

- (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.

where—

C is the deceased's average pensionable pay,
D is, subject to paragraph 6, his pensionable service up to 20 years, and
E is, subject to paragraph 6, any excess of his pensionable service over 20 years,
and an amount calculated in the same way but by reference only to pre-1972 pensionable service.

(2) In this paragraph and in paragraph 5 "pre-1972 pensionable service" means pensionable service reckonable otherwise than—

- (a) by virtue of service as a regular firefighter after 31st March 1972, or
- (b) by virtue of article 51 or 52 of the 1973 Scheme where the conditions in article 51(1) or, as the case may be, 52(1) were satisfied after 30th June 1973, or
- (c) where the conditions in rule F4(1) or (3) were satisfied after 30th June 1973 or those in rule F4(4) and (5) were satisfied after 31st December 1973, by virtue of rule F4 (unless, having given written notice of his intention to do so, he retired for the purpose of joining another brigade), or
- (d) by virtue of rule F7.

5.—(1) The amount mentioned in paragraph 3(2) is that of the deceased's ill-health or notional pension calculated in accordance with Part III of Schedule 2 but—

- (a) by reference to his weighted relevant pensionable service where it does not exceed 20 years, or
- (b) where his weighted relevant pensionable service exceeds 20 years, by reference, subject to paragraph 6, to the total of his relevant pensionable service and half his pre-1972 pensionable service,

instead of by reference to his pensionable service.

(2) For the purposes of this paragraph—

- (a) the deceased's relevant pensionable service is his pensionable service other than pre-1972 pensionable service, and
- (b) his weighted relevant pensionable service is what his relevant pensionable service would be if so much of it as exceeds the relevant period were counted twice, the relevant period being the period, if any, by which his pre-1972 pensionable service falls short of 20 years.

6. Where the deceased's pensionable service exceeds 30 years, the excess is to be deducted—

- (a) for the purposes of paragraph 4, from his pensionable service and from his pre-1972 pensionable service, and
- (b) for the purposes of paragraph 5, except that of determining his relevant pensionable service, from his pre-1972 pensionable service.

PART II

Rule D1(2)

CHILDREN'S AWARDS

1. This Part has effect for the calculation of a child's ordinary allowance where—

- (a) the deceased was the child's father,
- (b) on 1st July 1973 he was serving as a regular firefighter or was entitled to a pension other than a deferred pension, and
- (c) no payments election (within the meaning of paragraph 1 of Part I of this Schedule) was made.

2. The amount of an ordinary allowance is the appropriate percentage (within the meaning of paragraph 1 of Part I of Schedule 4) of the amount described in paragraph 3 below.

3. The amount mentioned in paragraph 2 is the difference between (A+B) and C, where—

- A is 1/60th of the deceased's average pensionable pay multiplied by the period in years of his pensionable service up to 20 years,
- B is 2/60ths of his average pensionable pay multiplied by the period in years by which his pensionable service exceeds 20 years, and
- C is (A+B) calculated by reference only to pre-1972 pensionable service (within the meaning of paragraph 4 of Part I of this Schedule),

but where the deceased's pensionable service exceeds 30 years the excess is to be deducted—

- (a) from his pensionable service in calculating A and B, and
- (b) from his pre-1972 pensionable service in calculating C.

CALCULATION OF PENSIONABLE SERVICE WHERE PERSON CEASED TO SERVE BEFORE 1ST MAY 1975

1. Except where Part IV of this Schedule applies, for the purposes of Part I of Schedule 2 the period in years by which a period exceeds 25 years shall be computed in completed half-years.

2.—(1) For the purposes—

- (a) of Parts I and II of Schedule 2 where Part IV of this Schedule applies,
- (b) of paragraphs 2 and 3 of Part III of Schedule 2,
- (c) of Part IV of Schedule 2,
- (d) of Part VI of Schedule 2 where Part IV of this Schedule applies,
- (e) of paragraph 1(2) of Part VII of Schedule 2, and
- (f) of paragraph 6 of Part I of this Schedule,

a period shall be computed in completed years.

