

- (b) where the widow would otherwise have been entitled to a special award under rule C2, as if the base pension were the ill-health pension to which the deceased would have been entitled if he had, when he ceased to serve, retired because he was disabled in circumstances entitling him to such a pension.

2.—(1) Where the widow would otherwise have been entitled to an accrued pension under rule C4, the amount of her pension under rule C5 shall, subject to sub-paragraph (2), be calculated in accordance with Part III of this Schedule in the same way as that of an accrued pension.

(2) For the purposes of this paragraph, paragraph 2 of Part III has effect as if references to the deceased's deferred pension were references to the greater of—

- (a) the appropriate proportion of the deferred pension, and
- (b)  $1/160$ th of the deceased's average pensionable pay multiplied by the period in years of so much of his pensionable service as is reckonable by virtue of service or employment after 5th April 1978 (his "relevant pensionable service").

3. The appropriate proportion mentioned in paragraphs 1 and 2 is the proportion which the deceased's relevant pensionable service bears to his total pensionable service.

## PART V

Rules C6 and C8

### SPOUSE'S REQUISITE BENEFIT PENSION

The amount of a requisite benefit pension is  $1/160$ th of the deceased's average pensionable pay multiplied by the period in years of so much of his pensionable service as is reckonable by virtue of service or employment after 5th April 1978.

## SCHEDULE 4

### AWARDS ON DEATH—CHILDREN

#### PART I

Rule D1

##### CHILD'S ORDINARY ALLOWANCE

1.—(1) Subject to paragraphs 2 and 3, the amount of an ordinary allowance is the appropriate percentage of the base pension described in sub-paragraph (4).

(2) Where one of the child's parents is alive—

- (a) if fewer than 3 ordinary allowances are payable in respect of the death, the appropriate percentage is 18.75, and
- (b) if 3 or more ordinary allowances are payable, the appropriate percentage is 37.5 divided by the number of allowances.

(3) In respect of any period during which neither of the child's parents is alive—

- (a) if fewer than 3 ordinary allowances are payable in respect of the death, the appropriate percentage is 25, and
- (b) if 3 or more ordinary allowances are payable, the appropriate percentage is 50 divided by the number of allowances.

(4) The base pension mentioned in sub-paragraph (1) is—

- (a) where rule D1(1)(a) applies, the ill-health pension to which the deceased would have been entitled had he retired with such a pension immediately before he died,
- (b) where rule D1(1)(b) applies, the ordinary, short service or ill-health pension the deceased was receiving,
- (c) where rule D1(1)(c) applies, the ill-health pension which the deceased would have been receiving if he had not ceased to be entitled to it, and
- (d) where rule D1(1)(d) applies, the ill-health pension to which the deceased would have been entitled had he retired in circumstances entitling him to such a pension,

disregarding, in each case, the provisions for reduction contained in rule B7(9) (commutation), rule B9(12) (allocation) and Parts VII and VIII of Schedule 2 (state pensionable age and up-rating of widow's pensions).

2.—(1) Where—

- (a) the deceased died while entitled to a pension other than a deferred pension, and
- (b) a surviving spouse's ordinary pension is payable, and
- (c) in respect of any week the survivors' benefit rate would otherwise exceed the final pension rate,

any children's ordinary allowances calculated in accordance with paragraph 1 shall be reduced by the factor necessary to secure that the survivors' benefit rate equals the final pension rate.

(2) The survivors' benefit rate is the aggregate of the rates of the spouse's ordinary pension and the children's ordinary allowances calculated in accordance with paragraph 1, and the final pension rate is the rate at which the deceased's pension was last payable, disregarding any reduction in it except a reduction under rule B7(9) (commutation), rule B9(12) (allocation) or paragraph 2 of Part V of Schedule 2 (reduction in injury award).

3. For any period in respect of which a person to whom a child's ordinary allowance which would otherwise fall to be calculated in accordance with paragraph 1 is paid so elects, the amount of the allowance shall be calculated in accordance not with paragraph 1 but with rule E9 (flat-rate award).

PART II

Rule D2

CHILD'S SPECIAL ALLOWANCE

1. The amount of a special allowance is the appropriate percentage of the deceased's average pensionable pay.

2. Where one of the child's parents is alive—

- (a) if fewer than 5 special allowances are payable in respect of the death, the appropriate percentage is 10, and
- (b) if 5 or more special allowances are payable, the appropriate percentage is 40 divided by the number of allowances.

