had been calculated as provided in Scheme II of Part II of Schedule 2 to the Firemen's Pension Scheme 1971(a).

3.—(1) Subject to sub-paragraph (2), where paragraph 2 above does not apply the amount of the spouse's ordinary pension is—

$$\frac{A}{3} + \frac{B}{6}$$

where—

- A is the amount of the deceased's pension or notional pension, and
- B is the amount specified in paragraph 4(1).

(2) Except where the deceased was in receipt of an ordinary or short service pension, the amount of the spouse's ordinary pension shall not be less than half the amount specified in paragraph 5(1).

4.—(1) The amount mentioned in paragraphs 2(1) and 3(1) is the difference between—

$$\frac{(C \times D)}{60} + \frac{(C \times E)}{30}$$

(a) Brought into operation by S.I. 1971/145.