(2) For the purposes—

- (a) of Part II of Schedule 2, except where Part IV of this Schedule applies,
- (b) of paragraph 4 of Part III of Schedule 2,
- (c) of Part VI of Schedule 2, except where Part IV of this Schedule applies, and
- (d) of paragraph 4(1) of Part I of this Schedule,

a period shall be computed in completed years, except that the period in years by which a period exceeds 20 years shall be computed in completed half-years.

(3) For the purposes of paragraph 5 of Part I of this Schedule a period shall be computed in completed years, except that—

- (a) half the deceased's pre-1972 pensionable service shall for the purposes of paragraph 5(1)(b), and
- (b) the period in excess of the relevant period shall for the purposes of paragraph 5(2)(b),

be computed in completed half-years.

(4) For the purposes—

- (a) of paragraph 2 of Part III of Schedule 3, and
- (b) of paragraph 3 of Part III of Schedule 4,

a period shall be computed in completed years, except that insofar as a period exceeds 20 years it shall be computed in completed half-years.

3. Where a period is to be computed in completed years a part of a year shall be ignored, and where a period is to be computed in completed half-years—

- (a) a part of a year less than a half shall be ignored, and
- (b) a part of a year exceeding a half shall be treated as a half.

MODIFICATION FOR PERSONS SERVING ON 10TH JULY 1956

1.—(1) Subject to sub-paragraph (2), this Part applies in the case of a person—

- (a) to whom immediately before 1st March 1992 Part XII of the 1973 Scheme applied (certain persons who were serving or in receipt of ill-health pensions on 10th July 1956),
or
- (b) who has since resumed service in circumstances (previous service becoming reckonable under rule F3 or F4) in which that Part would have become applicable.

(2) A person—

- (a) who had ceased to serve as a regular firefighter before 1st July 1973, and
- (b) to whom this Part has become applicable as mentioned in sub-paragraph (1)(b),

may, within 3 months after the date of his resumption of service ("the relevant date"), by giving written notice to the fire authority elect that this Part is to be treated as not having become applicable.

(3) Where a person elects as mentioned in sub-paragraph (2)—

- (a) he shall within 3 months after the relevant date pay the arrears of pension contributions resulting from the election,

- (b) paragraphs 2(1)(a) and 3(1)(a) of Part VIII of Schedule 2, paragraph 1(1)(a) and (4)(a) of Part III of Schedule 3 and paragraph 3(1)(a) of Part III of Schedule 4 have effect as if the references to 31st March 1972 were references to the day before the relevant date, and
- (c) for the purposes of paragraph 1 of Part I and paragraph 1 of Part II of this Schedule any entitlement to an ill-health pension on 1st July 1973 shall be disregarded.
2. Where this Part applies this Scheme has effect with the modifications set out in paragraphs 3 to 22.
 3. For the words "average pensionable pay", wherever they occur except in Part V of Schedule 3, substitute "pensionable pay".
 4. Omit rule B1(1)(a).
 5. In rule B3(2)(a) for the words "Part III of Schedule 2" substitute "Part II of Schedule 2", and in Part II of Schedule 2 as so applied for the words "Parts VII and VIII of this Schedule" substitute "Part VII of this Schedule".
 6. In rule C1—
 - (a) for paragraph (2) substitute:

"(2) Where this rule applies the surviving spouse is entitled to an ordinary pension calculated in accordance with Part I of Schedule 3.", and
 - (b) omit paragraphs (3) to (6).
 7. In rule C4(3) for the words after "in accordance with" substitute "Scheme I in Part I of Schedule 3".
 8. In rule C5(2) for the words "Part IV of Schedule 3" substitute "Part V of Schedule 3".
 9. In rule C6—
 - (a) for paragraph (2) substitute:

"(2) Where this rule applies the widow is entitled to a requisite benefit pension.", and
 - (b) omit paragraph (3).
 10. Omit rule C7(2)(a).
 11. In rule D4(2) for the words "Part III of Schedule 4" substitute "Part I of Schedule 4".
 12. In rule E8 omit paragraphs (1) to (4).
 13. For rule G1(3) to (6) substitute:

"(3) For the purpose of calculating benefits under this Scheme the pensionable pay of a regular firefighter is, subject to paragraphs (4) and (5), his annual pensionable pay on his last day of service as a regular firefighter ("the relevant date").