3. In respect of any period during which neither of the child's parents is alive—

- (a) if fewer than 5 special allowances are payable in respect of the death, the appropriate percentage is 20, and
- (b) if 5 or more special allowances are payable, the appropriate percentage is 80 divided by the number of allowances.

PART III

Rule D4

CHILD'S ACCRUED ALLOWANCE

1.—(1) Subject to sub-paragraph (2) and to paragraphs 2 to 5 below, the amount of an accrued allowance shall be calculated in accordance with paragraphs 1 and 3 of Part I of this Schedule as if it were an ordinary allowance to which the child was entitled.

(2) Where an election made by the deceased under rule G3 had effect at the time of his death, paragraph 3 of Part I of this Schedule (election for flat-rate allowance) does not have effect for the calculation under this part of an accrued allowance.

2. Except where paragraph 3 below applies, for the purposes of paragraph 1 above paragraph 1 of Part I of this Schedule has effect with the substitution for references to the base pension of references to the deceased's deferred pension.

3.—(1) This paragraph applies where the deceased was the child's father and was entitled to reckon pensionable service otherwise than by virtue of—

- (a) service as a regular firefighter after 31st March 1972, or
- (b) rule I6 (servicemen), or
- (c) article 51 or 52 of the 1973 Scheme.

(2) Where this paragraph applies, for the purposes of paragraph 1 above paragraph 1 of Part I of this Schedule has effect with the substitution for references to the base pension of references to the appropriate proportion of the deceased's deferred pension.

(3) The appropriate proportion is that which his half-rate service bears to his total pensionable service.

4. In calculating the deceased's deferred pension for the purposes of paragraph 2 or 3 no account shall be taken of-

- (a) rule B5(4) (restriction on payment), or
- (b) rule B7(9) or B9(12) or Part VII or VIII of Schedule 2 (reduction in various circumstances).

5. Where one of the parents is alive and in respect of any week the aggregate of-

- (a) the surviving spouse's accrued pension, and
- (b) the accrued children's allowances,

exceeds the rate at which the deceased's deferred pension was last payable, or would have been payable if he had attained the age of 60 ("the final pension rate"), the allowances shall be reduced by the factor necessary to secure that the aggregate equals the final pension rate.

#### PART IV

Rule D5(6)

##### REDUCTION IN CHILD'S ALLOWANCE DURING FULL-TIME REMUNERATED TRAINING

1.—(1) Subject to sub-paragraph (2), this Part applies where a child entitled to an allowance under rule D1, D2 or D4 ("the relevant allowance")-

- (a) is undergoing full-time vocational training within the meaning of rule D5, and
- (b) is receiving in respect of that training remuneration at an annual rate which exceeds the rate specified in paragraph 3(1) ("the specified rate").

(2) Where the deceased died or ceased to be a regular firefighter before 10th October 1983, this Part applies only when the child has attained the age of 19.

2.—(1) Where this Part applies-

- (a) if the amount by which the annual rate of the remuneration exceeds the specified rate ("the excess remuneration") is the same as or larger than the effective amount of the relevant allowance, the allowance shall not be paid, and
- (b) in any other case, the amount of the relevant allowance shall be reduced by that of the excess remuneration.

(2) Where other children are also entitled to allowances and one of the relevant provisions, that is to say paragraphs 1(2)(b) and 3(b) of Part I and paragraphs 2(b) and 3(b) of Part II of this Schedule, applies-

- (a) where sub-paragraph (1)(a) above applies, each of the other allowances shall be recalculated as if there were no entitlement to the relevant allowance, and
- (b) where sub-paragraph (1)(b) above applies, each of the other allowances shall be increased by the amount of the excess remuneration divided by the number of those allowances.

(3) Notwithstanding anything in sub-paragraph (2)-

- (a) no child shall by virtue of that sub-paragraph receive an allowance greater than that to which he would be entitled if no relevant provision applied in his case, and
- (b) the total of the effective amounts of the allowances to be paid under a relevant provision shall not by virtue of that sub-paragraph exceed what would otherwise have been payable under the relevant provision.

3.—(1) The specified rate is the annual rate (rounded up to the nearest £1) at which an official pension, within the meaning of the Pensions (Increase) Act 1971(a) ("the 1971 Act"), would for the time being be payable if it had begun, and first qualified for increases under the 1971 Act, on 1st June 1972 and had then been payable at an annual rate of £250.

(2) The effective amount of an allowance is its amount together with that of any increase in it under the 1971 Act.

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(a) 1971 c.56.