(4) Subject to paragraph (5), where during the period of 3 years ending with the relevant date ("the relevant period") his rank has changed, his pensionable pay is his average annual pensionable pay for that period.

(5) Where during the relevant period—

 - (a) he reverted to a rank from which he had been temporarily promoted (whether before or during that period), or
 - (b) his last change of rank was a promotion,

and the application of paragraph (4) would produce a lower figure, paragraph (3) applies as if he had not been promoted and paragraph (4) does not apply."
 14. In rule G2(1) for "11%" substitute "7.75%".
 15. Omit rule G4.
 16. In rule I3(4) for "£379.78" substitute "£284.83".

17. For Parts I to III of Schedule 2 substitute:

"PART I

ORDINARY PENSION

1. Subject to paragraph 2 and to Part VII, the amount of an ordinary pension is the total of—

- (a) 30/60ths of the person's pensionable pay, and
- (b) 2/60ths of his pensionable pay multiplied by the period in years by which his pensionable service exceeds 25 years.

2. The amount of the pension is not to exceed the maximum ascertained from the Table below.

TABLE

<i>Age at retirement</i>	<i>Maximum pension expressed in 60ths of pensionable pay</i>
Under 51	30
51	32
52	34
53	36
54	38
55 or over	40

PART II

SHORT SERVICE OR ILL-HEALTH PENSION

1. Subject to paragraph 2 and to Part VII, the amount of a short service or ill-health pension is the total of—

- (a) 1/60th of the person's pensionable pay multiplied by the period in years of his pensionable service up to 20 years, and
- (b) 2/60ths of his pensionable pay multiplied by the period in years by which his pensionable service exceeds 20 years.

2. The amount of the pension is not to be less than 1/60th nor more than 40/60ths of the person's pensionable pay."

18. Omit Part VIII of Schedule 2.

19. For Part I of Schedule 3 substitute:

"PART I

SPOUSE'S ORDINARY OR ACCRUED PENSION

1.—(1) The amount—

- (a) of an accrued pension, and
- (b) of an ordinary pension where the deceased had less than 10 years of pensionable service, is to be calculated in accordance with Scheme I; where the deceased had at least 10 years' pensionable service, the amount of an ordinary pension is to be calculated in accordance with Scheme I, Scheme II or Scheme III, whichever yields the largest amount.

(2) Schemes I, II and III are set out in, respectively, paragraphs 2, 3 and 4 below.

Scheme I

2.—(1) The amount of the pension is—

- (a) if the deceased's last rank was not higher than sub-officer, £284.83,
- (b) if it was higher than sub-officer but not higher than divisional officer (Grade 1), £370.90, and

(c) if it was higher than divisional officer (Grade 1), £454.55, increased, in each case, in accordance with sub-paragraph (2).

(2) The amount specified in, as the case may be, sub-paragraph (1)(a), (b) or (c) ("the basic rate") shall be increased to an amount equal to the annual rate (rounded up to the nearest penny) at which the pension 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.

(3) In calculating an increased amount under sub-paragraph (2) any increase that would have occurred under the 1971 Act in respect of a period beginning before 12th November 1979 shall be disregarded.

Scheme II

3. The amount of the pension is the amount which, when added to any widow's benefit or retirement pension payable under the Social Security Acts 1975(a) in right of the deceased's insurance produces a total weekly rate equal to the percentage of the deceased's average pensionable pay for a week ascertained from the Table below.

TABLE

<i>Years of pensionable service completed by deceased</i>	<i>Percentage</i>
10 to 14	5.0
15 to 19	7.5
20 to 24	10.0
25 to 29	12.5
30 or more	16.0

Scheme III

4. The amount of the pension is that of a requisite benefit pension calculated in accordance with Part V of this Schedule."

20. Omit Part III of Schedule 3.

21. For Part I of Schedule 4 substitute:

"PART I

CHILD'S ORDINARY OR ACCRUED ALLOWANCE

The amount of the ordinary or accrued allowance is what it would have been if rule E9(4) to (8) had applied."

22. Omit Part III of Schedule 4.

PART V

Rule J6

APPLICATION TO PERSONS AFFECTED BY LOCAL GOVERNMENT REORGANISATION OR COMBINATION SCHEME

1. In this Part, which applies in relation to changes of brigade and loss of employment occurring before as well as after the commencement of this Scheme, "relevant instrument" means—

- (a) an order under Part VI of the Local Government Act 1933(b), Part II of the Local Government Act 1958(c) or section 85 of the London Government Act 1963(d), or
- (b) a scheme under section 5, 6 or 9 of the principal Act or, in Scotland, an order under section 36(8) of that Act.

(a) 1975 c.14, 1975 c.60.
(b) 1933 c.51.
(c) 1958 c.55.
(d) 1963 c.33.

2.—(1) This paragraph applies in the case of a person who was a member of a brigade (“the first brigade”) and has by virtue of a relevant instrument become a member of another brigade (“the second brigade”).

(2) Where this paragraph applies—

- (a) this Scheme has effect as if the second brigade and the fire authority maintaining it were, respectively, the first brigade and the authority maintaining the first brigade, and
- (b) if in the first brigade the person held the rank of assistant divisional officer or a higher rank and he has suffered a reduction in rank attributable to the relevant instrument, rule A13 (compulsory retirement on account of age) has effect as if he had not suffered the reduction in rank, unless by giving written notice to the fire authority he otherwise elects.

3.—(1) This paragraph applies in the case of a person who has suffered loss of employment as a regular firefighter which is attributable to a relevant instrument.

(2) Where this paragraph applies—

- (a) this Scheme has effect as if when he suffered the loss of employment he had retired after giving due notice of retirement to the fire authority and, if they agree, as if the notice had been given with their permission, and
- (b) if before the end of his resettlement period he has become a regular firefighter in another brigade, rule F2 (current service) has effect as if he had been a member of that brigade immediately after suffering the loss of employment.

(3) A person’s resettlement period is—

- (a) where the loss of employment occurred before he had attained the age of 45, the period of 13 weeks beginning with the week after that in which the loss occurred, and
- (b) in any other case, that period of 13 weeks extended by an additional week for each year by which his age when the loss occurred exceeded 45, but not by more than 13 such weeks.

4.—(1) This paragraph applies in the case of a person who was a member of a brigade and has by virtue of the London Government Act 1963 or a relevant instrument become a member of another brigade, if—

- (a) Part IV of this Schedule applies in his case, and
- (b) his last change of rank during the period of 3 years ending with his last day of service as a regular firefighter was a reduction in rank attributable to that Act or a relevant instrument, and
- (c) his average pensionable pay during that period was less than his pensionable pay at the end of it.

(2) Where this paragraph applies, rule G1 (pensionable pay) as modified by paragraph 13 of Part IV of this Schedule has effect as if paragraphs (4) and (5) were omitted.

SCHEDULE 12

Rule M1

TRANSITIONAL AND OTHER MATTERS

1.—(1) The revocation by article 2(1) of the Firemen’s Pension Scheme Order 1992 (“the 1992 Order”) of the orders specified in Part I of Schedule 1 to the 1992 Order (“the Part I Orders”) and the re-enactment in this Scheme, by virtue of article 2(2), of provisions that were contained in or required to be construed as one with the 1973 Scheme (“1973 provisions”), shall not, except in so far as 1973 provisions are re-enacted with modifications, be taken to affect the continuity of the law, and accordingly—

- (a) any reference in this Scheme to, or to things done or falling to be done under or for the purposes of, any provision of this Scheme is, if and so far as the nature of the reference permits, to be construed as including, in relation to circumstances or purposes in relation to which the corresponding 1973 provision had effect, a reference to, or as the case may be to things done or falling to be done under or for the purposes of, that corresponding provision, and
- (b) where a period of time specified in a 1973 provision is current at the commencement of this Scheme, this Scheme has effect as if the corresponding provision of this Scheme had been in force when that period began to run.

(2) Sub-paragraph (1)—

- (a) has effect subject to any express provision to the contrary, and to paragraph 2 (protected benefits), and